

A regular meeting of the Board of Aldermen was held Tuesday, February 9, 2021, at 7:32 p.m. via teleconference.

President Lori Wilshire presided; City Clerk Susan Lovering recorded.

Prayer was offered by City Clerk Susan Lovering; Alderwoman-at-Large Shoshanna Kelly led in the Pledge to the Flag.

### President Wilshire

As President of the Board of Aldermen, I find that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04, this public body is authorized to meet electronically.

Please note that there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, I am confirming that we are:

Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means:

*To access Zoom, please refer to the agenda or the City's website for the meeting link.*

*To join by phone dial: 1-929-205-6099 - Meeting ID: 892 3145 4969 Passcode: 946427*

*The public may also view the meeting via Channel 16.*

We previously gave notice to the public of the necessary information for accessing the meeting, through public postings. Instructions have also been provided on the City of Nashua's website at [www.nashuanh.gov](http://www.nashuanh.gov) and publicly noticed at City Hall and Nashua Public Library.

If anyone has a problem accessing the meeting via phone or Channel 16, please call 603-821-2049 and they will help you connect.

In the event the public is unable to access the meeting via the methods mentioned above, the meeting will be adjourned and rescheduled. Please note that all votes that are taken during this meeting shall be done by roll call vote.

Let's start the meeting by taking a roll call attendance. When each member states their presence, please also state whether there is anyone in the room with you during this meeting, which is required under the Right-To-Know Law.

The roll call was taken with 15 members of the Board of Aldermen present: Alderman Michael B. O'Brien, Sr., Alderman Patricia Klee, Alderwoman Shoshanna Kelly, Alderman Richard A. Dowd, Alderman June M. Caron, Alderman Benjamin Clemons, Alderman Thomas Lopez, Alderman David C. Tencza, Alderwoman Elizabeth Lu, Alderman Ernest Jette, Alderman Jan Schmidt, Alderman Brandon Michael Laws, Alderman Skip Cleaver, Alderman Linda Harriott-Gathright, Alderman Wilshire.

Mayor James W. Donchess, Corporation Counsel Steve Bolton, were also in attendance.

ROLL CALL

Alderman O'Brien

I am present, I am home alone.

Alderman Klee

I am present, I can hear the proceedings and I am here alone.

Alderwoman Kelly

I am here, I am alone and I can hear everyone.

Alderman Dowd

Yes, I am present, I can hear everyone and I am in the room alone.

Alderman Caron

Yes I am here, I can hear everyone and I am alone.

Alderman Clemons

Thank you. I am here, alone in the room and I can hear everyone.

Alderman Lopez

I am here, I can see and hear everyone and there's no one in the room with me.

Alderman Tencza

I am present, I am alone and I can hear everyone.

Alderwoman Lu

I am here alone and I can hear you.

Alderman Jette

I am here alone and I can hear the proceedings.

Alderman Schmidt

I am present, I am alone and I can hear everyone.

Alderman Laws

I am here, I am alone and I can hear you.

Alderman Cleaver

Present, I am alone and I can hear the proceedings.

Alderman Harriott-Gathright

I am present, I am in this room alone and I can hear everyone.

President Wilshire

I am here, I am alone and I can hear everyone.

Susan Lovering, City Clerk

You have 15 in attendance.

President Wilshire

Thank you. Also in attendance are Mayor Donchess and Corporation Counsel Steve Bolton. Mayor, do you wish to address the Board?

REMARKS BY THE MAYORMayor Donchess

Yes, Madam President. Thank you very much. Well first I wanted to tell you a little bit about what is happening with the pandemic. As you probably heard, the number of the new cases has gone down a bit which is, of course, good news. Public Health, which as we have discussed, has been working 7 days a week to eradicate the pandemic but now the number of cases is at 294 as of yesterday. A few weeks ago we were at 500 and some but, of course, over the summer we had a far lower number 30/40 active cases.

Another bit of relatively good news is that the positivity rate in the City, that's the rate when people are tested, the rate for COVID-19 the percentage of people who come up with a positive test, that's the positivity rate, that has declined from 11% / 12% a month or so ago to 7.3%. So as a result of that positivity rate being below 10%, it appears that within a few days, the two criteria that have been articulated by the School Board for the beginning of the reopening of schools starting with hybrid in the lower grades will have been met. And the School Board met last night and the plan is to go forward next week and begin to open the first Kindergarten, 1<sup>st</sup> Grade and then progressively up in the grades for all of those classrooms. So that certainly is good news; I mean we all want to get back to normal. We all want to keep our families, our friends, our neighbors safe and the School Board is proceeding in a way that can meet educational requirements and meet that goal.

We though to continue to wear our masks. The science is clear, the medical experts have made it very clear that if we don't continue to take protective measures, wearing masks, social distancing, that the consequences for our economy, for our community could certainly be much worse.

Next, Madam President, there was some interesting news today which is that the City as a result of an auction of the final piece of land underneath the NIMCO Building, the City is finally the 100% owner of not only the NIMCO Building but the land underneath. The way that occurred is that little piece of land was auctioned off, the City was able to bid a debt that the owner of the land owed to the City and there were no other bidders so the City secured the land. And Celia Leonard has worked hard on that for many, many years; I don't even know 5 / 6 years. So finally we have secured ownership of that building and that certainly is good news for the mill yard.

Madam President another thing that is on the Agenda that I wanted to mention is the AFSCME Contract with Public Works is on the Agenda to be voted on. I certainly hope the Board will pass that contract. The City gained some improvements in the snowplowing plan; there are 10% raises granted over six years and the employees did agree to the City's reformed HMO plan. So overall that's a very good contract for both sides.

Finally I wanted to mention a few things, Madam President that are going on in the Legislature. And I know we have, of course, our members of the Board who are also in the Legislature. But not known I think to all of the Board members is the fact that Senator Avard has sponsored Senate Bill 32 which would retroactively go back and put Nashua's spending cap into effect. Some of the testimony that was offered in the Senate Committee, it was not accurate, wild spending, things like this. Let's just remind people that last year the City Budget was up less than 3% including a huge increase in healthcare costs. And without that one line item the City Budget was up 1.52%. So I think we have done our best to keep a good balance between services and the tax rate.

Another bill that received at least a positive recommendation is one sponsored by Mike O'Brien and supported by our entire Legislative Delegation and that is to restore 5% of the City's IOU; the City promised to pay 35% in City and other Municipal Pension costs back when we got into the State Retirement System. Mike, Alderman O'Brien, has the bill to restore at least 5% of that 35%. He could give you the details but that received a favorable recommendation from the Committee but that's not a final decision in the sense that it still has to go to the House Committee which allocates money, the House Finance. But at least that has passed an initial hurdle. There's another bill that would contribute 15% and that is coming forward as well. But thank you Alderman O'Brien for shepherding that through the Committee.

And finally, Madam President, today I testified on a number of bills. But today was House Bill 623 which would give all communities the same amount of School Aid as they received for the last 2 years. Now this would be for the Adequacy Grant and for Free & Reduced Lunch and a couple of other smaller categories. This would gain us about \$4.5 million dollars were it to pass and were it to be funded. So that is at least under consideration in front of the Legislature. There are other bills that certainly have relevance to Nashua but I will not go into all of them now. And, of course, I am available for any questions if anybody has any. Thank you, Madam President.

#### President Wilshire

Someday I will learn to unmute first. It's only been a year; I think I heard that last night from Alderwoman Kelly.

#### Mayor Donchess

Sometimes it just takes over, you know, it mutes itself.

