

A regular meeting of the Board of Aldermen was held Tuesday, May 14, 2019, at 7:30 p.m. in the Aldermanic Chamber.

President Lori Wilshire presided; City Clerk Patricia D. Piecuch recorded.

Prayer was offered by City Clerk Patricia D. Piecuch; Alderman-at-Large Brandon Michael Laws led in the Pledge to the Flag.

The roll call was taken with 13 members of the Board of Aldermen present; Alderman Gidge and Alderman Laws were recorded absent.

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

Chairman Wilshire

Alderman Laws had a family emergency this evening and Alderman Gidge is not going to be joining us tonight.

REMARKS BY THE MAYOR

Mayor Donchess

Yes Madam President. First of all, early in our agenda here we are recognizing End 68 Hours of Hunger with the 2019 Gate City Light Award. Now this is a volunteer award made by the Mayor's Volunteer Recognition Committee. We have Carol Weeks and Margo Bell here somewhere on behalf of the Committee and Shaun Nelson is on the Committee as well although he may not be here yet. But as you will hear End 68 Hours of Hunger has been working very diligently for a long time to make sure that kids that go to our public schools and elsewhere have enough to eat.

They have also been very instrumental in the program Meals for Kids which is a partnership of the City, the Soup Kitchen and End 68 Hours of Hunger, the Salvation Army, Southern NH Services, United Way and others. So as you will hear they are very deserving of the award and I am really happy that they are here to receive it. And we have representatives of End 68 Hours of Hunger.

One thing that is on the agenda early on is the appointment of Kim Kleiner to the position created by the Board of Aldermen of the Administrative Services Director. This is a position that we re-created after it had existed for some decades, 25, 30 years. It was phased out for a little while but we've brought it back in response to the audit which was performed regarding the Assessing Department. Now the Administrative Services Director before and now supervises a number of departments, manages a number of departments in City Hall. Not only Assessing but Purchasing, IT, Personnel, Risk and in this position can bring about significant improvements in terms of City Hall operations I believe; including the Assessing Department and the other departments.

Kim Kleiner is very well suited for the position because she knows City Government intimately and has been working with all of these departments on a daily basis for several years. The prior holders of this position and I think mostly of Russ Marcoux and Maureen Lemieux have also been people who had a lot of experience with City Government before they assumed the position. There has been some comment that the position should, I think two comments of substance; number 1 – the position some people have said we should look aside. But we have a perfect person internal and in addition to that, we want to make immediate improvements. If we were to wait to do a search and then find someone and bring them in and educate them as to the very complex set of circumstances that exist in City Hall, we'd probably be a year in the process. And during that year, there would probably be dissatisfaction because we hadn't been doing anything; you know just waiting, waiting, waiting for this new person to come in.

The other comment that has been made is that Kim doesn't have an MBA. Well I know that Russ Marcoux who I worked with as Mayor before, he was the Administrative Services Director. He had been hired by Moe Arel. When he started the job he did not have an MBA. Now we worked with him and he earned an MBA during the time he was serving for the City; partially paid for by the City. It was a joint effort and he was looking to go into City Management and eventually did that. But he worked very well and Kim Kleiner has the same kind of knowledge regarding City Government than he did.

If you were to follow Kim Kleiner around for a few days, you would find that she comes to work at 8:00 a.m. or earlier, she works throughout the day, I don't even know if she ever takes lunch. And if you were to, you'd have to hang around here quite a bit and you'd find that she's still here at 7:00, 8:00 at night, often on the weekends. She's a Nashua native, she has a background in business and accounting. She knows and loves Nashua to her core. And there is no one more dedicated to City service, to the City of Nashua to doing a good job for the taxpayers and the citizens of Nashua than Ms. Kleiner.

I know many of the Board of Aldermen have worked with her closely as have department heads and others. And I think there are people here supporting her. I am asking the Board of Aldermen to confirm her appointment so she can begin work tomorrow, improving services for the citizens of Nashua.

One more thing, Madam President, it just happens that today is National Decency Day. And the point and as a result I followed on and I issued a proclamation honoring Nashua and created Nashua Decency Day. And the point of this National Decency Day is to promote a civil discourse and I am reading from some of, "Fundamental tenant of civil discourse is the understanding of and respect for those differences that should exist in a democracy that basic decency and conduct encourages understanding and respect. And by this Proclamation we endeavor to encourage decency in our community". I think that unfortunately Nashua in the last couple of years where the decorum has traditionally been very good and where people have shown mutual respect in debates where there are fundamental differences, our decorum has been very good; without heated rhetoric, without accusations, without accusing people with very heated rhetoric and divisive rhetoric.

Now here in the Board of Aldermen, for years there have been some fundamental differences, we had an Alderman who sued, not this particular, who sued the City but we always had civil discourse, never was there angry words or anything. There were fundamental disagreements. Take the disagreement here or the issue that is here before us tonight on the cigarettes. Well I think people have conducted themselves, there's a lot of difference, total difference of opinion, but the people have conducted themselves on both sides with decency and civility and respect in the sense that no accusations have been hurled. People have made their points and listened with respect to the other side, even though they totally disagree.

So I think in Nashua we need to rededicate ourselves to decency, to the idea that we are going to treat each other with respect. We will not make serious accusations lightly and we will debate the issues and disagree but all in a unified effort to move the City forward. So I hope that we can expand this effort, become potentially a City of kindness, which some cities are and return to the days when there really weren't the type of bitter disagreements that we observe at times in the last couple of years. In any event, that's it, Madam Chair, Madam President. That's all I have for tonight and I see that there are many people in the audience so I will end my remarks.

RESPONSE TO REMARKS OF THE MAYOR – None

RECOGNITION PERIOD**R-19-139**

Endorsers: Mayor Jim Donchess
Board of Aldermen

RECOGNIZING END 68 HOURS OF HUNGER WITH THE 2019 GATE CITY LIGHT AWARD

Given its first reading;

There being no objection, President Wilshire suspended the rules to allow for the second reading of R-19-139

Resolution R-19-139 given its second reading.

MOTION BY ALDERMAN LOPEZ FOR FINAL PASSAGE OF R-19-139**MOTION CARRIED**

Resolution R-19-139 declared duly adopted.

READING MINUTES OF PREVIOUS MEETINGS AND PUBLIC HEARINGS

There being no objection, President Wilshire declared the minutes of the Board of Aldermen meetings of April 23, 2019, April 29, 2019, April 30, 2019, and the public hearings conducted by the Committee on Infrastructure on April 24, 2019, accepted, placed on file, and the readings suspended.

COMMUNICATIONS REQUIRING ONLY PROCEDURAL ACTIONS AND WRITTEN REPORTS FROM LIAISONS

From: Steven Elliott

Re: Remarks made at Board of Aldermen's Meeting

There being no objection, President Wilshire accepted the communication and placed it on file.

From: Lori Wilshire, President, Board of Aldermen

Re: Reassignment of Resolution R-19-134, Adoption of Strategic Planning Goals

There being no objection, President Wilshire accepted the communication and placed it on file.

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

Steven Elliott My name is Steven Elliott, 256 Pine Street. I just wanted to thank you for adding that communication I gave to you guys last week. It seems like there's not a lot of time left for me to accomplish the goals I'm looking at accomplishing. Just in the last 2 days a Norwegian oil tanker that was transporting Saudi oil was attacked by Iran and in the last day a Saudi oil transport pipe was blown up. So I think, after I quit my job, I didn't mention this, after I quit my job which was in military stuff there was the Dow had an about approximately 90% correlation with 1937 which is right around the time World War II broke out. And some of the trades that I made at the end of the summer last year and at the beginning of December created the yield curve inversion.

And so around that time I found that my property taxes had doubled, I just talked to my neighbors this past weekend, none of them had their property tax assessment change. Mine doubled; I removed a room from my house so it didn't make any sense to me.

It seems like someone or some entity is trying to increase my financial costs for me to not have me accomplish the things I need to make sure that the United States is safe. So thanks for putting that communication up there, I am going to be using ... I should be able to access it on the internet correct?

President Wilshire

You should. And Mr. Elliott, are you here to talk about something that we are taking action upon this evening?

Mr. Elliott - Well um for the decency thing, I think it's absurd. And the next time this happens I'm going to be as un-decent as possible. Thank you. Yeah I think that's it.

Judy Blacheck 560 South Main Street here in Nashua. I am here in support of Kim Kleiner's new role in the assessment department. I've known Kim for many years, in several volunteer capacities. And in those, well I need my glasses, she's always been smart, capable, and hard-working and very professional. And of course, those were all jobs where she was volunteering, there was no pay. So if she can do it there, she certainly can do it at the City and I think she's proven herself thus far too.

Her experience is an accounting and therefore she's skilled in process and I really do think we need that in the Assessor Department. So I'm here to support Kim. Thank you.

Paula Johnson Good evening, Paula Johnson, again. I still live in Nashua. I am going to talk about R-18-073 because not every member was here for the public hearing and I am just going to say that no cronyism, that the next highest vote getter should be the one that should be able to be put on the boards. That's all I really have to say about that, simple, easy and fast. And I've got a few more things.

O-19-037 the tobacco; you know we can't legislate everything in life. I get it that these are 18 year olds tobacco – I have, my son smokes I'm not happy with that. But he's an adult. Parents should be able to hopefully try to talk to their children, no matter what age they are, they are still our children and tell them about how bad tobacco is and vaping. But to legislate it? Someone from Hudson who lives in Nashua is going to buy the pack of cigarettes or the vape in that other City or Town and they are going to come here. Can the Police stop everybody and card them and say "Are you 21, you can't be doing this", no they can't. The Police have better things to do and more important things to do in this City and we know that they do. We still have an opioid crisis here and we still have people that break in and rob people. And there have been incidents with knives now, you know, maybe we should regulate no one can own a knife now too.

But to do this, I understand the reason behind it but you just can't legislate it. Some things you just can't do and I applaud you Alderman Jette. But I just can't see it happening when they can get it everywhere else. If you can vote at 18, you can drive at 16, at 18 you can't tell them what to do, they are considered adults at this point in time.

The next thing I wanted to talk about is the appointment of Kim Kleiner. And I like her and I think she's great and I am just going to say a few things here that I think. I calculated her income I want to say the HR Director was very nice to me, he gave me all the appropriate information that I needed. Her salary has gone up, about 21% somewhere around there, \$19,284.00. That's a lot of money for an increase. I know she's capable and doing a lot of things but when they Mayor states that this job has been resurrected, the thing was when I was an alderman, we had an assessor in the Assessing Department. Am I correct Alderman Wilshire, we do have an assessor; Attorney Bolton we had an assessor. But we have questions about some assessors now downstairs.

So the question is we have a full assessor who ran the department, we don't have one now. He was fired I guess or he resigned, I don't care but he's gone. So now we are putting somebody in the

position that we don't have somebody to answer to and I think that's a really important position. We are having a lot of problems with the assessments in the city it isn't good. I think we, if we are going to move her to oversee, like we had Maureen Lemieux oversee everything, this position isn't brand new; it just went away for awhile. If you want her to oversee all the departments, I would say get an assessor in here and then she can do the overseeing of everything. But she is not an assessor, she is not a licensed assessor, she's not an appraiser and that all is part of the job and is a very important piece of the job. Thank you.

Eric Kilbain Hello Eric Kilbain, 119 Main Street, Nashua, New Hampshire. I want to thank you all for listening to me today, I've been here for all of these meetings. I know that some people here want to be everybody's mother and father and do what they can to crush the vaping thing. But once you are 18, like people have children, like my parents were under 21, they were 18 years old, 19 years old when they had me. My wife, she had a son at 19 years old, she's an adult. People at that age can do what they want when they are that age.

Somebody lives in Hudson, he works in Nashua, he's coming to work. He's changing his kid's diaper just say. He's late, he is speeding; he gets pulled over on the Hudson Bridge into Nashua. He's vaping; OK, he gets written a ticket. OK here's one for speeding here's one for vaping, he says "No there's nicotine in this vape" you know there are some vapes that don't have nicotine right? 'Cause you just type it up GOOGLE – Nicotine-less vapor. Boom. They are all right there, they are designed to help people quit smoking. So this guy gets pulled over for speeding, he's late. He's late for work, now he's got 2 tickets, now he says to the Police Officer "There's no nicotine in here, there's no nicotine in this vape at all". So the Police Officer takes out his nicotine tester, if there is one, I don't think there is a nicotine tester but he says "Well we are going to have to confiscate this and you are going to have to go to court and then we will somehow test it there or whatever is going to happen to this poor guy. So he's late for work, he's in trouble with his boss. He's got a kid at home, just because he crossed the line of Nashua, vaping at a legal age.

