

TASK FORCE

MARCH 31, 2022

A meeting of the Committee on Infrastructure was held Thursday, March 31, 2022, at 7:00 p.m. in the Aldermanic Chamber and via Zoom teleconference.

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

Alderman-at-Large Michael B. O'Brien, Sr., and Alderman-at-Large Melbourne Moran, Jr., Co-Chairs, presided.

The roll call was taken with 12 members of the Committee on Infrastructure present:

Members of Task Force:

- Alderman-at-Large Michael B. O'Brien, Sr.
- Alderman Richard A. Dowd, Vice Chair
- Alderman Alex Comeau
- Alderman Tyler Gouveia
- Alderman Ernest A. Jette
- Alderman-at-Large Melbourne Moran, Jr.
- Alderman John Cathey
- Alderman Derek Thibeault
- Marylou Blaisdell
- Paul Shea
- Cathy Cardin-Smith
- Michael Buckley
- Ruth Boland

Members not in Attendance: Alderman-at-Large Ben Clemons

Also in Attendance:

- Alderman-at-Large Lori Wilshire
- Alderman Patricia Klee
- Alderman-at-Large Shoshanna Kelly
- Alderman Thomas Lopez
- Alderman John Sullivan (via Zoom)
- Tim Cummings, Economic Development Director
- Steve Bolton, Corporation Counsel

ROLL CALL

Chairman O'Brien

I should have mentioned last night but we did receive correspondence from Alderman-at-Large Ben Clemons. He is out of town due to a very important family business and unable to attend.

PUBLIC COMMENT – (only for items on the agenda)

Karen Bill

Karen Bill, 95 Parnell Place here in Nashua. I wanted to say that I am 100 percent in favor of outside dining on Main Street. I think most people are. It's just there's a lot to be confused about. I'm zero in favor of using barriers to make that happen. Can I come back, this is involving a neighbor and it might be an emergency.

Chairman O'Brien

No, I understand. Very good.

Rich Lannan

Good evening. Rich Lannan – I live at 11 McGrath Road in Pelham with offices here in Nashua. I do own a couple mixed use buildings in downtown which I think most of you know. I just wanted to speak quickly since I have another meeting to run to. I think having this committee obviously and a Task Force is great. I think to tweak things a little bit. I did catch a little bit late last night and I've talked to a bunch of people today. I think the revised plan that was submitted back whatever it was now – 4 or 6 weeks ago. I think had a lot of thought not just – both with input from the public at these

public hearings but more importantly to me as well as all the experts and professionals of the city. The engineers, the traffic people because I know there's been a few occasions that I've called Director Cummings and even brought him downtown a year ago and say why can't we do such and such until I was told why we can't because of public safety, traffic flow. So I learned through the last couple of years process once a new plan came out, I still looked at it and thought gee I have a couple of great ideas until I went downtown and physically looked at it and said gee I guess that won't work either.

So I think there was a lot of thought from the professionals at all the input from the public pros and cons. I know I think the Task Force which when I heard the Task Force was being put together, I think it was a great idea to talk about it whether you're talking about the timing, whether you're talking about repainting barriers and looking at it but to kind of recreate the wheel which is what seemed like was last night and today. I was a little surprised because I think the timing of this is really important. We're already into April tomorrow and you know at this point here I'm hoping obviously you folks can get through it tonight to be able to make a suggestion to the Board of Aldermen because I can imagine that the restaurants or whatever businesses need to have outdoor seating, it's almost like late now because it's bad enough when they had to a couple of years ago know what's going on to buy tables and chairs and things. Now it's about getting employees. They're going to be up against the wall already even if the decision was made completely tonight. So I'm just asking the board – I think there was a lot of thought put into this plan discussing it, tweaking it a little bit, but going through and trying to remove a barrier here, add a barrier here. To me that's been done and it's kind of water over the bridge and what the new plan says.

Alderman Comeau

30 seconds

Rich Lannan

I just urge you to vote on that and move it onto the Board of Aldermen if you could. Thank you.

Karen Bill

Karen Bill, 95 Parnell Place, Nashua. As I was saying, I am 100 percent in favor of outside dining on Main Street. Always have been, always will be. Loved it when it first started. How many years ago Mike, was it 20 years ago at least? It wasn't like from day one thought, right. So for 20 years it's worked great. I'm zero percent in favor of having to choose barriers to make that happen. It worked for 18 years and the only reason we brought the barriers in was COVID, okay. COVID is done for all intents and purposes. I am 100 percent in favor of having safe and equitable treatment for ALL businesses on Main Street and as for Nashua as a whole for that fact.

I am zero in favor of limiting traffic lanes on Main Street at any point in time to two lanes so emergency vehicles can do their job in four lane without delay. Without being hindered by delivery vehicles who will block any flow of traffic on a one way. You know it's true. Hang out in the middle of Main Street for a half an hour and count how many UPS, FedEx, Prime, Amazon, all these that just stop and they leave their vehicle unattended idling or not, run in the building. Maybe they'll get a soda or a coffee while they're in there but it's reality.

I am 100 percent in favor of a thriving downtown. I grew up downtown. I became a pinball wizard downtown. I love downtown. I am zero percent in favor of spending one red cent of taxpayer money to install even one barrier to make that happen.

I am 100 percent against keeping the wolf in this hen house and handpicking committee members who represent their own special interests, or the Board of Aldermen, or Mayor without bringing residents from outside of this much of Main Street. It's called a "democracy" when you do that by the way.

I am zero percent in favor of having alternative ideas and 100 percent in favor of having alternate ideas and people who contribute those ideas and have a seat at this table. Again, known as a democracy. I am 100 percent in favor of taking back Main Street for all taxpayers...

Alderman Comeau

30 seconds

Karen Bill

...residents, and visitors not a few select businesses. It's not necessary. Pre-COVID – nobody was throwing their hands up in the air screaming we need more tables. We just can't handle the volume. Come on, get real. It's time to let us have Main Street back with four lanes for safety. It's not just for the patrons at the businesses. Think about the hundreds and hundreds and thousands of people that live downtown...

Alderman Comeau

Time.

Karen Bill

...on a third floor. Thank you very much.

Chairman O'Brien

I'll remind the people on Zoom and the people that are speaking. This public comment is supposed to be for as listed on the agenda if you read the agenda. It's only for items that are on the agenda. I'll allow a little leeway but when we go away from the agenda, we extenuate the meetings so please keep that in mind.

Beth Scaer

So what's exactly on the agenda? I looked at it quickly.

Alderman Wilshire

It's her job to look at the agenda.

Chairman O'Brien

Ma'am it's up to you. Not to be rude, but it's your responsibility in public speaking to look at the agenda Ma'am.

Beth Scaer

Okay. I thought we were still talking about the downtown expanded dining. So to follow up on my comments from last night about the pollution, the exhaust – okay what I was talking about was the exhaust from traffic that was trapped you know in a traffic jam because of the barriers. That exhaust is the leading cause of heart disease in this country and heart disease is a leading killer of people in this country and we have a lot of people downtown who are already struggling with poverty, disabled, and homelessness, and we don't need to add a new serious health problem on top of all that. There was some talk about the barriers not, you know, the problems of the unsightliness of the barriers being solved by painting them. I would beg to differ on that. I'm glad you're taking down the flashing signs. Those were pretty awful. They call them Jersey barriers and they make it look like Jersey. So they're still hideous even if you paint them, even if you take away the flashing signs, they're hideous.

I also wanted to say just because there's traffic jams elsewhere in the city doesn't mean we should add new traffic jams. We should be working to limit traffic jams with whatever abilities we have – technology, traffic, and engineering, building – making new roads, everything – signage whatever we can. We shouldn't say because there's traffic jams in one place why not have more traffic jams. That leads me to my concern...

Alderman Comeau

30 seconds

Beth Scaer

...there's lot of (inaudible) thinking going on here or someone on Facebook called "hand raising". I appreciate last night. We made some progress towards some more equitable handling of the businesses, storefronts, and I really beg you to

continue with that to be fair to everyone in the community, the taxpayers, the businesses, the restaurants, and everyone. Thank you.

Chairman O'Brien

Thank you.

Cole Morgan

Yes, thank you. Cole Morgan – 20 Locke Street. I just wanted to say a couple of quick things in favor of the barriers coming back. I feel like having an expanded outdoor space does make Nashua feel much more like a true city and urban center versus just a big town. In accordance with the Master Plan that was accepted, a version of expanded seating and expanding sidewalks would slightly reduce traffic patterns or alter traffic patterns was actually accepted I believe by this Board of Aldermen. Emergency vehicles operate daily in cities with one way streets and alleyways just fine. This is not a problem that Nashua has. It's a problem just of cities. I welcome the problems and challenges of big cities. That means we're making progress.

So totally in favor of this. I do think the barriers should be more neutral. I think we all –everyone here in Nashua does seem to support the arts, although I think maybe a little more neutral. A little more blending would be nice. That's it. Thank you very much.

Paula Johnson

Good evening. Paula Johnson, 15 Westborn Drive. I'm a member of the Board of Education but I'm speaking here regarding myself and not them. Good evening Mr. Chairman and members of the Committee. My whole issue has been since last year that there was no handicapped accessible signed parking. Last night when Mr. Cummings was showing us on the board, I believe it was him, and I always questioned that there was a parking spot in front of San Francisco Kitchen. Everybody told me no. Here it is. Here it is. So we did take this away and it never came back. Matter of fact, I believe there's a 90 minute parking sign sitting right there. So we did take them back. Mr. Cummings said that we're going to relocate handicapped parking spot. Well where are we relocating them too? If people are coming downtown to shop or go to the restaurants there, you can't put them on West Hollis Street and expect them to walk to Main Street. That's called "ADA" and reasonable accommodation and accessibility. That means – when we talk about the ramps, I don't think it is funny Mr. Cummings. I really don't because...

Chairman O'Brien

Ma'am focus your...

Paula Johnson

I am focusing. Because unless you have a disability, a walking disability, you don't understand what it's like.

Chairman O'Brien

Please don't address members of the...Ma'am, please. Your comments please.

Paula Johnson

You know on my board, we're allowed to say anything to board members. So anyway, so last night I went home and before I left I looked up the National Network on ADA and then there's the Northeast ADA Association. Here's part of what I printed out. There has to be reasonable accommodations. The Chairman last night spoke about are we even doing things right? Hopefully I got that right. We've been letting them be on the sidewalks and now in the street. There has to be ADA compliance that wheelchairs can pass going on the sidewalks. When you had the ramps going last year from the sidewalks, it was going into the street so they can access the tables. I took pictures of it. It wasn't that it couldn't help them go across the street. It was just going down the ramp to the tables but that wasn't parking. So why are we forgetting about people with a disability? I think it's sad and why should we have to come here and fight for this? You know we talk about people fighting for their rights, it seems like I come in here many of times fighting for the taxpayers' rights, fighting for the children's rights on the Board who have disabilities and now (inaudible) who have disabilities...

Alderman Comeau

30 seconds

Paula Johnson

...that can't walk. I'm not going downtown to buy anything because I can't park. If there's days that I can't walk, you've now taken my rights away to visit downtown to have that accessible tagged spot. Everybody's right for people with disabilities but anybody can park there. Not everybody can park on that tagged handicapped spot. It is a shame here that people have to come and fight.

The barriers, I didn't like them.

Alderman Comeau

Time

Paula Johnson

They didn't look nice but if you want to have the tables, you need to take care of the handicapped people in this city too. Thank you.

Chairman O'Brien

Thank you.

Tim Sennott

Thank you. Tim Sennott, 62 Underhill Street, Nashua. I'm here tonight to ask if it's at all procedurally possible for you to reconsider a motion that was taken last night that I feel was done short sighted and without a full picture of the downtown area. I spent an hour downtown today. I parked at the Elm Street lot. I started out from walking from City Hall and did several loops up to the Main Street Bridge and back. In considering the parking spots that are immediately abutting the frontage of restaurants and businesses, you'd be cutting off seven at the pass if you didn't take into consideration any of the allowances from their neighbors. Seven restaurants on Main Street don't have a parking lot that is exclusively in front of their frontage.

I also think that consideration wasn't given to the overhead businesses on Main Street. We considered abutting businesses, storefronts but we did not consider abutting entrances to businesses that are above those restaurants. If you give that consideration to the retailers there, you're going to be having the overhead businesses asking for this consideration as well. I feel like this was done shortsightedly without a full picture of what the parking situation is on Main Street and it should be reconsidered because right now if we continue going on to map 3 – evaluating where we're going to put barriers, where we're going to put cones, where we're going to put barrels. We're working with a picture that we don't even fully understand because without knowing which businesses will have the allowances from their neighbors, we don't know where outside dining is. In my opinion making that motion last night affectively killed this for half the businesses on Main Street. I don't think that was done right. I think there are equitable solutions for retailers and restaurants and I think more consideration needs to be given to that. Thank you.

Chairman O'Brien

Thank you.

Laura Colquhoun

Laura Colquhoun, 30 Greenwood Drive. I just want to restate how I feel. I do not like the barriers. If anybody looked on Facebook today, they would have realized there was a post about Nashua from 2010 showing all the outside seating/dining that they had and it looked very nice and it wasn't in the streets. I think if we looked back over what we had, you'll still have that quant little town that we want. Somebody had the nerve to say, you know, New York, London, and Paris do outside dining. Well the City of Nashua is nowhere near London, New York, and/or Paris.

I also would like to know we pay – the taxpayers – pay for a traffic engineer and I want to know why he has not been attending any of these meetings because I don't like second hand questions being asked. I think we should be able to ask him directly. I'm looking at the website and the last time a traffic impact report was done for the City of Nashua was May of 2000. I think, you know, you're trying to shove this down our throats but meantime nobody is giving us really the correct answers, or the most honest answers, and we're not seeing the reports that we should be receiving. I'm therefore asking you to squash this. Do not put the barriers up. It just does not make Nashua look like a little quaint city. It makes it look like New York. I moved out of New York and I don't want to go back. Thank you.

Chairman O'Brien

Thank you.

Allison Dyer

Hi, Allison Dyer, 9 Squire Drive, Nashua, NH. I just wanted to go back on the agenda it talks about the elimination of parking and seasonal road closures. I keep going back to the safety issue in Nashua at the December 8th meeting where the Chief did speak to the minute increased response time and the police talking about officer safety with regards to having to potentially pull people over on Main Street. It could be an issue for even the patron in outside dining, the police officer themselves, the people in which they're pulling over. I just really think that while I don't think anyone will argue that the outdoor isn't a wonderful part of Nashua but the blocking off of spaces or lanes on Main Street in order to do that, I still go back to that safety issues because at the end of Main Street, we do have two hospitals. I do understand that there are other ways in which to get to those hospitals. I just find that we could – as Laura Colquhoun the previous speaker stated, maybe look back at what we had previously done to make the outdoor dining wonderful without blocking spaced off and potentially causing a safety issue for the citizens of Nashua and/or our wonderful police, fire, and ambulance. That was it. Thank you.

Chairman O'Brien

Thank you.

Bob Cagon

Bob Cagon, 23 Hampton Drive in Nashua and I also have a store at 204 Main Street. I'm 100 percent in favor of the barriers. They are probably much makes traffic much safer than having the cars fly down the street all day and all night. Making it two lanes instead of four lanes slows everybody down. People that are j-walking across the street are much, much safer. I had so many things I wanted to say and then listening to some of these ladies with their ideas kind of threw me off.

The restaurants are what's saving downtown. Without the restaurants, downtown is going to end up being a ghost town. There is plenty of parking for handicapped people. Anybody with a handicapped placard can park virtually anywhere they want. So saying that there's no parking and these people have to walk 200 feet to get to a restaurant is untrue. You can park as long as you want anywhere you want. That's all I can think about. You got me a little flustered. The only reason I'm back here is because it is not true that – and the other thing is in order for the slower traffic makes people slow down and see what kind of businesses we have downtown and say oh, there's an optical store. I own an optical store. There's an optical store there that I haven't seen and I've been coming downtown for 20 or 30 years. There's a restaurant that I didn't know was here. Slow traffic is nice. People are safer. People are happier and people like eating outside in downtown. Nobody minds eating in the street. Thank you.

Laurie Ortolano

Before you start the clock, could I ask for a clarification on this agenda? We're supposed to speak to items on the agenda but we don't get the packet that shows us what these maps are. They're not on line or available. So when I came here yesterday and I came today, I don't have any of the information. So I don't know how we're expected to speak to it because all we have are words and I don't know what they refer to. I would like in the future that – I don't know if you have pictures of this stuff but if you do, I would like a copy of that. Somebody send that to me. That's an information request and consider putting it on line. I don't know how to follow your orders to do that if you don't give it to us. I don't know how speak to it.

With that being said, let me – did you start the clock on me?

Chairman O'Brien

We started the clock.

Laurie Ortolano

Thanks a lot. Wayne Husband is our Traffic Engineer and Mr. O'Brien you keep referring to Dan Hudson as the Traffic Engineer over and over again last night. Dan Hudson is the City Engineer. Could somebody please tell me why our Traffic Engineer isn't here? Highly paid, well paid guy whose sole focus is traffic and we keep bringing up traffic issues saying we'll go check it out. Get him here. Get Wayne Hudson here.

Also, some of the statements made last night on Factory Street. You know, a restaurant that's coming in wants the barriers. Of course they do, they're free. Anyone whose going to come in and can get extras spaces is going to say I'll take them. Why not. I think we do have to have some financial plan if you're going to take the space, there's going to be a payment for that space. One of the members of the Task Force talked about how we were nitpicking a plan that the experts already had looked at. This isn't nitpicking. It's our ability to be involved in this. The gentleman who spoke first said hey this has been well vetted and the public has had plenty of time for comments. We didn't. We were left in the dark from December 8th until you know February. We had no input. This wasn't going to have input until the public said please allow it. So it's not nitpicking. Barriers don't calm traffic. They create a traffic jam. I think it creates a traffic jam. Being stuck in traffic isn't necessarily calming. It's annoying.

The Mayor stated – it was stated – it shows strong results at certain times. I don't see that. Give me that data. Show me that data and compared to what? Show me what existed before because I don't have that. When you had outdoor dining, 100 percent for outdoor dining. I've used it. I loved it. Show me that data so that I can compare it...

Alderman Comeau

30 seconds

Laurie Ortolano

...can compare it to what it is. All the business I found it the issue on Factory Street when Mr. Shea said all he businesses that were offered feedback. Who was that because we didn't do it for everyone? It's as if you had to be lucky to know that you could give feedback. Not every business was asked to give feedback or knew about it.

Finally, Mr. O'Brien you were a little short tempered last night and you kept saying remembers we're doing this for one block. No you're not...

Alderman Comeau

Time

Laurie Ortolano

...you're doing it for us too.

Matthew Gouthro

Alderman O'Brien just a point of order before I begin. Your online video presence is not the meeting but rather a YouTube search for music videos on the band the cores. While I'm a big fan of Irish music if you're going to host a professional meeting, you should at least have a professional presence for the taxpayers and stakeholders who are trying to follow along on line.

This is Matthew Gouthro, 104 Fawn Lane. It's astonishing the breakneck speed that this meeting is trying to push this through. With all due respect to the Chair, that's exactly what's happening here. It's being forcibly pushed through.

Chairman O'Brien

Excuse me Sir. Are you questioning my race with Irish music?

Matthew Gouthro

I am not. (inaudible)

Chairman O'Brien

Okay, I'm confused. Where did you get the Irish music?

Matthew Gouthro

If you go to the website, there is a YouTube...

Chairman O'Brien

I have no control over that. It's a computer glitch so carry on.

Matthew Gouthro

I was bringing it to your attention that you may let your technical people know. That was all.

Anyways in continuing what I was saying, I understand this is a race for space. If you're going to try and get this proposal as poorly conceived as it is to get outdoor dining to fulfill the vision for the Mayor and our Economic Development Director to reshape our downtown historic district for years to come, in this city I just think we license so many things. We license dogs, alarms, and even pool tables but when it comes to our most precious commodity downtown – parking, we cannot even consider a fee based system for a business that would benefit from outdoor dining to offset the cost of our taxpayers here in Nashua.

What you need to understand is that in making these decisions, these clunky graffiti barriers will be in place 24 hours a day, 7 days a week for months end with a 6 percent utilization for seating from this same exercise in the same area in 2021. This is an unnecessary economic tax grab. We haven't even seen any economic feasibility study that said if you build it, they will come. One thing that we've been waiting for is a traffic study and that was a major discussion in the past meetings. Here you are sitting squabbling over what traffic calming measures you're going to use and if you have absolutely no data as to what the extent of the traffic for these proposed areas without clear direction, you're hoping that the drivers will adhere to where you want them to go. This is a dangerous gamble.

Alderman Comeau

30 seconds

Matthew Gouthro

Again, another example as to why we should have been more properly planned out before being presented. The only person in this committee, the Traffic Engineer hasn't even been to one of the meetings. Once again, this is all being done against the will of your residence who have overwhelming spoken out about this. The attitude that you know better than our residents is detrimental to the purpose of this pass (inaudible) that it's in place. We clearly understand that you're not looking at this with an open mind but rather trying to find a way by hook or by crook...

Alderman Comeau

Time

Matthew Gouthro

...to make this possible and to create traffic gridlock, reduce parking, and potential safety hazard in our historic downtown. Thank you.

Chairman O'Brien

Thank you. So somebody is sabotaging the meeting. It's very interesting.

Jeff Poehnert, PEG Manager

Mr. Chairman – it's Jeff again. I have changed their name three times and that time I didn't catch it. I apologize.

Chairman O'Brien

So somebody is deliberating doing this?

Jeff Poehnert, PEG Manager

Yes it appears.

Chairman O'Brien

Okay then I think we're going to move on. If it continues, I may have to change to just the in house. We'll have to see.

Gary Wingate

My name is Gary Wingate – 15 Sherman Street in Nashua. Again, a couple of bullet points I'd like to share with you. So today I called the general managers of two prominent Portsmouth restaurants. I talked to Bobby at Roses and Jackie at Moxie's. They've both certified that they have extended outdoor dining in their parking area in front of their restaurants. That is true of all the restaurants in Portsmouth. As we've already heard last night, they also can only place their tables and chairs within the boundaries of their restaurants. They both have non-restaurant abutters and respect the fact that they need to have parking for their customers. They also mentioned that they built their platforms themselves and they all fitted within the parking limits within their Jersey barrier boundaries. Perhaps the restaurants here can research and find the right size table and chairs to fit the boundaries of the parking spaces and maintain the four lanes of traffic which is the number one complaint from both business, employees, and customers, and emergency vehicles. This is really interesting. None of them have dining on the sidewalks. They are all too narrow so there was a bit envy that the sidewalks were designed in such a way here in Nashua to accommodate the dining on the actual sidewalk with room for pedestrian traffic. We should be very thankful for that and not take that for granted.

Number two – I took a stroll by JaJa Belle's again today and with her smaller scale café chairs and tables, she could legitimize actually several tables along not only her storefront but even a couple on the sidewalk along where the street is with plenty of room for pedestrian traffic between the two or as suggested last night, get permission from her abutter to place some in the front of her store. Like I said, she's only open five days a week most days between 8 and 2. She is not open for late afternoon. She's not open in the evening and she's not open at night. The manager at the Bank of America and Gentle Dental employees both feel that much space is unnecessary. It blocks off parking for about 90 percent of that available block. I would like to propose no extended dining for that block and utilize the sidewalk space due to the usage and hours of operation.

Number three – we are in favor of pay to play. Like I said, Portsmouth does it. Concord does it. I've talked to Michael Buckley, Cathy Cardin, Ruth Boland and they all are for it. I had a talk with Tim Cummings last night after the meeting and we both agreed it would not take long to measure the square footage the number of parking spots for each restaurant. We talked about starting at \$5 a square foot and going up. Gets some number and present it to the restaurants so that they can decide if it's worth doing or not. So I propose in the planning I propose the relevant person who would do these measurements...

Alderman Comeau

30 seconds

Gary Wingate

...within the next couple of days. I propose as stated last night the extended outdoor dining to start on Memorial Day Friday the May 27th and extend to Labor Day on the 5th.

Lastly at the end of the meeting, it came out who owns the parking and sidewalks. Well to me and others, the city owns the parking and the sidewalks and we as homeowners and business owners that pay the taxes are the city. Thank you.