#### RESPONSE TO REMARKS OF THE MAYOR - None

#### RECOGNITION PERIOD

- Celebrating Kathy Hersh

***President Wilshire recognized Mayor Donchess to read the Recognition.***

#### Mayor Donchess

Thank you Madam President again. Well we want to recognize Kathy Hersh for everything she's done for the community; most recently she has retired from the Board and Leadership of the International Sculpture Symposium. But Kathy and I have worked together on many things over a long, long time. She's smiling because she knows that's true. One of the early things was the wetlands protection which was passed through a referendum back in the 90's. And Kathy was very instrumental there, but we had also worked on some other things before that. So Kathy has been very involved in the Nashua Community in many respects; as you all know she was on the Board of Aldermen and was Community Development Director as well and many citizen roles that she's taken. So given her retirement from the Sculpture Symposium, we wanted to recognize her for her just outstanding contributions to Nashua. So the official recognition reads as follows:

Whereas Nashua is a community of many wonderful, kind, giving citizens. Among them is Kathy Hersh. Kathy has put her heart into Nashua through volunteerism and civic service. From her work with the arts, serving on the city's Board of Aldermen and NH Rail Transit Authority to the Nashua Regional Planning Commission and the Nashua Conservation Commission, Kathy continually dedicates herself to our community; and Whereas Kathy is most known in our community for her work with the arts. As a founder of the Nashua International Sculpture Symposium, Kathy helped the arts come alive in our city. Over the past 14 years, the symposium brings sculptors of international acclaim to Nashua and year after year leaves us with beautiful, thought-provoking public art; and Whereas Nashua is the only city in the country that has an annual international sculpture symposium. The event affords residents and visitors the chance to experience art in a unique way - people get to watch the sculptors work in real time and the sculptors find new inspiration in our community. It's thanks to Kathy, the hard work by many in Nashua's arts scene, grants, sponsorships and fundraising efforts that makes this special event possible; and Whereas Kathy's many accolades include New Hampshire Citizens for the Arts 2018 Advocate of the Year, the 1991 Conservation Hero of the Year by the Nashua River Watershed Association and in 2013, the City of Nashua designated the Kathy Hersh Riverwalk; which is over on the northside of the river, now therefore I, Jim Donchess, Mayor of the City of Nashua and the Nashua Board of Aldermen, do hereby recognize Kathy Hersh as a special Nashua citizen. Thank you for all you've done Kathy.

And we have other members of the Sculpture Symposium Board on the meeting and they are cheering for Kathy Hersh.

#### President Wilshire

Mayor, I would like to add to that. I mean Kathy Hersh was one of my mentors when I first got on this Board. She has been one of the best stewards of the City and its resources of anyone I have met in my career as a public servant whether it is Arts, our Natural Resources; she just puts her heart and soul into everything she does. She is a fabulous, outstanding member of our community. So thank you, Kathy. OK. We are going to move on.

#### READING MINUTES OF PREVIOUS MEETINGS

**There being no objection, President Wilshire declared the minutes of the Special Board of Aldermen meeting of January 25, 2021, and regular Board of Aldermen meeting of January 26, 2021 be accepted, placed on file, and the readings suspended.**

#### COMMUNICATIONS REQUIRING ONLY PROCEDURAL ACTIONS AND WRITTEN REPORTS FROM LIAISONS

***Without objection, President Wilshire allowed for suspension of rules for a communication from Attorney Leonard that was received after the agenda was prepared.***

From: Matthew Sullivan, Planning Manager

Re: Referral from Board of Aldermen on proposed R-21-109 Authorizing Issuing of Building Permits on Old Harris Road, a Class VI Highway

From: Lisa M. Fauteux, Director of Public Works

Re: Referrals from Board of Aldermen – R-21-106 and R-21-107

From: Kim Kleiner, Director of Administrative Services

Re: Court Street Theater

From: Donna Graham, Legislative Affairs Manager

Re: Communication Received from the Public

From: Sarah Marchant, Community Development Division Director  
Re: Proposed clarification to Land Use Code related to Driveways

From: Sarah Marchant, Community Development Division Director  
Re: Proposed clarification to Land Use Code 190-40 Conservation Subdivision

From: Lori Wilshire, President Board of Aldermen  
Re: Calling a Special meeting of the Board of Aldermen relative to a presentation on Administrative Services at 6:45 p.m. on February 9, 2021

From: Lori Wilshire, President Board of Aldermen  
Re: Calling a Special meeting of the Board of Aldermen relative to a nonpublic session at 6:15 p.m. on February 24, 2021

From: Celia K. Leonard, Deputy Corporation Counsel  
Re: Updated attachment for R-21-117

***There being no objection, President Wilshire accepted the communications and placed them on file.***

PERIOD FOR PUBLIC COMMENT RELATIVE TO ITEMS EXPECTED TO BE ACTED UPON THIS EVENING - None

COMMUNICATIONS REQUIRING FINAL APPROVAL - None

PETITIONS - None

NOMINATIONS, APPOINTMENTS AND ELECTIONS - None

REPORTS OF COMMITTEE

Budget Review Committee..... 01/25/2021

There being no objection, President Wilshire declared the report of the January 25, 2021 Budget Review Committee accepted and placed on file.

Committee on Infrastructure..... 01/27/2021

There being no objection, President Wilshire declared the report of the January 27, 2021 Committee on Infrastructure accepted and placed on file.

Pennichuck Special Water Committee..... 02/02/2021

There being no objection, President Wilshire declared the report of the February 2, 2021 Pennichuck Special Water Committee accepted and placed on file.

Finance Committee..... 02/03/2021

There being no objection, President Wilshire declared the report of the February 3, 2021 Finance Committee accepted and placed on file.

CONFIRMATION OF BOARD OF ALDERMEN'S APPOINTMENTS - None

UNFINISHED BUSINESS – RESOLUTIONS**R-21-105**

Endorsers: Mayor Jim Donchess  
Alderman Patricia Klee  
Alderman Jan Schmidt  
Alderman Richard A. Dowd  
Alderman-at-Large David C. Tencza  
Alderman Skip Cleaver  
Alderman-at-Large Michael B. O'Brien, Sr.  
Alderman-at-Large Ben Clemons  
Alderman Linda Harriott-Gathright  
Alderman-at-Large Lori Wilshire

**AUTHORIZING THE MAYOR AND CITY TREASURER TO ISSUE BONDS  
NOT TO EXCEED THE AMOUNT OF ONE MILLION FIVE HUNDRED THOUSAND DOLLARS  
(\$1,500,000) TO PURCHASE TWO NEW ENGINE PUMPER TRUCKS FOR THE FIRE  
DEPARTMENT**

Given its second reading;

**MOTION BY ALDERMAN O'BRIEN FOR FINAL PASSAGE OF R-21-105, BY ROLL CALL**ON THE QUESTION

And if I may speak to my motion?

President Wilshire

Alderman O'Brien?

Alderman O'Brien

Thank you, Madam President. What is going to happen here with this Resolution is the Fire Department is going to purchase two new fire apparatus. Those that went to the meeting knows that by the CERF Account and recommendation the Engine Company that is up under CERF this year is Engine 3 which serves at the Spit Brook Road Station. It's a vehicle of 2009 and the Fire Department has a policy to change this apparatus at 12 years; so 2021 is the year that it needs to be changed. In years past, there was a crunch, the year after that Engine 5 was purchased in 2010. It will reach its 12<sup>th</sup> year anniversary next year.

In looking in negotiations with the Pierce Fire Apparatus they do have a cost multiple vehicle discount. And basically this is going to be a cost savings if we purchase these two apparatus at the same time of over \$100,000.00. Anticipating on the bonds, bonds are lower right now, anticipation of bonds they could be 3% to 5% increase so therefore that money 3% to 5% increase would be saved on the purchase of Engine 5 which is at the Airport Station. Both vehicles will become fully equipped and replacing the well-used equipment that is on both of these apparatus. This has the backing of the City Treasurer and also CFO Griffin. So Madam President, I urge passage of this bill. Thank you.

President Wilshire

Thank you Alderman O'Brien. The motion is for final passage of Resolution 21:105 by roll call. Any discussion? Seeing none, would the Clerk please call the roll?

A viva voce roll call was taken which resulted as follows:

Yea: Alderman O'Brien, Alderman Klee, Alderwoman Kelly, Alderman Dowd, Alderman Caron, Alderman Clemons, Alderman Lopez, Alderman Tencza, Alderwoman Lu, Alderman Jette, Alderman Schmidt, Alderman Laws, Alderman Cleaver, Alderwoman Harriott-Gathright, Alderman Wilshire	15
Nay:	0

**MOTION CARRIED**

Resolution R-21-105 declared duly adopted.

**R-21-106**

Endorsers: Mayor Jim Donchess  
Alderman Jan Schmidt  
Alderman Richard A. Dowd  
Alderman-at-Large Michael B. O'Brien, Sr.  
Alderman Patricia Klee  
Alderman-at-Large Ben Clemons  
Alderman Skip Cleaver  
Alderman Linda Harriott-Gathright  
Alderman-at-Large Lori Wilshire

**AUTHORIZING THE MAYOR AND CITY TREASURER TO ISSUE BONDS NOT TO EXCEED THE AMOUNT OF TWO MILLION SEVEN HUNDRED THOUSAND DOLLARS (\$2,700,000) FOR VARIOUS IMPROVEMENTS AT THE SOLID WASTE DEPARTMENT FOUR HILLS LANDFILL AND THE PURCHASE OF TWO REFUSE TRUCKS**

Given its second reading;

**MOTION BY ALDERWOMAN KELLY FOR FINAL PASSAGE OF R-21-106, BY ROLL CALL**

A viva voce roll call was taken which resulted as follows:

Yea: Alderman O'Brien, Alderman Klee, Alderwoman Kelly, Alderman Dowd, Alderman Caron, Alderman Clemons, Alderman Lopez, Alderman Tencza, Alderwoman Lu, Alderman Jette, Alderman Schmidt, Alderman Laws, Alderman Cleaver, Alderwoman Harriott-Gathright, Alderman Wilshire	15
Nay:	0

**MOTION CARRIED**

Resolution R-21-106 declared duly adopted.