It's just too much, too much you know? Let's just leave it where it is at the State level and then we will take it from there. It's not for everybody to decide to be these people's parents. Be your own kid's parents, you don't have to be 18 year old kid's parents. You don't have to be 19 year old, you don't have to be 20 year old kid's parents. What am I going to do if somebody comes in to buy a cigar, I don't sell any vape, I don't know a whole lot about vape but I looked it up and nicotine-less vape, boom. There's a ton of them and that's what they are designed for, helping people quit smoking. So I can't tell a 21 year old, a 20 year old, 11 month guy whose been buying a cigar on Father's Day that I can't sell it to him, he's got to go to Hudson. It's insane, it's like collective punishment here. We are getting pulled in with this underage vaping epidemic in high schools; I saw the bag, I don't know what happens with the bag if these kids get fined, if their parents get notified or what. But they are not 18, they are underage, it's illegal.

So I hope you all consider what you're doing here and try to make the right choice. Thank you very much I really appreciate you listening to me, I've spent 15 hours on this, I am a businessman. When I'm here I have to go pay somebody else to work all my shifts and I don't know if any of you other people here employ other people or have to deal with employees that have to cover your spots, but let's just try to do the right thing here. Thank you.

Jeff Creem Celeste Street in Nashua. I'm here to speak in opposition of O-19-037. So I've had 2 kids go through the Nashua North Schools and one of them just graduated last year. And I, you know, obviously this isn't evidence it's just a little bit of individual cases, but I asked them you know "Did you have friends, did you know people who had vapes or had cigarettes and things taken away at school" and they think so. And I was like well "Did any of them ever get fined". "Fined? No one ever got fined". And I thought well how can that be because there's an existing RSA right now that has a fine of up to \$100.00 for having tobacco products on school grounds, but it doesn't appear that we are enforcing it.

I mean we could probably pay for a special election with the bag of tobacco and vape things that we had here last time and we are not doing it. And I think sometimes it feels to walk out of here and feel like we've done something, we've changed lives, we've passed a bill and we are going to stop you from smoking because that's kind of fun. It feels good; but what is not fun is dealing with the kids and making them go and pay a fine. And maybe they should do it, but we're not doing that. We are not enforcing the laws that we already have on the books. So are we going to enforce this one or are we just going to walk out of here and pass something else to feel good and just pile up some more laws that we are not going to actually do anything about. So I don't think we should have this bill, if you like you should enforce what's already there to keep vaping out of the schools and actually enforce the fines, I think you should go ahead. But right now I don't think we need this. Thank you.

Melissa Creem Hi thank you, National Decency Day? I think that's awesome.

President Wilshire

We need your name and address for the record please.

Ms. Creem Oh sorry, Melissa Creem, Celeste Street, Nashua, New Hampshire. Really awesome, National Decency Day. That's great, I'm hoping that you guys will do the decent thing here. I am here about O-19-037, the vaping bill. I think we have proven prohibition doesn't work, I think we've been trying to prohibit people from doing things as adults for years now, years and years. Back when we banned alcohol for adults, how did that go? How's the prohibition going on drugs right now? Not great. When you take away people's freedoms, adult's freedoms, 18, 19, 20, 21 you are interfering in their lives and you are treating them like children.

At 14 years old, I was approached to go and smoke in high school. I was at a new high school, I was there by myself, I was sitting in the cafeteria and this girl came up to me and said, "Do you want to go outside and smoke?". Because you could smoke on school grounds, no fine, they didn't take it away from you, they didn't steal your property from you. And I said, "Hmm, no I don't smoke, I don't want to go". And she said, "It's ok you don't have to smoke" and I quickly did the calculation, at 14 years old that if I went out there, I might end up smoking, maybe not today, maybe not tomorrow but the next day or the day after that. So I said, "No thanks, I'm good" at 14. I knew it wasn't for me.

The next day someone else came up and sat with me and we had a great lunch. She's still my best friend, she was maid of honor at my wedding, but I knew it at 14. An 18 year old can make that decision, if they are going to do it, they are going to do it. It's not up to you to be their parent and then I heard testimony too last time that it's at 25 that the frontal lobe is fully developed. So why aren't we making it 25? Why is 21 the magical age? End prohibition, let these people be adults, let them be free, stop meddling in their lives like I said last time and do the decent thing. Let freedom ring liberty and justice for all.

Michael O'Connor Yeah hi Michael O'Connor, excuse me, 42 Berkeley Street here in Nashua. I just have a few comments I am going to actually leverage some of this that the Mayor said. I spoke to this Board back in March after the release of the management audit finding and I was really curious about the public disclosure of accountability because my assumption at that time as you may or may not remember is I just assumed that CFO Griffin should be responsible. The two major findings were ineffective management of the Assessing Department and the lack of internal policies to guide operations.

But we didn't have the decency act back then Mayor but you did the decent thing, you stepped up and you said, "No it's on me" and correct me if I got the words wrong, but you said "I'm going to take responsibility for this because CFO Griffin a good man he just had too much on his plate, he didn't have time to do the job". Decent thing to do. And I voted for the Mayor so I want to believe that he was capable of fixing the mess that started probably well before he took office but certainly was allowed to fester during this administration. Just because people didn't have time to do the job.

So here we are approximately 2 months later and the Mayor has made the recommendation to vacate the Chief Assessor's position and re-establish the Administrative Service Department as he outlines. I had all those jobs listed here, I won't repeat the ones the Mayor mentioned. But as you all know because it's in the Ordinance, the Director is not only responsible for all those divisions, she will also be responsible in conjunction with the Mayor and the Director of Financial Services for the short and long-term budget planning, short and long term property tax rate planning and she will have integral role in development of the City's Fiscal Department. In the next paragraph "The Director shall be responsible for the maintenance and repair of all City buildings, including the hiring of necessary personnel. This shall not include the buildings under the control of the Board of Education. The Director shall participate in making recommendations for and coordinating necessary Capital Improvements to all the City buildings with Capital Improvements".

Wow. That's quite a job. So it's definitely a lot to do. So the question that leaps to mind, we had someone in the job who didn't have the time to do it. The Mayor, I listened to the Mayor in the most recent recording of the Personnel & Administrative Affairs Committee and I think Alderman Kelly brought up the point about asking, I think her words were "I think the management portion of this makes sense, but the day-to-day technical whatever a Chief Assessor would bring to the table, how are we going to cover that". And here's what the Mayor went on to say that well he could bring that up, the director could and of course the board can. You know you can bring that up any time you think it's necessary. So I am not here to speak against the confirmation of the director, or Ms Kleiner as the director, everything I hear "she's the perfect candidate" I heard those words today and she's "hardworking". I've heard nothing but praise for her.

But this notion that the Chief Assessor work is going to get done and oh by the way right now it's acknowledged she's doing by the Mayor's words again, from the minutes, she's doing 80 hours a week now, but when she steps down to just to the one job she'll, let me find those words, she'll only be doing I'll paraphrase, it's here somewhere. Once Ms. Kleiner stops doing the two jobs and goes down to 60 hours, we will then have a Chief of Staff do the rest of the work. So you may believe that. I don't know, when I was 25 years old and in the service, sure we pulled 60, 80 weeks when we were deployed, maybe even more. But I was 25 years old. Ms. Kleiner may be able to do that but it begs some questioning. So accountability period is coming up as I said, I voted for the Mayor, and so for you politicians in November it will be, I voted for many of you as you know Alderman-at-Large. And I voted for my Ward thing. But there is a time for accountability and if this assessing stuff doesn't get cleaned up, I think other voters are going to hold you accountable. So I hope you do the right thing here, go ahead, she's the perfect candidate, it's the decent thing to do, I'm here on Decency Day. We know she is going to be confirmed no problem. But would somebody have the gumption to say "don't we really need to fill that Chief Assessor's Office". Thank you.

Justin O'Donnell Thank you Madam President and members of the Board of Aldermen. My name is Justin O'Donnell, I live at 353 Main Street here in Nashua. The last meeting I came to speak on the smoking bill and I'm here again to speak on the smoking bill. Last time I talked about the dangers of legislating by emotion and let our emotions and fears drive what we do as opposed to logic and reason. But now let's focus to the logic and reason of this bill. The claimed purpose of this bill is to curb smoking in minors. Kids who aren't legally able to purchase anyways, to curb possession of nicotine and vaping products on school grounds where they are already prohibited and the rules are not enforced or when they are enforced the students just don't care because they've proven that those prohibitions don't stop people from carrying out bad acts. Whether it is as petty as simply an 18 year old brings cigarettes with him to school that he purchased legally in Manchester over the weekend, even though it's illegal in Nashua. Or as serious as the opioid epidemic that was spoken about earlier, because our prohibition doesn't work.

Last time we had a legion of young people here to speak about how important it is that we do something to do something. And I'm here to tell you that doing something to do something, to act on emotion to make it seem as if you are doing something while passing a bill that doesn't ban

possession, it just encourages them to drive the business out of town. To hurt our local businesses like Two Guys and Castro's, without doing anything to actually punish the kids who will go out of town and bring it back to school the next week? That's legislative malpractice. That's passing something so you can get a headline, to tell voters that you did something without actually doing it. Now Alderman Klee was cited in the papers this week about supporting this bill at the State-wide level but not at the local level. Because these patchwork of regulations where it's not illegal in Hudson, not illegal in Manchester, but illegal here in Nashua? Where if you were to have actual enforcement of this bill, a student simply getting pulled over, a 19 year old driving from Manchester to visit a friend in Hudson, simply pulled over for a speeding ticket in Nashua, given a \$100.00 ticket for not breaking the law where he was coming from or going to? But simply for passing through? No.

I would challenge you instead to reach out to those young kids who came here who were so motivated to have something done and encourage them to be the change. Clearly they care. But if they think there's an issue of peer pressure, creating a culture where smoking is cool in their schools? Why can't we encourage them to exert the same peer pressure in the opposite direction to improve their own environment that they care so deeply about without passing legislation to force it upon them? But to rather allow them to grow and develop as leaders, as the people who will one day be in these seats, in this Aldermanic Chamber making the decisions for the next generation, Because they are right, they are the future and they are what is most important. But if we don't encourage them to think and act and grow as adults, then we are not allowing them to take a hand in the shaping of their own future. Thank you.

David Garofalo 15 Spit Brook Road, today marks the 5th time I have spoken to the Alderman here on the same subject despite the last hearing at committee where this was voted down. And I guess there is something I have to learn, after a committee votes something down, I thought that's where it ended but here we are again. And my belief is listening to the committee and all the things I have heard the past 4 times when you guys talk after you've heard from us, is in your heart of hearts, I believe this committee believes a 20 year old is an adult and they are. And I'm not going to repeat myself because nobody has said it yet but they can vote, get married, have a child, adopt a child, join the military and they can actually buy a rifle. They can buy a rifle but they can't buy a cigar. It just seems so crazy that this is even coming up.

What I need is this group to be impartial and open-minded, neutral and without bias. And I understand that it will feel good to pass something like this, it will do nothing but it will feel good and it will look good, but it's wrong to do it. Smokers are minorities, they are minorities because most people don't smoke and most people don't like smokers. But that's not another reason to end up passing a bill because you don't like that product, because someday it is going to come to something you care about. The talking points I've heard in these 5 meetings I've attended have mostly been about vape. And 14 year old students who break the existing law and vape. I have heard it, I have it in my notes here though but those laws have to be enforced and we heard from a Policeman that was here at the last Hearing that said they have never made a fine or an arrest with that big bag of vape and they've caught these people doing it, not one fine, not one arrest. You have to take care of business are we just waiting for the 20 year old driving through that's the one we are going to fine? In Washington, DC right now there's been a recent flurry of bills to do exactly what you are trying to do.

There are 5 bills out there right now, in Congress and in the Senate to raise the minimum age to purchase tobacco from 18 to 21. I hope it doesn't happen but I'm guessing one of these will pass and New Hampshire and the whole country will go to 18. And if that happens we are all in the same boat instead of Nashua, NH being the disadvantage City of the advantage state. And that's what it is right now as a retailer, that's the position I'm in that we will have the Nashua disadvantage in the State and it's not right to the retailers that are here. New Hampshire using the Dillon's rule and not the home rule status, meaning that the Nashua Government may not engage in activities only if it is specifically sanctioned by the State Government and this is not. Nashua cannot make it a crime to possess or use tobacco for somebody over the age of 18 in Nashua as the law exists and there will be lawsuits if this ends up happening so it's going to be costly on both sides.

As far as the product I sell which is cigars, 70% of all the cigar purchases are made on-line and it is legal for them to sell on-line here in Nashua, NH despite what you end up putting for a law. So we are losing 70% of our business, brick and mortars are losing it everywhere to begin with anyway and everybody is struggling to keep their business. But take that away and somebody else said "well you may lose 2% of your business". I don't want to lose 0% of the business, I want the level playing field that I was promised when I came to the State of NH. Thank you.