Lou Juris

Good evening. Lou Juris here from Haines Street. 56 Haines Street in Nashua. The expanded dining and the extra seating is a big draw. We are competing against Manchester, Lowell, to some extent Boston, and some of the surrounding towns. It brings people in. It brings people in to some of the retail and additional shops that we have downtown. It's the interest of maybe people wanting to stay, wanting to buy real estate, etc. There will also be some more housing downtown. There will be more buildings being built and this is going to be an attraction for people to step outside and swap over.

I want to thank Economic Development Director Cummings, the Mayor for the work that they've done on this so far, the Task Force and the Board members. I just want to let you know we are in competition. These other towns have their baseball. They have AA baseball teams. We have a baseball team too. They have AA baseball teams. They have other amenities, stadiums, arenas, etc. For four months in my view well worth the effort and maybe some of the traffic, some of the slowdown, whatever you want to call it. It is worth it to keep the draw to keep this unique experience going during these months, especially even after Labor Day. It's nice and warm in September early October, people want to hang out. The residents as well as visitors seem to enjoy it. It is a benefit to the city. Those meetings we had a few weeks ago, they talked about it. They talked about it during the meeting, during the hearing from 2 or 3 weeks ago that night it snowed. There was a lot of explanation, a lot of due diligence, and a lot of effort in this presentation and the effort to make this happen. Thank you again.

Jeff Bois

Hi everyone. I hope you can hear me. Jeff Bois, 16 Hadley Drive. I have spoken before so I'm not going to get into the vibrancy of downtown type of arguments. I'm supportive of the barriers and the expansion of it based on the demand by Nashua taxpayers. They're the ones sitting on the street. They're the ones that want to sit on the street and they're the ones that should be able to choose to be served on the street.

I guess I'm going to – I guess just quickly go through what's been discussed the last couple of days and give a different point of view. From a safety perspective, I believe slowing down traffic on Main Street is vital. As others have said on this call, it's a historic downtown. So someone ripping down Main Street at 60 mph is ridiculous. I used to live on Main Street. I lived on Main Street for 8 years – about 10 years ago and it was a joke. There were literally Harleys ripping up and down Main Street from 8 p.m. to 12 p.m. every single day. The same group of people dozens of times because that's what they did. They drove up and down Main Street. I don't think that that is what we want our Main Street to be in our historic downtown. It's easier for vehicles to manage because barriers are predictable. Someone pulling over on a road that's supposed to be driven down to parallel park next to it is an abrupt stop that creates more (inaudible) than a predicted signed barrier.

Other things on safety. Obviously downtown is the center of our city. We have the East Hollis Street Fire Department one mile away. We have the Lake Street Fire Department one mile away. We have the Amherst Street Fire Department one mile away. We have two regional medical centers a mile or two away. We even have the biggest pharmacy in Nashua – CVS right in the middle of downtown. How much safer can downtown be? It is sitting behind a barrier on Main Street. It's literally the safest place in Nashua to be. The fire truck could get to Main Street ten times faster than it can get to my home. (inaudible) if you want to be on Main Street. So that's the safety issue.

On the handicapped issue if it was up to me, every single parking spot on Main Street would be handicapped. Handicapped or extremely short term parking. We have garages, we have legs. If you're capable, you can do it.

From a taxpayer perspective as I said before, it is about the taxpayers because they're the ones sitting on the street. Restaurants (inaudible) aren't sitting on the street. We have no desire to have empty patios. The pandemic created...

Alderman Comeau

30 seconds

Jeff Bois

What the pandemic did was showed us the demand and it is the taxpayers that want to sit on the street. It's not us. Restaurants generate \$6.5 million coming back to this community each year – restaurants, hotels, and rentals. You want

to give that up for \$.25 for 15 minutes? The Nashua taxpayers want to make money off their spots and they're going to do it from restaurants. Thank you.

Chairman O'Brien

Thank you. The Chair and the Clerk would like to recognize we've been joined by Commissioner Paul Shea and Jeff can you just make sure that Mr. Shea can have access to be live and not be kept on mute so he can participate. He is a member of this particular Committee.

Jeff Poehnert, PEG Manager

Yes I will.

Chairman O'Brien

Thank you, Sir.

Derek Anderson

Good evening Chair. This is Derek Anderson, 129 Main Street, and I am the owner of Wingate Pharmacy. I just wanted to first start out and thank all of the Committee members both the Aldermen and the non-aldermen on the Task Force for the tremendous amount of time that has been put into this plan.

I am in support of four lanes and with parking spots being utilized for the extended dining only. Also that the restaurants would have to use spots that are in front of their zones only. However, I know last evening someone brought up the question as to how you folks would find out if abutters were willing to help out their neighboring restaurants and I am here to say in public that if we still have the four lanes and the extended dining is restricted to parking lanes only, I would graciously allow Ms. Gomez to use that spot that does infringe on our storefront a little bit and not have any issues. I know that the hairdresser on the other side of her is currently in favor of extended dining as well. I'm sure he would give up space in front of his establishment to help her out as well. Also, I think we can get rid of that garden and give her a ton space out there.

A lot has been said that downtown Nashua is a destination. I disagree with that. I don't think it's a destination yet. I think we have a lot of work to do. In order for it to be a destination, we have to create a way for traffic to get around downtown. Many other cities that have a destination downtown also have either a bypass route or other parallel route so people can get by very easily. Concord – they have several parallel routes around their downtown so it's not as congested as we have it. Portsmouth even – it's very tiny downtown but there are several streets you can feed around all the shops and restaurants. Until we can do a proper infrastructure study for the entire city and how we can move the traffic, then I don't think we're going to be a destination. We have to start with that first and then we can move on to narrowing Main Street if we'd like. I'd be in favor of a plan down the road as long as we can figure out how to put through traffic around the downtown.

One of the reasons I'm against having restaurants by default allowed...

Alderman Comeau

30 seconds

Derek Anderson

...in front of retail spaces, thank you Sir, is we have storefronts and we use our storefronts to advertise our products. That spot that is right in front of us that has a little bit of the restaurant next to us that would come into that's our durable medical equipment. People drive by our street look over and they see that. If there's tables, and chairs, and umbrellas, and heaters, and music displays out of our storefront windows, which is our advertising, is going to be blocked.

Alderman Comeau

Time

Derek Anderson

But I would give that up if we could keep the four lanes. I appreciate your time. Thank you.

Chairman O'Brien

Thank you.

Co-Chairman Moran

Mr. Chairman, also, I'm not sure if you recognized Alderman John Sullivan has joined us via Zoom as well.

Chairman O'Brien

Let the record show that we are also joined by Alderman John Sullivan.

Charlene Celesky

Hi everybody. I'm back again to say I oppose barriers but I don't oppose outdoor dining. I think it can be limited and it can be assessable for all people.

Co-Chairman Moran

Miss – your name and address for the record.

Charlene Celesky

Charlene Celesky, 9 Hill Street Nashua, New Hampshire. So again, I'm not against it but I am against the barriers. I would like to say the four lanes. There's a lot of empty storefronts downtown also that maybe we could ask for a diverse amount of people to come in with a different level of attractions if it's going to be heading towards being a destination. I've asked for children's museum. I've asked for a family restaurant. Anything more than more restaurants right now.

I come home late night from a restaurant that I work in and South Nashua and in the evening what I see is a lot of people not necessarily eating and I questioned whether maybe instead of taking away from other businesses because some of the restaurants are only open 25 to 30 hours a week and are closed for a few days completely, that maybe they could limit their hours to Thursday, Friday, Saturday night from four until 10 at night and allow the businesses to conduct their business.

I also wondered about going back to head and parking and not parallel parking. I also wanted to point out that at Clock Tower there were 33 break ins in cars the other night. There were catalytic converters cut out of cars in the High Street parking. Those are places that I really want to navigate to come to go to the pharmacy, to the bank, to get an ice cream cone with my little grandkids. It's not feasible for me.

I had asked last night maybe about a shuttle for people that made reservations for restaurants downtown that they could catch a shuttle a little ways out and not worry about parking and then they're 90 minutes or up, they leave. You know is there a limit on drinking in those 90 minutes. Maybe we take out the center islands that really don't serve a purpose. I like the lighted sidewalks at night but maybe add another one of those for people crossing. I'm glad to see those blinking lights go. Those are distracting to me.

I agree with Memorial Day weekend to Labor Day weekend for the outdoor dining. I think that bistro tables and pub tables are all really very nice for people to sit at and enjoy the good weather. Last year unfortunately for the restaurants, there was an awful rainy season and I don't think they were able...

Alderman Comeau

30 seconds

Charlene Celesky

...use it to what they want. Again, I was going to ask about the safety for downtown how we're going to handle that and the handicap parking I go back to. I know they say that every handicapped person can use the regular space but if all those regular spaces are taken by regular how is a handicapped person going to know where to go? I don't know how that solves that for people that really need it and it could be me one day, so I would appreciate that accommodation being made accessible. I guess that's really all I have to say tonight. I thank you for your time and your attention. Thank you.

Chairman O'Brien

Thank you. Now back to Cheryl Roy.

Cheryl Roy

Cheryl Roy, Hill Street, Nashua. I'm 100% in favor of outdoor dining. I think it's great. Outdoor dining is wonderful. Who doesn't like a nice night sitting outside to eat but I am so in favor of the barriers. I think they're horrific. They look awful.

I'm 100% in favor of safe and equitable treatment of all businesses on Main Street in Nashua. But I'm zero in favor of limiting traffic lanes on Main Street at any time of the day. I'm 100% in favor of a thriving downtown. I'm 0% in favor of spending one red cent of taxpayer money to put a barrier up to make that happen. I'm 100% against keeping the wolf in the hen house and handpicking committee members who represent their own special interests or those of the BOA and Mayor. I am 0% in favor of alternative ideas and people who contribute those ideas to have a seat at the table. This is also known as democracy. We heard that earlier tonight. I am 100% in favor of taking back Main Street for all taxpayers, residents, and visitors not a few select businesses.

Chairman O'Brien

Seeing nobody else on Zoom for public comment and anybody else in the Chamber? Seeing none, we'll move on to items on the agenda.

COMMUNICATIONS

Chairman O'Brien

We have received one communications from a member of this joint Committee – Alderman-at-Large Ben Clemons. So without exception to accept the communication and is to be read by Alderman Dowd.

Alderman Dowd

Okay, thank you. Yes, I talked to Alderman Clemons today that his family has very serious medical issue and he's out of town and can't join us tonight even by Zoom. But he sent an e-mail and said please read it at tonight's meaning re amendment.

"In regards to allowing only the parking spaces directly in front of restaurants be used: I believe this is a solution in search of a problem. The plan that was presented in the original legislation is a compromise that takes into account the concerns about safety, parking, and traffic. This legislation in its original form has many intentions. I asked my fellow board members to stop picking away at all of these and rethink this amendment.

Adding this amendment effectively kills the legislation by taking away the authority of the elected Board of Aldermen to make the best decisions on behalf of the citizens and taxpayers and it gives it to the private sector. No business owns a parking spot and no business or entity outside of the Board of Aldermen should be dictating terms of how or who may use a parking space. The purpose of the exercise is to go through block by block was to have the Board of Aldermen decide how the space was going to be used with input from the stakeholders and the public not the other way around. We are elected to make tough decisions and shouldn't delegate them out to individual businesses to make on behalf of other businesses, especially pitting neighbors against neighbors.

The idea of the expanded outdoor dining is to help downtown Nashua become a destination that people want to go and spend time in. It is to help restaurants succeed further by offering them a place to further expand their otherwise outdoor dining. Let's support that goal and reverse this amendment."

Chairman O'Brien

Thank you. Alderman Dowd can you make sure that a hard copy is provided and to be placed on file with the aldermanic administrative assistant and therefore entered into the record.

Alderman Dowd

I'll send it to her right now.

Chairman Dowd

Thank you.

Chairman O'Brien

Okay. Now we're back right to regular order of business. However, last night we did take a vote and basically questioning and I posed the question of where that's the boundaries begin and end on a particular properties as we saw in many of the slides. They did not coincide with the property boundaries as far as the parking spaces. Of course, they would never intended to do so. So therefore, I question if we are in some uncharted waters legally with this. So I asked Corporate Counsel to join us this evening and if he would be so kind could he render such opinion on this place please?

Steve Bolton, Corporation Counsel

Thank you. To the extent I understand the question, typically in New Hampshire the abutting property owner to a roadway owns to the center of the street. One on each side typically. Circles become much more complicated, and curves, and so forth. That ownership interest that the abutting property owner has is subject to the right of way of the public. When it's an accepted city street that the municipality is responsible for the maintenance of, it is the governing body of the town or city that has the authority to determine how that right of way is to be configured - how wide the sidewalk will be, how many travel lanes for automobiles, or bicycles, or pedestrians, and where they'll be located. Whether parking will be allowed on the edges of that right of way, or in the middle of the right of way, or wherever, whether no party will be permitted at any time. Whether parking will be subject to time limits, whether they'll be charges for parking, or waive meters, or cell phone apps, or however. So that easement is controlled by that right of way, which is an easement, is controlled by the governing body of the municipality. So in the case of Nashua, it is the Board of Aldermen.

The abutting property owner cannot say whether the parking space in front of his property is going to be for free, is going to be for payment, is going to be closed for certain hours, is going to be parking permitted 24 hours a day. It's not up to the abutting property owner. But the right of way, the easement, is for viatic use. Now viatic use is an evolving concept originally viatic meant for travel. When talking about horses and buggies, we were always talking about pedestrian travel. More recently, viatic use has come to include vehicular travel and all sorts of motorized vehicles. It includes transportation of cargo, houses at times, people towing boats and trailers, freight delivery, so forth. It also has come to include the uses for utility lines, wires, conduits, pipes, and so forth. So your gas pipes, your water pipes, sewer, drain lines, electrical wiring, cable television. All of those things have been determined to be viatic use. Parades, spectators in the right of way, viewing parades all of which have been determined to be proper viatic uses.

I think it's questionable whether dining is a viatic use. But when you're talking about putting tables in the right of way with the owner's permission, so in front of property owned by the restaurant or leased to the restaurant by the owner, there's no problem with that. The owner is permitting that use and in fact desiring that use. I think you do have a problem if you're trying to permit somebody to put their restaurant table and chairs in front of someone else's property in the right of way on the sidewalk or in part of the roadway be it the former location of parking or not. But I don't think this has anything to do with whether the property line between two properties coincides with the line between two parking spaces. A table can be placed in the right of way, sidewalk, former parking space, former travel lane with the city's permission, with the permission of the abutting property owner in front of that property owner's property. Some property owner that doesn't want that on the sidewalk in front of his property or extending out into the parking space where the parking spaces used to be, the property line is the property line extended out into the middle of the road perpendicular to the line of tangent of the curve in the center of the through lane of traffic on the right of way. The geometry may be complicated at times but that line can be determined. You're on one side of the line and you've got permission of the property owner or the person who that right to determine that has been delegated to a lessee for example, then you're fine. If it's a property that's controlled by an abutting owner, well they have to say for that non viatic use in front of their property.

This Board cannot control that. You can't take property from someone and say I'm giving it to someone else. You also cannot require someone to get permission from someone else to make use of their property. So I'm not entirely sure what

was discussed last night in that regard but if anyone has further questions based upon that explanation, I'll see what I can do.

Co-Chairman Moran

Mr. Chairman, I do have a motion that would probably relate to this discussion if I can make it.

Mr. Co-Chair having voted on the prevailing side, I motion for reconsideration on the motion asking permission to the abutter to approve space in front of the storefront or restaurant front for expanded dining and I would like to speak to the motion.

MOTION BY ALDERMAN MORAN FOR RECONSIDERATION ON THE MOTION ASKING PERMISSION TO THE ABUTTER TO APPROVE SPACE IN FRONT OF THE STOREFRONT OR RESTAURANT FRONT FOR EXPANDED DINING

ON THE QUESTION

Co-Chairman Moran

I, too, had the opportunity to speak to Attorney Bolton prior to this meeting and I believe the motion last night maybe was not germane and moot at this point because as we just heard, you already have to get permission from the abutter. Hopefully, I'm not mincing your words. So you also heard Attorney Bolton say you cannot require that someone get permission from the neighbor and that's what that motion last night did. So, I believe since it is moot, that I would urge everyone to vote yes to reconsider and then we'll vote again on the actual motion.

In the same vein, I would just also just encourage everyone that we are all professionals. A lot of us are elected officials. If we don't get our way if we could just tone it down a bit, we're representatives of the people and I think democracy is tough. It's very, very tough and we should not be so animated when a vote doesn't go our way.

Chairman O'Brien

To facilitate this so people who have never been into anything of reconsideration, what the motion before us is, is to reconsider the motion that was brought forward last night. If you vote on the positive side of it, that means we go back to the original motion. Okay. Therefore, the original motion is debatable and could be voted up or down again. So therefore, that's the point of reconsideration.

Co-Chairman Moran

And I would ask for a roll call vote.

Chairman O'Brien

And ask for a roll call vote. Duly noted. I did see that now we'll open up to after that clarification, Alderman Jette you had your hand up. Discussion on the motion.

Alderman Jette

Thank you, Mr. Chairman. If I could through you ask Attorney Bolton.

Chairman O'Brien

Absolutely.

Alderman Jette

So as I understood the motion that was made last night Attorney Bolton, it was to limit the ability of restaurants to encumber the sidewalk and the parking area in the street consistent with their property lines and additional property from their abutters with their abutter's permission. Unless I misunderstood the motion, I didn't think it required the restaurant owner to get permission from the abutter to encumber his own space sort to speak. Did I misunderstand that?

Chairman O'Brien

I think you did Alderman.

Alderman Comeau

Would you like me to read the motion?

Chairman O'Brien

Yeah, please read the motion.

Alderman Comeau

So to refresh everyone's memory, the motion made last night was by Alderman Cathey and it said that "extended dining by use of the barriers would only be allowed directly in front of the business using them". And that motion was then amended to say that, that space could expand laterally with permission from the abutters. So I don't believe that it was saying that they needed permission from the abutters to use their space. They can use their space and they would need their abutter's permission to use the abutter's space.

Alderman Dowd

I agree with Alderman-at-Large Moran and having heard what Attorney Bolton said, I think the motion is moot because unless I heard it wrong, the law is already in place to do that. It worked very successfully last year. So I'm not sure that this particular motion is required or it's just reiterating and perhaps not clearly enough what the existing law is. So I would be in favor of reconsideration.

Alderman Cathey

If I may ask a question to Corporation Counsel?

Chairman O'Brien

Yes you may.

Alderman Cathey

Thank you, Mr. Chair. I apologize if I'm a little slow on the uptake but this seems complicated. Attorney Bolton you're saying that the law already exists that you can't encroach upon your butter but we can't by law also require you to get permission. So with that understanding if I own a restaurant and I put tables in front of the business next to mine, that business could just say no. Is that correct or that...?

Steve Bolton, Corporation Counsel

It's not the business so much as it is property owner.

Alderman Cathey

Okay, so...

Steve Bolton, Corporation Counsel

Unless the business may be a lessee and unless they have been given the right to make the determination as to that on behalf of the owner, then it would be the business. Typically, we're talking about the owner or anyone that the owner has delegated that authority to.

Chairman O'Brien

Follow up?

Alderman Cathey

I'd really appreciate thank you. I don't foresee this being a problem because based on what I'm hearing from Main Street owners, a lot of them are very friendly. It's a close knit community. If there were a situation, how would a business or owner of the property address such an issue?

Steve Bolton, Corporation Counsel

They would go to court and seek relief from the courts.

Alderman Cathey

Okay, thank you. I appreciate it.

Alderman Comeau

Thank you, Mr. Chair. If I could ask through you to Corporation Counsel.

Chairman O'Brien

Absolutely.

Alderman Comeau

If I understand the explanation that you just gave, more or less the motion that we made last night affirms what the law already says. Is that correct? It's not necessarily in violation of the law is that it just basically says the same thing.

Steve Bolton, Corporation Counsel

I think they're consistent. Yes.

Alderman Comeau

Thank you.

Alderwoman Kelly

Thank you. I just want to start off, again, by thanking everyone who's put this Task Force together. You guys have a big project in front of you and I think you guys are really doing the work of expanding which I think is important. I purposely stayed out of this (inaudible) committees, but I am a downtown business owner and by did my phone ring this morning. So I would like you to urge - I'm not going to go on very long, but I want you to reconsider as I had many phone calls. I am a downtown business owner. I walked from downtown to my meeting at City Hall at one o'clock and walked back and multiple people stopped me about this specific motion and not being in favor of it. So I would like you to reconsider it. I think there's a lot of work to do. There's a lot of nuance here but putting this decision on the businesses and having them have to talk to the person next to them, it's just not the (inaudible). Thank you.

Alderman Lopez

So it sounds like it sounds like the extended outdoor dining is already slowing down traffic and generating foot traffic.

I had a question through the Chair to Attorney Bolton. How is the space within the barriers treated by the city? Is it considered an extension of the restaurant's property and therefore being used by the owners? Or is it a city run program where restaurants are participating by using that space for dining? If that's not Attorney Bolton's wheelhouse maybe Director Cummings. I'm not sure.

Steve Bolton, Corporation Counsel

The property is owned by whoever owns the abutting property, subject to the easement for viatic use. A non-viatic use of that property would require permission.

Chairman O'Brien

Are you good?

Alderman Lopez

Yes it make sense to me.

Alderman Jette

Maybe I'm - I don't know if I'm not getting it or if other people aren't getting it but it sounds to me like Attorney Bolton is telling us that the motion that we passed last night is a reflection of what the law is. And by reconsidering it and voting against it tonight is not going to change the law. It sounds to me like he is telling us that a restaurant under this scheme or under this plan – I didn't mean anything by that. Under this plan, you know, would be allowed to occupy with permission from the Board of Public Works, you know, the sidewalk and in front of their property and also if we permitted the roadway, the parking lane in front of their property and cannot occupy the sidewalk in front of the adjoining property on either side without the permission of that adjoining property owner or whoever controls that property. That's exactly what we specified in the motion. So if you've heard objections, it's not the - maybe people are objecting to the motion but we can't change it. It sounds like that's the law and it sounds like what we've been doing for the past two years by, you know, allowing restaurants to occupy areas in front of other people's storefronts without those other people's permission, it sounds like that was not in accordance with the law. Now that we know what the law is, it sounds like restaurants are going to have to live with the fact that if we pass this, they can only occupy the area in front of their storefront unless they get the permission of the adjoining property owner to occupy more.

So by reconsidering this motion and voting if you were then further vote it down, we are still not going to be able to allow a restaurant to occupy the sidewalk or the parking area and the street that does not coincide with their property lines unless they get the permission of the adjoining landowner. If I could, Mr. Chairman, if I could ask - if I got that right Attorney Bolton or did I say something wrong there?

Steve Bolton, Corporation Counsel

Well, I don't think we've been doing anything illegal in past years. So to the extent that that was suggested if it was being suggested, I don't think that's accurate.

As far as I know, people were only occupying space in front of their building or abutting places with permission either express or tacit. I've not heard of any abutting adjoining next door property owner making a complaint that some restaurant had set up tables in front of their property without their permission. But yeah, I think I responded to an earlier question by saying I think the two were consistent. The motion that was apparently made and pass last night was not inconsistent with my understanding of the law. It may be unnecessary. It may be redundant but I don't believe it's inconsistent.

Alderman Jette

Can I just follow up, Mr. Chairman? So just very quickly to my fellow committee members, you know, that what we passed last night is a reflection of the law. The advantage of keeping it in force is that we are telling people, you know, this is what it is and this is what the law says. We're making it clear to them and we're just stating to them what the constraints are, what the law is. If they want to occupy areas outside of their property lines, they've got to get the permission. That motion said that they couldn't do that with the permission of the adjoining property owner. To reconsider this and voting against it and just saying well that's what the law is, you're leaving those people somewhat in the dark because I don't think a lot of them understand. I don't think a lot of us understood what the current law is. So I would encourage us not to reconsider and not to rescind that motion. Thank you, Mr. Chairman.

Chairman O'Brien

Thank you. So that everybody knows, I'm gonna recognize Alderwoman Kelly, then Alderman Thibeault, and then Alderman Cathey so you people don't drain your blood from your fingers.

Alderwoman Kelly

Thank you. I actually was looking to see if Rich Lannan was still in the chamber but it looks like he's left.