**R-21-107**

Endorsers: Mayor Jim Donchess  
 Alderman Richard A. Dowd  
 Alderman Thomas Lopez  
 Alderman Patricia Klee  
 Alderman-at-Large Michael B. O'Brien, Sr.  
 Alderman Linda Harriott-Gathright  
 Alderman Skip Cleaver  
 Alderman-at-Large Ben Clemons  
 Alderman-at-Large Lori Wilshire

**AUTHORIZING THE MAYOR AND CITY TREASURER TO ISSUE BONDS NOT TO EXCEED THE AMOUNT OF FIVE MILLION ONE HUNDRED FIFTY THOUSAND DOLLARS (\$5,150,000) FOR THE CITY'S SEWER INFRASTRUCTURE PROGRAM**

Given its second reading;

**MOTION BY ALDERMAN SCHMIDT FOR FINAL PASSAGE OF R-21-107, BY ROLL CALL**

A viva voce roll call was taken which resulted as follows:

Yea: Alderman O'Brien, Alderman Klee, Alderwoman Kelly, Alderman Dowd, Alderman Caron, Alderman Clemons, Alderman Lopez, Alderman Tencza, Alderwoman Lu, Alderman Jette, Alderman Schmidt, Alderman Laws, Alderman Cleaver, Alderwoman Harriott-Gathright, Alderman Wilshire	15
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Nay:	0
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**MOTION CARRIED**

Resolution R-21-107 declared duly adopted.

**R-21-108**

Endorsers: Mayor Jim Donchess  
 Alderman Thomas Lopez  
 Alderman Linda Harriott-Gathright  
 Alderman Richard A. Dowd  
 Alderman Jan Schmidt  
 Alderman-at-Large Michael B. O'Brien, Sr.  
 Alderman Skip Cleaver  
 Alderman-at-Large Ben Clemons  
 Alderman Patricia Klee  
 Alderman-at-Large Lori Wilshire

**APPROVING THE COST ITEMS OF A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE BOARD OF PUBLIC WORKS OF THE CITY OF NASHUA, NEW HAMPSHIRE AND LOCAL 365 OF THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO ("AFSCME") FROM JULY 1, 2017 THROUGH JUNE 30, 2023 AND AUTHORIZING RELATED TRANSFERS**

Given its second reading;

**MOTION BY ALDERMAN JETTE FOR FINAL PASSAGE OF R-21-108, BY ROLL CALL**

ON THE QUESTION

Alderman Jette

And I would like to speak to it.

President Wilshire

Alderman Jette.

Alderman Jette

So the Mayor referred to this earlier. This Resolution approves the cost items of a Collective Bargaining Agreement between the Board of Public Works and the Union representing the Public Works employees. It is a six year contract, it goes back to July 1, 2017 and will end in June 30, 2023. To the Union's credit, it provides for reasonable cost-of-living adjustments of 1.5% each year for the first 4 years; 2% for the 5<sup>th</sup> year; and 2.5% in the 6<sup>th</sup> year. And of significance it includes the City's new health plan. The Budget Review Committee voted unanimously to recommend passage of this Resolution and I ask for your support.

President Wilshire

OK anyone have any questions? Seeing none, the motion is for final passage of Resolution 21-108. Would the Clerk please call the roll?

A viva voce roll call was taken which resulted as follows:

Yea: Alderman O'Brien, Alderman Klee, Alderwoman Kelly, Alderman Dowd, Alderman Caron, Alderman Clemons, Alderman Lopez, Alderman Tencza, Alderwoman Lu, Alderman Jette, Alderman Schmidt, Alderman Laws, Alderman Cleaver, Alderwoman Harriott-Gathright, Alderman Wilshire	15
Nay:	0

**MOTION CARRIED**

Resolution R-21-108 declared duly adopted.

**R-21-109**

Endorsers: Mayor Jim Donchess  
Alderman Patricia Klee  
Alderman-at-Large Michael B. O'Brien, Sr.  
Alderman Jan Schmidt  
Alderman Linda Harriott-Gathright  
Alderman Skip Cleaver  
Alderman-at-Large Lori Wilshire

**AUTHORIZING ISSUING OF BUILDING PERMITS ON OLD HARRIS ROAD, A CLASS VI HIGHWAY**

Given its second reading;

**MOTION BY ALDERMAN LAWS FOR FINAL PASSAGE OF R-21-109, BY ROLL CALL**

A viva voce roll call was taken which resulted as follows:

Yea: Alderman O'Brien, Alderman Klee, Alderwoman Kelly, Alderman Dowd,  
Alderman Caron, Alderman Clemons, Alderman Lopez, Alderman Tencza,  
Alderwoman Lu, Alderman Jette, Alderman Schmidt, Alderman Laws,  
Alderman Cleaver, Alderwoman Harriott-Gathright, Alderman Wilshire 15

Nay: 0

**MOTION CARRIED**

Resolution R-21-109 declared duly adopted.

**R-21-110**

Endorsers: Mayor Jim Donchess  
Alderman-at-Large Michael B. O'Brien, Sr.  
Alderman Patricia Klee  
Alderman Linda Harriott-Gathright  
Alderman Skip Cleaver  
Alderman Richard A. Dowd

**AUTHORIZING THE MAYOR TO ENTER INTO A FIRST AMENDMENT TO CONCESSION AGREEMENT WITH GRANITE DIAMOND, LLC**

Given its second reading;

**MOTION BY ALDERMAN HARRIOTT-GATHRIGHT FOR FINAL PASSAGE OF R-21-110, BY ROLL CALL**

A viva voce roll call was taken which resulted as follows:

Yea: Alderman O'Brien, Alderman Klee, Alderwoman Kelly, Alderman Dowd,  
Alderman Caron, Alderman Clemons, Alderman Lopez, Alderman Tencza,  
Alderwoman Lu, Alderman Jette, Alderman Schmidt, Alderman Laws,  
Alderman Cleaver, Alderwoman Harriott-Gathright, Alderman Wilshire 15

Nay: 0

**MOTION CARRIED**

Resolution R-21-110 declared duly adopted.

**R-21-113**

Endorsers: Alderman-at-Large Ben Clemons  
Alderman Thomas Lopez  
Alderman-at-Large Michael B. O'Brien, Sr.  
Alderman Skip Cleaver  
Alderman Jan Schmidt  
Alderman Richard A. Dowd  
Alderman Patricia Klee  
Alderman Linda Harriott-Gathright

**AUTHORIZING THE MAYOR TO ENTER INTO A FIRST AMENDMENT TO THE 14 COURT STREET LEASE FOR UNIT B WITH LIQUID THERAPY, LLC**

Given its second reading;

**MOTION BY ALDERMAN CLEMONS FOR FINAL PASSAGE OF R-21-113, BY ROLL CALL**

A viva voce roll call was taken which resulted as follows:

Yea: Alderman O'Brien, Alderman Klee, Alderwoman Kelly, Alderman Dowd,  
Alderman Caron, Alderman Clemons, Alderman Lopez, Alderman Tencza,  
Alderwoman Lu, Alderman Jette, Alderman Schmidt, Alderman Laws,  
Alderman Cleaver, Alderwoman Harriott-Gathright, Alderman Wilshire 15

Nay: 0

### **MOTION CARRIED**

Resolution R-21-113 declared duly adopted.

### UNFINISHED BUSINESS – ORDINANCES

#### **O-20-043, Amended**

Endorsers: Alderman Richard A. Dowd  
Alderman Patricia Klee

#### **AUTHORIZING STOP SIGNS ON HILL STREET AT ITS INTERSECTION WITH DARTMOUTH STREET**

Given its second reading;

#### **MOTION BY ALDERMAN DOWD TO AMEND O-20-43 BY REPLACING IT WITH THE GOLDENROD COPY OF AMENDMENTS MADE AT THE COMMITTEE ON INFRASTRUCTURE, BY ROLL CALL**

### ON THE QUESTION

And I'd like to speak to it.