Andrew Olding Hi my name is Andrew Olding, I live at 8 Royal Crest Drive in Nashua. It has been brought up a couple times in these hearings by a couple different aldermen and by a few people who have spoken, that you know if this bill can help even just a couple kids then it's a good thing, if it keeps a couple kids from smoking then it's a good thing. Well now in the year 2019 when the drug wars have been going on for such a long, extended period of time, the real thing that we should all come, the truth of the matter that we should all come to the conclusion of is that drug laws and restrictions against drugs make the usage of it more dangerous and more likely that you are going to use it in an irresponsible way because if you are not out in the open with it, you have to be breaking the law to be using it; which means fewer people can see you doing it, fewer people are around to tell to stop, fewer people are around to tell you the dangers of it. You are doing it behind closed doors. Last time I came to this chamber it was for the committee hearing so not all the Aldermen were here to hear me say this but I'll repeat just really quickly. Portugal decriminalized all of the drugs in their country and addiction rates have gone down significantly. That's because people are doing it in the open when they are doing it and more people can visibility see them doing it and more people can visibility get them the help that they need. Forcing people who want to do these things underground is only going to make their addiction more likely. Thank you.

Fred Teeboom 24 Cheyenne Drive. First let me briefly address R-19-037, purchase and use and possession of tobacco products. I call for a ban of tobacco products, sales at any age. I consider sellers of these products to be merchants of cancer and merchants of death. There is another issue of age, addiction problems are all around so why add more products that cause harm and addiction at any age?

Actually I want to address the appointment of Kim Kleiner. The new Administrative Services division will take over 7 departments. The 7 departments represent the combined operating budget, I went to the budget and added it up, you can see of about \$7 million dollars, that's the operating budget and has a responsibility of about \$53 million dollars in the management of funds. Health and Dental benefits, self insurance fund, as well as the property and casualty funds, both of these add up, health and benefits add up to \$48 million; property and casualty add up to \$4.3 million. Those are all under the Administration of this new division.

Now Kim Kleiner, she's a nice person, I've dealt with her, very pleasant. She may be a good accountant, she may be a good staff person, and she may be very hard-working. I know she's been in that office on Sundays because I've seen e-mails from her on Sundays. But you have to look at her background for a very complex department; 7 departments. Kim Kleiner has a degree in accounting from Franklin Pierce and in her career before she came to Nashua she held two jobs. She worked for General Cable for 15 years as a manufacturing accountant and a senior accountant. She worked for Standex International for 7 years as a corporate staff accountant and a senior payroll accountant. Contrary to Mayor Donchess' letter of her great experience and great expertise, Ms. Kleiner has no experience absolutely none in the assessing department or assessing operations. Ms. Kleiner has absolutely no experience in Human Resources that I can find. Ms Kleiner has absolutely no experience in information technology department, just as a reference information technology is \$2.9 million dollar operation, operationally. She has no experience in GIS; she has no experience in purchasing that I can find. She has no experience in insurance; she has no experience in Risk Management; she has no experience in Building Maintenance.

She is an accountant. She's been an accountant for 22 years before she came to Nashua; she's been a Chief of Staff, and a good one to the Mayor, basically taking notes and things, I've been to meetings with the Mayor, taking notes and answering the mail. But has she got the experience to deal with 7 complex departments? Human Resources? Information Technology? GIS? Purchasing? Insurance? Risk Management? City Buildings? Assessing? \$53 million dollars of fund management. \$7 million dollars of operational budget, she has none. So Mayor I don't understand why you would appoint her. The real problem, there is no problem in the IT Department that I know of. There's no problem in Human Resources. There's no problem in GIS. There's no problem in Purchasing. There's no problem in Insurance. There's no problem in Risk Management that I know of. There's no problem in Maintenance & City Buildings. There is a problem in Assessing. And you are not replacing the Chief Assessor.

Now the guy that was there, I dealt with him, he was incompetent. I knew that right away. I didn't complain about it. A private citizen at her own substantial expense brought forth the problem in the Assessing Department; none of you did. The Mayor didn't, none of the City staff did, the attorney didn't. A private citizen who spent \$8,000.00 just on the private investigator. The problem is in the Assessing Department. Now we hear that there is an assessor who about 10 years ago was dealing in pornography. That's what I read and he admitted it. Sleeping on the job; got a PI report. There's the problem. A lot of people are complaining about the Assessing; they are not complaining about GIS, IT, Purchasing, Insurance, Risk Management, City Buildings, they are complaining about Assessing. So I don't understand what you are trying to do.

I recommend that you drop this insanity of creating a new division, that'll accomplish nothing but conflict in fact between the CFO position and a new position. If you look at the Ordinance there are all kinds of building conflict. And I should say Marcoux, who you keep mentioning was really the CFO. I was an Alderman. He was a CFO. Carol Anderson who is the budget director, worked for Marcoux. Now they called him an Administrative Servicer but he was really the Chief Financial Officer, there was no position called the Chief Financial Officer back in those days. So my recommendation is drop this charade. Don't enforce Administrative Services, Ms. Kleiner very well, very nice person, qualified as an accountant, keep her on the job, she's doing a nice job for you and get that Assessment Department under control. Thank you.

Jim Tollner Good evening, Jim Tollner, 1 Sequoia Circle, I'll be brief. I want to take a second to weigh in on this appointment. I think it's worth mentioning that it has always been at the discretion of the Mayor to recruit and appoint his or her choice. It seems fundamentally unfair to speak against this particular person because the folks didn't like how this department was run in other administrations. Personally I have had a chance to work with Mrs. Kleiner and I have found her to be professional. She is someone who has worked within City Government and someone who understands City Government. I have to say when there were questions, we heard back from Kim. And if she didn't have the answers, she'd work hard to get you that answer. Thank you very much.

Laurie Ortolano 41 Berkeley Street, I'm here to speak to the Administrative Services Position. I think I'd like to ask you to just put it on hold and consider bringing back the Chief position. I want you all to think about whether there is enough money in the budget right now to fund both positions. I would hope that as Aldermen and Alderwomen, you all recognize at this point the need for a Chief. And I am so compelled to tell you from the bottom of my heart I think we need that Chief. Assessing is a complex function and Ms. Kleiner just doesn't have that background. And when the Mayor points out that she's going to be a Director or a Manager, she's managing all other departments that have directors except for Assessing. And Paula Johnson was correct when she said the other Administrative Services Directors, we had a manager down there, we had a Chief. We don't anymore. And the day-to-day functions and the issues that Alderwoman Kelly asked are a serious issue.

If you are going to just vote this position in tonight and say she is going to take over Assessing, as a bare minimum, please move her office down into Assessing, into John Duhamel's office. Let her work on the culture and the environment down there day-to-day right now. That's a 40 hour a week job.

She's got the other 25 to do the other 5 or 6 functions and that's going to make up the 65 hours. But I really believe you need that. I've been taking the State's Statutes class this week with Ms. Kleiner up in Concord. It has been super interesting. But you meet people up there and speakers who are Chiefs and Managers from other Towns that are so intelligent and passionate about their work. And it leaves me feeling a little broken that we can't find anyone like that for Nashua. Why can't we find anyone who is a numbers person who is passionate about equity. Why does that allude Nashua? You know what it is about the culture here that doesn't allow that to happen. And if what the Mayor keeps telling you, that we can't find candidates, then I beg you to please look at outsourcing, because it isn't fair to us as residents to have such a weak department where the bar is so low that you can't get answers to questions. Raising that bar is going to be enormously difficult; I think it will be more than 40 hours a week.

And the last gentleman who spoke has had a wonderful experience getting questions answered. It is far more difficult for us with Assessing questions because we are dealing with somebody who has no background for something so technical. Those questions require her to call the State every time and she can't even rely on her people internally to go down there and get the answers and she told me she doesn't, which I am thankful for. We should not be taking any information from within at this point, not a good idea. So you know I think it is vitally important that we bring back that Chief position. And I don't want to wait until Ms. Kleiner says its important, we will just wait until she decides we need it. Or we wait until you decide we need it. How does that happen. What does it take to decide you need it? You know what do we have to do? I for myself can tell you there's no amount of data that I can put on the table that would convince there's a problem that hasn't worked.

I will tell you Friday I had a meeting and Steve Bolton acknowledged that some of the numbers I was pointing out were too low. I honestly believe that in 8 ½ months that is the first time an administrator or somebody in City Hall said "yeah those numbers are too low". I've never had anyone confirm anything. I mean it has taken 8 1/2 months to get the confirmation on a number. And I think I've gone way too long waiting for answers, just way too long. You know the problems are deep and what you have happening now, I am sensing the complaints that you are getting hit with a lot of RTK letters, property files, you are. I'm generating a good bit of it. I'm going to dump another 1,000 pages on you pretty quickly here for RTK. You know why? Because I am conducting your external audit because none of you did it. It was your job to do an external audit and the internal one really didn't work. I prefer not to do that, I have to pay a lot of money for those copies – Ben I am hoping you write that letter and waive those for me. But that's what needs to be done.

And I object to an Alderman like Ben Clemons sending out an e-mail telling me this weekend that I need to prove myself more, get all the reimbursements, get all the travel cards, get all of the information out of City Hall to prove that we have mismanagement. When do you step up and look at the data? When do you go get it? Because I have to RTK all that. I have to put staff through a lot of work to get that. I'd rather let you do your investigation and really get the information. Do it, get it, look at the reports, just let me know you're doing it. I won't ask for it. But I don't know how anyone thinks here that they can really run this place without having a Chief down there.

You know I sat in a class yesterday and the Chief Assessor who taught for the afternoon ran a Tri-Town up by Lake Sunapee, Sunapee, New London and Newbury I think. He was so impressive. He was a man of numbers and you could tell he really loved his job. And the one comment he said is "I love a really intelligent property owner who comes in and challenges me with questions; it makes me a better assessor". We haven't had any one like that in our assessing office in a long time. You can't go in there with a question, there's nobody to answer. So please, I don't mind that you want to bring the position back but boat them together and bring back your Chief Assessor. If you really don't think you can get one, get serious about out-sourcing that Department so we can get some equity in this town. Thank you.

Mike Apfelberg Good evening Mike Apfelberg, 7 Edson Street. I was going to speak initially about the tobacco legislation and then I decided I'd like to speak a little bit about Mrs. Kleiner and her appointment. I think you've heard enough about the tobacco legislation over the last how many hearings now to know I am in favor of this legislation and I'm in favor of it in the original form that includes possession and purchase and consumption of tobacco products. My beliefs are based in the science of the mind and the science of addiction and even though we don't have legislation State-Wide yet, I think this is an opportunity for us to send a strong message to the State that the time has come for us to protect our youth now and into the future. Enough said on that.

So regarding the appointment of Kim Kleiner to the Administrative Services position, just a personal perspective. I've had the opportunity over the past couple of years to work directly with Ms. Kleiner in a couple of different areas both as a constituent and also as an organization which occasionally has needs from the City to navigate various types of services and departments. What I've found is as a constituent Kim, I'm just going to call her Kim, is a person who does in fact respond to your e-mails at 10:00 on Saturday night and I think that's not because she's here in the office or perhaps she has the ability to do that from home, but she's absolutely one of the most responsive people particularly in City Government who I've ever come across. She goes out of her way to provide detailed answers and if she doesn't know the answer, and I think in terms of managing a large division with a large number of divisions underneath her, one of her great strengths is if she doesn't know the answer, she will tell you that and she will go get you the answer. So I have a lot of faith in her as a constituent.

As an organization, we've had the opportunity to have a number of projects that we've put through the City and what I've found with working with Kim is that she is a person who works well across constituencies ; she is a person who collaborates by nature. So she's going to bring in people into the room who have various disciplines and various opinions and various points of view and try to work towards a common solution. I think that is extraordinarily important in a role like this which is managing a large number of departments. I can appreciate what Mr. Teeboom said about, yes she might not have experience in all of those various disciplines, but let's be honest, nobody ever is going to have experience, real deep experience in more than one or two disciplines. What you need in a leader is somebody who can bring people together to get work done. So I have every faith in Ms. Kleiner and hope that you do appoint her. As a constituent and both as an organization I appreciate that, thank you.

Janet Valuk Good evening, my name is Janet Valuk I live at 41 Roy Street here in Nashua, Ward 6. First of all I'd like to support the nomination of Kim Kleiner for the new position. Enough said of that one. Most of you realize and I've talked with you before, spoken with you before, that my life has pretty much been dedicated to protecting the health of our young people. I started out in Connecticut where I grew up and it has been carried here into Nashua. I've worked in prevention for 48 years. I am going to talk about a few statistics that we acquired from an academic survey given at the high schools, just to give you an idea of what some of the issues are. 61.5% of the youth who reported current use get their vaping devices from someone legal other than a parent. 35.9% of youth who reported current use buy their devices from someone legal, I'm sorry, buy their devices themselves at a vape store or a convenient store. I'll just preface this by saying all of the participants in this survey were under the age of 18. And lastly almost 38% of youth reported vaping devices are very easy to obtain.