The question that I have and I don't know if anyone can answer it but I'm gonna put it out there is if it's the property owner. Like I am in Rich Lannan's building. I am one of those people on the second floor that doesn't really get thought about. He actually owns all of those so he's going to have to handle all of the people in the building and what they want and whether they're conflicting. Would that be correct? So landlords are now going to have to...?

Chairman O'Brien

I'll refer that to legal.

Alderman Kelly

Is that correct?

Steve Bolton, Corporation Counsel

I don't know if he has to get permission of anyone. It depends what's in the lease. If he owns the property, he's the one that makes the decision.

Alderman Kelly

That's what I'm saying. I'm not saying he has to get their permission. I'm saying he's now going to be the person who has to decide between the Thai place that wants it, and the Chinese that doesn't want it, or whatever it is because it's his building. It's not the actual restaurants that might be renting the space. Correct?

Steve Bolton, Corporation Counsel

It's the owner. Unless that authority has been delegated pursuant to a lease or other agreement, yeah it's the owner that has the right to determine that question.

Alderman Kelly

Okay, thank you.

Commissioner Paul Shea

Thank you very much. Sorry I had to hit my mute button here. I apologize if I missed this. I'm coming in a little bit late. My shift ran over tonight. My question is I understand that in terms of what Attorney Bolton has said, it comes down to the property owner. I understand that the amendment that was passed last night would not be in conflict with that. My question is does the language of the amendment reflect as the law does or does the language of the amendment go further to specify that the business, or lessee, or whomever is adjacent to the restaurant seeking expanded outdoor dining? Does the ordinance reply to that person, further above and beyond the law, or does the ordinance just specify the amendment? Does the amendment just specify the property owner? Thank you.

Steve Bolton, Corporation Counsel

Maybe if the amendment could be read again.

Alderman Comeau

Absolutely. So the motion from Alderman Cathey was that extended dining by use of the barriers only be allowed directly in front of the business using them and then the amendment from Alderman Moran was to say that expansion laterally could only be done with the approval of the abutter or the business being encroached upon.

Steve Bolton, Corporation Counsel

I don't agree I guess with the phrase "or the business being encroached upon". One - I don't think is necessarily an

encroachment. But leaving that out, I think the – well was the original motion to be an amendment to the ordinance under consideration and then this was a further amendment to that amendment?

Alderman Comeau

Yes.

Steve Bolton, Corporation Counsel

Okay. And where was it going to be placed in the language of the ordinance?

Alderman Comeau

We're haven't gone that far yet.

Alderman Jette

We're going to leave that up to you.

Steve Bolton, Corporation Counsel

It's not up to me. It's up to you.

Alderman Comeau

These recommendations are going to go back to the joint committee.

Steve Bolton, Corporation Counsel

Well that's up to the full Board of Aldermen when it gets there I suppose.

Chairman O'Brien

Thank you Corporate Counsel. That's the whole point. This is a Task Force. This is not the full Board of Aldermen. So unless I'm wrong Corporate Counsel, we're out of our jurisdiction. Something like this needs to be brought up to the full Board for the full Board to determine not a Task Force.

Steve Bolton, Corporation Counsel

But before we go too far, I'm not sure I fully answered Paul Shea's question.

Chairman O'Brien

Please continue. Excuse me.

Steve Bolton, Corporation Counsel

I'm not sure I fully understood his question.

Commissioner Paul Shea

And I'm here - and sorry to interrupt. I just have no visual cues to offer. If I may kind of expound upon my question. So the question is does the ordinance go above and beyond the property rights as protected by law to include parties that would not be otherwise so entitled by the language of the law? And then so these abutters - you know it sounds to me, and I guess I'm looking for confirmation on this, it sounds to me like the amendment and the amendment to the amendment and what was finally passed applies further than the law would what otherwise already cover. Does that does that kind of provide more clarity?

Steve Bolton, Corporation Counsel

I think to the extent that the amendment has a disjunctive conjunction, the word “or” implying that someone other than the owner might be able to grant permission. I think that could be problematic. So that's what I mentioned previously. It is the owner or anyone that has been properly delegated that authority by the owner. So to the extent the amendment says something different than that, maybe it's not consistent but I actually think the idea probably was consistent but maybe the phraseology could be improved.

Alderman Thibeault

Thank you, Mr. Chairman. So to speak to Aldermen Jette's point about this being already there, I feel great about spending so much time on an ordinance where we already had a law last night. So why wouldn't we get rid of it? Why would we want to have another law upon a law? Isn't this whole - so didn't we put this in place so we didn't have to do two lanes? So now if we remove this, we can now have outdoor dining in the parking space going forward and only having two lanes instead of scaling back and going across laterally into other people's spaces. Isn't that why we put this in because we wanted to try to keep it to four lanes? I thought I don't know if we can answer that question. I would like to ask Mr. Cummings about how much did we encroach on people's properties last year that didn't want it or did we?

Tim Cummings, Economic Development Director

I can't speak to the how many because I am not aware of anything where we did that when it was brought to our attention. We did the best we could to rectify it. What I can tell you is the layout last year had a lot of areas where outdoor dining occurred to the sides laterally if you will because the way the current Main Street is in existence, you're not going to be able to have outdoor dining as smoothly as what's being suggested. So it happened in a lot of places. I looked this afternoon. I would suggest that absent permission, this will affect a lot of downtown, I think.

Alderman Thibeault

Thank you.

Alderman Cathey

Thank you, Mr. Chair. I agree with my colleague and Ward 5 that I think part of the reason you're here is because the public - and maybe due to their own fault. I can't, I'm not blaming sides. Maybe businesses didn't look up the law or consult lawyers? I don't know. I can't say that for sure but it's clear to me that this was not a very known law in existence. I would assume, and I know that's not a really good logical debate tactic, but I would assume that there were some businesses that didn't know that they could have recompense for barriers that were in front of their establishments and get that rectified in some manner. I could be wrong. That's just a gut.

The second thing just for clarification, the plan that we have before us there may be some spaces that we have placed barriers in front of businesses that wouldn't want them and so those spaces would then need to be reworked or am I misunderstanding?

Steve Bolton, Corporation Counsel

I said nothing about barriers. Recompense for barriers, I don't think anyone has any right any recompense because of barriers.

Alderman Cathey

Okay.

Steve Bolton, Corporation Counsel

So I don't believe I used the word “barriers” this entire evening. The Board of Aldermen has full right to determine how the right of way will be configured - barriers, no barriers, one way, two ways, speed limits, parking, no parking, charge for parking, limits of time for parking. There is no right of any abutting owner to get recompense or veto power over how the right of way is to be configured.

Chairman O'Brien

Follow up?

Alderman Cathey

So we could put space in front of a business that would be utilized for dining under our authority as the Board of Aldermen?

Steve Bolton, Corporation Counsel

You cannot grant someone the right to use another person's property even within the right of way for non viatic uses. As to anything that is related to the viatic use, it is the Board of Aldermen that's in full authority to determine how that right of way will be configured, how many lanes of travel, two directional, one way, all of those decisions. The abutting owner has no authority over it. It's the Board of Aldermen has the authority over it but for non-viatic uses, you cannot grant someone the right to use another person's property for non-viatic use even within the right of way.

Alderman Cathey

I appreciate the clarification. Thank you.

Chairman O'Brien

Okay. The Chair would like to - I just facilitate and to remind everybody, we do have a pending motion on the table. I want clarity. I want everybody to clearly understand what is going to be voted on here. So we'll allow this to continue but please keep in mind, we do have a full slate this evening. So in the queue, next will be Alderman Comeau, Alderman Dowd, Ms. Boland, and then Alderman Moran.

Alderman Comeau

Thank you, Mr. Chair. So I just wanted to respond to something earlier. I believe it was Alderwoman Kelly said that a property owner would now have to, for lack of a better term, mediate these disputes. But I think I disagree based on the explanation from Corporation Counsel. That's already the case. We're not making that the case. That property owner already has that responsibility.

And to Alderman Jette's point, I agree that there are probably are a good amount of people that may not have known this. If we're of the understanding that, you know, this motion basically just affirms the law that's already in place, then if we reconsider this and go forward and remove it, we've changed nothing. The situation is exactly the same except now we've removed a resource from people who may look to this legislation to see what the rules are and may not know that there's another place that they should look. We're just basically saying the same thing in two places to add clarity to people who aren't lawyers and may not know where to look all of this stuff up. So I think that there's a benefit to leaving it in there if we're not changing anything and we're basically just reaffirming what the law already says. I think that there's a benefit to leaving that in place.

Alderman Dowd

The biggest issue I have listening to Attorney Bolton is that the legislation right now says abutter or business owner. It's clear from what I heard from Attorney Bolton, it's the property owner not the business or the abutter. You could have an entire block owned by one person and they have the rights unless there's something in the lease that allows the particular business to negotiate that. But this system worked perfectly well for the last two years. There were no complaints because they would have gone illegal. So why are we - the legislation as it stands right now to me is illegal.

Chairman O'Brien

Thank you. We have Miss Boland.

Ruth Boland

So first of all, I don't think anybody knew about this until tonight. Probably no one in this room had ever heard of the term "viatic" before tonight. As far as no complaints goes, if I had complained to I don't know who I would have complained to, I don't think anything would have been done. I will say the cobbler who was here, said he complained to the city, and the

State, and a whole bunch of people and got no response. So I don't think that you should say there were no complaints. It's just kind of want to put that out there. So I think the law says the owner of the building but I think that we could in our recommendation make it be the business owner, the ground floor business owner that would need to give permission. I don't know that that would conflict. Maybe would conflict with the law. Oh, I guess that would be a question that I would ask through the Chairman to Mr. Bolton. How am I doing? Am I getting better at this?

So if we put in an amendment that made it clear that we were talking about the business owner versus the building owner would that somehow be illegal?

Steve Bolton, Corporation Counsel

Yes.

Ruth Boland

Okay. Thank you.

Steve Bolton, Corporation Counsel

And it's not the building. It's the property owner. There may be a difference.

Ruth Boland

Okay. Like the ground?

Steve Bolton, Corporation Counsel

Yes.

Ruth Boland

Okay.

Co-Chairman Moran

So this is exactly why on one of the reasons why I proposed the reconsideration because it conflicts with the existing law when I added the term "abutment" into a motion last night. I think if we remove this, obviously now it's very clear that it's the property owner, right, needs to grant permission for the use of the space. Not the barriers, that's the city. But I also would want through you Mr. Co-Chair to Director Cummings was that existing law taken into account with this current plan?

Tim Cummings, Economic Development Director

Can you repeat the question, because I want to make sure I answered it appropriately?

Co-Chairman Moran

When this proposed plan was created, did you reach out to the property owners before developing where you would place barriers, which I know we can do, but it sounds like the restaurants can't put anything out unless the property owner says it's okay.

Tim Cummings, Economic Development Director

Understood. So I did not speak to every single property owner, but I spoke to a majority or a lot of the property owners because I tend to work with the property owners more than the tenants for various reasons obviously. I wouldn't want to say I was able to speak to all of them but a super majority I have because it's a combined area.

Co-Chairman Moran

One follow up Mr. Co-Chair?

Chairman O'Brien

Yes.

Co-Chairman Moran

What happens if there's a lawsuit because a property owner doesn't want something like this to happen? We go through all this work. We got the plan up to the BOA and one person maybe you didn't speak to now files a lawsuit. Maybe that's to Corporation Counsel.

Steve Bolton, Corporation Counsel

Against who?

Co-Chairman Moran

Against whomever was trying to put their seating in front of their property that they own?

Steve Bolton, Corporation Counsel

So you've got Mr. Jones owns a property on Main Street and a restaurant that is next door starts putting tables in front of Mr. Jones's property.

Co-Chairman Moran

Yes.

Steve Bolton, Corporation Counsel

Oh and Mr. Jones sues the restaurant folks and they work it out, and the court works it out, and we're out of it.

Co-Chairman Moran

Right but that seems like a lot of liability to place on a restaurateur. Now I'm not saying that - I mean what I'm saying that...

Steve Bolton, Corporation Counsel

Well we all face that every day.

Co-Chairman Moran

So I just want restaurateur should realize that's a liability.

Steve Bolton, Corporation Counsel

If you place your swing set, you know, on your neighbor's property, he can take you to court and order it be removed. Usually people work it out before then. They can come over and you have a cup of coffee or something and you say hey, you know, you're about a foot over the line. Do you think you could move it? They say oh, gee it's a real hassle getting it up. You think - you're really bothered by the foot? How about if I let you do something over here or I agree to cut the grass over there and you work it out. I think if someone placed their table in front of someone else's property and the guy objected, he'd go to the restaurant and say hey move your table would ya? Things deteriorate and they go to court, that's not our problem. That's their problem. I think in most cases, they work it out.

Co-Chairman Moran

That's how my neighborhood works but I've been told all day today that's not how downtown works.

Steve Bolton, Corporation Counsel

We can't pass ordinances solving everybody's personal dispute.

Chairman O'Brien

The Chair has a question of Corporate Counsel. Because of this or potential disputes if this remains intact, then people should get lease agreements then with the property owners?

Steve Bolton, Corporation Counsel

Well I think if I owned a restaurant, I would want to make sure that I had the right from my landlord, the property owner, to put tables out on the sidewalk if that was part of my business plan. Now if I owned some other kind of shop and I had a landlord that was the property owner, I might want to put in my lease that the landlord won't give anyone the right to place non-viatic uses in front of my show window. So yeah, people when they make these commercial arrangements do have to be careful that they are getting what they want to get and what they think they're getting. But that's always been true. This doesn't create any new, you know, thing to be wary of. Like I've said, it's always been there.

Chairman O'Brien

All right. The Chair would like to facilitate again and please keep in mind there's a pending motion on the table that needs our attention. I hope your questions that you further gonna have are gonna be points of more clarity and not rehashing the issue. I would like to keep on track here.

Alderman Lopez

Through the Chair to Attorney Bolton. In my mind or the most obvious examples is the example of San Francisco Kitchen where they don't have frontage on Main Street. We as a city may or may not decide through this recommendation to put barriers out preserving space. Where the barriers go would be more in front of Wingate's Pharmacy because they don't have frontage. We have a bump out and a large bunch of planter landscaping in front of their restaurant. So speaking for Director Cummings, I believe that the plan in previous years moved their dining slightly over. Because the parking spaces that it was basically lined up with in the past don't line up with the property owners and don't line up with where those businesses are, this creates a problem where if you draw a straight line from the border between San Francisco Kitchen and Wingate's Pharmacy to the center of Main Street, we can reserve the space but San Francisco can't put their tables out on top of landscaping that the city put there. So San Francisco Kitchen doesn't have the same access to its right away that places next to it do.

Steve Bolton, Corporation Counsel

Well I have not recently done any title work to determine the ownership. But I think the ownership of that property, they're in the same building. So I don't think it's a question of the dividing line between San Francisco Kitchen and Wingate's Pharmacy. Now the landlord may choose to make it that but that's between these two tenants and the landlord. I was once a tenant in that same building but my recollection of the past couple of years is San Francisco Kitchen has had tables out on the sidewalk in front of their building, in front of their restaurant. It shouldn't call it their building because I don't believe it is they're building.

Alderman Lopez

The outdoor dining plan that we're doing - the extended outdoor dining plan - is in the street and is in the barrier area in addition to the dining that they've traditionally had directly in front of their restaurant. So they can't put extended outdoor dining directly in front of their restaurant in the street because directly in front of the restaurant and the street is a planter.

Steve Bolton, Corporation Counsel

There's not a planter in the parking spaces. So if you eliminate those parking spaces...

Alderman Lopez

There are not parking spaces because there's a curb cut with a large bunch of landscaping. It's a big stone barrier with dirt in it and plants.

Steve Bolton, Corporation Counsel

I've parked in front of their building hundreds of times.

Alderman Lopez

Probably in front of that planter area, the bump out.

Steve Bolton, Corporation Counsel

I still don't see the problem. But even if there is a problem, there's a problem. You know we can't solve everybody's problem. I'm just telling you what the law is.

Chairman O'Brien

We are pulling it up onto the screen. If I remember correctly, one of those spots was handicapped, correct?

Unidentified Male Speaker

I believe so.

Steve Bolton, Corporation Counsel

Closest to the corner spot is handicapped. I think that might have been in front of the hair salon but it depends where the line was. But in any event, that whole Patriot building I think is owned by another entity other than either the hair salon, or San Francisco Kitchen, or the pharmacy.

Alderman Lopez

Which for this motion's purpose, that's why it's important to confirm whether we should have legislation that establishes frontage or anything like that instead of the property owner. But it also...

Steve Bolton, Corporation Counsel

You can't change that, Sir.

Alderman Lopez

Well we probably shouldn't try to with an amendment to a recommendation that might get turned into an ordinance.

Co-Chairman Moran

Point of order. In the sake of time, I'd motion to move the question.

**MOTION BY ALDERMAN MORAN TO MOVE THE QUESTION
MOTION CARRIED**

Chairman O'Brien

Before us is the motion for reconsideration. There's been quite a gap. Can the Clerk please read what we're actually doing here?

MOTION BY ALDERMAN MORAN FOR RECONSIDERATION ON THE MOTION (MOTION #5 AND #6 AMENDMENT FROM 3/30/22 MEETING) BY ALDERMAN CATHEY THAT EXTENDED DINING BY USE OF THE BARRIERS ONLY BE ALLOWED DIRECTLY IN FRONT OF THE BUSINESSES USING THEM WHICH WAS FURTHER AMENDED BY ALDERMAN MORAN THAT TWO SPACES IN FRONT OF GLORIOUS POSSIBILITIES WOULD BE AVAILABLE AND WOULD ALLOW BUSINESSES TO EXTEND Laterally WITH THE APPROVAL OF THE BUSINESS BEING ENCROACHED UPON OR THE ABUTTER, BY ROLL CALL

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

Yea:	Alderman Dowd, Alderman Jette, Alderman Thibeault, Marylou Blaisdell, Commissioner Shea, Cathy Cardin-Smith, Michael Buckley, Ruth Boland, Alderman Moran, Alderman O'Brien	10
Nay:	Alderman Comeau, Alderman Gouveia, Alderman Cathey	3

MOTION CARRIED

Chairman O'Brien

That means the previous motion is now the motion before us that stands. It's up for reconsideration

Alderman Thibeault

Again on this, I don't get it. It seems like we have something on the books. This is a little different because of that or. So would this supersede that if we voted in or not? That's the part I don't get because I think we're doing something that's already there so we don't need to do it, right? Am I missing something?

Chairman O'Brien

Well basically what the vote will be whether you agree - see if you feel that way, then you would vote no I would interpret on the motion. I'm not telling you how to vote Alderman but if you feel that particular way. In the example, as an example only, by voting no will kill that and the existing law would stand.

Alderman Thibeault

The thing – Alderman Comeau asked earlier, he said it's the same thing we already have. Like it's two things. It's good to have it again but it's not the exact same thing. That's what I want to make clear. We're voting something that I think is not legally gonna bind because we already have something on the books, right? That's the part I'm not getting. It's not the same thing.

Chairman O'Brien

Right. I didn't open up a discussion on the motion but it seems like we're into discussion on the motion. May I keep in mind, I'm trying to keep this meeting from getting dilatory. I want people to have their say. So we have a pending motion before us.

Alderman Comeau

Thank you, Mr. Chair, I will be brief. With respect to the language in the motion, I defer to the lawyers which have much more experience with this than I do. My experience is zero. But I don't think that we have the authority to grant somebody permission. I felt like when we put this forth last night, it went without saying that when we said with somebody's permission that it was if they were legally authorized to give that permission. I don't think that we were empowering someone who didn't already have that capability to now somehow have it. We don't have the authority to do that. So that thought never occurred to me when we were debating this last night. I just feel like it goes without saying that you can't ask somebody for permission that doesn't have the legal authority to grant permission. So I just felt like when we said the "or" that it was or that business owner that had the authority from the property owner or had the provision in their lease that granted them that authority. If they don't have that authority, then they don't have that authority regardless of what we do.

So I'm still back to my previous position of whatever we do on this vote changes nothing and it's just a security measure or peace of mind measure to have it written down here so that people know it exists. We've heard anecdotal evidence that people did not know that this law existence. So to just reaffirm it seems like a good decision. Thank you.

Chairman O'Brien

We're gonna go in the queue is Miss Boland, Alderman Jette, and then Alderman Moran, and Director Cummings but we'll

let Director Cummings for your non-voting is going to give us input.

Tim Cummings, Economic Development Director

Well I just want to clarify. So if I can share my screen here. Here's the notes for the motion. I believe what is really in discussion right now is the definition of businesses. So I think and I want to make sure I understand this, it's the property owner and that property owner may have two businesses in the same property. That property owner would need to make the decision unless it was delegated to through some sort of legal instrument. So I would suggest as the motion is currently stated if there's any implication that a business had some sort of authority, I think that is where maybe that is the differentiation that I would want clarified.

Ruth Boland

So in our discussions going forward, I think that we need to be discussing where we're putting barriers not where we're allowing extended outdoor dining based on the discussion that we've had tonight. So if I read this - thank you so much for putting that up there - it says that extended dining by use of barriers only be allowed directly in front of the businesses. So I think that's really coming down to where we're putting the barriers, which I do think is within our responsibility as opposed to what the law says of we can't - the law says we can't tell people where they can do dining but what this body is doing is deciding where the barriers are going to be.

Tim Cummings, Economic Development Director

So if I may, Mr. Chair.

Chairman O'Brien

Yes you may.

Tim Cummings, Economic Development Director

So that is actually a clarification. I think it's up question that is a good one that this body needs to make sure and particularly for me who has to implement it. I'm clear on actually what it is that the Task Force is suggesting. Because the way I read the motion, I also said is it meaning just the outdoor dining, ergo, the barriers could still be erected and if the permission is not granted, the barrier could still be up but that doesn't necessarily mean the outdoor dining would take place there. I leave that to this group to decide how you want to handle that but I think that very specific question needs to be pondered and direction needs to be given.

Alderman Jette

So keeping with the motion that we're dealing with, I would like to move to amend that motion to clarify that language in accordance with Attorney Bolton.

Alderman Dowd

Point of order.

Chairman O'Brien

I don't know if you can amend it because it was up for reconsideration and amended it further changes the original reconsideration.

Alderman Jette

We've already reconsidered it.

Chairman O'Brien

Yes so we're voting on the original pending motion.

Alderman Jette

Right and the original pending motion can be amended.

Chairman O'Brien

I don't know if it's open for further amendments? It is? Okay, it is open for further amendments.

Alderman Dowd

Point of order. This would be the third amendment. I thought you can only have two.

Alderman Comeau

The amendment has already been passed.

Alderman Dowd

You had the original motion which is what we're dealing with which is – I forget the number.

Alderman Comeau

It was only one amendment.

Chairman O'Brien

You know folks come on. Guys let's focus. Come on. People are watching this on TV. Please.

Steve Bolton, Corporation Counsel

You can only go two deep on amendments.

Alderman Dowd

Right.

Steve Bolton, Corporation Counsel

If the original motion was to amend the ordinance and then there was an amendment to that, then you've used up your two degrees. Now I think there may be a question of what did you vote to reconsider?

Co-Chairman Moran

Point of order? I think I can resolve this.

Chairman O'Brien

Excuse me, the Chair is going to make the ruling. That on a pending motion if I remember correctly, can only go so many degrees. We already reached two degrees on it so it's not opened and the Chair has made a ruling. It's not open for future amendments. So the question remains before us.

Alderwoman Kelly

Through you to Attorney Bolton if the amendment in front of us is not enforceable, then it would need to be amended or just need to go away. Is that correct? If it's not enforceable the way it is but you're telling us we can't amend it, then it just needs to go away.

Chairman O'Brien

Well, the vote before us Alderman Kelly if I may help you out if I have it correctly by your question, a yes vote will keep the motion standing. A nay vote will remove it in its entirety as if it didn't exist.

Alderman Kelly

Correct but my question is...

Chairman O'Brien

It would go back to existing law of the land.

Alderman Kelly

Correct but I'm saying can we even vote yes because it is not in Attorney Bolton's opinion it is not enforceable. It is not written in a way that is in accordance with the law.

Steve Bolton, Corporation Counsel

I think we may be trying to unpeel the onion two layers at a time here. I think what you may want to do is reconsider the second level amendment and then you would be back to the original amendment to the ordinance. At that point, that would be available for...

Co-Chairman Moran

I withdraw my amendment.