President Wilshire

Alderman Dowd.

Alderman Dowd

Yes, originally some of the neighbors had complained about the traffic, to make it very simple and stop signs were requested and even before they came to Alderman Klee and myself, they put in two temporary stop signs. To make a long story short, it was determined because the neighbors really didn't like one of the stop signs and it was determined by the City Engineer that that actual second stop sign was not required, this amendment takes that one stop sign out and puts the one that needs to be in place there.

President Wilshire

OK the motion is to amend by replacing Ordinance 20-043 with the Golden Rod Copy. Alderman O'Brien.

Alderman O'Brien

Thank you, Madam President. Just a little bit, the Committee of Infrastructure has met and totally agrees with Alderman Dowd and Alderman Klee's amendment on this unanimously and would like to thank Alderman Klee and Alderman Dowd for their due diligence in bringing this forward. Thank you.

President Wilshire

OK, anyone else on the motion to amend? Alderman Lopez.

Alderman Lopez

Yeah I would just like to thank DPW for letting us be involved in this. Because as usual they are putting signs up before they tell us.

President Wilshire

Anyone else. OK the motion is to amend Ordinance 20-043 by replacing it with the Golden Rod copy of amendments made at the Committee on Infrastructure by roll call. Would the Clerk please call the roll?

A viva voce roll call was taken which resulted as follows:

Yea: Alderman O'Brien, Alderman Klee, Alderwoman Kelly, Alderman Dowd,  
Alderman Caron, Alderman Clemons, Alderman Lopez, Alderman Tencza,  
Alderwoman Lu, Alderman Jette, Alderman Schmidt, Alderman Laws,  
Alderman Cleaver, Alderwoman Harriott-Gathright, Alderman Wilshire 15

Nay: 0

**MOTION CARRIED****MOTION BY ALDERMAN DOWD FOR FINAL PASSAGE OF O-20-043 AS AMENDED , BY ROLL CALL**

A viva voce roll call was taken which resulted as follows:

Yea: Alderman O'Brien, Alderman Klee, Alderwoman Kelly, Alderman Dowd,  
Alderman Caron, Alderman Clemons, Alderman Lopez, Alderman Tencza,  
Alderwoman Lu, Alderman Jette, Alderman Schmidt, Alderman Laws,  
Alderman Cleaver, Alderwoman Harriott-Gathright, Alderman Wilshire 15

Nay: 0

**MOTION CARRIED**

Ordinance O-20-043 declared duly adopted as amended.

**O-20-044**

Endorser: Alderman Thomas Lopez

**RELATIVE TO A BAN ON CERTAIN INDOOR ACTIVITIES FOR CERTAIN BUSINESSES  
STARTING AT 9:30 PM**

- Tabled at Full Board – 12/22/2020

NEW BUSINESS – RESOLUTIONS**R-21-114**

Endorsers: Mayor Jim Donchess  
Alderman-at-Large Shoshanna Kelly  
Alderman Patricia Klee  
Alderman Jan Schmidt  
Alderman Tom Lopez  
Alderman-at-Large David C. Tencza  
Alderwoman Elizabeth Lu  
Alderman-at-Large Brandon Michael Laws  
Alderman June M. Caron  
Alderman Richard A. Dowd  
Alderman-at-Large Michael B. O'Brien, Sr.  
Alderman Skip Cleaver  
Alderman-at-Large Lori Wilshire  
Alderman Linda Harriott-Gathright

**RELATIVE TO THE ACCEPTANCE AND APPROPRIATION OF \$100,000 FROM THE STATE OF NEW HAMPSHIRE DEPARTMENT OF HEALTH AND HUMAN SERVICES INTO PUBLIC HEALTH AND COMMUNITY SERVICES GRANT ACTIVITY "FEMA VACCINATION RESPONSE GRANT"**

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

**MOTION BY ALDERMAN O'BRIEN TO SUSPEND THE RULES FOR A SECOND READING OF R-21-114 BY ROLL CALL**

ON THE QUESTION

Alderman O'Brien

And may I speak to my motion?

President Wilshire

Alderman O'Brien.

Alderman O'Brien

Thank you Madam President. This Resolution authorizes the City to accept and appropriate funds from the State of New Hampshire for the purposes of supporting COVID-19 Vaccination Clinic activities. This funding shall be in affect from December 1<sup>st</sup>, 2020 through December 31<sup>st</sup>, 2021. It is timely in this fighting of this pandemic. I urge you all to support this and I will be coming back with a subsequent motion if this is approved. And Madam President may I make the request if I may, that you open this up for additional sponsors if you see fit. Thank you.

President Wilshire

I'd be happy to do that. Additional sponsors? (Additional sponsors added). Alright, Alderwoman Kelly?

Alderwoman Kelly

It sounds like everybody is a sponsor but I just wanted to make a quick note of it as it would have come to Human Affairs. I did speak with Director Bagley and they need for these funds, as we all know, is very time sensitive. So I appreciate everyone supporting this bill and helping us to roll out this vaccine and help us get back to normal here in our community.

President Wilshire

OK so the motion is to suspend the rules for a second reading. Any discussion on that motion? Seeing none, would the Clerk please call the roll?

A viva voce roll call was taken which resulted as follows:

Yea: Alderman O'Brien, Alderman Klee, Alderwoman Kelly, Alderman Dowd, Alderman Caron, Alderman Clemons, Alderman Lopez, Alderman Tencza, Alderwoman Lu, Alderman Jette, Alderman Schmidt, Alderman Laws, Alderman Cleaver, Alderwoman Harriott-Gathright, Alderman Wilshire	15
Nay:	0

**MOTION CARRIED****MOTION BY ALDERMAN O'BRIEN FOR FINAL PASSAGE OF R-21-114 BY ROLL CALL**

A viva voce roll call was taken which resulted as follows:

Yea: Alderman O'Brien, Alderman Klee, Alderwoman Kelly, Alderman Dowd, Alderman Caron, Alderman Clemons, Alderman Lopez, Alderman Tencza, Alderwoman Lu, Alderman Jette, Alderman Schmidt, Alderman Laws, Alderman Cleaver, Alderwoman Harriott-Gathright, Alderman Wilshire	15
Nay:	0

**MOTION CARRIED**

Resolution R-21-114 declared duly adopted.

**R-21-115**

Endorsers: Alderman-at-Large Lori Wilshire  
Alderman Richard A. Dowd  
Alderman-at-Large David C. Tencza  
Alderman-at-Large Michael B. O'Brien, Sr.  
Alderman Tom Lopez  
Alderman-at-Large Benjamin Clemons  
Alderman Linda Harriott-Gathright  
Alderman Patricia Klee  
Alderman-at-Large Brandon Michael Laws  
Alderman Skip Cleaver  
Alderman Jan Schmidt

**APPROVING THE COST ITEMS OF SIDEBAR AGREEMENTS BETWEEN THE NASHUA  
POLICE COMMISSION AND THE NASHUA POLICE PATROLMAN'S ASSOCIATION AND THE  
NASHUA POLICE COMMISSION AND THE NASHUA POLICE SUPERVISOR'S ASSOCIATION  
REGARDING MILITARY LEAVES OF ABSENCE**

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

**R-21-116**

Endorser: Mayor Jim Donchess  
Alderman Patricia Klee  
Alderman Tom Lopez  
Alderman Jan Schmidt  
Alderman-at-Large Michael B. O'Brien, Sr.  
Alderman-at-Large Benjamin Clemons  
Alderman-at-Large Brandon Michael Laws  
Alderman Linda Harriott-Gathright  
Alderman-at-Large Lori Wilshire

**ESTABLISHING AN EXPENDABLE TRUST FUND FOR APPROPRIATIONS FOR THE BUSINESS AND INDUSTRIAL DEVELOPMENT AUTHORITY**

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

**R-21-117**

Endorser: Alderman Richard A. Dowd  
Alderman Patricia Klee  
Alderman Linda Harriott-Gathright  
Alderman-at-Large Benjamin Clemons  
Alderman-at-Large Brandon Michael Laws  
Alderman-at-Large Lori Wilshire

**AMENDMENT TO R-20-083 "AUTHORIZING THE ACQUISITION OF PROPERTY AT 36 BUCKMEADOW ROAD, TAX MAP C, LOT 762, FOR A PURCHASE PRICE OF \$370,000"****MOTION BY ALDERMAN DOWD TO SUSPEND THE RULES FOR A SECOND READING OF R-21-117 BY ROLL CALL**ON THE QUESTIONAlderman Dowd

And I'd like to speak to it.