Now I know this isn't an ordinance specific to vaping and I realize that vaping is a major problem with youth right now. But the statistics show that 33% of youth who are vaping now, within one year will go on to use traditional cigarettes. So that's a concern of tobacco use. Some of the other information we have 480,000 deaths annually from tobacco related diseases. If the current smoking rates continue, 5.6 million Americans who are currently younger than 18 will die prematurely from a smoking related disease. Now this does not only effect an individual's health, but it also has economic costs as well. As experts estimate that the annual societal costs attributed to smoking in the United States were between \$289 and \$332 billion dollars. This includes \$132 to \$175 billion for direct medical care costs of adults and \$151 billion for lost productivity due to premature deaths. Lost productivity due to

exposure to second-hand smoke costs the country \$5.6 billion dollars and about 70% of current smoker's excess medical care costs could be prevented by quitting.

Cigarette smoking, the use of tobacco products is the single most preventable cause of death. By potentially stopping a group of young people from starting, we could be saving a lot of lives. Let's be the example for other towns and cities in New Hampshire and potentially the entire State. States around us that have raised the tobacco age, have shown a reduction in under-age tobacco usage. Nicotine is the original gateway drug, it sets up the brain for future addiction. All of the other things that are allowed at 18 do not cause changes in the way the brain functions. And I have a request and you can deny this, Madam President, one of our youth arrived a few minutes late due to parking issues and I was wondering if you would allow her to say a few words?

President Wilshire

I will add her name to the bottom of the list. I have people who signed up before her.

Ms. Valuk And I'm not even going to attempt her name because I know I can't pronounce it properly. What is your name? Advika.

President Wilshire

Ok.

Nancy Vaughn Good evening my name is Nancy Vaughn and I work for the American Heart Association. I am Government Relations Director for the State of New Hampshire and our organization is in support of a State Law as well as local ordinances for raising the minimum legal sales age for tobacco products. I am going to try and not repeat what was just said and mess up the microphone, sorry. As you just heard, tobacco use is the leading preventable cause of death. So the key word there is prevention and that's what tobacco 21 ordinances and laws really do is help prevent the initiation of a life-long addiction to a product that when used as directed is intended or the end result is to kill you, cause disease and lead to your death. So tobacco does cause heart disease; we are one of the most expensive medical ailments to have. So there are large costs to our economy for tobacco-related diseases.

Beyond the health consequences though I just want to leave you with some economic information to consider as well. The annual health care costs for tobacco related diseases in New Hampshire is \$729 million dollars. Of that amount \$139 million is borne by the Medicaid program. Many of these costs are borne by households whether they use tobacco products or not in the form of taxes to cover the Medicaid program of almost \$1,000.00 a year, \$875.00 is the dollar amount I've heard recently. Tobacco-related diseases are felt and experienced by the most vulnerable populations. Most of our tobacco users are amongst low income families, so low income youth, individuals who suffer from mental illnesses, about 33% are tobacco users.

Those on the Medicaid program use tobacco products at a much higher rate than even the average adult population. As I mentioned tobacco related diseases themselves cause a burden on low income families. The American Heart Association actually supports not having possession penalties in place on laws and ordinances, we find these are ineffective and inequitable penalties on, again, low income youth and minority youth, African-Americans and Hispanic youth have reported that they are more likely to receive citations from law enforcement for these products than their counterparts regardless of tobacco use differences. So I urge you to consider passing this ordinance and really help to prevent young people from starting this life-long addictive habit. So thank you very much for listening tonight.

June Lemon June Lemon I live at 18 Manchester Street here in Nashua. It has been really interesting listening to what everybody has to say and I don't repeat anything. I am here to support the nomination of Kim Kleiner. I have heard some interesting thoughts about maybe we need both a

Director of Administrative Services and a Chief Assessor. But Laurie Ortolano brought up equity and that is one thing that I know that Kim Kleiner cares very much about. I've seen her work tirelessly for the children in this district when she was on the Board of Education. And I have seen her listen carefully to every constituent that asks her a question and if she can't answer it, she'll get back to you. I have been to City Academy, Police Academy, all of the academies that the City has to offer. The first person there is usually Kim Kleiner, the person who greets everyone is Kim Kleiner and the person who answers questions that all the other people can't answer or takes the notes to get back to you is Kim Kleiner.

So I think she would be an asset as Director of Administrative Services. I will admit that I don't have the technical background to talk about what we need in a Chief Assessor. But I don't think that knowledge is something that cannot be acquired. And when Mr. Teeboom brings up you know she doesn't know all these departments, well she doesn't need to know all of the details of the departments to be effective in the role as manager. So I support Kim Kleiner for the position of Director of Administrative Services. Thank you.

Helen Honorow Good evening, I'm Helen Honorow I live at 46 Raymond Street. I'm here to endorse for the position of Administrative Services Kim Kleiner. I originally met Kim, I am on the State Board of Education, I am not here speaking for the State Board of Education. But when I needed to get some information from the City of Nashua and the School District, Kim was incredibly helpful and thorough and knowledgeable and if she didn't know an answer she would make sure she found it. I think that's incredibly important for any public service, but certainly in looking at the position of Administrative Services the Director will require someone who is never going to know all the answers, but will know what to do to find out.

In her role as Chief of Staff, Kim has been not only a quick study but also very successful in being able to understand Government operations, understand how this City works and understand how to collaborate. She's the liaison to the Police Department, to Fire & Rescue. She's not a Fire & Rescue person, she is not a Police Officer but she certainly knows what to do and how to make things work. We have had this audit, 700 pages and we need to do something with it. I think Kim is the perfect person and has shown her ability to get things done and to understand how to move forward.

I have the privilege of being in Rotary with Kim. I was actually her sponsor in Rotary. Rotarians recite a four way test at every meeting. It's the 4-way test of the things we think, say and do and it's meant worldwide to apply as a moral code for both our personal and our business relationships. We are intended to apply that in almost every aspect of our life. That test is: Is it the truth? It is fair to all concerned? Will it build goodwill and better friendships? Will it be beneficial to all concerned? Well that defines how Kim operates in both her personal and professional life and I feel very confident that she will be very good at this next job that I hope the Aldermen will approve and she will make sure that our City works even better. If it is determined that a Chief Assessor is necessary, I don't think Kim would hesitate. She would make sure that the appropriate analysis is done, that there is money in the budget to be able to go forward. I don't see these as mutually exclusive, but I think Kim being in the position will help us sort out whatever we need to make sure we can move forward. Thank you.

Stephanie Wolf-Rosenblum Madam Chairman, Aldermen, my name is Stephanie Wolf-Rosenblum of 47 Berkeley Street and before I speak to endorse Mrs. Kleiner I think my colleagues in the healthcare field would find me remiss if I did not repeat my endorsement of the tobacco legislation, I support passage. But I am here tonight to speak to Mrs. Kleiner's appointment and I will say without repeating what has already been said that I firmly endorse all of the positive things that have been said about Mrs. Kleiner. As someone who has served in our leadership position in Nashua in a complex organization for many years, I have had the personal experience and the observation that you do not need to possess all the skills of all the people that work with you and for you. But you need to be able to listen, to study and to collaborate. And has been said, these are things that define Mrs. Kleiner; I know her both as a Rotarian and also for her work in trying to support solutions for the opioid crisis.

This is a very complex situation for which she would not necessarily have intimate knowledge from an educational standpoint but was a very quick study and was instrumental in the things that we have been able to do. I would also say that one of the things that has not been mentioned about her resume is that she has experience in techniques of promoting thoughtful and not reactive change in things Lean Six Sigma. You study a problem and you make sure that you do things not more of things, but to do things better. This is something that will be a critical factor in bringing some clarity and improvements in the Assessor's Office and in these services.

As someone who also works with people who in general and repeatedly and over many years work 60, 80 and 100 hour work weeks, it's not about the number of hours or the age, it's about the person and the passion. And I have not only received e-mails from Kim at all hours and on all days but I've personally observed her to bring her passion to her work and she is tireless and I expect she would apply that as well. I have the utmost of admiration for Mr. Teeboom and for my neighbor Mrs. Ortolano, but after listening to the concerns about the culture of the Assessing Office, I feel even more convinced that the correct thing to do is to put someone in there that will take a hard look at what is needed and then make those recommendations and make those things happen. Thank you.

Joanne St. John Good evening, my name is Joanne St. John, I live at 25 Beauview Ave here in Nashua. I have lived here since 1977. Throughout my many years in Nashua I have been a community activist and I have met many, many wonderful people. One of the women that I have met in the past 15 years was Kim Kleiner. I am going to try not to repeat all of the wonderful things that have been said about this amazing woman who I admire and respect so very much. I just want to say that I do trust the Mayor's judgement; I trust the Board of Aldermen that they are going to do their homework. I appreciate all that has been said, if there is anyone who is up to this challenge, I know that it's Kim Kleiner. I trust her judgement, her integrity is unbelievable. I don't know how she gets everything done. I just want to say that I think that she has a wonderful analytical mind, she's a great team player. She is always up for a challenge and whatever she does, she does, she puts her whole heart into it and has been very successful on many things that I have worked on with her. Most recently, in the recent past, I have worked with her on a Committee to form the Arlington Street Community Center and once again she just delves right into it, she looks at every aspect, whether it is finances, building codes, police, you know, whatever she needs to do, she gets it done. I just want to say I hope that you will support her and I know that going forward as Stephanie Wolf-Rosenblum said, if she makes an assessment that there needs to be more help going into this, there is no one better to listen to than Kim Kleiner. So thank you so much.

Ed Santamaria Good evening, Ed Santamaria, 15 Spit Brook Road, Vice President of Operations for Two Guys Smoke Shop. I heard some interesting statistics tonight and the stunning numbers about where kids get their vape products and their cigarettes, 65% from here and 35% from there. But for me the most important number is that 100% of those kids have not been fined, penalized or charged. I think we need to Police this in our high schools if we are worried about high school kids and not take this out on the adults, the responsible adults over 18 in Nashua. All this does is hurt businesses in the area and we should concentrate on enforcing the laws at that level where we need to enforce them, at the high schools and under 18. Thank you.

Brandon Pierotti Good evening, Brandon Pierotti, 14 Lochmere Lane. I was invited her tonight by Susan Lovering regarding my reappointment to the Nashua Conservation Commission. I was appointed in 2015 to my term by Mayor Donnalee Lozeau and I hope to continue for another 3 year term. I thank you Mayor Donchess for reappointing me. I hope to be sworn in tonight. If you confirm the reappointment; I'd be happy to answer any questions you have for me. I have very much enjoyed serving on the Commission and I hope to continue to. Thank you.

Adhvika Hi, hello my name is Adhvika I live at 19 Preserve Drive in Londonderry. I have come here today to represent the youth of New Hampshire in support of the Tobacco 21 Ordinance. So as previously stated, many people have been stating economic effects of the ordinance. I completely understand those. However, as I've looked up statistics when I was researching this past week,

according to the CDC in 2017 this is for all Americans nationwide but you can take a sampling in New Hampshire and Nashua as well but 40.8% of Americans who said that they smoked daily or some days are age 25 years or older. So you are not losing a lot of customers or market base, it's only like 12% but you are still retaining a majority of the people who may buy or use tobacco products in America. And as a member of our youth I am really concerned about protecting our health because we are the future and we might be sitting in the same seats that you are all sitting in today. And if we don't protect the health of our youth as nicotine is a very addictive drug, it has been compared to levels of cocaine and heroin and as we are dealing with opioid crisis, New Hampshire and even Massachusetts in this day and age, I think tobacco might be put to that level if we don't pass this ordinance. Thank you.

COMMUNICATIONS REQUIRING FINAL APPROVAL - None

PETITIONS

Petitions for Street Acceptance: Adelaide Avenue and Pendant Lane

- Committee on Infrastructure Recommends: Granting Petitions

**MOTION BY ALDERMAN O'BRIEN TO GRANT THE PETITIONS FOR STREET ACCEPTANCE FOR ADELAIDE AVENUE AND PENDANT LANE
MOTION CARRIED**

NOMINATIONS, APPOINTMENTS AND ELECTIONS – None

REPORTS OF COMMITTEE

Budget Review Committee..... 04/22/2019

There being no objection, President Wilshire declared the report of the April 22, 2019, Budget Review Committee accepted and placed on file.

Budget Review Committee..... 04/29/2019

There being no objection, President Wilshire declared the report of the April 29, 2019, Budget Review Committee accepted and placed on file.

Budget Review Committee..... 05/02/2019

There being no objection, President Wilshire declared the report of the May 2, 2019, Budget Review Committee accepted and placed on file.