Steve Bolton, Corporation Counsel

...because at that point, you're back to the first level and you could make a second level amendment or not or you could just vote however you want to vote.

Alderman Wilshire

I'm not really sure why we need this. The law is there. We've been following it. We're trying to amend it. I don't understand why we're trying to amend it at this point. We should just vote it up or down and...

Chairman O'Brien

Well the Chair will entertain to move the question then.

MOTION BY ALDERMAN MORAN TO MOVE THE QUESTION, BY ROLL CALL

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

Yea:	Alderman Dowd, Alderman Gouveia, Alderman Thibeault, Marylou Blaisdell, Commissioner Shea, Cathy Cardin-Smith, Michael Buckley, Ruth Boland, Alderman Moran, Alderman O'Brien	10
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Nay:	Alderman Comeau, Alderman Jette, Alderman Cathey	3
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MOTION CARRIED

Chairman O'Brien

Since we moved the question, we'll go back to the original pending question. A yes vote would mean that the motion stands. A no vote means that it would basically terminate. Okay. The question has been moved. Will the Clerk please call the roll?

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

Yea: Alderman Comeau

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Nay: Alderman Dowd, Alderman Gouveia, Alderman Jette, Alderman Cathey
Alderman Thibeault, Marylou Blaisdell, Commissioner Shea,
Cathy Cardin-Smith, Michael Buckley, Ruth Boland, Alderman Moran,
Alderman O'Brien

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MOTION FAILED

Chairman O'Brien

Thank you people. Now without further ado, let's get back to the agenda. As we left off last night, we're now going to discuss we have a TA on maps 1 and 2 and we're going to open up conversations on map number 3. Mr. Cummings could you bring up Mr. Screen man?

Tim Cummings, Economic Development Director

Yes, Sir.

Chairman O'Brien

Thank you.

Tim Cummings, Economic Development Director

And so moving on down to...

Chairman O'Brien

Yes, we do have a question Alderman Lopez.

Alderman Lopez

Just as a point of order to Director Cummings, it came up in public comment that these maps were not available to the public. Is this the same map that we saw like a couple of months ago and it was literally the one we've been talking about the whole time?

Chairman O'Brien

Thank you. The Chair does want to say that is this available to the public online?

Tim Cummings, Economic Development Director

It is Mr. Chair and in fact I went ahead and I found it online. If you were to go - I'm going to pull it up right here if you were to go to the city ordinances you can see. If you go on to the city's website: nashuanh.gov under the city ordinances, under draft ordinances O-22-008 is online and as you scroll down, you will see the exact maps being referenced here this evening.

Unidentified Speaker

(inaudible)

Chairman O'Brien

Excuse me, no the public cannot communicate directly. Thank you.

And just to remind the public on that, what Director Cummings has brought up is what we're going to basically discussing is Ordinance 22-008. So it is already posted on the city website. Thank you. Okay, map number 3 please.

Tim Cummings, Economic Development Director

Yes, Sir. So here is the map - map 3 and not a lot of changes here. I'm going to just focus on starting on the Pearl Street. If you recall, I suggested maybe at some point if there's no motion this evening and this ordinance was to continue, we would love to come back to remove the potential outdoor dining in front of City Room. Otherwise on East Pearl Street, the same pretty much setup as the previous year except for we narrowed the extent of the outdoor dining to what was formerly Fratello's to now have, again, you can't really tell it here but there is on street parking here where my cursor is going over. Then you have a travel lane that would be available. The thought is that this would be a left hand queuing lane for vehicles to turn left onto Main Street. Adding additional capacity for the through put on to West Pearl Street and that would open up capacity and travel to relieve some congestion as previously noted as being of concern.

Now talking and focusing a little bit more on Main Street. No real changes on the westerly side. What you see here is what would be essentially implemented. I would want to note though, we would be putting spacing in between the barriers to accommodate some emergency management issues that have been raised. This PDF doesn't necessarily show it because it's at a higher level of magnification but that would be there. Otherwise, this is the same essential layout that was done in previous years. Similarly on the opposite side, same exact layout as previous years except for when you get down to the bottom here now following what I believe was decided last night there would be a removal of the orange barriers, removal of the "messaging board" in this area. That theory would free up some more parking spaces but last year we had some more blocked off. So this endeavored to try to open up some here. I think we might open up maybe one or so more but otherwise there would be no real changes on the on the easterly side of this block.

Chairman O'Brien

The Chair would like to add that we do have a request by the Fire Department and I think this is probably brought up within this particular map as universally to the whole project that there will be breaks in the barriers to allow emergency access. Can you just clarify that please?

Tim Cummings, Economic Development Director

Yes there would be. I just want to make sure I'm accurate to say that I am on the right map. We did that block. I believe we did this block. I want to just confirm did we actually get to a point to discuss the Factory to Pearl Street block last night? I didn't think we did. So I so I apologize. I skipped over - this is map 3 right here. So map 3 is essentially from Factory/Temple to the Pearls. No real changes in this area. What you see on the west hand side is what was done last year. This is what would be, again, suggested for this year and as the ordinance lays out. As you can note, some of the orange barrels would be eliminated. Again, same setup here in the southerly end of Main Street.

The real change is actually where my cursor is hovering over right now where previously we had some traffic calming in this area that blocked some parking. We've removed that. We've tightened up the amount of new Jersey barriers to really just locate in front of the building - the Rich Lannan building here - and it freed up some additional parking that was otherwise not there last year. I guess I'll just take the opportunity to address East Pearl Street which I just did so you can essentially see that right here. I'll leave my comments there Mr. Chair and I'll move to the next map.

Alderwoman Kelly

Point of order. I just wanted to clarify to people who are watching or in the chamber who are looking for this. It is hard to find this. It is attached to the March 9th agenda not tonight's agenda. So if you would like to follow along, that's where it is.

Chairman O'Brien

I think what Director Cummings was talking about it if they looked up the original Ordinance to which we're discussing is attached to the original ordinance. So it's a part of the ordinance package.

Alderwoman Kelly

I looked for it for about 20 minutes myself. So I was just trying to make sure if people wanted to follow up.

Chairman O'Brien

I think he just brought it up. It's part of the ordinance package.

Co-Chairman Moran

I think it's reasonable Mr. Co-Chair that we ask Donna to add it to the next agenda just to clear this up. Just a link to the map just so no one else has any issues finding it. Maybe just ask Donna to add it to this.

Chairman O'Brien

We'll find out if somebody could do that. I have no objections to that.

Co-Chairman Moran

I think that'd be great.

Alderwoman Kelly

Thank you.

Alderman Thibeault

Thank you, Mr. Chairman. I'm gonna ask two questions to get it right out of the way so you don't ever have to come back to me. They're both directed - well one is directed at Mr. Cummings. The other was something we talked about last night. So the amendment or the motion we just lost included something else that we completely didn't even talk about - the spots for Glorious Possibilities. So is that something that we're gonna go back and work on because it shouldn't have necessarily been part of an amendment. We should have just talked about and decided what to do.

Chairman O'Brien

I think in the separate domain, the Chair would entertain a motion to include the two parking spaces to Glorious Possibilities if somebody would like to make that motion.

Co-Chairman Moran

I was going to wait further down but yes I would like to make the motion that we allow two parking spots in front of Glorious Possibilities.

MOTION BY ALDERMAN MORAN TO ALLOW TWO PARKING SPOTS IN FRONT OF GLORIOUS POSSIBILITIES, BY ROLL CALL

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

Yea:	Alderman Dowd, Alderman Comeau, Alderman Gouveia, Alderman Jette, Alderman Cathey, Alderman Thibeault, Marylou Blaisdell, Commissioner Shea, Cathy Cardin-Smith, Michael Buckley, Ruth Boland, Alderman Moran, Alderman O'Brien	13
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Nay:		0
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MOTION CARRIED

Alderman Thibeault

Thank you. And just a follow up to that.

Chairman O'Brien

And now discussion on map number 3.

Seasonal Road Closures and Elimination of Certain On-Street Parking for Extended Outdoor Dining and Other Non-Vehicular Use – Topics of discussion shall follow in order:

- Review and suggested changes of Map 3

Alderman Thibeault

Great, thank you. This is an overall map question Dr. Cummings. So it was mentioned in public comment about ADA and people that have disabilities and stuff like that. I want to know like has someone that is an expert in that gone over the whole plan, and has it been approved, and is it safe I guess? I just want to make sure that the public feels confident that it has been done. That's my question.

Tim Cummings, Economic Development Director

The simple answer is yes but then just to take it a step further, for the last two years, once a week, city staff gets together and walks Main Street and that's all the various authorities of jurisdiction. They particularly keep a special eye out for ADA compliance.

Alderman Thibeault

Thank you.

Chairman O'Brien

And you said ADA compliance. That includes I would assume tables on the sidewalk to make sure walking and handicapped accesses and the rite of passage?

Tim Cummings, Economic Development Director

Correct.

Chairman O'Brien

Thank you for the clarification. All right. Alderman Thibeault any other?

Alderman Thibeault

I'm good. Thank you.

Alderman Cathey

Thank you, Mr. Chair. Just a clarification. Now that we know what the law is in theory, if I'm understanding this correctly, since we have the authority to place a barrier we could but then a property owner could say no to a table being placed in front of their establishment, or building, or whatever property they own inside the barrier. So effectively there could be – I'm not saying it would be put there could be dead spots in the barriers that we've decided to place on the street. Am I understanding that correctly?

Tim Cummings, Economic Development Director

Yes, correct.

Alderman Cathey

So effectively we may have to revisit this once property owners chime in at some point? I don't know. That's not really a question. I'm just thinking out loud how do we move forward because it opens up a lot of question marks and I do want to be expedient. So I'm just trying to put the pieces together and I don't know how that fits.

Chairman O'Brien

Thank you and I, too, want to be expedient. If we put this out in the street, again, the Chair would like to recognize this is a fluid project here that can be changed, and tweaked, and everything else as we go forward. So your point is well taken. Okay?

Alderman Cathey

Thank you, Mr. Chairman.

Michael Buckley

Hopefully I can shed a little light for that. Seeing as I'm in several locations both the property owner and lessee both for my own properties and I actually have other landlords. What you're talking about is going to be a real phenomenon and once this starts, that will kick off a whole other level of people going to their landlords and saying hey I want to have dining in front of my space, and other people that are in that same building objecting to it, and now it becomes a legal liability to the landlord, and it is going to be - I hate to say this - but it is going to be a complicated mess. It will take more time than we have to iron that out. Just to add a little clarity to that.

Chairman O'Brien

No, thank you Mr. Buckley and that clarification point is well taken.

Alderman Comeau

Thank you, Mr. Chair. I think if I could ask through you to Director Cummings?

Chairman O'Brien

Absolutely.

Alderman Comeau

Last night we discussed the new restaurant - the name escapes me - on Factory Street. Were they looking for - do you know exactly what they were looking for? Is it two spaces, three spaces?

Tim Cummings, Economic Development Director

They did not specify – Tailspinner Rambling House. They did not specify an amount of spaces. They just actually requested for some sort of outdoor dining.

Alderman Comeau

Do you have a recommendation in mind or is it premature?

Tim Cummings, Economic Development Director

I would want to wait until I actually got the design back from City Engineer Hudson who is actually developing that. I asked him to do that. We drew it once previously a few years ago and so I would wait until he actually has something that I could share with the group.

Chairman O'Brien

And a point of - the Chair has a question of point of order or inquiry to Director Cummings. When we say City Engineer Hudson, he has under his authority being the main City Engineer traffic and everybody else that he receives particular input from. So when Mr. Hudson speaks, he speaks on behalf as the assigned representatives of the Department of Public Works and speaks to the combined interests of the Engineering Department. Am I correct?

Tim Cummings, Economic Development Director

That's correct. He is the City Engineer.

Chairman O'Brien

Okay. All set Alderman Cathey?

Alderman Cathey

I'm all set.

Alderman Dowd

A couple of things. I think on Factory Street that restaurant we talked about last night, I think they wanted the outdoor dining to address the ADA issue because they have a second floor that's not ADA accessible and that's why they wanted that dining to meet ADA standards. And by the way in dealing with a number of school projects right now, we have addressed in the existing schools that we're working on all of the ADA upgrades because if you don't, there's a room right down there that's going to come after you. They watch ADA closely. We've expanded doorways so that wheelchairs can get through and a number of things. I don't want to go down that road.

Anyway I think the big thing is, there are a lot of people, individual businesses that had concerns and I think we've met probably - I don't know if we met all of them but we met a number of them in this updated project. As you just explained, this is fluid and can change. If we find something addresses an issue when we're going forward with this, changes can be made.

Chairman O'Brien

Thank you Alderman Dowd.

Ruth Boland

Can I make a motion? I would like to make a motion that for all maps barriers only be eligible to be placed in front of restaurant frontage unless agreement is received by a budding street level business owners, which I think is what we're trying to do with that. No, I wanted to be business owner. We're placing barriers not saying where you can have. We're not saying where you can have dining. We're saying where you no barriers?

MOTION BY RUTH BOLAND FOR ALL MAPS, BARRIERS ONLY TO BE ELIGIBLE TO BE PLACED IN FRONT OF RESTAURANT FRONTAGE UNLESS AGREEMENT IS RECEIVED BY ABUTTING STREET LEVEL BUSINESS OWNERS, BY ROLL CALL

Chairman O'Brien

No. Can you state your motion and then I'll allow you to speak on your motion. So please clarify what your motion actually is. All right.

MOTION BY RUTH BOLAND FOR ALL MAPS, BARRIERS ONLY TO BE ELIGIBLE TO BE PLACED IN FRONT OF RESTAURANT FRONTAGE UNLESS AGREEMENT IS RECEIVED BY ABUTTING STREET LEVEL BUSINESS OWNERS, BY ROLL CALL

ON THE QUESTION

Alderman Lopez

That sounds like the same motion that we just...

Chairman O'Brien

I find it dilatory as well but yes. A member does have the right to make a motion.

Co-Chairman Moran

It sounds like you're saying the barriers as opposed earlier it was extend outdoor dining. I can't support that motion

because it takes away the city's authority to have the right away - to manage the right of way because then we might have to make changes. It's going to be and have one business says you can't put that there and then we need to put something somewhere else. That might mess up the entire flow of traffic and cause a safety hazard. So that's not something I could support without intensive information from the City Engineer.

Alderman Jette

Through you could I ask Corporation Counsel? So I know you said that the city has control over the – I've forgotten the word you used - the non-viatic use of the right of way. So the city has full ability to place barriers if it so chooses. Am I correct in thinking that the Board of Aldermen would have the authority to regulate how the city places the barriers? So the motion that's being made is that something that the Board of Aldermen can do or not?

Steve Bolton, Corporation Counsel

I don't know that I fully understand the motion. If the motion is that the barriers won't be located in the portion of the right of way that a property owner owning the fee interest in that portion of the right of way disagrees with, then I think you could provide that. I don't think you can say that the abutting lateral owner can have veto authority. So I guess it depends what - how you interpret abutting as used in the motion.

Chairman O'Brien

Excuse me, the Clerk does have one pending question. So if you could yield for one second Alderman Dowd.

Alderman Comeau

I apologize. Could you just repeat the motion one more time I got about two thirds of it.

Ruth Boland

Barriers only be eligible to be placed in front of a restaurants frontage unless agreement is received by abutting street level business owners.

Alderman Comeau

Thank you.

Alderman Dowd

I can't support this because some barriers are put in place for safety reasons as dictated by police, fire, emergency preparedness, and DPW. If you're going to have outdoor dining, you can't take away the barriers that they're using for safety reasons because people could get killed so I won't support the motion.

Ruth Boland

Can I amend my motion?

Chairman O'Brien

The motion is open for amendment.

Ruth Boland

So instead of barriers only being eligible barriers whose intention is to create space for outdoor dining only be eligible to be placed in front of a restaurants frontage.

MOTION BY RUTH BOLAND TO REPLACE THE WORD "BARRIERS" IN THE ORIGINAL MOTION WITH BARRIERS WHOSE INTENDED PURPOSE IS TO CREATE OUTDOOR DINING SPACE, BY ROLL CALL

ON THE QUESTION

Ruth Boland

So what I'm trying to do is create the motion that I think we voted yes to last night, but that we...

Chairman O'Brien

That motion was rescinded. That's why I questioned this motion is dilatory. It's another bite at the apple.

Ruth Boland

That motion we rescinded because the way that it was worded was as if we were trying to say where we could have dining, which is not the city's call. It's the property owner's call but we were trying to say where we could have dining. So basically I'm trying to reword that so that it doesn't conflict with the law because the city gets to decide where they put barriers. They don't get decide where dining can occur. So I reworded it. That was my point. That was my intention.

Chairman O'Brien

You got an A in effort.

Alderman Cathey

Thank you Mr. Chair. Just for clarification, I think what you're trying to do is give the authority to the businesses not the property owner to then say yes or no I don't want barriers. Okay? I just wanted a clarification. Thank you.

Alderman Gouveia

Thank you. Mr. Chairman. Can I ask a question to Corporation Counsel?

Chairman O'Brien

Yes, you may.

Alderman Gouveia

Thank you. So I'm hearing in the motion that this would be left to the business owner. Is that correct? I don't think we can do that. It would have to be the property owner not the business owner, right?

Steve Bolton, Corporation Counsel

Well now you're talking about where the city chooses to put barriers. So I guess a proper consideration the Board of Aldermen acting for the city can take into consideration is the desire of the people who will be affected by the barriers and that may well include businesses up and down Main Street.

I think the problem I have is I'm unclear as to what businesses we're talking about. So if the desire is to put up barriers to provide increased dining space for a given restaurant, what we're talking about other businesses along that same block, or what other businesses, or how far does that extend?

Ruth Boland

Wouldn't the abutting be just the people next to the restaurant?

Steve Bolton, Corporation Counsel

I'm just asking what...

Ruth Boland

That's the intention that it would be that the next door business.

Steve Bolton, Corporation Counsel

If that's what you want, I guess.

Chairman O'Brien

The Chair would like to say without any further comment, that this sounds awful similar to what this Board recognizes already existing law. So I will not be supporting this. So therefore no more discussion on the motion, I will call the question.

Alderman Dowd

Just to reiterate. There are barriers which I think are excluded by this motion that are for traffic calming and safety and there's no way that I'm going to vote for anything that's going to put people at risk.

Chairman O'Brien

Okay, thank you Alderman Dowd.

Ruth Boland

Well, I don't think that's true. That's why I amended it to say this is barriers that are being put in place to create outdoor dining, which would exclude barriers that have been put in place for safety reasons.

Chairman O'Brien

Further discussion? See none, I'll call the question by roll call vote. Can the Clerk please call safety amended motion?

MOTION BY RUTH BOLAND TO AMEND THE PREVIOUS MOTION TO REPLACE THE WORD "BARRIERS" WITH THE TEXT BARRIERS WHOSE INTENDED PURPOSE IS TO CREATE OUTDOOR DINING SPACE, BY ROLL CALL

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

Yea: Alderman Comeau, Ruth Boland	2
Nay: Alderman Dowd, Alderman Gouveia, Alderman Jette, Alderman Cathey, Alderman Thibeault, Marylou Blaisdell, Commissioner Shea, Cathy Cardin-Smith, Michael Buckley, Alderman Moran, Alderman O'Brien	11

MOTION FAILED

Chairman O'Brien

I see different people needing to move on, perhaps maybe take a little bit of rest break. I'm going to keep the proceedings going. If somebody feels the need to go get a glass of water or get up, I promise I will hold the vote until all members of the committee are properly seated. We'll give you a shout out to you in the hallway.

Alderman Lopez

Just for clarification and to the public, I'm not a voting member. So you guys lose nothing when I'm gone. But I heard the audio technician shouting, so I want to go see what they wanted. They were just reminding us (inaudible).

Chairman O'Brien

And I thank you but I think we've been had it for a while. Some people may need to take a stretch of the legs so to speak. I mentioned that to our civilian members who may not understand our procedures.

Alderman Jette

Thank you. So getting back to the...

Chairman O'Brien

Yes, we're back to the...

Alderman Comeau

But we have her original motion still on hold.

Co-Chairman Moran

Just before we get too far in case there's questions, I would like to move the question.

MOTION BY ALDERMAN MORAN TO MOVE THE QUESTION, BY ROLL CALL

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

- Yea: Alderman Dowd, Alderman Comeau, Alderman Gouveia, Alderman Moran, Alderman Cathey, Alderman Thibeault, Marylou Blaisdell, Commissioner Shea, Cathy Cardin-Smith, Michael Buckley, Ruth Boland, Alderman O'Brien 12
- Nay: Alderman Jette 1

MOTION CARRIED

Chairman O'Brien

Okay the question is moved. The Chair will now follow the original motion.

MOTION BY RUTH BOLAND FOR ALL MAPS BARRIERS ARE ONLY ELIGIBLE TO BE PLACED IN FRONT OF RESTAURANT FRONTAGE UNLESS AGREEMENT IS REACHED AMONGST STREET LEVEL BUSINESSES, BY ROLL CALL

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

- Yea: Ruth Boland 1
- Nay: Alderman Dowd, Alderman Comeau, Alderman Gouveia, Alderman Jette, Alderman Cathey, Alderman Thibeault, Marylou Blaisdell, Commissioner Shea, Cathy Cardin-Smith, Michael Buckley, Alderman Moran, Alderman O'Brien 12

MOTION FAILED

Alderman Jette

So I just have a few things that I'd like to point out. To Mr. Cummings, the fork and the knife that you have over that building on Factory Street is not located at the Rambling House. You've got it on the Dalianis House. So the Rambling House is that little thin building to the east of it. So the frontage that they have unless they get big adjacent landowners permission is very limited.

The other thing I wanted to say with so with the advice that Attorney Bolton has given us about, you know, about where a landowner can authorize outdoor dining going back to San Francisco Kitchen, I realized as Attorney Bolton has pointed out, he used to be a tenant in that building so he knows a little bit about who owns it.

Steve Bolton, Corporation Counsel

It was some years ago.

Alderman Jette

So I understand that the owner of that building would call the shots there. I guess it remains to be seen how they work that out between the landowner, and San Francisco Kitchen, and Wingate's. I don't know if Cardin is in that building. I think Cardin owns their own building. So the barrier that's provided there is quite - seems to be more than necessary. I don't know if Engineer Hudson is on but could that barrier be less? Could we provide more parking in that area? Engineer Hudson, are you there?

Dan Hudson, City Engineer

Yes, I'm here. Which barrier were you talking about specifically?

Alderman Jette

It's the barrier just to the north of Factory Street on the west side of Main Street.

Dan Hudson, City Engineer

I'm having trouble because I'm on Zoom. I'm not seeing the imagery but I have another mapping. So is it the barriers on Main Street?

Alderman Jette

It's on the west side of Main Street just north of Factory Street.

Dan Hudson, City Engineer

In front of San Francisco Kitchen?

Alderman Jette

Yes. I was trying to act technical but.

Dan Hudson, City Engineer

So that's I mean the barrier there I believe is to define the area for San Francisco Kitchen.

Unidentified Speaker

Is that essentially what you're talking about?

Alderman Jette

Yes.

Unidentified Speaker

You're asking how many spots? This currently shows one, two and a half spots.

Dan Hudson, City Engineer

So are you saying you want to shorten the south end of that or?

Unidentified Speaker

I think it's the north end...

Alderman Jette

To shorten the north end.

Unidentified Speaker

You'd want to pull the barrier back before...

Tim Cummings, Economic Development Director

If I may, I think what you're suggesting is you want the barrier to be pulled back before this light pole?

Dan Hudson, City Engineer

Yeah, I mean the thing about the barriers is they do come in - it's a standard length, 10 foot lengths. So we can make changes but we can only do it one barrier section at a time basically. So if we wanted to shorten it. We'd have to take 10 feet out of the run or you know multiples of 10 feet. But yes we can make a shorter section there if that's what the wish of the board is.

Alderman Jette

So could I follow up? Did I hear you say yes you could shorten that?

Dan Hudson, City Engineer

Yes we can shorten or lengthen any of these zones as the Task Force wishes. I don't know what's going to be left over for space. We'd have to draw that up and determine if it still provides enough space - sufficient space to be useful.

Alderman Jette

So I'm thinking that the purpose of the barrier would be to narrow the lane of Main Street not necessarily to provide outdoor dining. I guess it depends on how things get worked up. But I just wanted to raise the question and if outdoor dining is not going to occur there, if we could provide more parking and still narrow Main Street but provide more parking. I think that would be beneficial to the...