President Wilshire

Before you do that Alderman Dowd, I should have asked for sponsors. Anyone else wish to sponsor? (Additional sponsors added.). I'm sorry, Alderman Dowd?

Alderman Dowd

Ok you should have all received Attorney Leonard's email on this. There's a couple of changes that are to the advantage to both the sellers and the City. In section 10 we added the last sentence, "The provisions of this section shall survive the closing" and in section 15 added "heirs" and I believe I am going to be making a motion to amend that. Let me just – I don't think I guess we don't because this is the original motion yeah so it does need to be amended here.

So we had already passed this unanimously previously and the intent has not changed at all. We just added the necessary words to it so since it is a Purchase & Sale we need to come back and have the approval of the Board of Aldermen and I would like to thank Attorney Leonard who is working an unbelievable amount of hours on multiple projects and she and I have had more communications on this in the last few weeks than probably with anybody else. So I would seriously ask you to allow us to suspend the rules for a second reading and final passage?

President Wilshire

The motion before us is to suspend the rules to allow for a second reading of Resolution 21-117 by roll call. Any discussion on that motion? Alderwoman Lu?

Alderwoman Lu

Thank you. I am not clear, so I'd be happy to vote on this but I don't think I've understood clearly what it is we are voting on and why it ... so Alderman Dowd, you said we have already approved this unanimously. And I'm not sure what you are saying we've approved before unanimously. If you could, you know, I'd love (inaudible) and I understand that we had originally planned to cede something to the seller after we build the road. And there's something different now that instead we are going to say let's just, we will work, let's have an agreement to work cooperatively after we build the road. Do I have that right?

President Wilshire

Alderman Dowd.

Alderman Dowd

Yeah basically. The same Purchase & Sale was approved by this Board before. We did change words, one of the seller had an attorney and the two attorneys, Attorney Leonard their Attorney, Attorney Foy just wanted to add these couple of words to make it into a cleaner document. So there's no basic intent change from the original Purchase & Sale. And the reason why we have to act on this quickly is we are trying to close within the next couple of days, we hope so that we can keep our schedule on the new Middle School.

Alderwoman Lu

So just a follow up?

President Wilshire

Yes.

Alderwoman Lu

Did you ever send the change in the wording out to us to look at?

Alderman Dowd

Yes.

Alderwoman Lu

OK, thank you.

President Wilshire

The motion is to suspend the rules to allow for a second reading. Any further discussion? Would the Clerk please call the roll?

A viva voce roll call was taken which resulted as follows:

Yea: Alderman O'Brien, Alderman Klee, Alderwoman Kelly, Alderman Dowd,  
Alderman Caron, Alderman Clemons, Alderman Lopez, Alderman Tencza,  
Alderwoman Lu, Alderman Jette, Alderman Schmidt, Alderman Laws,  
Alderman Cleaver, Alderwoman Harriott-Gathright, Alderman Wilshire 15

Nay: 0

### **MOTION CARRIED**

#### **R-21-117**

Endorser: Alderman Richard A. Dowd  
Alderman Patricia Klee  
Alderman Linda Harriott-Gathright  
Alderman-at-Large Benjamin Clemons  
Alderman-at-Large Brandon Michael Laws  
Alderman-at-Large Lori Wilshire

**AMENDMENT TO R-20-083 "AUTHORIZING THE ACQUISITION OF PROPERTY AT  
36 BUCKMEADOW ROAD, TAX MAP C, LOT 762, FOR A PURCHASE PRICE OF \$370,000"**

Given its second reading:

**MOTION BY ALDERMAN DOWD TO AMEND R-21-117 BY REPLACING IT WITH THE COPY OF  
AMENDMENTS RECEIVED FROM ATTORNEY LEONARD THIS AFTERNOON, BY ROLL CALL**

#### ON THE QUESTION

Alderman Dowd

And I'd like to speak to it.

President Wilshire

Alderman Dowd?

Alderman Dowd

Yeah this is the one that was sent out by Attorney Leonard. We have just had the negotiations finalized with all of the owners, there's been so many phone calls I don't remember if it was last night or this morning actually. And now everybody is in agreement, we are ready to finalize the purchase and I ask for approval of this motion.

President Wilshire

Motion to amend, any discussion on that motion? Seeing none, would the Clerk please call the roll?

A viva voce roll call was taken which resulted as follows:

Yea: Alderman O'Brien, Alderman Klee, Alderwoman Kelly, Alderman Dowd,  
Alderman Caron, Alderman Clemons, Alderman Lopez, Alderman Tencza,  
Alderwoman Lu, Alderman Jette, Alderman Schmidt, Alderman Laws,  
Alderman Cleaver, Alderwoman Harriott-Gathright, Alderman Wilshire 15

Nay: 0

### **MOTION CARRIED**

**MOTION BY ALDERMAN DOWD FOR FINAL PASSAGE OF R-21-117 AS AMENDED , BY ROLL CALL**

A viva voce roll call was taken which resulted as follows:

Yea: Alderman O'Brien, Alderman Klee, Alderwoman Kelly, Alderman Dowd,  
Alderman Caron, Alderman Clemons, Alderman Lopez, Alderman Tencza,  
Alderwoman Lu, Alderman Jette, Alderman Schmidt, Alderman Laws,  
Alderman Cleaver, Alderwoman Harriott-Gathright, Alderman Wilshire 15

Nay: 0

**MOTION CARRIED**

Resolution R-21-117 declared duly adopted as amended.

**NEW BUSINESS – ORDINANCES****O-21-046**

Endorser: Alderman Ernest Jette  
Alderman Tom Lopez  
Alderwoman Elizabeth Lu

**CHANGING THE STARTING TIME OF REGULAR MEETINGS OF BOARD OF ALDERMEN**

Given its first reading; assigned to the PERSONNEL/ADMINISTRATIVE AFFAIRS COMMITTEE, by President Wilshire

**O-21-047**

Endorser: Alderman-at-Large Ben Clemons  
Alderman-at-Large Michael B. O'Brien, Sr.  
Alderman Patricia Klee  
Alderman Skip Cleaver  
Alderman-at-Large Brandon Michael Laws  
Alderman-at-Large Lori Wilshire

**TEMPORARILY CHANGING THE DOWNTOWN IMPROVEMENTS FUNDING PLAN**

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

**O-21-048**

Endorser: Mayor Jim Donchess  
Alderman Richard A. Dowd  
Alderman Linda Harriott-Gathright

**AMENDING THE RESIDENTIAL DISTRICTS ORDINANCE WITH RESPECT TO RESIDENTIAL DRIVEWAYS**

Given its first reading; assigned to the PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE, NASHUA PLANNING BOARD, and SCHEDULE A PUBLIC HEARING ON THURSDAY, MARCH 4, 2021, AT 7:00 PM DURING THE PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE MEETING, by President Wilshire

**O-21-049**

Endorser: Mayor Jim Donchess

**AMENDING THE CONSERVATION SUBDIVISIONS SUPPLEMENTAL USE REGULATIONS**

Given its first reading; assigned to the PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE, NASHUA PLANNING BOARD, and SCHEDULE A PUBLIC HEARING ON THURSDAY, MARCH 4, 2021, AT 7:00 PM DURING THE PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE MEETING, and the CONSERVATION COMMISSION by President Wilshire

**O-21-050**

Endorsers: Mayor Jim Donchess  
 Alderman-at-Large Ben Clemons  
 Alderman-at-Large Michael B. O'Brien, Sr.  
 Alderman Patricia Klee  
 Alderman Jan Schmidt  
 Alderwoman-at-Large Shoshanna Kelly  
 Alderman Tom Lopez  
 Alderman-at-Large David C. Tencza  
 Alderman-at-Large Brandon Michael Laws  
 Alderman Richard A. Dowd  
 Alderman Skip Cleaver  
 Alderman Linda Harriott-Gathright  
 Alderman-at-Large Lori Wilshire

**RELATIVE TO TEMPORARY ROAD CLOSURES AND ELIMINATION OF CERTAIN ON-STREET PARKING FOR USE BY RESTAURANTS FOR OUTDOOR DINING IN 2021**

Given its first reading; assigned to the COMMITTEE ON INFRASTRUCTURE, by President Wilshire

**O-21-051**

Endorsers: Mayor Jim Donchess  
 Alderman-at-Large Ben Clemons  
 Alderman-at-Large Michael B. O'Brien, Sr.  
 Alderman Patricia Klee  
 Alderman Tom Lopez  
 Alderman Jan Schmidt  
 Alderwoman-at-Large Shoshanna Kelly  
 Alderman-at-Large Brandon Michael Laws  
 Alderman Richard A. Dowd  
 Alderman Linda Harriott-Gathright  
 Alderman-at-Large Lori Wilshire

**RELATIVE TO TEMPORARY 15-MINUTE PARKING IN 2021**

Given its first reading; assigned to the COMMITTEE ON INFRASTRUCTURE, by President Wilshire

**O-21-052**

Endorser: Alderman Linda Harriott-Gathright  
 Alderman-at-Large Michael B. O'Brien, Sr.  
 Alderman Tom Lopez  
 Alderman Patricia Klee  
 Alderwoman-at-Large Shoshanna Kelly  
 Alderman Richard A. Dowd

**AUTHORIZING A STOP SIGN ON COVEY ROAD AT ITS INTERSECTION WITH RIDGE ROAD**

Given its first reading; assigned to the COMMITTEE ON INFRASTRUCTURE, by President Wilshire

PERIOD FOR GENERAL PUBLIC COMMENT – None

REMARKS BY THE MEMBERS OF THE BOARD OF ALDERMEN

President Wilshire

Alderman Lopez.