Budget Review Committee..... 05/07/2019

There being no objection, President Wilshire declared the report of the May 7, 2019, Budget Review Committee accepted and placed on file.

Committee on Infrastructure..... 04/24/2019

There being no objection, President Wilshire declared the report of the April 24, 2019, Committee on Infrastructure accepted and placed on file.

Personnel/Administrative Affairs Committee..... 05/06/2019

There being no objection, President Wilshire declared the report of the May 6, 2019, Personnel/Administrative Affairs Committee accepted and placed on file.

CONFIRMATION OF MAYOR'S APPOINTMENTS

Administrative Services Director

There being no objection, President Wilshire declared Kim Kleiner, 32B Courtland Street, Nashua, duly appointed to the Office of Administrative Services Director for an indefinite term at the pleasure of the Mayor.

Oath of Office administered by Corporation Counsel.

Board of Assessors

Lydia Foley, 2 Bruce Street, Nashua, withdrawn.

Conservation Commission

There being no objection, President Wilshire declared Brandon Pierotti, 14 Lochmere Lane, Nashua, duly appointed to the Conservation Commission for a term to expire December 31, 2021.

Oath of Office administered by Corporation Counsel.

Mine Falls Park Advisory Committee

There being no objection, President Wilshire declared Trisha Mullin, 275 Broad Street, Nashua, duly appointed to the Mine Falls Park Advisory Committee for a term to expire May 1, 2022.

Oath of Office administered by Corporation Counsel.

Zoning Board of Adjustment

There being no objection, President Wilshire declared Nicholas Kanakis, 159 Main Street, Nashua, duly appointed as an alternate member to the Zoning Board of Adjustment for a term to expire September 11, 2020

Oath of Office administered by Corporation Counsel.

UNFINISHED BUSINESS – RESOLUTIONS

R-18-073, Amended

Endorsers: Alderman-at-Large Brian S. McCarthy
Alderwoman-at-Large Shoshanna Kelly
Alderman-at-Large Michael B. O'Brien, Sr.
Alderman Jan Schmidt
Alderman Tom Lopez
Alderman-at-Large Brandon Michael Laws
Alderwoman Mary Ann Melizzi-Golja

PROPOSING AN AMENDMENT TO THE CITY CHARTER RELATIVE TO FILLING VACANCIES ON ELECTED BOARDS BY MAJORITY VOTE OF THE REMAINING MEMBERS OF THAT BOARD

R-19-130

Endorsers: Mayor Jim Donchess
Alderman Tom Lopez
Alderman-at-Large Brandon Michael Laws

AUTHORIZING THE SALE OF TAX DEEDED PROPERTY LOCATED AT 4 ½ - 6 CANAL STREET

Given its second reading;

**MOTION BY ALDERMAN KLEE FOR FINAL PASSAGE OF R-19-130
MOTION CARRIED**

Resolution R-19-130 declared duly adopted.

R-19-131

Endorser: Mayor Jim Donchess

AUTHORIZING THE GRANTING OF AN EASEMENT TO THE NASHUA MILLYARD ASSOCIATES, INC., OVER LAND LOCATED AT 2 PINE STREET EXTENSION

Given its second reading;

**MOTION BY ALDERMAN O'BRIEN FOR FINAL PASSAGE OF R-19-131
MOTION CARRIED**

Resolution R-19-131 declared duly adopted.

R-19-135

Endorsers: Mayor Jim Donchess
Alderman Linda Harriott-Gathright
Alderman-at-Large Lori Wilshire

RELATIVE TO THE APPROPRIATION OF \$24,850 FROM DEPARTMENT #194 "CONTINGENCY", ACCOUNT #70100 "GENERAL CONTINGENCY" INTO VARIOUS NEW ACCOUNTS IN DEPARTMENT #106 "ADMINISTRATIVE SERVICES"

Given its second reading;

MOTION BY ALDERMAN HARRIOTT-GATHRIGHT FOR FINAL PASSAGE OF R-19-135 BY ROLL CALL

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

Yea: Alderman O'Brien, Alderman Gidge, Alderman Harriott-Gathright
Alderman Dowd, Alderman Klee, Alderman Laws, Alderman Lopez
Alderman Caron, Alderwoman Kelly, Alderman Jette, Alderwoman
Melizzi-Golja, Alderman Tencza, Alderman Schmidt, Alderman
Clemons, Alderman Wilshire 13

Nay: 0

MOTION CARRIED

Resolution R-19-135 declared duly adopted.

There being no objection, President Wilshire withdrew R-19-134 from Committee

R-19-134

Endorsers: Alderwoman Mary Ann Melizzi-Golja
Alderwoman-at-Large Shoshanna Kelly
Alderman-at-Large Michael B. O'Brien, Sr.
Alderman Linda Harriott-Gathright
Alderman Patricia Klee
Alderman-at-Large Brandon Michael Laws
Alderman June M. Caron
Alderman Jan Schmidt
Alderman-at-Large Lori Wilshire

ADOPTION OF STRATEGIC PLANNING GOALS

Given its second reading;

There being no objection, President Wilshire assigned R-19-134 to the Planning & Economic Development Committee

UNFINISHED BUSINESS – ORDINANCES**O-19-037**

Endorsers: Alderman Ernest Jette
Alderman Tom Lopez

RAISING THE AGE TO PURCHASE, USE, AND POSSESS TOBACCO PRODUCTS AND E-CIGARETTES FROM EIGHTEEN (18) TO TWENTY-ONE (21)

Given its third reading;

MOTION BY ALDERMAN JETTE FOR FINAL PASSAGE OF O-19-037ON THE QUESTIONAlderman Jette

I'd like to speak on that. At this time I'd like to move to amend O-19-037 with the version that is on your desk marked "amended" and I'd like to speak about that. So this all started with an Ordinance that I asked the Legal Department to draft; this started when I saw the City of Keene adopted an Ordinance raising the age at which to buy tobacco products from 18 to 21. I found out that the State Law that makes the tobacco age currently 18 had a provision in it that allowed local cities and towns to raise the age. I found out that Dover did it last summer and Keene did it most recently effective January 1st of this year.

I had long known about the evils of tobacco and nicotine and I thought since we had the opportunity to do that that we should do so. I basically gave copies of the Keene and Dover ordinances to the Legal Department and they drafted the original version of this ordinance. After that was done, when the ordinance came before the Personnel & Administrative Affairs Committee, that Committee voted 3 to 1 to recommend final passage. Prior to the full board meeting, I was approached by Alderman Clemons asking me to make some amendments to the ordinance. After doing some research I found that the amendments that he was requesting were more consistent with what other areas of the country had done; specifically the amendments that he requested and are part of this amended version. They are that number one it removes possession from the ordinance. It concentrates on the purchase, sale and distribution of tobacco products.

So the criticisms that you've heard about people being subject to being fined for merely possessing the tobacco products has been removed. The argument that people coming from one jurisdiction where it is legal, passing through Nashua where it is illegal and being stopped for some other reason would be subject to being fined is no longer part of the ordinance. The possession part has been removed. And I was comfortable with that change because not only has my research shown that other jurisdictions

that have raised the age to 21 have not prohibited possession, I found out that the model legislation propounded by tobacco-free kids does not prohibit possession. The model legislation recommended by the American Heart Association, the American Lung Association, The American Cancer Society all recommend against prohibiting possession. So it takes away, and their purpose in that is that they don't want to penalize possession by young people, they want to deny access, they want to make it more difficult for these people to purchase. They want to penalize people who are selling these products to people under 21.

With that research I was comfortable making that amendment. The other change is that rather than making, if this passed, making it illegal for someone who is already 18, 19 or 20, all of a sudden making it illegal for them to obtain these tobacco products kind of denies the reality that nicotine and the nicotine that is contained in tobacco products and vaping devices is very, very addictive. That's one of the arguments that the people who want to raise the age have made; that this is very addictive and it's especially to young people because the young brain is more susceptible to addiction. And as has been pointed out by the people who have testified in favor, you know, remember some of the people you have heard from who have testified in favor of this have been the Director of our Health Department, Bobbie Bagley; two physician members from our Board of Health, Dr. Cappetta who is a pediatrician and Dr. Wolf-Rosenblum who is a pulmonologist. We've also heard from Dr. Albee Budnitz who is an expert. He's a retired pulmonologist but he teaches at Dartmouth now and he's very active in Breathe New Hampshire and the Prevention Coalition.

These people have pointed out to us that the brain of a young person is not fully developed, that brain is not capable of appreciating full the consequences of decisions that they make. And so these people who up until now have been able to obtain these products have become addicted. And we have to acknowledge that addiction is a disease. You know, these are not bad people; these are people who have become addicted. And to suddenly say to them you know, from now on you can't obtain these products isn't going to necessarily make it happen. We have to recognize their addiction and we have to acknowledge that it is not as easy as we may hope to just stop.

So this provided for a grandfathering of this ordinance. So it says that it applies to people who are either under 21 and born after June 30th, 2001 will be exempt from this ordinance. So this acknowledges people who will have become 18 by June 30th or the effective date, July 1st, will be exempt from this. But in the future, people who haven't reached 18 yet and don't reach 18 by that date, it will be illegal to sell these products to them or for them to purchase it. At the last hearing there was a police officer who came to testify and he was asked about if this would make it more difficult for you. And I'm not sure that he was completely aware of the wording of the ordinance because he said "well you know you've got to figure out when did the ordinance pass and when did these people become 18". But the way it's worded it makes it very clear. So just to remind you in New Hampshire, if you are 21 you get a Driver's License that is horizontal. If you are under 21 the Driver's License is vertical. So this was designed for liquor, for alcohol so that store clerks can know right away whether someone is 21 or not.

The same would apply here, store clerks would be able to recognize whether someone is 21 or not, if they are under 21 then they can look and see were they born before June 30th, 2001 or not. It's a simple matter. The other amendment is to in recognition of something that Alderman Gathright spoke to me about and that was her concern that this could be used unfairly to minorities, that it would be an excuse for the Police to get the young people involved and subjecting them to citations, to fines which they may not be able to afford and it would discriminatory against them. So I added something that is in the current State Law and that someone under 21 instead of paying a fine, they can be required, as an alternative, to participate in an education program regarding tobacco products, e-cigarettes or liquid nicotine or a program for the cessation of the use of tobacco products, e-cigarettes or liquid nicotine or the completion of community service as an alternative to the fines. So this was an attempt at accommodating her concern to allow rather than having to pay a fine, you know, there were some alternatives here that don't involve the paying of money.

So I would recommend that we adopt this amended version. The arguments that I've heard and I don't deny that everybody is speaking with the best of intentions and speaking what they truly believe. But when people talk about how we shouldn't do this just in Nashua that we should seek a statewide solution, I agree I think it would be better if the state raised the age to 21. But the State hasn't and at the Committee meeting, not all of you were there, but at the Committee meeting I told you that I ran into Donna Soucy, the President of the Senate who is on the Senate Commerce Committee that considered a Senate Bill to raise the age to 21. I had testified in favor of that and that Committee decided to retain it in Committee, they didn't send it to the Senate Floor. I asked her why they had done that and she told me because the law currently allows cities and towns to do this, and that some had done it, Dover, Keene, Newmarket, that they were interested in seeing whether other cities and towns would do this; whether there was support for raising the age to 21. So they are waiting for us, they are waiting for us to see what we do. I think that if we adopted this it would encourage them to enact a Statewide solution.

The other argument that I've heard and people have very sincerely said to me that just doing this in Nashua isn't going to do anything because people can just go to Hudson and buy it. And that's true; but just even though people can do, even though people could go to a different town and purchase this product, a lot of them won't. And where this has been enacted in other parts of the country and not only States, we are now up to 13 States that have adopted this Statewide. Vermont is about to do it; it will be 14 soon. Maine has done it; Massachusetts has done it. Most of those States started with a City or a Town in the State doing it. There are I think it over 250 communities across the country who have adopted and have raised the age to 21 just in their town. And wherever it has been done, it has had the effect of reducing tobacco use among, not only young people, but of everyone.

If the young people don't start, if it is more difficult for them to obtain it and they don't start then they are probably not going to pick it up later in life. They are probably never going to become addicted. So the town of Needham, you've heard me say this before was the first town to do it. When they enacted this, all of the towns around them, you could still purchase it at 18. But when they did it, they were able to reduce the use of tobacco at Needham High School by 47% and since then, that was 14 years ago that they did it, they just issued a report showing that the numbers of people who smoke in Needham are much less than the rest of Massachusetts. The hospitalizations due to lung cancer are much less than the rest of Massachusetts; the deaths due to lung cancer are much less than the rest of Massachusetts; complications from women smoking during pregnancy is much less than the rest of Massachusetts.