Dan Hudson, City Engineer

If that dining area was removed, then we would do similar to what's up at the crosswalk. We'd just have a single barrier just to retain that reduced lane configuration. You would restore the parking in that area.

Alderman Jette

Okay, so if you and Director Cummings could keep that in mind depending on how things work out.

So now south of Factory Street where in front of JaJa Belle's. Again I don't know if everybody got an e-mail from the owner of JaJa Belles but she says there is no parking spot directly in front of her restaurant. So unless she gets permission from the adjacent landowner who is also her landlord I think, then that extended dining that's in front of the men's clothing store, and Gentle Dental, and the bank would not be necessary. Is it possible to eliminate or just have a shorter barrier at the north end and provide more parking along the clothing store, the dental store - the dental facility, and the bank?

Dan Hudson, City Engineer

That was a question (inaudible). The answer would be yes. We would, again, mirror the configuration that's shown on the block to the north or we just hold the reduced lane via a shorter section barrier.

Alderman Jette

I'm having trouble hearing you. Are you saying yes that you could have a shorter area there?

Dan Hudson, City Engineer

Yes. We would just do what - we would mirror what is being done in the block to the north with a shorter segment of barrier that just blocks the lane but still allows for the parking.

Alderman Jette

Okay, thank you.

Chairman O'Brien

I wouldn't want to caution you Alderman Jette. Any suggestion needs to be put in the form of a motion because what we have here is basically the plan. So it needs the approval from the full Board not a suggestion from one member but the approval or the Task Force to make those changes. So I just wanted to point that too.

Alderman Cathey

Thank you, Mr. Chair. I apologize that this is a dumb question but Director Cummings the School Street project, could you remind me there will or will not be available parking to the general public as well when that project is complete?

Tim Cummings, Economic Development Director

There will be.

Alderman Cathey

Okay. If I may, Mr. Chair, follow up?

Chairman O'Brien

Yes.

Alderman Cathey

Thank you. I'm thinking out loud. I thought it would be wise to leave that space open in front of Bank of America because JaJa Belles is only open till two but that directly contradicts the law that's already in place about property owners and whether or not they want space in front of their street. I don't want to get to regulation heavy. So I would like to see that whole strip for parking but at this point, I don't know if we can make that call because it basically will be conflicting ourselves because of the law. Food for thought.

Alderman Dowd

Yes. I got a call from Jessica from some foreign country that she's in right now. She said that she believes she has a working agreement with her abutters. She says that all the people on that block go there and eat their lunch on her tables with her permission. So they are all - according to her - they're in favor. So unless that changes, I think those things will probably stay in place.

Chairman O'Brien

And the Chair would like to say the plan before us, you know, being the Chairman of Infrastructure had some play into it with the City Engineer and Director Cummings and everything. With the goal of what we heard in public testimony from several people of compromise, and compromise was reached. If we looked at the Wingate what I'll call the Wingate/San Francisco block, a lot of freed up parking spaces have been made from comparatively from past years. So if people are true to the word as gentlemen and ladies, compromise has been made. Yet at the same time, we're trying to encourage that all businesses with this as well. So therefore, the San Francisco does have some entitlement and any moment of already like Alderman Lopez brought up, it cheated because of the bump out, you know, further restricts the business opportunity for that particular business. I cannot be party to any of that. I will try to be all inclusive of all businesses. So I basically state that. Okay. So seeing no pending motion, any further discussion on map number 3?

Alderman Jette

I would like to given your counsel, I would like to make a motion, that the barrier in front of the building on the corner of Factory and Main Street - the north side of factory and the west side of Main Street that that barrier will be shortened to provide more parking.

MOTION BY ALDERMAN JETTE THAT THE BARRIER IN FRONT OF THE NORTH SIDE OF FACTORY AND THE WEST SIDE OF MAIN STREET BE SHORTENED TO PROVIDE MORE PARKING, BY ROLL CALL

ON THE QUESTION

Tim Cummings, Economic Development Director

So this is the current layout. So if I'm understanding it correctly so just to be clear, this isn't usable space. This is one parking spot, two parking spots, and not a complete parking spot but essentially a third – two-thirds of an existing parking spot I would say. You'd like it to be brought back. I remember from what City Engineer Hudson said we have to work in like 10 foot intervals. So we would have to figure out and what I was suggesting is maybe you would be looking to bring this back to the other side of this existing streetlight. I don't want to put words in your mouth, but I think that that's sort of what you were suggesting. So you'd get one, two spaces, maybe a half a space would be freed up that would allow for a compact car of some sort. I don't know. I'm trying to understand what you're looking to do.

Ruth Boland

Can I ask you a question about a map? That just shows the parking spot but it would also be the first lane of traffic, right?

Tim Cummings, Economic Development Director

Yeah, right here is what you're asking?

Ruth Boland

Right. It would go all the way out.

Tim Cummings, Economic Development Director

Correct.

Ruth Boland

Further than what we're looking at?

Tim Cummings, Economic Development Director

No, this is it.

Alderman Comeau

It doesn't close the whole lane. It only goes about halfway out to leave room for space between the travel lane and the barriers.

Chairman O'Brien

Alderman Jette before we - so we could discuss it, can you clearly state your motion then?

Alderman Jette

Probably not.

Alderman Comeau

If I may, I've written down what I believe your intention is. Would you like me to read it to you?

Alderman Jette

Sure.

MOTION BY ALDERMAN JETTE TO SHORTEN THE BARRIERS ON THE NORTHWEST CORNER OF FACTORY STREET AND MAIN STREET BY TEN (10) FEET, BY ROLL CALL

Alderman Jette

Could I ask Engineer Hudson how much could that be shortened? Could it be shortened more than 10 feet? Could it be shortened by 20 feet?

Dan Hudson, City Engineer

If the whole thing could be removed, I mean, I don't understand the question. Certainly we could remove 10 feet, 20 feet, or the whole thing. I mean one parking spot is about 20 feet. So if you wanted to shift everything a parking spot, it would be 20 feet.

Alderman Jette

Okay.

Alderman Comeau

Jeff if you're still watching, our monitors in the chamber just went out. I don't know if we're still on TV or not.

Alderman Klee

No, we're not.

Jeff Poehnert, PEG Manager

I'm here. Let me just check.

Alderman Comeau

We might be back up Jeff.

Jeff Poehnert, PEG Manager

Okay, I'll talk to Jim.

Chairman O'Brien

Okay. Until this time, I will call a brief recess of five minutes. I would expect everybody packed into this chamber at 10 pm. A brief recess until we get the monitors straight.

We had some technical difficulties. At this particular time seemed a little bit above and the media fix for this evening. What the technical difficulty is here in the chamber that we cannot see the maps or maybe have communications but we have established communications with one of our committee member who's participating remote. He was able to communicate with us. So therefore, we still have the full quorum of all people who met the original roll call of this particular meeting.

But however, since we do not have access to the on screen TVs here, Director Cummings is going out and he's got to make copies of the particular maps. We're going to have to work just like your grandfather's did or whatever. I think it was good enough for them and it will be good enough for us. Okay. That way, we can keep going. I can smell the end of the finish line.

Alderman Klee

Paul, do you have the maps?

Commissioner Paul Shea

I am - I have the maps in my head. I've looked at them so many times. That being said, I am going to be to you in maybe two minutes. Don't wait for me but I'm actually in route. So I'll be I'll be joining you shortly.

Chairman O'Brien

We'll keep the light on for you. Oh Commissioner Shea it may be locked. Can you call one of us by phone?

Alderman Lopez

I'll just go to the lobby and wait for him.

Chairman O'Brien

Alderman Lopez is going to go downstairs and wait for you at the rear door.

Chairman O'Brien

All right. Basically at this particular - oh, Mr. Hudson.

Dan Hudson, City Engineer

Yes, Sir.

Chairman O'Brien

Okay, thank you, Mr. Hudson. We have a pending motion but because we don't have access to the maps without objection, I'm going to move farther along the agenda. Basically, I would like to bring up other things that are on this to fill in that we can do without maps. One of the questions - aesthetics suggestions or changes to the existing barriers. Mr. Hudson could you give us your point of view. Many people have expressed a change - a wish to change the barriers from the current awful presentation to a more solid type of color and could you advise us on that with the points of interest to particularly to traffic safety.

- Aesthetic suggestions to changes to the existing barriers

Dan Hudson, City Engineer

Sure, I'd be happy to Mr. Chair. The barriers can be repainted just about any color that is so chosen. The only thing I would request for safety reasons is that there be selective (inaudible) elective color. As standard originally a lighter color is fine because you can see that at night. But if a darker color is chosen, then I would recommend some reflectance be added to the barrier either by reflectorized tape or some other means.

Chairman O'Brien

Okay, very good.

Alderman Cathey

Thank you, Mr. Chair. I believe if I'm not mistaken, one of the first items that we covered was Commissioner Shea wanting to get rid of the big lighted signs and with that the barrels as well and then Director Cummings suggested the reflective stripping. I believe that's already been covered by a motion.

Chairman O'Brien

No this is repainting of the barriers.

Alderman Cathey

But Mr. Hudson mentioned having the reflective strip on the barriers. I'm just pointing out that we already had that sort of...

Chairman O'Brien

Okay but we're focusing on the aesthetic changes to the barriers.

Unidentified Speaker

What was the color that Director Cummings was recommending?

Chairman O'Brien

They are painted different type of forms of art. Unfortunately...

Co-Chairman Moran

No, that's not the question. The question was what was he recommending?

Chairman O'Brien

Well Mr. Hudson could you tell us what you are recommending?

Dan Hudson, City Engineer

I am not recommending anything. I'm certainly at no, although I'm an adequate engineer and I'm certainly no color expert. So I believe a recommendation has been forwarded by Positive Street Art for a navy blue type color.

Co-Chairman Moran

Wonderful. I would like to make a motion that we take the recommendation for navy blue for all the barriers.

MOTION BY ALDERMAN MORAN TO RECOMMEND THE COLOR OF NAVY BLUE FOR ALL THE BARRIERS

ON THE QUESTION

Alderman Comeau

Point of order, Mr. Chair. Just so everybody remembers, last night we did approve unanimously a motion to install reflective tape or paint on the barriers. So that has already been done. The reflective part has already been...

Alderman Dowd

Right beside the color.

Alderman Comeau

We're just deciding the color.

Alderman Dowd

I fully support the navy blue.

Chairman O'Brien

I wonder why?

Alderman Comeau

Not gunship gray?

Alderman Dowd

No.

Chairman O'Brien

Are you sure nobody wants to get into royal?

Alderman Klee

He suggested that too.

Chairman O'Brien

Navy blue seems to be it unless you're an army fan Mr. Cathey would you like to...?

Alderman Cathey

I did try to enlist and I was just not good enough. Would navy blue become an issue at night because it is a darker color with the sight? I withdraw that question.

Chairman O'Brien

Okay. Do you agree with summation Mr. Hudson?

Dan Hudson, City Engineer

With the reflective strip would be acceptable.

Chairman O'Brien

But I think – am I correct - I think he says with the striping and the navy blue I think that works for me, too.

Co-Chairman Moran

I request a roll call vote.

Chairman O'Brien

Okay. I'll request a roll call and the Chair would like to recognize a physical attendance – Commissioner Shea. We'll give you a one minute.

Co-Chairman Moran

Commissioner Shea is here. Maybe we can do a voice vote.

Alderman Wilshire

He really shouldn't vote on this. He hasn't been here for the discussion.

Cathy Cardin-Smith

Do we get to see a sampling of the color?

Alderman Comeau

It's like almost the shirt.

Chairman O'Brien

This is what I wanted to avoid. My wife has so many different spectrums.

Alderman Lopez

So the official color of the barriers is going to be like blending (inaudible).

Cathy Cardin-Smith

So I have a question. Did anybody consider to have it more like...did anybody considered to have it more like a landscape color like a green that might blend with some landscape materials like trees?

Chairman O'Brien

Well the motion before us is for just royal blue. If that motion should fail, we are we are opened up to the rainbow.

Cathy Cardin-Smith

Okay. I'll ask Mr. Buckley who has designed many beautiful restaurants if he feels like that's a good color or would he prefer...

Michael Buckley

Well in my head my first thing was sage but I think anything in the blue spectrum would be fine personally. I don't know - I don't think you're going to get a blending by painting it green that it would blend into the landscape. It would be green barriers or there'll be blueberries. I don't think that that has any - I don't think that it's going to trick you into thinking it's blending with landscape.

Cathy Cardin-Smith

Right.

Michael Buckley

So I think that you really go with a color that is pleasant, is neutral, but hides scuff marks and stuff. The blue may be better than the green. So I thought it would be the sage originally and then as they said blue, I said at that point it would be better just because people will hit it with the tires. They will sit on and rub their feet on them. I think something on a darker hue will hide.

Cathy Cardin-Smith

Do you have any thoughts about even possibly black seeing we had the black, you know, lampposts and so forth. Do people think that black is not cool?

Michael Buckley

Yeah I think that would be too much black personally.

Cathy Cardin-Smith

Too black, yeah, okay, good. I just wanted to get another opinion.

Unidentified Speaker

I think royal blue, or navy blue, or something in between would be fine. I'm sure we can get a color palette pulled together and pick something, you know. Even navy blue is left for interpretation.

Alderman Comeau

Yes, thank you, Mr. Chair. I certainly have no problem with navy blue, although I have a special affinity for army green. Just as an alternative, when the idea of a uniform scheme was first mentioned to me, and this might be crazy but I'm crazy, I thought of a like a faux brick that made it look like the brick facade of the buildings would blend in with especially with you know a lot of our downtown area has a mill facade or a mill feel to it that painting them to look like brick would help them blend in with the existing buildings and seem less intrusive but either way I'm fine with navy blue also.

Commissioner Paul Shea

I had the same thought as Alderman Comeau about this idea of like a faux brick color. I think colonial red would be like too red but something a little on the lighter side as far as like a light brick tone would be nice. I would advise against any color that's especially dark. I think navy blue would probably fall into that area just because of the way that dark colors tend to absorb sunlight and heat more so. It could make the summer heat a little more hot. When we did the Farmers Market on Main Street on a hot day, it might be a 95 degree day but in the areas where there was like fresher blacktop it was very hot and it could increase the temperature of the area near to it. So the dark colors – black, navy blue, hunter green, any anything in that darker area I might suggest we stay away from just from a heat standpoint potentially.

Chairman O'Brien

Thank you but the pending motion before us is on one color and that's navy blue.

Alderman Gouveia

Thank you Mr. Chairman. So the original analysis says that the painting will cost an estimated at \$20,000. With this single color is that still the number we're looking at?

Chairman O'Brien

I do not have the cost. I know that we received an offer from Director Cummings.

Tim Cummings, Economic Development Director

Yes. That was that was assuming a solid color painting job.

Alderman Gouveia

Perfect, thank you.

Alderman Jette

Yes, I also like the red brick. So I'm going to move to amend to red brick.

Chairman O'Brien

We have a motion.

Alderman Jette

I'm moving to amend the motion to red brick instead of the blue.

Chairman O'Brien

Then you're voting on two colors at once. How do we do that?

Alderman Jette

I'm moving to amend to red brick.

Co-Chairman Moran

I'm gonna withdraw my...

Chairman O'Brien

I still don't understand it.

Co-Chairman Moran

I'm withdrawing.

Chairman O'Brien

Why don't you let the motion go through – well...

Alderman Moran withdrew his motion

Chairman O'Brien

Okay. The motion is withdrawn. Thank you. That cleans is up immensely. Yeah, we're gonna pass it for navy blue and then we're gonna go to - yeah, okay. Thank you.

Alderman Jette

So since that motion is withdrawn, I move to paint the barriers a red brick color. Is that the color you said?

MOTION BY ALDERMAN JETTE TO PAINT THE BARRIERS A RED BRICK COLOR

ON THE QUESTION

Chairman O'Brien

The new motion is red brick. Before we get into that, I gotta consult the Engineer. Do you foresee any traffic or safety concerns with a red brick color?

Dan Hudson, City Engineer

No, I don't Mr. Chair. I hope that we're not trying to paint a red brick pattern that we're just talking about a solid red brick color. Am I correct?

Chairman O'Brien

Okay, very good.

Alderman Cathey

To Engineer Hudson's point, are we asking for a solid red brick color or looking like brick wall design?

Alderman Jette

May I answer?

Chairman O'Brien

Yes.

Alderman Jette

So actually my color consultant has advised me that what I really meant to say was a light brick, solid color.

Alderman Comeau

Okay. Light or like?

Tim Cummings, Economic Development Director

Light red. I'm asking the question.

Alderman Klee

L-i-g-h-t?

Tim Cummings, Economic Development Director

No, like red. Like a light red brick.

Ruth Boland

Yeah, I just want to make sure that it doesn't turn into red. So if you say "red brick" that can sometimes be quite red but we want it to be...

Alderman Comeau

So not like stops like a maroon.

Alderman Klee

A lighter red.

Alderman Comeau

Somebody give me swatches.

Chairman O'Brien

Yeah does somebody had swatches in their back pocket please? I don't want to get hung up on this folks but we're very close. I'm good with the red brick. But Mr. Hudson, you clearly understand what was the recommendation? Red brick but not too red but just the right brick color.

Dan Hudson, City Engineer

Yes, Mr. Chair.

Chairman O'Brien

Thank you. I'm speaking to you the way my wife speaks to me when I'm standing in the paint line. Thank you.

Commissioner Paul Shea

If I may, I would like to suggest we consider Pantone 18-1350, which is burnt brick. It is this color. Is that what folks have in mind when they think about this?

Alderman Comeau

If that's what matches the buildings, then that's what was in my mind.

Unidentified Speaker

And I wouldn't want us to over expend for proprietary colors. So I don't know that I necessarily want to have us be bound to that but a color match would be would be quite fine. I'll show Alderman Jette.

Alderman Comeau

Can you give me the number one more time?

Chairman O'Brien

We'll get the number. Mr. Hudson, we'll get you the number, okay.

Dan Hudson, City Engineer

Yes, Mr. Chair. I did see it. I'm watching this on the screen. There was a little delay that I did just see the color.

Chairman O'Brien

And can I give you folks the usual caveats but this is all pending whether they make this in masonry paint, which is I think is what we want on the concrete barriers seeing that they are masonry. So we've got to make sure that that particular color is available in the form of masonry paint. Yes, can you repeat the number please?

Commissioner Paul Shea

Yes. So it's Pantone Smart 18-1350.

Alderman Comeau

1350 or equivalent?

Commissioner Paul Shea

Yes. Who's the manufacturer?

Commissioner Paul Shea

So Pantone.

Chairman O'Brien

So Pantone is a manufacturer?

Commissioner Paul Shea

I think Pantone is a color standardizer.

Chairman O'Brien

Okay. Man, you know more than I do on these?

Commissioner Paul Shea

Yeah, I'm a nerd for color. Let me, let me know if you want the hex code.

Alderman Cathey

To Commissioner Shea's point, I am a designer. So I'm also a nerd for color. And to your point if you're doing masonry paint if you're telling the person doing the paint, they will mix it so it gets to that color when it's applied to that surface

specific to...

Chairman O'Brien

I just want to make sure we're talking masonry. Yes, thank you.

Alderman Cathey

They'll figure out the color combination.

Chairman O'Brien

Thank you.

Alderman Gouveia

Thank you Mr. Chairman. Director Cummings do you see a change in price with this new color at all?

Tim Cummings, Economic Development Director

I couldn't even begin to answer that. I'll shoot an e-mail tomorrow and let you all know.

Chairman O'Brien

Again this is TA as everything here. So okay. So no further questions? We are going with the brick but not too bricky but bricky enough and not to make any light of it but there is that motion? Yes.

Tim Cummings, Economic Development Director

If I could, I just wanna make sure it's very clear we will have a white reflective stripe running along.

Chairman O'Brien

Yes we have verified that. So the motion should be brick color with the reflective stripe and you have that, right?

MOTION BY ALDERMAN JETTE THAT THE PAINTING OF THE BARRIERS BE A SOLID LIGHT RED BRICK COLOR - PANTONE SMART 18-1350 TCX OR EQUIVALENT WITH THE WHITE REFLECTIVE STRIP

ON THE QUESTION

Commissioner Paul Shea

I looked it up a little bit more. It's the numbers followed by TCX.

Chairman O'Brien

May I call the question without objection? We'll do a voice vote because we're in full quorum now.

MOTION CARRIED

- Review Suggestion of adding user fees

Chairman O'Brien

So I'll put a TA on the aesthetic changes.

Next thing we're going a little bit out of order but just to kind of move it along. It is a little bit of an elephant in the room. If you go to page two on the agenda. If we do look at review suggestions for adding economic impact study and review suggestions of adding user fees. The Chair wants to clearly stipulate of what the intentions. These two items are

together but should they be addressed by this particular committee? The answer is no. When we do pick, which is one of the questions we're going to be answering this evening is the start date to come up with a fixed value and to have somebody to actually go up and measure. What is the guidelines, we're going to measure on this and everything else. Are we going to be charging by table, or by linear foot, or by whatever. So I think you can understand, you know, by the capacity. You can see the parameters.

The other thing is by waiting this particular season to which I would recommend, at least it gives the people who are going to participate in this outdoor dining this season knowing full well, and I will call for a vote, that this is going to be pending and we're going to have this assigned to a committee that they will be able to run their numbers for this particular cycle and understand what the fair market ability is and help us understand what the fair market ability could be. Because the people have spoken and I have to agree with them. You know that I'm not in objections of helping out the businesses but I think a fair and I quote that, "fair price needs to be mitigated" that could be compromised or met was compromised between the participants of this outdoor dining and to satisfy the needs of the taxpayers. I think that could be reached but I think that's outside the scope of this particular committee. But this committees can set that charge that this will be discussed in the future by a future group. I think we'll make that recommendation and I think President Wilshire will assign it to the appropriate committee when that comes forward.

Alderman Cathey

Thank you Mr. Chair. I was gonna say something differently but now I want to respond to what you said. I understand what you're saying but if we're passing it ultimately want to get it to the BOA for three years, there's no guarantee that it will be revisited and change because it's already in place. So even if we were to determine a price for however we do it, I don't know what that will look like. There's no guarantee that the Aldermen would then agree, maybe they would I don't know, but there's no guarantee that they would.

Chairman O'Brien

Well that's Aldermen do. If I may, the intention of the Chair is to put this into a motion that as one of the charges to be brought forward that this will be discussed at a future date. I mean it's not going to, you know, in theory vaporize. It's something that needs to be discussed but to give full latitude to have a completely looked at and properly vetted, I think we need one more cycle and then when the next cycle comes up next year talking about the 2023 season that I think that the participants will have a fixed dollar amount in their head. I think the Board will have that and this will be able to come to an agreement.

Alderman Cathey

Thank you, Mr. Chair. To my previous question, I was unsure for the aesthetics if the planners were included in that or if that was only for the parklet idea that we're going to be planters. Are we doing planters?

Chairman O'Brien

Planters haven't been discussed.

Alderman Comeau

Point of order, Mr. Chair?

Chairman O'Brien

Yes.

Alderman Comeau

Apologies to my colleague, Alderman Cathey. Before we get too far, I probably should have mentioned this before we voted on the paint. Alderman Jette had a pending motion from...

Chairman O'Brien

Yeah we were we were waiting until the mappage.

Alderman Comeau

But we should dispose of that before we...

Chairman O'Brien

No, believe the Chair knows. We've got to get to that equally as well. But we're planning up when we're moving forward. So thank you

Alderman Cathey

So we are discussing putting planter on the barriers or we're not?

Chairman O'Brien

I think that's something that I don't think was in the focus. I think that the city is not going to bring in the barriers. Am I correct Director Cummings – bring in planters? That's an individual choice by the particular owner.

Alderman Cathey

Oh, okay.

Chairman O'Brien

Okay. So I think that's outside the scope was this particular committee.

Alderman Cathey

Thank you for the clarification.

Chairman O'Brien

Okay. So with that, yes, and keep focus. We're discussing the potential of forming a committee to look at the charging for the 2023 season of outdoor dining.