Alderman Lopez

Yeah I just wanted to comment on a lot of constituent feedback I've gotten over the last couple of days. With the increasingly cold weather that we are facing there have been some pretty obvious shortcomings in some areas with regards to support for warming stations for people who don't have anywhere to be during the day or, you know, in the evenings on weekends. It has impacted some businesses downtown where people are coming in and one of the four people might order a coffee and the rest of them just might kind of hang out there in order to stay warm. There's been increases in panhandling downtown and I want to say most of the comments that I have gotten have been voiced as concern; not irritation or disgust or anything like that. People are concerned about other people who are out in the cold weather and want to know what we are doing about it.

So I have been telling people that there are warming stations available at the Soup Kitchen during the week and at the Southern NH Rescue Mission. That's one resource but we do have some shortages over the weekend and in the evening times which we will be working to address. So this is going to be brought up this Thursday at the Substandard Livings Conditions Committee for discussion. I think it is a solvable problem with the number of non-profit organizations we have and the different resources in the City. And it is something that we just need to be attentive to particularly this year because there are so many fewer alternatives for people to be using during the day due to COVID-19. So if you are interested in that topic or you are concerned, you are not alone a lot of people are also concerned about it. Certainly the people who are suffering the most that are outdoors are concerned about it and we are working on trying to come up with a community solution. Thanks.

President Wilshire

Anyone else? Alderman Clemons.

Alderman Clemons

Thank you Madam President. I would remiss if I didn't say that and mention the fact that I was sad to hear of the passing of former Board of Education member Bill Mosher. He served our City well for many, many years on the Board of Education. One of my fondest memories of Bill was when I was on the Board of Aldermen back in 2009 he had just been elected to the Board of Education. And there was a plan to – the Boy's Club at the time was expanding and there was a time to either eliminate or move Nashua's Alternative Middle School. And myself and some key members of the Board of Aldermen were very much in favor of moving that Alternative Middle School at the time and keeping it open.

I remember touring the new spot that we had in mind for it up on Amherst Street and Bill was there. And one of the things that struck me about the way that Bill approached things was he looked at not only the integrity of the building and things like that but he talked to the children who were there and the kids that were being affected by this and what school would be like for them if they didn't have this facility. And it was an approach that at that time in City Government we had been lacking quite a bit. And Bill didn't let those kids down, he was a key vote on that and we did ultimately build that Alternative Middle School at the time. That's how Bill was, he was very practical. But he also listened and he listened to his constituents and he valued education and he valued the children of this City and he will be missed. Thank you.

President Wilshire

Alderman Jette.

Alderman Jette

Yes, thank you Madam President, I wanted to let the residents of Ward 5 know that the Mayor has scheduled a Town Hall Meeting for this Thursday night by Zoom at 6:30 p.m. This is your opportunity to ask the Mayor questions or voice your opinion about what you think about what is going on in the City. So you can look at the Mayor's Facebook Page to get the link to Zoom or the Ernie Jette Ward 5 Alderman Facebook page, it is on there as well. Please come and take advantage of this opportunity to express your opinion. Thank you.

President Wilshire

Alderman Dowd.

Alderman Dowd

Yes just a couple of things. I'd like to echo the sentiments on Bill Mosher, I served with him on the Board of Education and he always listened to everything that was being said; made very logical decisions. So it is sad that he had passed.

Now the other thing is I have visited the vaccine today at Nashua High South and I was amazed at just how fluent and efficient it was being run. They were doing an amazing job and everybody seemed to be getting processed very efficiently, whether it was the first or second shot. They've got it pretty much down to a science. The one thing I'd mention though is there's a questionnaire that they should be sending you the night before you get the vaccine and you need to fill it out and bring it with you. It speeds things up immensely, otherwise they have to set you aside and you have to answer the questions orally. So just a hint to anybody that's going, you get the questionnaire and fill it out ahead of time, you have even more time. The longest part of the whole thing is waiting the 15 minutes after the shot to make sure you are OK. So kudos to that entire group. Thank you.

President Wilshire

Alderman Cleaver.

Alderman Cleaver

Thank you Madam President I would just like to thank Mayor Donchess and Director Kleiner for the very thorough and comprehensive review of Administrative Services; it was very helpful. I'd also like to thank Director Bagley and her team for continuing their fine work in very difficult circumstances. So thank you very much.

President Wilshire

Anyone else? Alderman Klee.

Alderman Klee

Thank you Madam President. I want to give a shout out to Director Cummings. Ward 3 had their parking study town hall and it was really well, well done. Mr. Hill give a very thorough explanation and I think we had a decent turnout with a lot of good questions. The one thing that came out of this was no one was saying "don't", no one was saying, "yes yes yes" to anything. The group talked and compromised; can we do this? Can we do that? I thought the questions came out really well and so on. And I really do want to commend Director Cummings for doing that.

I'd also like to give a shout out and thank Alderman Lopez for all that he's doing relative to warming stations and so on. I know he sent out a few emails and I appreciate Chairman Schmidt for taking this up at the Substandard Living Meeting this week, this coming week. And I too would like to send my condolences to the passing of Bill Mosher. I was shocked when I heard it. Being on the Joint Special School Board, he was amazing when we had him there. The history and the knowledge that he's had of all the buildings and so on. The questions he would ask were things that I think the average person didn't think of because he'd been through so many of these buildings and so on.

And I also agree with Alderman Dowd about the smooth sailing through the Nashua High South vaccines. When my husband had his we did sit there for 15 minutes, I have heard a couple of people, two actually today that went that didn't have to sit there for 15 minutes. I would recommend it. I haven't heard of anybody having a bad reaction but it's better to sit there for 15 minutes if they'll let you; EMT's are there in case anything does happen.

I would also like to thank the Mayor and especially Director Kleiner for the outstanding presentation that she gave explaining all the incredible work that they have been doing. And thank you Madam President.

President Wilshire

Thank you. Anyone else? (There were none.)

Committee announcements:

President Wilshire

Alderman Dowd.

Alderman Dowd

Yeah tomorrow night at 7:00 Budget; we are going to be talking about the new development on School Street.

President Wilshire

Alderman Schmidt.

Alderman Schmidt

Thank you. 7:00 on Thursday the Substandard Livings Conditions Special Committee, we will be talking about emergency procedures and we are going to talk about warming centers; very important right now. Thank you.

President Wilshire

Thank you. Alderman Tencza.

Alderman Tencza

Thank you. PEDC will not be meeting next week; instead we are going to be meeting on March 4<sup>th</sup> so that we can have a Public Hearing on a couple of Ordinances that are in front of us and we will be following that Public Hearing. Thank you.

President Wilshire

Anyone else? Committee announcements? OK, seeing none, Alderman O'Brien.

ADJOURNMENT

**MOTION BY ALDERMAN O'BRIEN THAT THE FEBRUARY 9, 2021, MEETING OF THE BOARD OF ALDERMEN BE ADJOURNED, BY ROLL CALL**

A viva voce roll call was taken to adjourn the Board of Aldermen meeting which resulted as follows:

Yea: Alderman O'Brien, Alderman Klee, Alderwoman Kelly, Alderman Dowd,  
Alderman Caron, Alderman Clemons, Alderman Lopez, Alderman Tencza,  
Alderwoman Lu, Alderman Jette, Alderman Schmidt, Alderman Laws,  
Alderman Cleaver, Alderwoman Harriott-Gathright, Alderman Wilshire 15

Nay: 0

**MOTION CARRIED**

The meeting was declared adjourned at 8:43 p.m.