So I appreciate when people doubt that this is going to work, you don't have to believe me, look at the research, look at the evidence in the rest of the country where this has been done and it has worked. The other testimony that we've heard about people who are 18 are adults and ought to be able to make their own choices. You know I understand that Libertarian argument that people ought to be able to do whatever they want to do as long as it doesn't hurt anyone else. But the truth is that smoking does hurt other people, second-hand smoke hurts other people. The vaping, the aerosol from vaping hurts other people; the people who smoke you've heard the statistics about how much that costs, you know, it's like \$729 million dollars in NH for treating people with smoke-related diseases. And we are all paying for that, not just the person who is sick, but we pay for it in higher insurance premiums, because insurance companies have to get money from all of us in order to pay for the people who they are treating for smoking-related diseases but also Medicaid, directly our tax money.

Our tax money pays for Veterans who unfortunately went to serve our country, risked their lives and came away from it with a tobacco addiction. And my office is right next to the Dalianis House and I see these poor guys out there smoking, some of them are on scooters with oxygen tanks. And they are still smoking because of this addiction. And again I emphasize, people who smoke are not bad people. They are people who have obtained this addiction and a lot of them will tell you, they want to quit, they've tried to quit and they can't quit. So if we can stop people from getting addicted in the first place, I think we are doing them a favor. We are not doing a favor to people who are 18, 19 and 20 by allowing them to become addicted. We did it for alcohol.

When New Hampshire raised the drinking age from 18 to 21 there was an over 90% reduction in alcohol related deaths from that age group. So raising the age works and I hope that my fellow Aldermen will support number one – amending this ordinance and then if its amended, hopefully passing it.

Alderman Clemons

Just a simple request please roll call.

Alderman Klee

I actually am quite stunned to see this here because if I am not mistaken when this was brought forward to the Personnel Committee there was only one person that voted for that and the rest of the Committee voted against it. It was actually, the entire bill was defeated in the Committee, and I think it was Alderman Clemons who said did all the hard work and in all fairness to all of us Aldermen that we would bring it forward to it and you pretty much so said that that was the right thing. And I agreed with it; I think it should have come forward. I think that if this does pass you probably will get this bill. I am still very much against it; I don't deny any of the science. I think the science is probably very, very accurate. You continue to bring up the Needham statistics; well I'd like to remind everybody that the median income in Needham is much higher. The education in Needham is much higher, the population in Needham is about half of that of Nashua. Also some of the statistics that were prior to this, Needham's use of tobacco was already on the decline. So that's a little thing that we need to add to it and so on.

You mentioned about the licenses, the vertical / horizontal kind of license. I am not going to argue with that but the truth is then the police officers do have to sit there with a calendar to say ok were they born before this and that and I think that is probably what the officer was discussing. When Vermont does pass it we will be surrounded by states who are no longer selling this which is why I think that New Hampshire has to step us. And perhaps Senator Soucy was making the comment about that she wanted to see what was going to happen out in the towns and the cities. I still think that the State needs to take the responsibility and whether people want to agree with me or not, that's just my feeling and so on.

As far as raising the alcohol level, Nashua didn't do it, Keene didn't do it, Newmarket didn't do it, Dover didn't do it; New Hampshire did it. And actually we were kind of forced to it, much like Massachusetts and so on and that was because we were going to be losing highway funding. I agree with it, I agree with raising the tobacco age to 21. I don't agree with it here in Nashua. I think I've said this over and over again so I'll stop here, thank you.

Alderman Harriott-Gathright

First of all I want to clarify what I did say when I testified before in regards to this and what I did say is that we have received a lot of data in regards to this and I believe it was Ms. Valuk tonight that actually said some of the things that I talked about. I said that the statistics showed that most of the people that use the vapor and the nicotine were economically deprived. I also said that they were also of color, alright? Those are the two things. The other things that I did say about this is that those kids that were being arrested were low income, or of color. Now this is statistic-wise, because one of the things that we have here is the \$50.00 and the \$100.00 alright? And the Police said that the only way that they could actually enforce this is by putting the money there, otherwise they are arrested. We have worked very hard in New Hampshire to keep our young people out of the system and I see this as just another way of putting them back. I have been working at this for a very long time with all the different groups that work with young people. And I feel that now you are saying "Well here we go again". This is another way, you're back again. So this is the main reason why I was against the bill.

The other piece of that is statistics that I didn't hear until tonight was 39.9% of the children are purchasing it themselves. So in my opinion we should be looking at the establishments, educating our children more, there are other ways I think we could have done that besides this. And I am going to leave it at that because I've talked about it enough and I've heard enough from a lot of people and that's my take on that.

Alderman Lopez

I think if we serve people in a lower economic bracket than Needham and people who have more diverse backgrounds than we have just as much right and responsibility as Aldermen to represent them in a way that accurately represents their best interests given the data and the information that we have. So I was opposed to this in the Committee meeting, the amendment, because I felt that we wouldn't be doing the best job that we could with it by removing the possession and creating a scenario as was described in Public Comment where someone could buy in Hudson and just possess it in Nashua, even if they couldn't purchase it in Nashua. However, it was pointed out to me in the intermediate week by a constituent that if the State does do its job and does move this forward then that's a mute point because you won't be able to buy it anywhere in New Hampshire. You also wouldn't be able to buy it in Maine; people wouldn't be coming up from Massachusetts to buy it here. So that objection which was the primary piece that I objected to in the amendment, if I put a little bit of faith in the State, then I don't have that objection. I'm not 100% sold on the State doing it, because we do have a record of waiting until the last minute to do everything as was described with the alcohol. We know 21 at this point is a norm that everyone can tolerate and that it does make a difference in the lives of people who are younger. Sure there are always underage parties but they are not going to the bar and they are not picking them up in stores; it does make a difference.

At the Federal Level, the Federal Minimum Wage is still \$7.25 like I'm not going to, I don't see them quickly moving on anything. I do see more and more States taking over, so I think it may end up being a State-run initiative but every movement has to start with somebody who steps forward and says "I can't do everything but I can do something" and being willing to do what they can do. I think the amendment does remove or at least provides an alternative to the fines in the form of the smoking cessation class. The grandfathering, again, in my opinion if we can do something we should do it. If we are going to enforce or create the ordinance we should just go all in and say 21 and make it very clear. But again the grandfathering doesn't matter if the State takes the initiative and moves forward with this. So I would support either bill.

Alderman O'Brien

Thank you. I am not going to support the bill, I'm not going to support the amendment. The constitution is quite clear, it says 18. And if you want the State to do it I would support the State, not the community of Nashua to have Nashua come to effect. I look at it if a 16 year old was smoking or drinking and goes home with smoke on their breath or alcohol on their breath, can imagine the parents would be quite upset. And I think if a 19 year old went home with alcohol the parents would be equally still upset and 20 and up to the age of 21. But at 18 the Federal Law says that they can go home with tobacco on their breath. So therefore the Libertarian side of me, I'm glad you mentioned it, listen I also know being part of the State Legislature, there's 400 wise people up there. And I think they are quite capable to make a decision to discuss a bill and making that decision I think we can all abide by what the State has to do. I am not here as an Alderman to poke the nose or the eye or the butt of the State trying to make a decision. They are quite capable of making the decision on their own.

Yet looking at this amendment and to my State Rep friends will tell you, we live on words such as 'shall' and 'may'. And I look at Section D and any person violating the provision of this section shall be subject to fine of up to \$50.00 for first offense and up to \$100.00 for a second subsequent offense. Now 'shall' to me, if I was going to put 'shall' to another word, would be 'will'. You will be charged. So we are going to charge the youth for this yet in looking at E and if I may read it again, any person violating provisions of this section who are under the age of 21 may be required to participate in an

education program regarding tobacco products, e-cigarettes, liquid nicotine, a program for cessation and the use of tobacco products, e-cigarettes, liquid nicotine or the completion of community service as an alternative to the fines provided by Paragraph D. Well it seems in paragraph D you are going to get the fine. Not if, not what not even if you want to go to a cessation program. And you don't have to go to the cessation program because it says "you may" which another word for 'may' maybe or I might. So it's a good attempt, I respect it, but the verbiage and I think my fellow State Reps who handle these issues all the time, know exactly what we are talking about, we get slammed up in Concord when we had the may and the shall debate and see others are kind of shaking their head, yet it's right here in an ordinance that's before us now. Thank you.

Alderman Tencza

So just to follow up with Alderman O'Brien's final point the criminal code is full of sections that say "shall be fined" which this section doesn't say that the fine couldn't be suspended or couldn't be substituted for community service so even if it's there it doesn't mean that somebody would have to necessarily pay that fine as a result of a violation of this ordinance. It took me a long time to make a decision on where I would come down on this ordinance and I think I may have been the person who spoke with Alderman Jette about enforcement as a primary offense for someone who the Police may think is under the age of 21 smoking a cigarette in their car.

Because of the way this amendment is drafted, I do not have any concerns with that any longer because I think it takes the burden off of the possession and puts it on people who are selling or distributing tobacco. I think it is more of a balance. I respect all the folks who have a lot of experience up in Concord and the work that goes on there; I think Concord is looking to the cities and the municipalities to see what we do about this. And as a Public Health, as a Public Safety measure, I think this is a good start moving forward; it's not going to cure all the issues we have with young people using tobacco and getting hooked on tobacco products but it is a step in the right direction.

Alderman Harriott-Gathright

Ok the word possession was taken out but what was the other word, distribution. How many young people consistently give their cigarettes to their friends I mean you know they pass them around like them around like are nothing, so that's called distribution because they have actually given it to their friends, ok? So we might have taken possession out and made it a little less worrisome for the young people but the fact that if they distribute it to their friend or anyone they are still going to have the same issue that they had, had they had possession.

Alderman Schmidt

Thank you Madam President. Let me start by saying I absolutely hate smoking. At 14 I walked into the girl's room at the skating rink and that was it, I was stuck for 30 years. I can't walk by a smoker on a sidewalk without gagging, without choking, it is asthma at this point, I'm very lucky that's all it is. If this could stop children from smoking I think that would be absolutely stunning. However, I do not want to see children punished for this. I do not want to see that; that is the wrong way to go about this. Sellers should be punished if they are going to be selling to underage, there's no question in mind there should even be those underage kids that go into your shops and try to trap you and you should be punished severely for that because you can't start kids on tobacco and expect them to wind up living in the end. So that would have to come out for me. I certainly can't vote for this in any way. I also think that it's very unfair to our local businesses. I don't like that you sell cigarettes, but I think it's unfair because I think the people who are 22 are going to go out as well, out of the City.

The other thing that is if we do this up at the State, we can actually increase the tax on this, we can increase the tax and that money can go to the schools to do presentations that will help kids understand why smoking is bad. Bad, bad, bad. I can't support this. Thank you.

Alderman Lopez

To some points that were made earlier I just want to point out that it already is a crime for someone who is 18 to distribute to someone who is not 18. And the argument that keeps coming up in public comment and in the previous committee meeting was that the schools should be fining kids. I don't entirely agree with that because I feel like if you're in school you are supposed to be there for education. The problem needs to be interdicted, things need to be confiscated, but I am in agreement with Alderman Gathright that fining children is not exactly going to be effective, it's probably just going to trickle up to their parents. So those are already on the field; the difference is that this was precipitated by the statistical evidence that 18 and 19 year olds are the easiest way for kids who are 14, 15, and 16 to get cigarettes or you know tobacco products. They can still e-cigarettes, they can still get vape products, depending on how they buy them and where because that legislation hasn't come in yet. So I think that's a little bit of a red herring when it comes to the study that they can still purchase themselves legally, this would close that too and it would make sure that they can't purchase at least e-cigarettes if tobacco products are associated with them.

I would also just make a point, it was brought up in public comment that tobacco can be put in the e-juice, yeah, so can weed, doesn't mean you shouldn't try to stop them.

Alderman Dowd

Just a couple quick things. One it surprises me that not a single State Rep in this Chamber will support this bill yet nothing is being done in Concord. The head of the Senate has said they are waiting to see what the cities do. My way of thinking is that it will never get passed, because we've got a sample of 100% here saying that they don't agree with it; they'll pass it at the State level but they are not.

The other thing is last night on a completely separate decision there was a Rep from Hudson that said "we are just waiting for Nashua to take action on this other event". So Hudson, Hollis and Brookline and all the cities are probably waiting to see what Nashua does and will do the same thing and maybe then the State will act. There are numerous States in the Country that have already done this including several surrounding us. At the National level they are looking to pass this law. If we don't take action I don't see any action being taken anywhere and I think we need to move the needle.

Alderman Klee

Thank you again. I just wanted to make one more comment that I had forgotten about and that was the ability for the mailing and being able to mail order tobacco products or vape products or so on. And right now an 18 year old Nashua resident still has the ability to do that. Just like they had the ability as we keep talking about going to another surrounding town. I just wanted to remind everybody about that that even if they have to get in a car and drive somewhere, they can mail order it. And these days it's just really easy to just do it on your phone.