Cathey Cardin-Smith

Yes. I've spoken to several of the restauranteurs and they're ready to put some skin in the game. They know the time that's been invested here and coming up with a plan and, again, a compromise which is what we're all doing. I think to maybe not to come up with a fee for the spaces and to come up with a square footage on the sidewalk, I think they're ready to talk about that and I think, yeah, maybe we set the fee up for this year and then we say okay give it two months or let's have these fees due on July 20th or something to that effect. Let them, you know, take in some funds for the actual outdoor dining and expanded dining. There's been so much work on so many people's part that I think they are ready to, like I said, put some skin in the game. I don't know. I know Michael has talked about it. He's ready to, you know, or maybe I don't want to put words in your mouth but do you feel like the restauranteurs are ready to put some money into this this year?

Michael Buckley

Well I suggested it every time I spoke as a point of fairness to the taxpayer, to help defray the costs, also for my other - I had two reasons that and it also weeded out the people that didn't really utilize them who weren't willing to put money into because it didn't really get a lot out of it which once you've done that, you free up more parking spaces. Not a lot but you'll have a few people that will be like I don't even use that, so I don't want to pay, so I don't want it. So you could potentially free up parking spaces without even having to ask them.

But I just wanted to make a point that when you go to make that, I think you should obviously put together committee. I just wanted to make one comment about the structuring because everybody has different size of fronts, I don't think the linear footage before the storefront or the restaurants front would be an appropriate way because a really big restaurant might have a small dining area and a really small restaurant might have a big dining area. I think it should really be

developed based upon how many actual parking spaces you take up. So if you take one parking space, two parking spaces, three parking spaces is probably the most fair way to do it because it doesn't matter what size your restaurant is because that's not as (inaudible) how many spaces are you taking? I think that's where you should calculate. Even if it's two and a half spaces, whatever, but it should go by spaces because now you're paying for what you're paid to play. Now you're paying for what you're using.

Chairman O'Brien

I agree but to come up with the parameters that needs to be vetted within that community.

Michael Buckley

It does. I'm just suggesting a format in which to make it really coincide with what's being used.

Alderman Dowd

Yes since the fee structure has to be determined and where the monies go once they're accepted, I think it ought to be referred to Budget.

Chairman O'Brien

I'll leave the President but the President will probably refer to Budget as a second committee but that's the President's choice.

Co-Chairman Moran

I have a motion that could move this along maybe.

Chairman O'Brien

Outstanding. Thank you Alderman Moran. We'll see if I get it right and of course it can be amended.

Alderman Comeau

Point of order real quick. Can we do a new motion with Alderman Jette's motion still on the floor?

Co-Chairman Moran

Good point.

Chairman O'Brien

Yeah because we recessed because of the technical we're going to revisit. We were doing fillers because we didn't have the maps. Again, we didn't have to maps. Now we have the maps but we're on to a different subject. Maybe we should revisit.

Alderman Comeau

We didn't dispose of that motion.

Chairman O'Brien

He hasn't really scribed 100% of the motion. We will revisit, believe me. Please continue Alderman Moran.

Co-Chairman Moran

I have a motion to defer fees for one year and amend the ordinance to reflect the year two and three would be tentatively approved pending the development of a fee agreement for land use by the appropriate subcommittee and final approval by the BOA.

MOTION BY ALDERMAN MORAN TO DEFER FEES FOR ONE YEAR AND AMEND THE ORDINANCE TO REFLECT YEARS TWO AND THREE WILL BE TENTATIVELY APPROVED PENDING THE DEVELOPMENT OF A FEE AGREEMENT FOR LAND USE BY THE RESTAURANTS WHICH REQUIRE FINAL APPROVAL BY THE BOARD OF ALDERMEN

ON THE QUESTION

Chairman O'Brien

I would feel cleaner to help you out if I may, because under the agenda, it says review suggested for adding an economic impact study and suggestions for adding user fees. Does your motion really state that per say?

Co-Chairman Moran

I'm suggesting that we defer the user fees and refer it to the appropriate subcommittee.

Chairman O'Brien

Okay I'm good with that if that's your intention.

Alderman Comeau

From years two and three on please.

Co-Chairman Moran

Yes. Would be tentatively approved pending the development of a fee agreement for land use by the restaurants then would be referred to the appropriate subcommittee...

President Wilshire

Can I shorten that for you? Just pending approval of the Board of Aldermen.

Co-Chairman Moran

That works.

Alderman Comeau

So what I have Alderman Moran:

MOTION BY ALDERMAN MORAN TO DEFER FEES FOR ONE YEAR AND AMEND THE ORDINANCE TO REFLECT YEARS TWO AND THREE WILL BE TENTATIVELY APPROVED PENDING THE DEVELOPMENT OF A FEE AGREEMENT FOR LAND USE BY THE RESTAURANTS WHICH REQUIRE FINAL APPROVAL BY THE BOARD OF ALDERMEN

ON THE QUESTION

Alderman Thibeault

Thank you, Mr. Chairman. I would like to add an amendment to that if possible.

Alderman Comeau

I'm ready.

Alderman Thibeault

Instead of deferring year one, I would say charge \$1,000 a space just to get the city some money.

Alderman Comeau

For year one?

Alderman Thibeault

For year one.

MOTION BY ALDERMAN THIBEAULT TO AMEND THAT THE FEE FOR YEAR ONE WOULD BE \$1,000 PER PARKING SPACE USED FOR OUTDINING AND AMEND THE ORDINANCE TO REFLECT YEARS TWO AND THREE WILL BE TENTATIVELY APPROVED PENDING THE DEVELOPMENT OF A FEE AGREEMENT FOR LAND USE BY THE RESTAURANTS WHICH REQUIRE FINAL APPROVAL BY THE BOARD OF ALDERMEN

ON THE QUESTION

Alderman Thibeault

So if we put out 20 spaces, we get \$20,000. Parking spaces used for dining, yes. I think that's a nominal fee. I don't think that would be – well it's out there.

Chairman O'Brien

All right. If we're always going to be adding amendments, I'm going to start calling votes on the amendment so we can clearly get to it. Okay. So you've put that in as a motion as an amendment. Okay, discussion on the \$1,000 fee starting this year.

Alderman Comeau

May I read the motion?

Chairman O'Brien

Yes you may.

MOTION BY ALDERMAN THIBEAULT TO AMEND THE PREVIOUS MOTION TO SAY THAT THE FEE FOR YEAR ONE WOULD BE \$1,000 PER PARKING SPACE USED

ON THE QUESTION

Alderman Cathey

Thank you Mr. Chair. I'm going to support the amendment. I was going to maybe try and go with the square footage thing but I think for brevity sake, I think \$1,000 is a fair starting point for parking spaces. It is in line with one of the restauranteurs here who agreed that would be a fair compensational reference point. So I will I will support that amendment because they've had two years. This is the year where they put skin in the game.

Alderman Gouveia

Thank you, Mr. Chairman. I'm going to support the motion here. I think it's a good start and I think it should personally be more. I don't think the city should be having a project and where especially something like that's where the taxpayers are going to be footing more of the bill than everybody else. So I'm gonna support it because it's a step in the right direction.

Commissioner Paul Shea

If I may ask some clarifying questions to Director Cummings for perspective. So Director Cummings approximately - I think we have some idea of the impact in terms of parking revenue, is that correct?

Tim Cummings, Economic Development Director

Yes, we do.

Commissioner Paul Shea

And what is that number? Is it \$20,000 do I recall?

Tim Cummings, Economic Development Director

Again, I don't have it at my fingertips. I sent a communication around. I believe it was somewhere between \$30,000 and \$40,000.

Alderman Gouveia

So I have it pulled up if you want me to clarify. So it says the reduction in meter revenue is estimated from \$30,000 to \$45,000. The reduction in parking enforcement revenue is estimated at \$5,000 to \$8,000.

Tim Cummings, Economic Development Director

So yeah between \$30,000 and \$40,000 is I think what would be the potential loss based off of the proposed plan that is part of the ordinance because that's what we reviewed.

Alderman Gouveia

And an additional question, approximately how many parking spaces under the design of this would be occupied by dining?

Tim Cummings, Economic Development Director

Just over 40 spaces. 41 I want to say.

Alderman Gouveia

Okay and so if we did \$1,000 per space, then we would kind of be overshooting the estimated by a little bit?

Tim Cummings, Economic Development Director

It depends on the length of time.

Alderman Gouveia

Okay. And is that estimate based on the Memorial to Labor Day window or based on the previous duration?

Tim Cummings, Economic Development Director

What I would say is based on the ordinance as currently written would be approximately six months - May 1st to, you know, essentially October 31st give or take, you know, understanding but let's just say for this conversation count the whole month of May, count the whole month of October. You'd have six months. You'd be looking at \$900 and change per month. I'm sorry a \$900 and change per season value and monthly just over \$100.

Alderman Gouveia

Thank you.

Alderman Jette

Thank you. Just to clarify, I asked Jill Stansfield that direct question and her answer was it's the \$909.09 per space for the season, which comes out \$151.51 per space per month.

Alderman Gouveia

Thank you.

Tim Cummings, Economic Development Director

Pretty good.

Alderman Jette

So those dollars is appropriate. So I think the \$1,000 is reasonable just based on the lost parking meter revenue. Mr. Buckley can speak for himself, but I think he mentioned that number before but I'll let him do that.

The other thing that we haven't talked about is the sidewalk space in addition - we're just talking about the parking spaces here. We're not the first people to deal with this issue. Concord charges \$1,000 per parking space and its \$3 per square foot of permitted dining area. Portsmouth charges I think its \$5 per square foot.

Chairman O'Brien

Alderman Jette on the agenda this is basically intending for the parking spaces only as per charge. If the committee when formed wants to look at the sidewalks, I find no objection.

Alderman Jette

Well I think in spite of your desire, I think that this Task Force is...

Chairman O'Brien

Are you challenging the Chair, Sir?

Alderman Jette

I'm saying that this Task Force has made a motion...

Chairman O'Brien

I'm trying to facilitate a meeting to expedite. Look at the time please.

Alderman Jette

The Task Force has made a motion to impose the fee this year...

Chairman O'Brien

That's correct.

Alderman Jette

Contrary to your desire to refer it to a committee. So that's the motion we're discussing.

Chairman O'Brien

Then let's keep that focus on the motion please.

Alderman Jette

Okay, so that's what I'm doing. So without interruption, thank you very much. So I'm in favor of the \$1,000 but I would like to amend it to include the sidewalk space. I would like Mr. Buckley to comment about this whether a sidewalk space would be, you know, per square foot whether that's reasonable or by seat - the number of seats you have.

Chairman O'Brien

Alderman Jette do you mind if I pretend I'm the Chair and I can call Mr. Buckley?

Alderman Jette

Absolutely.

Chairman O'Brien

All right. Thank you for that indulgence.

Michael Buckley

I believe I'm on this committee because, you know, you wanted to have a restaurant perspective. So all I do is give what I believe is a true perspective.

I do have a question first. I mean when you're calculating spaces are you calculating the leading in and the lead out or are you just calculating spaces used? That's just something to be thought about.

As far as going \$1,000 of space. I think you're kind of missing the point of having the extended dining. If it's to get to the point where you're actually getting a profit from doing this, it's really not what this was all about. The average restaurant works on about a 5% margin. So you got to do \$100,000 wasn't sales to make \$5,000 to that bottom line. So when you start charging \$1,000 for a parking space for some little restaurant that, you know, pick a little restaurant on Main Street - the likelihood of them producing enough revenue to not only pay for two spaces but pay their people and turn a profit - I'm afraid - I can afford to do that. We cut into profits and leave me with not a lot of meat on the bone but I would still make a profit because we're busy. I hate to say it but I think you would take least 50% of the people that you tried to help and you just wipe them, they would say no thank you. I can read the tea leaves. You're gonna get a lot of no thank yous.

Chairman O'Brien

Thank you. The Chair would like to deject. I would not be in favor of this because if we do this, then why have a committee because what is done is done. And then you would have a very, very hard time midstream changing.

Co-Chairman Moran

I'd like to withdraw.

Chairman O'Brien

So there is no particular rush. So the thing is, this is why it needs to be methodically thought of and vetted like Mr. Buckley said by the stakeholders involved. So I would not vote for that \$1,000 for this year because I think it may bind our hands.

President Wilshire

I think he withdrew his motion.

Alderman Thibeault

Yes, I want to withdraw. After listening to Mr. Buckley, I thought charging some kind of nominal fee would be a better compromise.

MOTION WITHDRAWN BY ALDERMAN THIBEAULT

Chairman O'Brien

Okay so now we're back to the committee then, so I misunderstood. Okay, we're back to the committee.

Alderman Dowd

It needs to go back to the committee because we haven't determined what we're going to charge, why we're going to charge it. We also have to determine when money comes in, where does it go to?

Chairman O'Brien

That's right.

Alderman Dowd

Maybe that's a budget issue. I can tell you the other thing is that we can't charge fees at this committee. Only the full Board of Aldermen can charge fees.

Chairman O'Brien

So, again, the intention was the motion to have a committee to form that.

Alderman Klee

Thank you and to what Mr. Buckley was saying, we're losing sight of the fact that I believe there was 44 parking spaces that were going to be lost with these barriers as it was proposed here. Maybe it'll be a little less because we've added a couple here and there but the bottom line is that they may have three parking spaces but they can only use two parking spaces. What are you charging them for? So that's why it does need to go to a committee that's going to completely vet this and look at what is the acceptable fees that they could bear and I think...

Chairman O'Brien

Because of the late hour unless there's some new information, I will recognize you. But I would appreciate if we can move this.

Commission Paul Shea

I would like to move the question.

Chairman O'Brien

Motion to move the question.

**MOTION BY COMMISSIONER SHEA TO MOVE THE QUESTION
MOTION CARRIED**

**MOTION BY ALDERMAN MORAN TO DEFER FEES FOR ONE YEAR AND AMEND THE ORDINANCE TO REFLECT YEARS TWO AND THREE WILL BE TENTATIVELY APPROVED PENDING THE DEVELOPMENT OF A FEE AGREEMENT FOR LAND USE BY THE RESTAURANTS WHICH REQUIRE FINAL APPROVAL BY THE BOARD OF ALDERMEN
MOTION CARRIED**

Chairman O'Brien

Sorry. I apologize for being curt, but it is a late hour. So therefore, I have to ask this - do we want to continue? I mean, we're very close. We got map number three. We have a pending question from Alderman Jette. Still I'm not 100% clear what the motion. Do you have it?

Alderman Comeau

I do.

Chairman O'Brien

Okay. Can you read the Jette motion?

MOTION BY ALDERMAN JETTE TO SHORTEN THE LENGTH OF THE BARRIERS ON THE NORTHWEST CORNER OF FACTORY STREET AND MAIN STREET BY TWENTY (20) FEET FROM THE NORTH SIDE

ON THE QUESTION

Chairman O'Brien

Director Cummings do you have GIS?

Tim Cummings, Economic Development Director

So I have the GIS up.

Chairman O'Brien

The reason I want - I know there's a picture that you can measure and I'm fearful here that by doing this 20 feet we're going to take away outdoor dining for - maybe that's the intention of the motion maker but we will be taken outdoor dining away completely because of that bump out of San Francisco Kitchen. So can you measure from the tip the 20 feet that we're talking about with the intention on the motion using the measuring scale for GIS?

Alderman Jette

So I'm under the impression that there's 60 feet there and parking spots are 20 feet each. So by shortening it by 20 feet, we're leaving approximately two dining spaces and providing an extra parking space. That was my thinking because of the fact that assuming San Francisco Kitchen can get their landlord to pack them up, their frontage - they would - in order to use the barrier as drawn, it would extend them in front of the Wingate Pharmacy. So I'm trying to bring it back so that the Wingate Pharmacy would get the parking that they're looking for and that San Francisco Kitchen would still have some area for dining if they get their landlord's permission.

Alderman Dowd

I'd like to move the question.

**MOTION BY ALDERMAN DOWD TO MOVE THE QUESTION
MOTION CARRIED**

MOTION BY ALDERMAN JETTE TO SHORTEN THE LENGTH OF THE BARRIERS ON THE NORTHWEST CORNER OF FACTORY STREET AND MAIN STREET BY TWENTY (20) FEET FROM THE NORTH SIDE, BY ROLL CALL

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

- Yea: Alderman Comeau, Alderman Gouveia, Alderman Jette,
Alderman Cathey, Cathy Cardin-Smith, Ruth Boland, Alderman Moran 7
- Nay: Alderman Dowd, Alderman Thibeault, Marylou Blaisdell,
Commissioner Shea, Michael Buckley, Alderman O'Brien 6

MOTION CARRIED

Chairman O'Brien

Okay, moving on map #3. Anything else?

Tim Cummings, Economic Development Director

May I just make sure I understand correctly? Is it Alderman Jette's intention to reduce it by basically one parking space so two parking spaces would be afforded the potential outdoor dining? That's my understanding.

Alderman Jette

Yes.

Tim Cummings, Economic Development Director

So then I just want to make sure you understand that without consultation with City Engineer Hudson, you are assuming that you can put the barriers at a 90 degree angle and you can't do that or at least I'm not aware that City Engineer Hudson has allowed that to happen in the past. So by reducing it one, there may be an encroachment a little bit more into the secondary space that you were trying to provide for outdoor dining, which may be fine. I just want to make sure you and everyone understands the consequence of that because technically, right now, you'd probably have about a third of the second parking space that you were trying to make available for outdoor dining unavailable and I just want to make sure everyone is aware of that because of just how you have to place the barrier. So if that was your intention, understood. I just want to make sure that was clarified.

Chairman O'Brien

And the Chair wants to clarify – that one space no matter what the intention was with outdoor dining for San Francisco Kitchen is the moving of a handicap spot. So there is not going to be public. There'll be handicapped as what is already existed.

Co-Chairman Moran

Just point of order. We're debating the previous motion...

Chairman O'Brien

No, it's just clarification.

Co-Chairman Moran

...and I think we need to remind everyone of decorum.

Chairman O'Brien

It's clarification. So Director Cummings had clarification.

Alderman Cathey

I'd like to make a motion that we move on to map 4 without objection.

Chairman O'Brien

So without objection, we TA'd map 3.

Alderman Jette

Yes I had another motion to make. So directing your attention to the area in front of the new men's clothing store. I think it's called, "Casanova" and Gentle Dental. There's a barrier there to provide for outdoor dining but we've learned that JaJa Belle's - this is beyond JaJa Belle's property so they would not be able to utilize it for outdoor dining and a clothing store and Gentle Dental aren't going to use it for outdoor dining. So I would...

Chairman O'Brien

No I think we've put that motion to bed Alderman Jette. If you remember at the very beginning of this meeting, that doesn't exist.

Alderman Comeau

The law exists.

Chairman O'Brien

Yeah if we're going back to current law that exists right now.

Tim Cummings, Economic Development Director

So I think I can help clarify.

Chairman O'Brien

Yes please help clarify.

Tim Cummings, Economic Development Director

It's the same property owner who owns all of that just so you're clear, just so you know. So it's from JaJa Belle's all the way down, it's the same landowner. Just so you know.

Alderman Jette

I know that. So my motion is to eliminate the barrier providing for outdoor dining in front of Casanova, and Gentle Dental, and Bank of America.

MOTION BY ALDERMAN JETTE TO ELIMINATE THE BARRIER PROVIDING FOR OUTDOOR DINING IN FRONT OF CASANOVA, GENTLE DENTAL, AND BANK OF AMERICA

ON THE QUESTION

Commissioner Paul Shea

If I may speak to the motion. I understand that on a good many occasions it has been raised before this Board that JaJa Belle's does not have a want or a need for the outdoor dining space - largely in the public commentary that has been raised at multiple meetings. That is absolutely not the case. I want to make sure that folks understand this. I spoke with Jessica from JaJa Belle's and she said it would be very accurate to say I summarized her feedback to me, but Jessica would like and intends to utilize as much outdoor dining space as she is allowed. So just so that there's no misunderstanding as to the desire of the business owner, which I think has been misrepresented unfortunately, she would very much appreciate an opportunity to participate in the program and would encourage us to allow her to do so.

Alderman Thibeault

Thank you, Mr. Chairman. I don't know what we're trying to achieve with the nitpicking of the spots here. I feel like we're going after some of the smaller businesses who just kind of hurt San Francisco Kitchen quite a bit and now we're gonna go try to go after JaJa Belle's who was very clear today saying that she wants all those spots and the owner of the whole property is her landlord. So I would think they would be okay with what she's asking for. So I'm not sure why we're continuing this until - so we can get through these maps. That's my concern. It's like - like I said, we've already hurt San Francisco Kitchen and they're loyal. They come here quite often. They've stated their case. They're still recovering from the pandemic. I'm not gonna argue that because we already voted on that but.

Michael Buckley

I also have a concern that if you eliminate that stretch you're talking about, now you have a whole block where everybody's going to speed up again. So I just think that could be problematic.

Alderman Comeau

Thank you, Mr. Chair. Two things - one, my understanding is even if we eliminated the barriers there, that it's still going to be one lane of travel the length of the road. So it's not going to open back up to two lanes unless we further modified this.

My second question is through you Mr. Chair to Director Cummings. Because I don't have the GIS, can you tell me how many spots that section is or what the linear length of that section is?

Tim Cummings, Economic Development Director

So the current proposal looks as though it would take up two full - the current proposal that is drawn up on the city ordinance would take up two full spaces and a half of the space. So if you were to eliminate that, you'd be basically freeing up three full spaces with the elimination.

Alderman Comeau

So having been through JaJa Belle's many times, that's almost as much table space as they have indoors, which just seems like for a business that size is much more space than they need. Even if we were going to give them something, we can give them half as much space and it would still be a significant increase over what they're already using. That's a pretty significant chunk of that block for what is a fairly small establishment the rest of the year. It just seems like a disproportionate allowance for that one business.

Co-Chairman Moran

Here's my concern. I think we're getting into things that will be overturned by the BOA and I think the more and more we go and make changes - I supported the last one because the restaurant had made a statement about just wanting to spaces but this particular one and maybe others, I could see a taste for the full BOA overturning this committee and I don't want to see that happen because it makes it look like this committee is a sham, which I don't think it is. We're spending a lot of time here and we don't need nine members of the BOA to overrule everything we're doing here. It's probably going to happen one way or another but I'm just putting that on the table.

Alderman Comeau

Forgive me because I don't have the whole Masons memorized but how would the BOA overrule decisions that we make here? Is that not our purview?

Chairman O'Brien

Every committee makes a recommendation to the full Board of Aldermen.

Alderman Comeau

Which would they would then either pass this or not pass this.

Chairman O'Brien

Or make changes. It's open for amendments.

Alderman Dowd

Yeah I think I already mentioned it and she's already talked to abutters and they're okay with her doing this. I don't know where the negative part of that came up.

So the other thing is, if we started just cutting up the barriers, I think we already determined that we can put the barriers there even if there's no dining. I don't know what we're talking about. And, again, it's getting late and let's get through map 4 and get this past one way or the other and move on.

Chairman O'Brien

Is that a motion to move to question?

Alderman Dowd

Yes.

MOTION BY ALDERMAN DOWD TO MOVE THE QUESTION

Chairman O'Brien

Thank you.

MOTION CARRIED

MOTION BY ALDERMAN JETTE TO ELIMINATE THE BARRIERS IN FRONT OF JAJA BELLE'S, CASANOVA, AND GENTLE DENTAL AT THE SOUTHWEST CORNER OF FACTORY STREET AND MAIN STREET, BY ROLL CALL

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

Yea: Alderman Comeau, Alderman Gouveia, Alderman Jette,
Alderman Cathey, Cathy Cardin-Smith 5

Nay: Alderman Dowd, Alderman Thibeault, Marylou Blaisdell,
Commissioner Shea, Michael Buckley, Ruth Boland, Alderman Moran
Alderman O'Brien 8

MOTION FAILED

MOTION BY ALDERMAN DOWD TO MOVE ONTO TO MAP 4

Chairman O'Brien

I don't think we need that. I think we can just go to map 4 seeing there's no other further information from map #3. I'll mark that as temporary TA – temporarily agreed to and we're moving onto map #4. Director Cummings, introduce us to map #4.

- Review and suggested changes of Map 4

Tim Cummings, Economic Development Director

Yes and for brevity sake, I've already actually gone through this one so I don't think I necessarily need to do it again. Major highlights - City Room. You've heard that previously Fratello's along East Pearl Street opening that back up a little bit. No real changes on Main Street other than to try to open up some parking spaces to the most south of the street.