Attest: Susan K. Lovering, City Clerk

**Steven A. Bolton**  
Corporation Counsel  
*BoltonS@nashuanh.gov*

**Celia K. Leonard**  
Deputy Corporation Counsel  
*LeonardC@nashuanh.gov*

**229 Main Street**  
**P.O. Box 2019**  
**Nashua, NH 03061-2019**



**CITY OF NASHUA**  
**OFFICE OF**  
**CORPORATION COUNSEL**

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**MEMORANDUM**

**TO:** Board of Aldermen

**FROM:** Celia K. Leonard

**DATE:** February 9, 2021

**RE:** Updated attachment for R-21-117

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At a further meeting of the Sellers with the City on 2/5/2021, two further changes were requested by the Sellers and are reflected in the attached "red-lined" Purchase and Sale which is the subject of R-21-117.

The changes are as follows:

- 1) Section 10, added the last sentence: "The provisions of this section shall survive the Closing."
- 2) In Section 15 d, added "heirs."

Accordingly, please replace the Purchase and Sale initially submitted with to R-21-117 with the attached.



## REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT (this "Agreement") is made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by and between **Rachel M. Tebbetts and James L. Tebbetts**, having a mailing address of 37 Indian Rock Road, Nashua, New Hampshire 03063, **Joyce St. Pierre and Richard L. St. Pierre** having a mailing address of 2559 E. Elmwood Street, Mesa, Arizona 85213 and **Cynthia Landry widow of Roger G. Landry** (date of death being November 26, 2017, recorded in the Hillsborough County Registry of Deeds at Book 9047 Page 0525), having a mailing address of 38 Buckmeadow Road, Nashua, New Hampshire 03062 (collectively hereinafter referred to as "Seller") and **The City of Nashua**, a municipal corporation, having an address of 229 Main Street, Nashua, New Hampshire 03060, (hereinafter referred to as the "Buyer").

1. PURCHASE AND SALE. Seller agrees to sell and convey, and Buyer agrees to buy, on the terms and conditions hereinafter set forth, a parcel of land with the buildings and improvements thereon, located in Nashua, Hillsborough County, New Hampshire, known as or described as Lot C-762 of the City of Nashua Tax Maps, having an address of 36 Buckmeadow Road, Nashua, New Hampshire, being the property described in a deed recorded in the Hillsborough County Registry of Deeds, Book 6283, Page 737 (the "Premises").
2. PURCHASE PRICE. Subject to any adjustments and prorations hereinafter described, Buyer agrees to pay for the Premises the sum of Three Hundred Seventy Thousand and 00/100 Dollars (\$370,000.00) (the "Purchase Price"). The Purchase Price shall be payable as immediately available wired funds at time of closing.
3. TITLE. Seller shall convey the Premises to the Buyer at the Closing in fee simple with good, insurable, and marketable title by Warranty Deed, free and clear of all liens and encumbrances. Buyer may, at its sole cost and expense, cause the title to the Premises to be examined prior to closing. If upon examination of the title, Buyer or its representative finds that the title to the Premises is not in accordance with the first sentence of this paragraph, then Buyer may terminate this agreement upon written notice to Seller, and Buyer's deposit, if any, shall be refunded.
4. CLOSING. The closing shall occur on \_\_\_\_\_, 2020, or at such other place as the parties may mutually agree.
5. INSPECTION AND DUE DILIGENCE PERIOD. Intentionally omitted.
6. POSSESSION OF THE PREMISES. The Premises shall be delivered to the Buyer at the time of the closing free of all tenants, personal property, and encumbrances.
7. FINANCING. This Agreement is not contingent upon the Buyer obtaining financing.
8. REPRESENTATIONS AND WARRANTIES OF SELLER. Seller represents and warrants to Buyer that the following are true as of the date of this Agreement and will be true as of the Closing:

- (a) The Premises are not the subject of any existing cease and desist orders, enforcement actions, or any federal, state or local code enforcement violations.
- (b) There are no unrecorded outstanding pending or threatened liens, claims, rights of first refusal, licenses, or encumbrances against or affecting the Premises, which have not been disclosed to Buyer in this Agreement.
- (c) There are no outstanding claims, losses or demands against Seller by any person, entity, or governmental unit respecting Seller's ownership, use, or occupancy of the Premises, which have not been disclosed to Buyer in this Agreement.
- (d) Seller has no knowledge of any boundary disputes or encroachments affecting the Premises.
- (e) There are no leases of any portion of the Premises.
- (f) Seller has no knowledge of any pending or threatened litigation that may adversely affect the transfer of the Premises hereunder or materially affect the value of the Premises.
- (g) Neither the whole nor any portion of the Premises has been condemned, requisitioned, or otherwise taken by any public authority and no notice of any such condemnation, requisition or taking has been received by the Seller and no such condemnation, requisition or taking is threatened.
- (h) Seller has not knowingly released into the environment or discharged, placed or disposed of any hazardous materials, substances, or waste or knowingly caused the same to be released into the environment or discharged, placed or disposed of at, on, or under the Premises. Notwithstanding the foregoing, the Seller cannot represent to Buyer that there are no hazardous waste issues as a result of the current activities of other unit owners. To the best of Seller's knowledge, the Premises complies in all material respects with all applicable federal and state environmental laws and regulations. Seller has not received any written notice from any governmental authority or any written complaint from any third party with respect to its alleged non-compliance with, or potential liability under, any environmental laws and regulations.
- (i) There are no rights of first refusal or options to purchase associated with the Premises.
- (j) Seller has authority to enter into this Agreement and will provide necessary authority documents at the Closing.

These representations shall survive the Closing.

Other than the representations contained above and the warranty of the proposed Warranty Deed, Seller makes no representation or warranty as to fitness, merchantability, condition or use of the Premises for any particular purpose as the Premises is sold "AS-IS".

9. DEFAULT AND REMEDIES. In the event that Buyer defaults in the performance of its obligations hereunder, Seller shall be entitled to retain the Deposit, if any, as reasonable liquidated damages.

10. CONDITIONS SUBSEQUENT TO CLOSING. The parties hereby agree and acknowledge that Buyer is purchasing the Premises from Seller to construct a roadway to access a new school. The parties further agree that Buyer does not need nor want the entire Premises for the proposed roadway, but as a result of the design and layout of the new roadway, the Premises shall be subdivided into three (3) distinct parcels: (1) the roadway, (2) portion north of the roadway; and (3) portion south of the roadway. ~~As consideration of Seller to close, at or before Closing, Buyer shall execute a Purchase and Sale Agreement with Seller for all land located northerly of the proposed new road layout from Buyer back to Seller for consolidation with Seller's existing property. Subsequent to the design and construction of the roadway, Buyer and Seller agree that each will fully cooperate and take all necessary and advisable actions to adjust the lot line between Seller's land at 34 Buckmeadow Road, Parcel ID 0000C-00350, Map/Lot C-350 ("34 Buckmeadow") and the Premises to include in 34 Buckmeadow the portion of land north of the roadway which the City, in its sole discretion, has determined is surplus subject to Buyer's reserved rights of easement over that property for slopes, drainage and establishment of drainage ponds, with notice of said agreement to be recorded in the Hillsborough County Registry of Deeds, said notice to be in substantially same form as attached hereto as Exhibit A and convey pursuant thereto.~~ Buyer shall also convey a single point driveway access to the new road to Seller for the property to be reconveyed to Seller after Closing, location to be determined by Buyer. The transfer of all land located northerly of the proposed new road layout from Buyer shall occur following approval of a plan creating the new roadway and reflecting the consolidation of the remaining portions of the Premises with the abutting properties no later than six (6) months after the substantial completion of construction of the proposed roadway.

With regard to the property southerly of the roadway Buyer covenants that for a period of twenty (20) years Cynthia Landry shall hereby receive an exclusive right of first refusal to purchase said property in the event that Buyer elects to sell or transfer said property. This covenant shall run with the land, be binding on heirs and assigns and be included in the deed of transfer. For the same twenty (20) year period the City shall not permit any construction or development within or of this area, including but not limited to, a park or recreational area of any kind.

Buyer further commits that the contemplated new road will be named "DiAntonio Drive."

The provisions of this section shall survive the Closing.