Alderman Gathright

I just wanted to say that I'm not sure about the Senator's statement but she is in the Senate and the people that sit here, we are in the House and we don't always think the same way. So to make a statement like that, personally I am offended with the statement.

Alderwoman Melizzi-Golja

Yes thank you. I find this whole discussion about what we are doing in Concord versus what we are doing here very interesting especially in light of the fact that our neighbor State Vermont, the House and Senate has passed legislation that they expect their Governor will sign. So once again, we are going to find ourselves in New England as the hole in the doughnut. And those of you have been here

for awhile know I am referring to Rail. And when the State decided to do something we sitting around this horseshoe thought was not in the best interest of Nashua and the residents of Nashua; we decided to take action. And so once again, when Governor Scott signs the legislation in Vermont we will again become the hole in the doughnut. And I think each of us has to say do we wait for Concord and as Alderman Dowd was talking saying "we don't know if Concord will ever pass it". Alderman O'Brien was nodding his head in agreement, we don't know if Concord will ever pass it.

So I guess we have heard from everyone that they support it except for this and they support it except for that. Yet I really believe Alderman Jette and Alderman Clemons with some conversations with folks have done a great job of trying to put together something that will address the concerns of everyone around this horseshoe. So I don't know if there are some changes of wording some people would like to see and they would like to make those amendments now and make those suggestions now or if we are just going to vote on it. But again I guess my thought is if it doesn't happen in Concord but we think it's good for Nashua, then that's what we need to do. Because sitting around this horseshoe we are sitting here representing the City of Nashua. Thank you.

President Wilshire

Anyone else?

Alderwoman Melizzi-Golja

Move the question, roll call vote please.

President Wilshire

The motion before us is for final passage, no I'm sorry, is for the amendment of Ordinance 19-037.

Yea: Alderman Dowd, Alderman Lopez, Alderwoman Kelly, Alderman Jette, 7
Alderwoman Melizzi-Golja, Alderman Tencza, Alderman Clemons

Nay: Alderman O'Brien, Alderman Harriott-Gathright, Alderman Klee, 6
Alderman Caron, Alderman Schmidt, Alderman Wilshire

MOTION CARRIED

Alderman Clemons

Thank you. So I'm glad that we could come up with a compromise on this. The reason that I brought this forward was because I originally said that I would never vote to take away somebody's rights who has an existing right. So in other words if you are 18 and you currently have the ability to purchase tobacco or whatever, this doesn't take that away. Also, in addition to that it gets rid of the fines. What I didn't realize until this evening was the, and I want to thank Alderman Harriott-Gathright for this was the distribute, provide or give part of it. And that was clearly an oversight on my part because I would have never endorsed something that if kids pass around a cigarette to one another, they could be fined \$50.00 to \$100.00. So I don't know how my colleagues feel about this but I can't support this with that in there.

As I am thinking about these amendments, you know, I brought these forward because I honestly believed that this legislation was going to pass and it was going to hurt people. And I am glad to have brought forward a compromise that a good portion of this Board can support. But having said that, somebody also brought up to me the other day, well would a doctor in Nashua be able to prescribe Chantix? Or would they be able to, would a person who is trying to quit smoking be able to buy Nicorette Gum? I don't know. I don't know the answer to that. This is something that has really really gotten to me, and while we worked very hard on the amendments, I don't know, there are too many ...

for a City to do something like this, there are too many unintended consequences to really think about. I don't think we've vetted them, I don't think we know what they all are. I don't know what I'm going to do.

Alderman Lopez

Can I ask Attorney Bolton if there is any legal definition of distribute or if that does include anything from selling commercially or distributing.

Attorney Bolton

It means just what you think it means if you give this to someone else, with or without compensation, you've distributed.

Alderman Lopez

I guess I'd like to propose that we amend it to replace the words, to phrase distribute with commercial sales of.

Attorney Bolton

If I can make a suggestion why don't you just say you want to delete the words "distribute, provide or give" because I think you are going to have the same problem with provide and give that you have with distribute. So then that section will say "no person or businesses shall sell a tobacco product etc". So you want to, I believe you want to eliminate the words "distribute, provide or give".

President Wilshire

What paragraph is that in?

Attorney Bolton

That's "B" of 304-2.

Alderwoman Melizzi-Golja

To Attorney Bolton, that same paragraph, if we inserted "no person 21 or older or business".

Attorney Bolton

You could do that.

Alderwoman Melizzi-Golja

And that would get rid of

Attorney Bolton

That would get rid of the liability for one 16 year old providing it to another 16 year old.

Alderwoman Melizzi-Golja

Or an 18 year old providing it to a 15 year old.

President Wilshire

So are you making that an amendment.

Alderman Lopez

May I ask a question first? Would that contradict any existing State Law about having tobacco on school property or anything like that?

Attorney Bolton

I don't think so but I don't know every single State Law there is. But it's quite clear that the current State Law gives municipalities to have stricter rules governing the sale and distribution of nicotine products. So I would say that the suggestion by Alderwoman Melizzi-Golja is unlikely to contradict any existing State Law.

Alderwoman Kelly

In terms of the amendment that was just brought up, part of this legislation was talking about making sure that there wasn't access for people who are not legal and shouldn't have it. If we take out "sell, distribute, or provide" that would still allow people to then pass it on. I know that someone in the chamber was talking about 61.5% of high schoolers get it from someone who is legal other than a parent. So I worries that this just cuts it off at its knees even more so than it already has already.

Alderman Klee

Yes I think it's a gallant effort for everybody to try to get this passed with the minimum pain to the youth of the City but with each one you are doing, I have been hearing over and over again that it's the 18 year olds that are getting it to the 16 year olds and it's this and that and so on and in the school. Every change that you make you are just watering it down more and more so I have to ask what the sincerity of this is, other than just to get it passed. I don't know, enough said, I am sorry.

Alderman Jette

The purpose of doing this is to raise the age from 18 to 21. The State Law currently prohibits "no person shall sell, give or furnish or cause or allow or procure to be sold, given or furnished tobacco products, e-cigarettes or liquid nicotine to a minor". Ok? So the State Law already prohibits a 16 year old giving it to another 16 year old you know? So it's already there, I mean what this was trying to do was raise the age to 21. You know if we said "no person over 21 shall sell, distribute" I'm fine with that, but it would still be, I guess it would allow people who are 20 to give a cigarette to someone who is 19 but they couldn't give to someone under 18, I mean that's the current State Law. So I have no problem with the change, I just want to point out that the current law that we have, the amendment doesn't really, it doesn't make it illegal, it is already illegal for someone to give cigarettes to somebody under 18. So saying or changing our thing to say it only applies to people over 21, you know, would eliminate the 20 year old giving it to the 18 year old, but they still couldn't give it to the younger kids. That's already illegal and that's State Law, we are not changing that.

Alderman Clemons

Thank you. So I proposed this change and some of it came from myself, some of it came from Alderman Jette and some of it came from Alderman Laws who is not here. Sometimes on these things, what I've learned in this because you are always learning something you know? I used to think and I've run on before many campaigns in the past that compromise is a great thing and it is. But there are some issues where, and this is one of them, and I've learned this where it is just not possible.

There's just too many what if's and what have you's and different scenarios and I don't want a, I mean, you could either pass this as it is all or nothing or as Alderman Klee had pointed out, at what point are we watering this down to just why are we, we are basically, all we are saying is that you are not going to be able to sell to somebody who is under the age of 21 basically in the City of Nashua. And at that point, well why? So you know so I proposed this and I put feelers out there in the community. Now certainly we've been contacted as Aldermen by constituents, I have. I've gotten many phone calls, e-mails, even got a couple letters of people writing to me on both sides of the issue. They want it, they don't want it, they don't want the compromise, they like the compromise. I put a post out there on the Nashua Civic Sounding Board just to kind of get a feeler as well for this compromise, and I have to say that it was 3 to 1 against it. And I have to say that of all of my talking to everybody that I've talked to about this, it's 3 to 1 against doing this.

Now the answers vary as to the reasons why, they are almost universal on the other side. So on the one, it's definitely a health issue and that's what is cited to me and also that is going to stop youth smoking or at least make it harder and I get that, it probably would. On the other side of the 3 to 1, there are various things that are said, one is it is unenforceable, it is going to hurt those in the lower socioeconomic groups which we have tried to address here, it's not worth the City's time, it's not worth the Police time, it is State issue, it is a freedom issue, it's a liberty issue. You know 18 year olds are adults, if you can carry a gun at 18 you should be able to smoke a cigarette. I've heard everything. Even despite and this was out there, this was me saying to the public this is what I can present, what do you think and 3 to 1. It was no. And yet my gut still tells me that it is probably in the interest of those that are our youth to do this because I think that there is value there in it so long as we are not violating anybody's rights who is already got that right.

However, after having this discussion this evening, after having this discussion with the community, seeing the chaos that this legislation has created just here in this chamber alone, I can't do it, I can't support it, I tried, I tried my best. But you know sometimes you listen to what your constituents have to say and you let them make the decision and on this one, you know, I've done my best, I've thrown my best out there. But you know I am going to let my constituents talk to me and for the ones who have contacted me, it is 3 to 1 against this, so I am going to vote no.

Alderwoman Kelly

You keep calling on me as I've had a comment to the previous one so I apologize. I'm having a hard time with the continual changes on this is what I was going to say. I appreciate that the Aldermen around the horseshoe want to try to make this work but I think there are unintended consequences to making quick changes. Like for example what you recommended with the under or over 21 does it make it that convenience stores can no longer have an 18 year old be their cashier at that point because they won't be able to sell the tobacco products? And that's just thinking about it in a flash of a moment but I also agree that we are continuing to water this down and water this down. I was in support of the original if we continue to water it down it is just for headlines.

Alderman Jette

I don't know how many people responded to your civic sounding board survey Alderman Clemons but the Nashua Telegraph did an online survey and there were close to 800 people who responded and there was 63% in favor of raising the age to 21 and 37% against so I don't know if you are looking to assess the feeling of your constituents, I don't know if that is information that helps you or not but I just thought I would point that out to you.

Alderman Lopez

I propose the latest amendment and I think Alderwoman Melizzi-Golja did as well because we were following the suggestion that we compromise and address issues as they were. We just had our sincerity questioned which I object to because all of the State Reps here promise they are going to

handle this, have not done that and are unilaterally opposed under any condition. We just entertained an entire month delay when we could have just voted on this the previous meeting because an amendment was agreed to be proposed that was not proposed at that meeting despite my explicit comment that it should be. So we went through the whole committee process and we still compromised so I don't think our sincerity needs to be questioned, I think it stands for itself. We are trying to reduce the number of cigarettes that are in the hands of children. We have an actionable step that we can take right now. People's vote and people's actions speak much more loudly than their words do.

So we can generate whatever statistics we want or we can choose whatever studies we want, the position for supporting this, those are coming from National Studies those are coming from peer reviewed academic studies. The sounding board does not meet that muster, if you think it does, again that speaks for itself. But I think our intentions are clear on this and watering it down is unfortunate, I think in trying to be civil and trying to recognize what people are saying they are feeling, we have wandered away from the path and I think at this point we do just have to call it like it is and let people stand up for what they really believe in with their actions.

Alderman Tencza

Thank you I'm not sure we have necessarily heard anything new tonight that we haven't heard in the past, I don't necessarily think that there's been chaos thrown into this debate because these are all points that have been brought up by people. And I don't agree that this has been watered down. I think Alderman Jette has listened to what people's concerns were with his original proposal, he's been thoughtful about the amendments, he's worked with other people in bringing them forward to the Committee. To say that it's watered down and it's not going to have any effect on helping curb youth smoking, I just don't think that is correct. I think we are trying to make it more difficult for tobacco, tobacco products to get in the hands of 18 to 21 year olds and I think that with a minor amendment we could still accomplish that.

As far as what is going to happen in Concord, it may happen, it may not happen who knows what the legislature is going to do. And Alderman O'Brien is right, it's not just the House, it's the Senate, it's also the Governor and whether the Governor is going to sign a bill that potentially is going to reduce the amount of revenue that the state brings in from smoking taxes which is unfortunately something we have to consider here. And that's a long process and that's a process that's not going to happen overnight. But this hasn't been watered down, I mean I don't think people's positions are going to change on this ordinance moving forward. It seems to me we can work this out tonight and take a vote on it one way or another.

Alderman Klee

Yes I wanted to address something that Alderman Kelly had said. I don't think there would be an issue if someone were under 21 selling it because we do allow these people to sell alcohol so I think it would kind of work within that same thing. They probably at 16 can't do it but I think 17 in the grocery stores and so on. So I don't think that's really an issue but I admire you bringing that up as a concern and so on. As far as the Chantix and Nicorette Gum and so on I would hope that wouldn't fall within this, but it is a possibility; it does refer to it as tobacco product. I don't know if those fall within the category of tobacco product and I would hate to hurt somebody who was trying to go through some type of cessation. And again, I do think we are watering it down and truthfully there is no compromise.