Alderman Comeau

Thank you, Mr. Chair. Given that my understanding from Director Cummings is that the City Room is not requesting barriers, I would make a motion to remove the barriers from West Pearl Street in front of City Room.

MOTION BY ALDERMAN COMEAU TO REMOVE THE BARRIERS FROM WEST PEARL STREET IN FRONT OF CITY ROOM

ON THE QUESTION

Chairman O'Brien

Further discussion on the motion?

Michael Buckley

I just want to point one thing out. When you looked at that, it looks very long and it is but we keep in mind part of that is work area for the Performing Arts Center and has nothing to do with the restaurants.

Unidentified Female Speaker

May I make a motion?

Chairman O'Brien

An amendment. We have a pending motion. It is germane to it be amended to help you out?

Unidentified Female Speaker

I'll tell you what I was gonna say. I was gonna make a motion to accept map 4 with deleting the barrier in front of City Room.

Chairman O'Brien

That coincides with yours, right? That mirror is basically his. Am I correct in assuming that Commission Shea?

Commissioner Paul Shea

I believe you are and I would move to move the question.

**MOTION BY COMMISSIONER SHEA TO MOVE THE QUESTION
MOTION CARRIED**

Tim Cummings, Economic Development Director

I just want to be clear. So that was an amendment to the current motion.

Alderman Comeau

I don't think she made it.

Tim Cummings, Economic Development Director

So she didn't make one?

Chairman O'Brien

No because I think they're both the same.

Unidentified Female Speaker

What I want to do is I want to make – I'll make my motion after yours.

**MOTION BY ALDERMAN COMEAU TO REMOVE THE BARRIERS FROM WEST PEARL STREET IN FRONT OF CITY ROOM
MOTION CARRIED**

MOTION BY MARYLOU BLAISDELL TO ACCEPT MAP 4 AND BY ACCEPTING MAP 4 BEING IT THE LAST MAP OF THIS PROGRAM, WE ACCEPT ALL MAPS AS PRESENTED AND VOTED ON

ON THE QUESTION

**MOTION BY COMMISSIONER SHEA TO MOVE THE QUESTION
MOTION CARRIED**

Alderman Cathey

I would like to make a clarification or an amendment. You said accept the maps...

Alderman Klee

It should be as amended.

Alderman Cathey

All right. I just want to make sure I heard that correctly.

MOTION CARRIED

Chairman O'Brien

Okay. Now I will say that we accepted all the maps, a set of changes. The only thing left to really be – there's one item though - the review and suggestion of the adding traffic study. Traffic study is going to be continuing through this. Director Cummings can you brief us on that, that this is an ongoing improvement such as the opticom system for the buses and everything else there. So this is moving forward.

Alderman Comeau

Point of order, you skipped an item.

Chairman O'Brien

I did it purposely.

Alderman Comeau

So we're not going to talk about that?

Chairman O'Brien

We will. The Chair has the right to skip.

Alderman Comeau

Just wanted to make sure.

Chairman O'Brien

Yup as long as he finishes everything on the agenda. Director Cummings can you bring that up?

Tim Cummings, Economic Development Director

Yes, I'd be happy to speak to the fact that it would be something I would work on with City Engineer Hudson to develop a traffic study. I've heard that loud and clear at the previous meeting. I've also already initiated conversations with economic development consultants for an economic impact study as well. We will develop a scope and we will bring it before Finance. We're going to need to find money for both endeavors but we would work on that through the summer and have something to report back to you all before we were to do this again next year, as I believe that was the intention from prior conversations.

Chairman O'Brien

I don't see a need for a motion on this since this is a continuing study if you're all in agreement.

Commissioner Paul Shea

I just have a parliamentary inquiry. Did we just move forward with this unanimously, is that correct? I just want to recognize everybody for a great job.

Chairman O'Brien

We're not done yet.

Alderman Comeau

Just the maps.

Chairman O'Brien

Just the maps.

Commissioner Paul Shea

Very good. Well I appreciate you all, thank you.

Chairman O'Brien

I'll put down that the traffic study will be in continuing with this and if that's good enough, we'll go with that but it is on the agenda.

Alderman Cathey

Thank you, Mr. Chair. Just for clarification sake and maybe this is a question for Director Cummings.

Chairman O'Brien

Yes.

Alderman Cathey

When you have the scope ready to go would you have to bring that to the joint committee? Because I think the barriers would have to go to Finance first to get the money before you brought it to Infrastructure or PEDC.

Tim Cummings, Economic Development Director

That's a great question. I don't believe we would have to bring it to Finance for a contract approval.

Alderman Cathey

Okay, so you could just do it regardless?

Alderman Dowd

Question for Mr. Buckley. If we made the dates May 27th through the end of September, do you think that's okay or would you want a longer period, a shorter period?

Michael Buckley

Well we've already seen some 70 degree days and they'll be more really coming soon. So what's gonna happen is sometime in the next 30 days, people are going to start saying when are you bringing your tables out, when are you bringing your tables out? All you need is three days like that and everybody's freaking out. I think if you wait to the end of May, you losing an opportunity to get people excited about dining outside because it's those first days of the warm weather that people are super excited. You're better off taking them off the end than taking them off the beginning.

Alderman Dowd

So my suggestion to you is to make a motion on the date that you feel most restaurants would feel comfortable with.

Chairman O'Brien

Before that motion, I do – the Chair does have a question to Director Cummings. When can this be done at its earliest or latest to get the barriers up? I think that's got to be the limiting factor.

Tim Cummings, Economic Development Director

So there's two answers to that. There's this year and then there would be the following years. This year, I think we would be really hard pressed to make a May start. I think we're actually probably looking at more of a mid-June start at this point at the earliest. That's the reality of the situation. So that's just probably how this year would be and then whatever it is for next year, we would target that for placement.

Alderman Comeau

Thank you, Mr. Chair. Just to respond real quickly to what Mr. Buckley was saying. There's nothing preventing any of these restaurants from starting outdoor dining as soon as the weather permits. You don't have to wait for the barriers...

Chairman O'Brien

No permits – they go by a time date.

Alderman Comeau

Exactly but that's already established. So if the weather cooperates, there could be outdoor seating much earlier than there are barriers. So when we're talking about the dates, we're not talking about the dates of outdoor dining, we're talking about the dates of extended outdoor dining. To that end, I personally feel like Memorial Day to Labor Day is a perfect length for the expanded outdoor dining with the understanding that the head of that start date and beyond that end date, outdoor dining without the barriers can continue as long as the weather cooperates. We're only talking about the dates for the barriers. So that's why I feel like Memorial Day to Labor Day is a fair compromise. School is out. That's the nicest weather and that's the longest hours of daylight. Before and after those dates if the weather cooperates, you can do outdoor dining on the sidewalk as you have for many years.

Chairman O'Brien

I would like to give the usual caveats. Memorial Day is a holiday. That doesn't mean that it would start. It would have to be a date before because Public Works is going to be considered that a holiday. So we're basically by this is when they can start the barriers as well too to start to put them up.

Alderman Comeau

If I could follow up.

Chairman O'Brien

Yeah.

Alderman Comeau

If this became a motion and it was something that I would put into writing, I would phrase it in such a way that expanded outdoor dining could begin on Memorial Day. So whatever day Department of Public Works had to begin installing the barriers to make that Memorial Day start to happen, I would be fine with.

Chairman O'Brien

What do you estimate Director Cummings is the lead time on that?

Tim Cummings, Economic Development Director

So I anticipate this year in particular and probably in future years, but at least this year, we're definitely going to need to use an outside contractor. In the in the years past, we were able to actually get the barrier set up within one day. So the problem is though we're going to need to actually set the time and a lot of these contractors are busy and we're not in their queue. So I don't know when it actually would happen this year.

Chairman O'Brien

Good point.

Alderman Cathey

Two things. Just a clarifying question. Are you saying that you're gonna use an outside contractor because it would be too much of a jam schedule for DPW at this point?

Tim Cummings, Economic Development Director

Correct. That's one of the reasons. There's others but that's the predominant.

Alderman Cathey

Okay understood. Thank you.

I'd like to make a motion that the timeframe be from Memorial Day on understanding the contractor schedule. If we can't get it done and you're hitting the mid-June, that is what it is but my motion would press for the Memorial Day start to mid-September end date - the 15th we'll call it.

MOTION BY ALDERMAN CATHEY THAT THE TIMEFRAME BE FROM MEMORIAL DAY START TO MID SEPTEMBER 15, 2022

ON THE QUESTION

President Wilshire

Thank you. On the end date, I mean it seems to me like if we start even mid-September, but I think initially we had talked about Labor Day, it's still summer. I mean there's still a lot of days left after that to dine outside. I would personally - I'm not going to make an amendment. I'm not on committee. I could make one but I'm not going to – to go til Columbus Day. It's like October 10th, or 11th or something like that.

Tim Cummings, Economic Development Director

The current legislation reads October 15th just so you know.

Alderman Cathey

I'd like to amend my motion if I may. Thank you President Wilshire. I will amend it to Columbus Day. Memorial Day to Columbus Day understanding that DPW or an outside contractor might not be able to get it on Memorial Day but that is the prime date that we would shooting for.

MOTION BY ALDERMAN CATHEY TO AMEND THAT THE TIMEFRAME BE FROM MEMORIAL DAY TO COLUMBUS DAY

Chairman O'Brien

Have you considered Indigenous Peoples' Day? This Board had voted Columbus Day as Indigenous Peoples' Day.

Alderman Cathey

Whatever that day is.

Chairman O'Brien

So looking at this year, good ol chris - Indigenous Peoples' Day is October 10th.

Commissioner Paul Shea

I would be interested in Mr. Buckley's perspective on this and I'll kind of couch it with my thoughts and I could be off but

we've talked about kind of the idea of the summer being in full swing and that being the nature of kind of this later start to it. In my observation, the summer time is more so people are out of town because the schools are out and with that, it's not necessarily the time to make hay while the sun is shining. Pun intended. A lot of the dining and the busier times are late April, May, when it is nice but people don't have a week off so they are in town. Maybe the last week in August where people are in a position where they're like okay kids are going back to school. I'm gonna, you know, stick around this weekend and then getting into September where people are definitely not on vacation. There's more economic activity in April, May and September, October than there is in June and July. If I could through you?

Chairman O'Brien

Thank you. Just grace me for a second.

Commissioner Paul Shea

Sure.

Chairman O'Brien

I accepted Alderman Cathey's motion and this is discussion on the motion. I don't know if I clearly delineated that but that's where we are now and you are entitled to ask Mr. Buckley the question. Mr. Buckley, would you like to respond?

Michael Buckley

I guess your question is, is it more prudent to start sometime in May versus wait until the end of May?

Commissioner Paul Shea

Yes.

Michael Buckley

Well, you're correct in your comment that once we get into the summer months is when we, you know, lose a lot of people to vacation time. The most excited they are to dine outside is at is at the beginning and then they're happy through the whole season. Trust me on that. I'm glad you went to one mistake because some of the nicest time to dine is in the fall when it's warm but not cold and the sun's a little lower. It's the best. So I would say that Columbus Day is kind of where the restaurant industry drops off. We crank till Columbus Day and then it's like you fall off a cliff. So that's perfect Columbus Day.

I liked the idea of the first week of May only because if the weather is nice, all the restaurants are catching Mother's Day and that's huge. Mother's Day weekend is huge. If it's nice out, everybody wants to take Mom out to dinner and dine outside but it really is weather dependent.

Commissioner Paul Shea

Thank you.

Ruth Boland

I'm okay with May. I don't really care about May. On the other end, Christmas shopping starts in October. It's moved up like a month in the last three years.

Unidentified Male Speaker

What is the date of Columbus Day?

Chairman O'Brien

Columbus Day is October 10th this year.

Roth Boland

So to go past the end of September is going to actually hurt the retailers specifically because people want to come down to town and start shopping. They want to shop in September too but I understand that you want to have dining there but that's really the key for me is to not have that go past the end of September.

Chairman O'Brien

The Chair has to ask Alderman Cathey would be amicable to mothers of the wild - May 8th this year is Mother's Day. So it seems to follow the second Sunday in May. So for your consideration.

Alderman Comeau

Did you want Alderman Cathey's answer before I go?

Chairman O'Brien

I'll let them digest

Alderman Comeau

Well thank you, Mr. Chair.

Chairman O'Brien

When you fold a mother's card, it's a tough one. Why not be like that?

Alderman Comeau

So with respect to my colleague Alderman Cathey, I was going to make a motion for Memorial Day to Labor Day. Hearing some of the discussion on Alderman Cathey's motion, I would be willing to compromise on that date. I recognize that we're going to have to choose one way or the other so I'm going to make a motion to amend to replace Indigenous Peoples' Day with September 15 and I'd like to speak on my motion.

MOTION BY ALDERMAN COMEAU TO AMEND TO REPLACE INDIGENOUS PEOPLES' DAY WITH SEPTEMBER 15TH

ON THE QUESTION

Alderman Comeau

I feel like September 15th is a good middle ground between a lot of the sentiment that I've been hearing around an end date of Labor Day with some of the counter arguments regarding going as far as Indigenous Peoples' Day. If we split that difference, we're right around mid-September so that's why I would motion to amend to replace Indigenous Peoples' Day with September 15th.

Chairman O'Brien

Discussion on the amendment?

Commissioner Paul Shea

One of New Hampshire's biggest times of year for tourism, and granted we're not the White Mountains, is leaf peeping season. I would love to think and do believe that this would come to be. We as years go on could further develop a reputation as a destination for people not for their whole trip necessarily but as they're coming up from Connecticut or whatever for the week, they may make a stop off in Nashua on a weekend on one side of their trip for some lunch. I also would agree with the sentiment of Mr. Buckley that some of the most glorious days for sitting out and dining outside are really in that balmy temperate fall season. Going into early September, we still have some very hot days. I really do agree that that kind of that late September first week of October is truly the sweet spot. It's the most enjoyable time and

so I would not support the motion.

Alderman Cathey

I just want to revise my amendment. I said the 15th. I mean the 18th which would be a Sunday that would allow for the completion of that weekend.

MOTION BY ALDERMAN CATHEY TO AMEND TO REPLACE INDIGENOUS PEOPLES' DAY WITH SEPTEMBER 18TH

Commissioner Paul Shea

I would reiterate my non-support. Thank you.

Alderman Cathey

PI if I may?

Chairman O'Brien

Yes.

Alderman Cathey

He has an amendment on the floor. If I wanted to amend my original motion, I'd have to wait for a vote on his amendment.

Chairman O'Brien

Yeah, I'm gonna handle his first and coming right back to yours.

Ruth Boland

I just wanted to remind everybody we're only talking about the outdoor dining. You can still have dining on the sidewalks until whenever you're allowed to have dining on the sidewalks. Most of the activity, I'll just bring this up again, is at night. It's not during the day and the nights do start to get cool. Most of the outdoor dining does not happen during the day regardless of what time of the year it is. So the restaurants aren't even open until night and it does get cooler at night. I reiterate, I would really not like to see this go past the end of September.

Chairman O'Brien

Is this something fresh because the Chair would like to dispatch this and try to facilitate this to a close?

**MOTION BY ALDERMAN GOUVEIA TO MOVE THE QUESTION
MOTION CARRIED**

Alderman Cathey

I will concede Mother's Day but on the end, I would like to change it to September 31st. The reason being that...

Co-Chairman Moran

There is no 31st day in September.

Alderman Cathey

Sorry the 30th. Thank you. The reason being the original was the end of October than the other side wanted Labor Day, the end of September, smack dab in the middle. We're giving you the beginning of May as a concession. I think it's the perfect marriage...

Alderman Comeau

Point of order. Before you put this in writing for the 30th is a Friday. So I would wait till we have for the weekend after so that would be – so Sunday will be the same October 2.

Alderman Cathey

Yeah, that's fine. Mother's Day weekend - I don't know the date.

Alderman Klee

But it changes every year.

Alderman Comeau

So the second weekend of May to the last weekend in September. If we are talking about three years, then the numbers...

Alderman Comeau

Okay Mother's Day is the eighth - Sunday the 8th. So I'll go by the month. Okay.

Chairman O'Brien

Okay let me help you. The barriers up pre Mother's Day to second Sunday or whatever in October. Something like that. That floats it. Agreed?

Ruth Boland

Not the second Sunday. No. Don't say that.

Alderman Comeau

Mother's Day is the second weekend of May and your intention is...

Chairman O'Brien

The second Sunday in May.

Alderman Comeau

That's what I said. The second weekend in May to the last weekend in September. Is that your intention?

Alderman Cathey

Yes. Thank you.

Michael Buckley

I think you definitely have nailed down the exact day it starts. Obviously the barriers have to go out on a certain day and then the restaurateurs have to know they can set up on a certain day. You're not going to be setting up on Mother's Day. So you need to know...

Chairman O'Brien

No, no. This is why I'm looking at Director Cummings because I think the dates that we're talking is a tentative. Those are the start dates that I think that you're looking at. So all the barriers would be up prior to that. You don't want them to start on Mother's Day and then say mom comes down for dinner and go hey don't ...

Steve Bolton, Corporation Counsel

You may you want to say the Friday before Mother's Day.

Chairman O'Brien

The barriers will be up for the Friday before. Let's go with that.

Steve Bolton, Corporation Counsel

Until the first Sunday in October.

Steve Bolton, Corporation Counsel

God bless you. Thank you Corporation Counsel. I appreciate it.

Alderman Cathey

I approve.

Alderman Comeau

So the Friday before Mother's Day until...

Unidentified Male Speaker

The Monday or Tuesday after the second.

Alderman Cathey

If my emotion is in order, I'd like to move the question.

Alderman Comeau

So I just want to make sure I know what you're suggesting for the ending.

Steve Bolton, Corporation Counsel

The first Sunday in October.

Alderman Cathey

That's fine.

Tim Cummings, Economic Development Director

Just so I'm clear, it's the Friday before Mother's Day, which in this instance could be like what the fifth, sixth? And then it would be the first Sunday in October? It would be the first Sunday in October would have outdoor dining still. So in theory, it would be the next day? That's why I just want to clarify. I get it. Yep. Okay.

Alderman Comeau

If I understand the motion correctly, the effective dates, the barriers will be there is the Friday before Mother's Day until the first Sunday in October. So then they will go up the day before and come down the day after.

MOTION BY ALDERMAN DOWD TO MOVE THE QUESTION

Co-Chairman Moran

Point of order. There's a motion to move the question, which is not debatable.

Chairman O'Brien

Motion has been made to move the question.

MOTION CARRIED

**MOTION BY ALDERMAN CATHEY TO AMEND HIS PREVIOUS MOTION THAT THE START DATE WILL BE THE FRIDAY BEFORE MOTHER'S DAY AND THE END DATE WILL BE THE FIRST SUNDAY OF OCTOBER
MOTION CARRIED**

MOTION BY ALDERMAN CATHEY THAT THE EFFECTIVE DATES FOR OUTDOOR DINING WILL BE THE FRIDAY BEFORE MOTHER'S DAY UNTIL THE FIRST SUNDAY IN OCTOBER

ON THE QUESTION

Co-Chair Moran

Parliamentary inquiry. Have we moved the question or did we move the amendment?

Alderman Comeau

We moved and approved the amendment. We have not moved the question.

Unidentified Male Speaker

So I would just be interested to know Mr. Buckley's perspective because I did notice that he did not support the amendment and if he would be interested in sharing, I'd like to know why.

Michael Buckley

I would be. Thank you for noticing. I supported the amendment up until the moment I looked at my phone and saw that the fifth is Cinco de Mayo. It doesn't mean anything to me but it means a lot to some of the other restaurants on Main Street.

Chairman O'Brien

That's a good point.

Michael Buckley

So you may want to move it up one more day.

Chairman O'Brien

For cultural reasons can we be a little bit more (inaudible) folks to our Mexican friends.

Tim Cummings, Economic Development Director

If I may and I wasn't actually going to chime in on this but since it did get raised and you're still discussing the issue, believe it or not some time and thought went into picking these dates. I actually did speak to a lot of various stakeholders to try to arrive at this and this is actually a compromise that was where the original set out was March 15th to November 1st. So we originally had written in the ordinance May 1st because we actually did take into consideration some of these things because we spoke to some of the other restaurants. So I leave my comments there. I just want you guys to have the full context. Thank you.

Chairman O'Brien

So what's your date March 1st through...

Tim Cummings, Economic Development Director

No May 1st.

Alderman Jette

So I support leaving it the way it was originally written May 1st to October 15th. Mr. Cummings pointed out May 1st catches the Cinco de Mayo and October 15th as Mr. Buckley requested and Mr. Shea catches the October holiday whatever it's called now and the leaf people are coming visiting looking at the foliage. So I I'm in favor of leaving it May 1st to October 15th.

Chairman O'Brien

Alderman Cathey do you want to weigh in, or do you want to withdraw it, or do you want your motion to move forward? It's you call.

Alderman Cathey

I'm going to amend. I'm going to somewhat disagree with my colleague from Ward 5 but I do have a question before I make that amendment.

Chairman O'Brien

Please, your question is in order. Mr. Cummings - DPW does not work on Sundays is that correct?

Tim Cummings, Economic Development Director

They have in the past.

Alderman Cathey

Okay. If this year you're getting a contractor, they could also work on Sunday?

Tim Cummings, Economic Development Director

That's correct.

Alderman Cathey

Okay with that being the case, I move to amend my original motion to May 1st, which was Sunday this year, but keeping the original end date of the first Sunday in October.

MOTION BY ALDERMAN CATHEY THAT THE EFFECTIVE DATES FOR OUTDOOR DINING WILL BE MAY 1ST UNTIL THE FIRST SUNDAY IN OCTOBER

ON THE QUESTION

Chairman O'Brien

Discussion on that amended motion.

Alderman Comeau

Yes, thank you. I am not a leaf peeping expert, although I have enjoyed taking my kids up north on many occasions and my experience is that leaf peeping season is September and by the time we get to the first and second week of October it is long gone even this far south. So I would disagree with the idea that the second week in October, we're going to be attracting a lot of leaf peeping tourists because I do not believe that that's going to be the case.

Commissioner Paul Shea

I am a leaf peeping expert. Yes, man of many hats. So in the northern latitudes of New Hampshire, that statement is correct. When you talk about Winnepesaukee south, not so much. Winnepesaukee, and a lot of it of course depends on humidity, temperatures but when you're talking about south of the White Mountains in the Winnepesaukee region, you are looking at first, second week in October for peak in that area. It also goes east to west.

But when you're talking about Nashua, peak for here and peak for Pack Monadnock for example, would be closer to the 10th to the 20th most years leaning towards that that 10th date of October.

Alderman Cathey

With all due respect to people who like bees to me is irrelevant to outdoor dining in my humble opinion. I think this is a great compromise. We're almost back to the original dates and you guys aren't having to give up - the people who wanted the original date aren't having to give up much. You saved the holiday season. I mean we're really, you know, we're really at it. So I'm going to move the question and just vote on my amended motion.

**MOTION BY ALDERMAN CATHEY TO MOVE THE QUESTION
MOTION CARRIED**

**MOTION BY ALDERMAN CATHEY TO AMEND HIS ORIGINAL MOTION TO MAKE THE START DATE MAY 1ST AND THE END DATE THE FIRST SUNDAY IN OCTOBER
MOTION CARRIED**

MOTION BY ALDERMAN CATHEY TO SET THE DATES FOR EXTENDED OUTDOOR DINING WITH THE START DATE BEING MAY 1ST AND THE END DATE BEING THE FIRST SUNDAY IN OCTOBER

**MOTION BY ALDERMAN MORAN TO MOVE THE QUESTION
MOTION CARRIED**

**MOTION BY ALDERMAN CATHEY TO SET THE DATES FOR EXTENDED OUTDOOR DINING WITH THE START DATE BEING MAY 1ST AND THE END DATE BEING THE FIRST SUNDAY IN OCTOBER
MOTION CARRIED**

Co-Chairman Moran

Mr. Chair before we jump to a superseding motion, I'd like to be recognized for a second.

Chairman O'Brien

Yes.

Co-Chairman Moran

I wanted to address this before it goes back to the joint committee because I think it's pertinent to what we discussed throughout the night. I would like to make a motion, even though it's the late hour, that the city shall advise all impacted businesses of extended outdoor dining, that they may seek relief from their property owner if they disagree with the placement of outdoor dining equipment. I think we should notify all these folks that are impacted.