11. BROKERAGE. Seller and Buyer represent and warrant to each other that neither has dealt with any real estate broker, agent or salesperson in connection with this transaction. Each party agrees to defend, indemnify, and hold the other harmless from any claims, costs,

judgments, or liabilities of any kind advanced by persons claiming real estate brokerage fees through the indemnified party. The indemnities set forth in this Section shall survive closing.

12. PERSONAL PROPERTY INCLUDED. N/A. Land only.

13. ADJUSTMENTS, PRORATIONS AND CLOSING COSTS.

- (a) Real Estate taxes, assessments, special assessments, rents, water bills, sewer, utilities and condominium association fees, shall be prorated as of the Closing, and the Selling price shall be adjusted accordingly.
- (b) All recording fees for the deed of conveyance will be paid by the Buyer. Recording fees for any necessary discharges will be paid by the Seller from the closing proceeds.
- (c) Seller and Buyer shall pay their own attorney's fees.

14. CONDEMNATION. In the event of the taking of all or any part of the Property by eminent domain proceedings, or the commencement or bona fide threat of the commencement of any such proceedings, prior to Closing, Buyer shall have the right, at Buyer's option, to terminate this Agreement by giving written notice thereof to Seller prior to Closing. If Buyer does not so terminate this Agreement, the Purchase Price shall be reduced by the total of any awards or other proceeds received by Seller prior to Closing with respect to any taking, and, at Closing, Seller shall assign to Buyer all rights of Seller in and to any awards or other proceeds to be paid or to become payable after Closing by reason of any taking. Seller shall notify Buyer of eminent domain proceedings within five (5) days after Seller learns thereof.

15. GENERAL PROVISIONS.

- (a) Entire Agreement. All representations, statements, and agreements heretofore made between the parties are merged in this Agreement, which alone fully and completely expresses their respective obligations, and this Agreement is entered into by each party after opportunity for investigation, neither party relying on any statement or representation not embodied in this Agreement made by the other or on its behalf.
- (b) Modification. This Agreement cannot be changed, amended, or modified in any way except by an instrument in writing, executed by the party or parties to be charged with the change, amendment, or modification.
- (c) Notices and Requests. Any notice, request, instruction, or other document given or required to be given hereunder shall be in writing, and shall be deemed given when hand-delivered or deposited in the mail by registered or certified mail, postage pre-paid, to the parties at the following address, or as at such other addresses as the parties by like manner shall notify each other from time to time:

TO SELLER: Rachel M. and James L. Tebbetts  
37 Indian Rock Road  
Nashua, New Hampshire 03063

Joyce and Richard L. St. Pierre  
2559 E. Elmwood Street  
Mesa, Arizona 85213

Cynthia Landry  
38 Buckmeadow Road  
Nashua, New Hampshire 03062

TO BUYER: City of Nashua

Attn: Steven Bolton, Esquire  
229 Main Street  
Nashua, NH 03060

- (d) Binding Effect. This Agreement shall be binding upon and for the benefit of the parties hereto and their respective legal representatives, successors, heirs, and assigns.
- (e) Severability. If any term or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent, be held invalid or unenforceable by any court of competent jurisdiction, then the remainder of this Agreement or the application of such term or provision to any other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.
- (f) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New Hampshire.

16. STATUTORY NOTIFICATIONS. Pursuant to Section 477:4-a of the New Hampshire Revised Statutes Annotated, the SELLER provides the following notifications to the BUYER.

- (a) RADON GAS. Radon gas, the product of decay of radioactive materials in rock may be found in some areas of New Hampshire. This gas may pass into a structure through the ground or through water from a deep well. Testing can establish its presence and equipment is available to remove it from the air or water.
- (b) ARSENIC. Arsenic is a common groundwater contaminant in New Hampshire that occurs at unhealthy levels in well water in many areas of the state. Tests are available to determine whether arsenic is present at unsafe levels, and equipment is available to remove it from water. The Buyer is encouraged to consult the New Hampshire Department of Environmental Services private well testing

recommendations (www.des.nh.gov) to ensure a safe water supply if the subject property is served by a private well.

- (c) **LEAD PAINT.** Before 1977, paint containing lead may have been used in structures. The presence of flaking lead paint can present a serious health hazard, especially to young children and pregnant women. Tests are available to determine whether lead is present.

By virtue of the execution of this agreement, BUYER hereby acknowledges receipt of the foregoing Notification Regarding Radon Gas, Arsenic, and Lead Paint.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

**SELLERS:**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Rachel M. Tebbetts

\_\_\_\_\_  
Witness

\_\_\_\_\_  
James L. Tebbetts

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Joyce B. St. Pierre

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Richard L. St. Pierre

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Cynthia Landry

**BUYER:**

CITY OF NASHUA

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
James W. Donchess, Mayor

**EXHIBIT A**

**NOTICE OF PURCHASE AND SALE AGREEMENT**

~~Notice of a Purchase and Sale Agreement as to certain property in Nashua, County of Hillsborough, State of New Hampshire, is hereby given as follows:~~

~~(1) (a) Name and Address of Seller:~~

~~\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_~~  
City of Nashua  
Attn: Steven Bolton, Esquire  
229 Main Street  
Nashua, NH 03060

~~(b) Name and Address of Buyer:~~

~~\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_~~  
Rachel M. and James L. Tebbetts  
37 Indian Rock Road  
Nashua, New Hampshire 03063

~~\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_~~  
Joyce and Richard L. St. Pierre  
2559 E. Elmwood Street  
Mesa, Arizona 85213

~~\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_~~  
Cynthia Landry  
38 Buckmeadow Road  
Nashua, New Hampshire 03062

~~(2) Date of Execution of Purchase and Sale Agreement:~~

~~(3) Description of Demised Premises:~~

~~A portion of the premises being all land located northerly of the proposed road on a certain lot located in Nashua, County of Hillsborough, New Hampshire, known as or described as Lot C-762 of the City of Nashua Tax Maps, having an address of 36 Buckmeadow Drive, Nashua, New Hampshire, being the property described in a deed recorded in the Hillsborough County Registry of Deeds, Book \_\_\_\_\_, Page \_\_\_\_\_.~~

~~(4) Date of Expiration of Purchase and Sale Agreement:~~

[Signatures to follow]

WITNESS our hands this \_\_\_\_\_ of \_\_\_\_\_, 2020.

**SELLER:**

CITY OF NASHUA

By: \_\_\_\_\_

Witness \_\_\_\_\_ James W. Donchess, Mayor

**BUYERS:**

Witness \_\_\_\_\_ Rachel M. Tebbetts

Witness \_\_\_\_\_ James L. Tebbetts

Witness \_\_\_\_\_ Joyce B. St. Pierre

Witness \_\_\_\_\_ Richard L. St. Pierre

Witness \_\_\_\_\_ Cynthia Landry

STATE OF NEW HAMPSHIRE  
COUNTY OF HILLSBOROUGH

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, personally appeared \_\_\_\_\_, the Mayor of the City of Nashua, known to me or satisfactorily proven to be, the person whose name is subscribed to the foregoing instrument, and being duly authorized so to do, made oath that he executed the same as his free act and deed for the purposes therein contained on behalf of the City of Nashua.

Before me,

\_\_\_\_\_  
Justice of the Peace/Notary Public

STATE OF NEW HAMPSHIRE  
COUNTY OF HILLSBOROUGH

~~On this the \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, personally appeared Rachel M. Tebbetts and James L. Tebbetts, known to me or satisfactorily proven to be, the persons whose names are subscribed to the foregoing instrument, and made oath that they executed the same as their free act and deed for the purposes therein contained.~~

~~Before me,~~

\_\_\_\_\_  
\_\_\_\_\_  
Justice of the Peace/Notary Public

STATE OF NEW HAMPSHIRE  
COUNTY OF HILLSBOROUGH

~~On this the \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, personally appeared Cynthia Landry, known to me or satisfactorily proven to be, the persons whose names are subscribed to the foregoing instrument, and made oath that they executed the same as their free act and deed for the purposes therein contained.~~

~~Before me,~~

\_\_\_\_\_  
\_\_\_\_\_  
Justice of the Peace/Notary Public

STATE OF ARIZONA  
COUNTY OF \_\_\_\_\_

~~On this the \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, personally appeared Joyce St. Pierre and Richard L. St. Pierre, known to me or satisfactorily proven to be, the persons whose names are subscribed to the foregoing instrument, and made oath that they executed the same as their free act and deed for the purposes therein contained.~~

~~Before me,~~

\_\_\_\_\_  
\_\_\_\_\_  
Justice of the Peace/Notary Public