MOTION BY ALDERMAN MORAN THAT THE CITY SHALL ADVISE ALL IMPACTED BUSINESSES OF EXTENDED OUTDOOR DINING THAT THEY MAY SEEK RELIEF FROM THEIR PROPERTY OWNER IF THEY DISAGREE WITH THE PLACEMENT OF OUTDOOR DINING EQUIPMENT

Chairman O'Brien

I think that's going into dangerous waters. I am not going to support that. I think the current law stipulates from what we heard from Corporate Counsel but I will entertain that motion. Any discussion on the motion?

ON THE QUESTION

Alderman Cathey

Thank you, Mr. Chair. You put into words what I was trying to figure out from the start. I feel like it's a good mix of letting businesses know that they do have recourse or they can seek relief if they didn't know the law existed or what not. I think it's a great way of letting them know, hey, this is a thing. If you have an issue, so I will support that.

MOTION BY ALDERMAN MORAN THAT THE CITY SHALL ADVISE ALL IMPACTED BUSINESSES OF EXTENDED OUTDOOR DINING THAT THEY MAY SEEK RELIEF FROM THEIR PROPERTY OWNER IF THEY DISAGREE WITH THE PLACEMENT OF OUTDOOR DINING EQUIPMENT

Co-Chairman Moran

Here's why I think this is important. There is an established law. I've been downtown so many times and I've spoken to business owners and property owners. One of whom is actually here and hopes she'll speak later. They didn't know that this was a law until tonight. I think by creating extended outdoor dining, we put a lot of onus on the property owners to say, you know what we put up these barriers. This is your problem now if your tenants don't agree to where it's placed. It kind of creates a, you know, like earlier I had complaints about neighbor versus neighbor. Now it's landlord versus tenant. I get notices in the mail about taxes. I get notices in the mail about water stuff happening. Dynamite being blown off in the neighborhood. I don't think it's a big cost to send in a letter to the property owners to say just heads up, you might have business owners in your property that are going to complain about this and you should be aware of it. I also don't think that, you know, obviously, some people may disagree with this but I think it's the right thing to do. I think it's the absolute right thing to do to let property owners that they might have to face this and there could be liability that they have to face and not the city after what we heard here tonight.

Alderman Dowd

Yes. First I have a question for Attorney Bolton for any liability for us putting out information on a legal question.

Steve Bolton, Corporation Counsel

I don't think this motion...

Alderman Dowd

Should the letter - if this passes, go through legal for review?

Steve Bolton, Corporation Counsel

I'm not going to sign any such letter. I don't understand what the motion means by impacted business owner or whatever the words were. I don't know how you figure that out in advance to know who to send a letter to. To say that they have recourse against the owner of property, the owner of the property in which their business is located I suppose you mean. I don't know that that's true. I don't know of a cause of action for that.

Co-Chairman Moran

I didn't use the word recourse.

Steve Bolton, Corporation Counsel

If it's a breach of the lease, then they've got an action for breach of the lease but other than that, that is advising them of some legal right that they very well may not have. I'm not going to have anything to do with it I will tell you flat out.

Co-Chairman Moran

I didn't use the word "recourse".

Alderman Cathey

That was me.

Steve Bolton, Corporation Counsel

Yeah, someone said recourse.

Co-Chairman Moran

So we should let the property owners know that their tenants might come to them and say, I don't want this in front of my property and that that is their problem not the city's problem because that's what we said here tonight. We really did say that tonight. That's what we heard. Putting it in writing, what's the difference between being on a public record verbally than in a letter?

Steve Bolton, Corporation Counsel

I am not going to advise anyone that they have a cause of action when I don't think they do. I'll just tell you that. I don't think the city should be in that position. If people want to understand what the law is, they should go and seek counsel of their choosing. I don't think we should be giving legal advice, in general, to anyone.

Co-Chairman Moran

Is that legal advice?

Steve Bolton, Corporation Counsel

Yes.

Co-Chairman Moran

Can we send them a copy of the RSA?

Steve Bolton, Corporation Counsel

There's no RSA to this. This takes extended research of case law going back hundreds of years.

Co-Chairman Moran

Can we phrase it in your opinion that you made here to the Board?

Steve Bolton, Corporation Counsel

My opinion is to my client, which is the city. This case, it's acting through this body. I give that opinion not in general, not to the world, and I'm not going to sign any letter providing an opinion that they have recourse where I don't think they have recourse in most cases. If there's a breach of the lease, everyone can read their own lease and see what that means. If the landlord wants to have good will with the tenants, perhaps the landlord will ask his tenants what do you prefer. Is it gonna bother you if I let this person do this or that person do that? I don't think we've got any business encouraging people to bring suit, or encouraging people to raise issues, or any of that.

CO-Chairman Moran

Perhaps a private citizen will do that then.

Cathy Cardin-Smith

I think what Alderman Marion is talking about is just to differentiate. I don't think it's to bring recourse. think the conversation is getting a little skewed but as a business owner and as a building owner, I as a small business owner I'm busy and I had no idea that we had any - we could go to City Hall and say the barriers are in front of us. The area is not being used. Can we then have those barriers removed? I think this is what Alderman Moran is speaking of. So we just...

Steve Bolton, Corporation Counsel

Well I said nothing about that at all tonight.

Cathy Cardin-Smith

No, I'm not. No...

Steve Bolton, Corporation Counsel

I mean anyone can come to the Board of Aldermen and basically ask the Board of Aldermen do anything within their power. I specifically did not say anything about any private right to affect barriers tonight at all.

Cathy Cardin-Smith

No but I think what he's trying to put forth is that the city would notify people that they have options if barriers are in front of a structure that they own that they be removed because we just said that restaurants are allowed to have it in front of their establishment but they need to ask the abutters. (inaudible) restaurants and I was never asked.

Steve Bolton, Corporation Counsel

I've never said that.

Cathy Cardin-Smith

Dining equipment and no and I'm not - yeah I know. You weren't using the word "barriers". I just was trying to - is that where...

Co-Chairman Moran

Yeah. My concern is that people didn't know that until tonight that if you have dining stuff in front of your property, and you're the property owner, you can say I don't want it there. Technically the recourse isn't coming back to the city. Technically the recourse is going to the third branch of government – the judicial branch and seeking relief there. But I think somewhere it has to be known that and I'm bringing this up, because it'll be a problem. It's gonna be a problem and we need to talk about it because it could be a ghost town and then we have barriers up and it looks like we created nothing.

Chairman O'Brien

All right. Time is night, can we expedite this?

Commissioner Paul Shea

I'd just like to note how complex and confusing and how much deliberation this group has had over this issue? Even with Attorney Bolton kind of laying it out for us, the differentiation between barriers which are not so much relative to the property rights, the issue of dining. So you could have a space where there's a barrier that's a taper. It's for the purpose of traffic control. It is not for the purpose of dining and if someone gets this letter and they have a taper barrier in front of their place, they're not going to understand and the property owner is probably not going to understand that delineation. So if we send such a letter out and is the letter going to spell these individual specifications out and what the issue is? For that reason, I think that this would cause a lot more havoc and distress of people who think that they have certain rights that they don't necessarily have. The right is really with the property owner. It has nothing to do with the business. The business's rights are only afforded them by virtue of their lease agreement. For that reason and because I think that this would have more negative impact than positive impact, I would not support the motion.

Alderman Comeau

Thank you, Mr. Chair. I would support the motion for a couple of brief grammatical reasons. The first is because Alderman Moran said "dining equipment" and not "barriers", which is pretty clear delineation to me. Also because Alderman Moran said "may seek relief", instead of "shall seek relief", and instead of shall receive relief. So he's not suggesting that any course of action will happen. He's just...

Co-Chairman Moran

I'll correct it. I did say "shall" but I'll make my motion to be "may".

Alderman Comeau

I'm sorry. I wrote "may".

Co-Chairman Moran

It is now May.

Alderman Comeau

Okay. So may seek relief is different than shall receive relief in my mind.

Chairman O'Brien

Not according to the State of New Hampshire.

Alderman Comeau

I don't believe that that's true. For those reasons, I will support the motion.

Chairman O'Brien

Believe me, I have 16 years' experience on "may" and "shall".

Michael Buckley

I think we're creating a problem that doesn't exist. I think that unless you had the foresight to first to see this way down the road and then build it into your lease, then this isn't a problem until somewhere way in the future when this is now known and people start working it into the leases. At this point, I doubt anybody on Main Street has such a thing - such a contract between themselves and their landlord is prohibiting certain things in front of their business. I think that this is a non-issue.

Alderman Cathey

Thank you, Mr. Chair. Sometimes I like to flip it. On the other side what we're saying is we don't want to let businesses or property owners know anything about this and for two years, they didn't. So now we're saying we're not going to tell you anything about case law, or what you can and can't do, versus barriers versus dining, which it was complicated for us to figure out. So isn't it incumbent upon us and the city if we're messing with right a ways and all kinds of things to let the property owners know, hey, this is a thing that you may want to be aware. It maybe not even legal but just hey, this is a thing. I think that's fair and I think because they didn't know, of course, there was no cases and yeah they don't have written through lease but at least they can start a conversation say, hey, Mr. property owner, Mr. Landlord, I don't like this. Can we work something out? Maybe next year we don't have it because I don't like it but this year, I understand my lease agreement doesn't have that provision. At least it gets the ball rolling so in the future, it could have that conversation. I don't think they're just gonna go to their landlord and say, I don't like this. I'm out. I just don't like the idea of not telling them anything because we've already done that and I don't think that it was very fair.

Alderman Thibeault

Thank you, Mr. Chairman. It is not in our purview to even deal with it. Like Mr. Buckley said, it's a non-issue. Our Legal Department is not even going to sign any letter going out. So we're going to send out a letter unsigned - legally send that out unsigned by our Legal Department? I just don't think that's something that's safe for us to do and it's not in our purview. I don't think we should do it. I'm against it.

Chairman O'Brien

The Chair wants to really move this but the thing is, the Chair wants to say when I took the oath of office, I kind of took it to mean and part of the interpretation, no way (inaudible) that my actions were put to City of Nashua in any form of jeopardy. I feel this puts the City of Nashua in some form of jeopardy. If legal counsel does not like it, it doesn't pass the State test through the legal counsel, it doesn't pass it with me either.

Alderman Dowd

Yeah the Mayor is also a lawyer and I don't think he'll allow anyone in the city to sign it. So I don't think we need to take any motions on it. If somebody wants to put it out on their own, go for it but I will not support it. You're putting the city in legal Jeopardy.

Commissioner Paul Shea

I would like to move the question.

**MOTION BY COMMISSIONER SHEA TO MOVE THE QUESTION
MOTION CARRIED**

MOTION BY ALDERMAN MORAN THAT THE CITY SHALL ADVISE ALL IMPACTED BUSINESSES OF EXTENDED OUTDOOR DINING THAT THEY MAY SEEK RELIEF FROM THEIR PROPERTY OWNER IF THEY DISAGREE WITH THE PLACEMENT OF OUTDOOR DINING EQUIPMENT, BY ROLL CALL

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

- | | | |
|------|--|----|
| Yea: | Alderman Comeau | 1 |
| Nay: | Alderman Dowd, Alderman Gouveia, Alderman Jette, Alderman Cathey,
Alderman Thibeault, Marylou Blaisdell, Commissioner Shea,
Cathy Cardin-Smith, Michael Buckley, Ruth Boland, Alderman Moran
Alderman O'Brien | 12 |

MOTION FAILED

MOTION BY ALDERMAN JETTE TO CHANGE THE YEARS IN EFFECT FROM 2022, 2023, AND 2024 TO 2022 ONLY

ON THE QUESTION

Alderman Jette

So the reason I say that is that, you know, we were experimenting here. This is our third year with the barriers. We've made some significant changes here and I think one of the biggest changes was to remove the bottleneck down by Peddlers' Daughter. Mr. Hudson believes, and I hope he's correct, that that's going to relieve a lot of the traffic congestion that people have complained about. I'm hoping that that takes effect. I think, you know, we ought to you know that and there are a lot of other things that we've tweaked here. I think that we ought to revisit this next year after we've had a season of experiencing these changes we've made and see whether or not we want to continue with it as is or make further changes. So that's why I would like it to be just for the one year to force us to revisit it.

Chairman O'Brien

Alderman Jette I think the foundation of this committee has been to be fluid. Nothing is set in stone. This can be modified and adjusted so is that what you're saying? We will revisit that.

Tim Cummings, Economic Development Director

If I may Mr. Chair. So I actually spoke to Alderman Jette about this very specific issue and I reminded him and now I'll just remind the group that we contemplated this issue. So there's very specific language in the ordinance that gives the ability to amend this term proposal. I'll read it to you. It says, "Upon recommendation of the Director of Public Works, and the Parking Manager, and the approval of the Committee of Infrastructure, the Mayor may adjust..." and it goes on to list all the things that could be adjusted. So I believe you could take these concerns into consideration not just yearly but at any

point over the next three years and be able to handle it through the ordinance as it's currently written. I'll leave my comments there. Thank you.

Alderman Cathey

Thank you, Mr. Chair. I'd like to echo Alderman Jette's sentiments. I thought about this for a while. In three years, there'll be a new aldermanic board, maybe. Maybe we're all still here, that would be awesome but maybe not. There'll be maybe a new administration. There'll be a lot of things going on. We're gonna have a traffic study - an economic impact study. Maybe we find out that barriers are the greatest thing ever and we want so many barriers. We're just barrier city or maybe we find out this is a bad idea and we don't want to do it anymore. The problem is, generally speaking in government once you get something going, you know the old adage it's easier to not start a government program than to stop one that's already existing. So same thing with an ordinance. It's a lot harder to amend an ordinance, or change an ordinance, or get rid of an ordinance once it's already in. It's just easier to piecemeal it because we are building slowly in phases and I think it behooves us to give ourselves a little bit of break, analyze some data. When we come back, it doesn't affect the people who are barrier proponents because if we find out that we want barriers and we want them again, we can easily put them back or keep it going. If we find out we don't, we can curb that. So you don't lose anything by just doing it one year because you can just re-implement it.

President Wilshire

Thank you. I was thinking about that at one point too. Just do a one year thing and see how it goes but restaurants are businesses. I mean they need to have staff, seasonal staff, they need to invest in whatever they're going to use for their extended dining, and for them to do that another year later and you say we're not going to do this again is a tough pill to swallow I think. We do have a built in mechanism to make adjustments as we go over the three year period but I think if the investment that the downtown people are going to make isn't fair if we say yup now we're taking it all the way. That's my point.

Chairman O'Brien

Well I think this is if the Chair interprets this committee with the recommendation, it's going to be a three year commitment. The dates can be floating year to year but we're making the three year commitment and I think that's part of this. If we read 22-008, am I correct Director Cummings, it's a three year commitment.

Alderman Jette

That's why I'm making a motion to amend it to make it a one year commitment.

Chairman O'Brien

I think about the Chair feels that we're talking businesses that have to do strategic planning, hire staff, everything else, they want to know this. If I was running a business and it was my business model, I would like to know that I'm planning something rock solid. Do I invest in planters or do I not invest in planters for beautification? Why would I if I don't know if it's going to be here next year? So I think the three year commitment, in my opinion, is worthwhile.

Alderman Comeau

Yes thank you, Mr. Chair. Just to respond real quick to a couple of those things. I agree with Alderman Jette's point. A lot of this plan is different than what we've done over the last two years and we've heard a lot of comments about how, you know, we're going to study the impact of the changes that we've made. We're going to get an economic study, we're gonna get traffic study, and limiting this to one year will give us the opportunity to study those results and find out if this is working. To Alderman Wilshire's point if we decide a year from now not to do this again, it would be because it wasn't working. So if it was working and the restaurants have invested, you know, infrastructure costs, and personnel costs, and it's working, we're going to continue to do it. I think that if it's not working, then they're not going to want to do it either.

My last thing is a question through you Mr. Chair to Director Cummings. Can you read the language again for me real quick about amending the process? I just want to make sure I heard you correctly.

Tim Cummings, Economic Development Director

Yeah, absolutely. It's in the ordinance as written O-22-008 and it says, "Plan amendments upon recommendation of the

Director of Public Works, and the Parking Manager, and with the approval of the Committee of Infrastructure, the Mayor may adjust locations of barriers, parking spaces, fees for parking time, for parking spaces, locations of parking, if special circumstances warrant and in such cases a new plan shall be submitted and published at least 14 calendar days prior to any adjustments being made.

Alderman Comeau

So if I can follow up Mr. Chair.

Chairman O'Brien

Follow up.

Alderman Comeau

So the beginning of that language said, the Director of DPW, and the Parking Manager, and the Committee on Infrastructure. So if we had a revision that we thought was appropriate and the Parking Manager said no, how does that move forward? It says, "and, and". So unless every one of these people is on board with the amendment, we can't even propose it?

Tim Cummings, Economic Development Director

I guess in theory you could file another piece of legislation. You'd never be precluded from doing that.

Alderman Comeau

So I think that just brings me back to Alderman Cathey's point that it's easier to limit this to one year and see if we like the results then to roll the dice and hope that, you know, all of our chips are going to line up a year from now. If we decide that the revision needs to be made, there's no guarantee that we're going to get all of the agreements that we need to make that change even if all of us in this room agree it's appropriate. We could have one person shoot it down and then it's dead in the water.

Alderman Klee

Thank you, Mr. Chair. One of the things that I've learned being in the State is from the BIA - the very large business group. One of the things that they say is don't come and give businesses one year. Don't give them short notice. Don't do this because you're hurting the business in every way, shape, and form and I'm sure that the business owners here can say - and I can say that they were speaking to that of us reducing the BPT - I'm sorry stopping the BPT from being reduced and the BET from being reduced, which is the business taxes. They said, you know, they plan ahead a year. So if they're planning ahead a year, and they're doing their budget, and they're doing all this stuff, what we're doing here is we're saying to them for the next year or more, we're going to keep things unsteady. You're going to be kind of like on this rock where you don't know what's happening and I don't think that's fair. I think we need to go through with a three year plan - a three year non-COVID plan that basically gives us a feeling as to whether or not this is happening. I think we're short sighted.

Last year when this was brought through to ask us to do a three year plan, it was like nope let's kind of look at a one year plan. The Board agreed to do a one year plan and now look at how many days. We're already after midnight. We have argued over the smallest minute type of thing and we will be right here next year doing the same thing. It's just going to be a nightmare. I think we have to have a long term plan to keep businesses satisfied and I think Mr. Buckley would like to kind of speak to that. Thank you.

Michael Buckley

You're correct. I'll just further point out that the whole point of this is that we do it and we do it successfully. If you give everybody - oh we're gonna do it for a year and see what happens. There's not a lot of incentive for people to make not just the investments they already have to make like buying a few more chairs and tables, but saying hey I'm gonna really do it up. I'm gonna do planters. I'm gonna do lights. I'm going do outdoor carpeting. I'm gonna make this unbelievable. Nobody is gonna do that if they think they're gonna get pulled out in a year. If you want to do it right, you got to do it right. If you don't want to do it right, don't do it at all.

Co-Chairman Moran

So I don't think I would necessarily - I'm in agreement with the three years but I do want to make a point. I am also a business owner in the city - not on Main Street - do a good job. I have a million dollar business that I created myself and I have some sources that are government sources but I can tell you I don't run my business based on government that you get the carpet pulled out of you all the time. There may be a new board that comes in in two years that says first motion on the table is to pull this. So I would just encourage all businesses out there, and we have very savvy business owners here, that being reliant on government is not how you want to run your business. Prime example is what we're doing here and the time that it takes. So I just want to point that out. I don't support the motion but I think it needs to be said that private public partnerships are great when they're efficient and this isn't efficient.

Alderman Cathey

Thank you, Mr. Chair. I blanked for a minute on what I was gonna say. I apologize. No, I wasn't going to move the question but now I can't even recall what I was - oh, I'm sorry. Just to Alderman Moran's point, food for thought. I don't like the way that the ordinance is worded. I think it makes the off ramp really, really difficult and I think that off ramp at some point in this process needs to be changed where the BOA can step in and we don't have to go through like three levels of changing this, that, and the other thing because that's way too convoluted. If we, as a subcommittee of the BOA are deciding it here, we should also have the same authority on the other end to then change it later. I think we need to begin to think about at least allowing some sort of relief valve if we need one and the ordinance isn't working.

**MOTION BY MARYLOU BLAISDELL TO MOVE THE QUESTION
MOTION CARRIED**

**MOTION BY ALDERMAN JETTE TO CHANGE THE YEARS IN EFFECT FROM 2022, 2023, AND 2024 TO 2022 ONLY
MOTION FAILED**

Chairman O'Brien

I would like to turn to my Co-Chair to make a motion and the motion is from the Joint Committee of Infrastructure and Planning and Economic Development to make and this combined Task Force of the Committee of Infrastructure, Planning and Economic Development, and the citizens so with in this group otherwise known as the "Task Force" to make a recommendation to the combined Committee of Infrastructure and Planning and Economic Development of final passage of this ordinance O-22-008.

**MOTION BY ALDERMAN MORAN TO RECOMMEND TO THE JOINT COMMITTEE (KNOWN AS THE TASK FORCE)
TO MAKE A RECOMMENDATION TO THE COMBINED COMMITTEE OF INFRASTRUCTURE AND PLANNING AND
ECONOMIC DEVELOPMENT COMMITTEE OF FINAL PASSAGE OF O-22-008 AS AMENDED**

**MOTION BY COMMISSER SHEA TO MOVE THE QUESTION
MOTION CARRIED**

**MOTION BY ALDERMAN MORAN TO RECOMMEND TO THE JOINT COMMITTEE THAT THEY RECOMMEND FINAL
PASSAGE TO THE FULL BOARD OF ALDERMEN O-22-008 AS AMENDED
MOTION CARRIED**

Chairman O'Brien

At this particular time. I really want to thank Ruth Boland, Michael Buckley, Cathy Cardin-Smith, Paul Shea, and Marylou Blaisdell. As citizens, you exemplified what it means to be a resident of Nashua by partaking in this committee. I don't think we were 100% on our best behavior. Please excuse us, but we tried. Your participation and your good work here kept us to this task. I can't thank you enough as Chairman and I'm sure I speak for my Co-Chair, I cannot thank you enough for your dedication to service that you provided and your recommendation with this tonight. So you're welcome to stay at this particular time. We've got to adjourn motion to adjourn and go into the next as we...

ADJOURNMENT

**MOTION BY ALDERMAN MORAN TO ADJOURN
MOTION CARRIED**

The meeting was declared closed at 12:21 a.m.

Alderman Alex Comeau,
Committee Clerk

Graham, Donna

From: Richard Dowd [REDACTED]
Sent: Thursday, March 31, 2022 7:57 PM
To: Graham, Donna
Subject: Fwd: Please read at tonight's meeting re: ammendment

CAUTION: This email came from outside of the organization. Do not click links/open attachments if source is unknown.

Please add to the minutes of tonight's meeting. I read into the record.

Sent from my iPhone
Alderman Rick DOWD
Ward 2 Nashua

Begin forwarded message:

From: Ben Clemons [REDACTED]
Date: March 31, 2022 at 4:20:45 PM EDT
To: "Dowd, Richard" [REDACTED], "Dowd, Richard" <DowdR@nashuanh.gov>
Subject: Please read at tonight's meeting re: ammendment

In regards to allowing only the parking spaces directly in front of restaurants to be used: I believe that this is a solution in search of a problem. The plan that was presented in the original legislation is a compromise that takes into account the concerns about safety, parking and traffic. This legislation in its original form has many intentions. I ask my fellow board members to stop picking away at all of these, and rethink this ammendment.

Adding this ammendment effectively kills the legislation by taking away the authority of the elected board of Alderman to make the best decisions on behalf of the citizens and taxpayers and gives it to the private sector. No business owns a parking spot and no business or entity outside of the Board of Alderman should be dictating terms of how or who may use a parking space. The purpose of the exercise to go through block by block was to have the Board of Alderman decide how that space was going to be used with input from stakeholders and the public, not the other way around. We are elected to make tough decisions and shouldn't delegate them out to individual businesses to make on behalf of other businesses, essentially pitting neighbors against neighbors.

The idea of the expanded outdoor dining is to help downtown Nashua become a destination that people want to go to spend time in. It is to help restaurants succeed further by offering them a place to further expand their otherwise outdoor dining. Let's support that goal and reverse this ammendment.

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