And Alderman O'Brien did bring up the fact, oh I'm sorry, Alderman Harriott-Gathright brought up the fact that the members here are from the House and not of the Senate and to say that we have not done anything in the House I think is unfair. I have promised to go forward in September as I know some of the others have. To say that we have done nothing to this point, we sat and did wait for the Senate to come forward; perhaps we shouldn't have, maybe we should have put in our own as I am

going to do. But I do think that is unfair attack and so on. I just don't want to see this bubble in Nashua and I agree I think it is time to move this question forward and vote on it.

Alderman Clemons

I only wanted to quickly just address that I wasn't questioning anybody's sincerity here and I'm not sure where that came from. I understand and I appreciate the poll that Alderman Jette said to me but I am talking about the constituents that reached out to me directly. And the ones that bothered to reach out to me directly are 3 to 1 against this, even the compromise. Sometimes and again I am going against what I feel is the right thing to do because in this one I'm going to listen to my constituents, it's what, I've you know, we've debated it and tonight, I'm sorry but there are just too many things that unfortunately, we can't address it all. There's always an exception to the rule, I live by that. And unfortunately the rule here is too much for me and we are better off letting the State handle it.

Alderman Schmidt

This is such a tough decision I wish it was really easy and it's not. There's only one thing that is a real loser for me on this bill and it's that children will be punished. I do not want to see that; I don't think kids should get in the system, I think that's wrong and if that was gone I would love this, otherwise, I cannot vote for it.

Alderman Gathright

I have a question first, the State Law is there a penalty associated with that do you know?

Attorney Bolton

Yes. I'm not sure of the level of the fine.

Alderwoman Melizzi-Golja

Alderman Jette is checking.

Alderman Gathright

Ok.

Attorney Bolton

If it's a violation then it would be \$1,200.00 that's a guess.

Alderman Harriott-Gathright

While he is looking that up there is one other statement I wanted to make was and this is one of the issues that came out of this situation here. It was a parent of a 14 year old that followed them to the store, watched an older kid go into the store buy it and come back out and give it to her son. Now as a parent, she should have called the Police, that's what she should have done, that didn't happen. So then it became another issue here. But as parents and I have a 14 year old and somebody is giving them something that they shouldn't? I'm going to call the Police and every last one of us should.

President Wilshire

Did you have an answer Alderman Jette?

Alderman Jette

Yes so the State Law is currently 18 prohibits “no person under 18 shall purchase, attempt to purchase, possess or use any tobacco product, e-cigarette, or liquid nicotine”. And for people who possess or use, “any minor who violates this section shall be guilty of a violation and shall be punished by a fine not to exceed \$100.00 for each offense or shall be required to complete up to 20 hours of community service for each offense or both. Where available punishment may also include participation in an education program”. And I’m not done for the sale and distribution of tobacco products, e-cigarettes or liquid nicotine to minors, “fines shall not exceed \$250.00 for the first offense, \$500.00 for the second offense and for the third offense the commission shall issue a letter of warning and administrative fine ranging from \$500.00 to \$1,500.00. In addition the license to sell tobacco products by the manufacturer, wholesaler, sub-job or retailer shall be suspended for 10 consecutive days and not exceeding 30 consecutive days”. And it continues for the fourth offense it’s 40 consecutive days and the fines can go up to \$3,000.00. So it increases for the business that sells or distributes.

Alderman Harriott-Gathright

My comment to that is that obviously I am not sure why it hasn’t been enforced then. So we are starting down I guess another way to make Nashua enforce what is already a law here in our own little way of making it a little bit less of something, I don’t think that’s the way for us to go. I really believe if this is the Law for the State then it needs to be dealt with as a State not as a City. And I’m glad you gave me all that information because I have problems with that and I think I will tackle that.

Alderman Schmidt

If it already State Law we certainly don’t need it in this then, is that correct?

Alderman Klee

Just adding on to what Alderman Jette said yes it is RSA 126-K:4 which is the Sale, Distribution of Tobacco Products, E-Cigarettes or Liquid Nicotine to Minors and Prohibited. And I did bring this up during the Personnel Administrating because that was one of my kind of issues is that we’ve made the fines much lower, now the State does say “up to” so it could be \$0. It does not have to be \$250.00 it does not have to be \$500.00 they put the words “up to \$250.00”. The third offense does start with a letter and so on and it becomes tougher and tougher. I think the way that this was intended, I don’t know I wasn’t there when they wrote it back in 1997 all the way to 2010, but I do think it was for the sales and distribution via a store and so on and not going from an 18 to a 16 year old. So in all fairness I think that’s what this statute is. The youth access to and use of tobacco products is RSA 126:K:2 and that one talks about exactly what the tobacco is and so on and discusses more of the wholesaler and the vending machines and so on. Just for clarification.

Alderman Dowd

Yeah I don’t think anybody’s decision is going to change by anything more that’s said so I make a motion to move the question.

President Wilshire

The question is for final passage as amended.

Alderman Clemons

Roll call.

President Wilshire

Roll call on move the question? We have a motion before us to move the question? All those in favor?

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

The Motion before us is for final passage as amended by roll call, further discussion on that motion? Would the Clerk please call the roll?

Yea: Alderman Dowd, Alderman Lopez, Alderwoman Kelly, Alderman Jette, 6
Alderwoman Melizzi-Golja, Alderman Tencza

Nay: Alderman O'Brien, Alderman Harriott-Gathright, Alderman Klee
Alderman Caron, Alderman Schmidt, Alderman Clemons, 7
Alderman Wilshire

MOTION FAILEDAlderman Clemons

Move for indefinite postponement.

MOTION BY ALDERMAN CLEMONS FOR INDEFINITE POSTPONEMENTON THE QUESTIONAlderman Lopez

I object to indefinite postponement because again a month ago when certain promises were made and concessions were made the point was raised that not all the Aldermen were here and I know that Alderman Laws was particularly interested in this legislation but was unable to address it due to family emergency.

Alderwoman Kelly

Forgive me if this out of order, I'm still learning, but I know this hasn't been an easy piece of legislation, it hasn't been an easy debate, we've heard a lot from both people on both sides of the issue. I know that Alderman Clemons has stated that 3 to 1 that's what he heard; that was not my experience, I heard more people in favor than against. And I know I've had a hard time kind of gauging where people are with that, so as possible compromise I would move to put the amended Ordinance on the ballot as a binding question and let's just put our money where our mouth is and ask the City how they feel about it.

President Wilshire

OK. Attorney Bolton?

Alderwoman Kelly

Can I do that.

President Wilshire

I don't know how to answer that.

Attorney Bolton

I don't think you can put it on the ballot as a binding question, you can put it on as a non-binding question. But I think some more thought ought to go into what it is that you want on the ballot and how we should phrase the question. We recently went through something where we put something on the ballot that was a snap decision similar to what this would be and I think tabling it and letting us work out how that would work if anyone is truly interested in doing something like that, I think would be a better idea than just voting to do it tonight.

President Wilshire

My next question Attorney Bolton is I know we've been running up against deadlines to get the vacancy question on the ballot. This would run into a similar issue I assume.

Attorney Bolton

No there's not as much to go through on something like this, you don't have to send it to State officials and get it vetted up there or anything like that.

Alderman Jette

I have a parliamentary inquiry, forgive me for my ignorance, but what is the effect of indefinite postponement and if that fails what is the status, I mean the motion was defeated.

President Wilshire

It was defeated. Indefinite postponement would mean we can't bring this matter up again in this term. We could bring it up next year in January.

Alderman Jette

And if the motion for indefinite postponement fails then it could be brought up again.

Attorney Bolton

It is still before the Board, you have not disposed of it.

Alderwoman Kelly

So I would like to just follow up with Attorney Bolton. If there is anything from a counsel perspective that you see currently that you feel uncomfortable with I'd love to hear it because I feel like we've talked about it a lot. I mean what might change, what could change, why would it change from how many times have we talked about this, 6 times?

Attorney Bolton

Well you probably wouldn't put every word of this whole ordinance on the ballot, it's rather long. You'd have to propose a way to summarize it. And then are you in favor of an ordinance that would do, x, y and z. So I think that is what needs work.

Alderman Kelly

Ok follow up if I may? Could we move to put it as a non-binding on the ballot pending working out the wording?

Attorney Bolton

I think the better thing to do would be to table it and then come back and adopt what we are actually going to put on the ballot.

Alderman Kelly

Thank you.

Alderman Lopez

In an additional effort to provide more transparency I have also asked at the Committee level and I sent an e-mail to you and Ms. Lovering asking that e-mails that were directed to the entire Board of Aldermen be included in the minutes of an agenda so I would like to repeat that claim during a public meeting. I feel like people are e-mailing the entire Board of Aldermen expecting that to be read and recognized and it doesn't seem like everybody is recognizing that.

Alderman Klee

Yes two items, I do agree with Alderman Lopez about that Alderman Laws is not here. But even if he were here and were to have voted it would have been a tie and a tie would kill this. The other thing about indefinite postponement is it goes to the end of the term; technically the end of the term is the end of this calendar year. So it only precludes it from coming back up this calendar year where we can take care of other business, see what the State had to do and so on. So I agree with the indefinite postponement.

Alderman Clemons

I've had many conversations and I respect Alderman Laws and one of the points I made originally to put this back in committee originally was because there wasn't a lot of people here and Alderman Laws was the one that pointed out to me that he didn't agree with that because we have a quorum policy for a reason. So with respect to my Alderman-at-Large colleague that is not here, I would take his word that he told me which is "we have a quorum for a reason". So you know the other thing that I want to mention too, not sure what you mean by what somebody meant by e-mails being sent to the entire Board but I've never e-mailed the entire Board on this particular subject.

Alderman Lopez

Can I clarify as a point of personal privilege? The public has been e-mailing us letters, I assumed you were getting them in your e-mail. But that's another reason why these should be on public record so that if somebody is trying to e-mail the whole Board and not everybody is receiving them or reading them, now at least the public knows their letter was heard and it is part of the record.

President Wilshire

OK. So I'm not even sure where we are, what the motion is before us, it's indefinite postponement, ok. Alright.

Alderman Kelly

Can I move to table?

MOTION BY ALDERWOMAN KELLY TO TABLE

ON THE QUESTION

President Wilshire

You can move to table it's not debatable.

Alderman O'Brien

Parliamentary inquiry and I agree but true parliamentary inquiry, we had a vote and so the vote went down so how can you table something that failed?

Attorney Bolton

It's still before the Board, you don't take action by a motion failing to pass.

Alderman O'Brien

Parliamentary inquiry again, that means that it would have to be re-brought up to the Board in order for it to be tabled?

Attorney Bolton

No it has not been disposed of by the Board at this meeting. No motion has been successful. You have to adopt, you have to pass a motion to dispose of a matter. You failed to adopt the motion for final passage. There was a motion to indefinitely postpone, then there's a motion to table which takes privilege over the motion to indefinitely postpone and it is perfectly in order and it's not debatable.

Alderman O'Brien

Roll call on tabling yes.

President Wilshire

Will the Clerk please call the roll?

Yea: Alderman Lopez, Alderwoman Kelly, Alderman Jette,
Alderwoman Melizzi-Golja, Alderman Tencza, Alderman Schmidt 6

Nay: Alderman O'Brien, Alderman Harriott-Gathright, Alderman Dowd,
Alderman Klee, Alderman Caron, Alderman Clemons, Alderman Wilshire 7

MOTION FAILED

Attorney Bolton

Now you are back to indefinite postponement. Roll call on that? That is debatable, so the motion before us is for indefinite postponement.

Alderman Dowd

I am going to support this because nothing is going to happen between now and the end of the year and maybe the State will do something; I'd like to see what action the State takes. If we put something on the ballot, that will happen in November, we couldn't take action probably until January anyway.

So I will vote to indefinitely postpone and hopefully given the circumstances that happens if it does end up on the ballot, we will see what the public thinks and take action accordingly. If it is overwhelming that they want us to pass something and the State hasn't done anything, then I think it's incumbent upon this Board to pass something. If it says "no" then it dies.

Alderwoman Kelly

Just point of clarification if we indefinitely postpone it, it won't be on the ballot.

President Wilshire

Right.

Alderman Lopez

We can put anything on the ballot that we want though so we could ask for example "Do you believe sales of tobacco products should be restricted to people 21 and older".

Alderman Dowd

Response from Attorney Bolton on that? If we vote to indefinitely postpone does it kill any chance of being on the ballot.

Attorney Bolton

Any of you could bring a Resolution to put any question on the ballot that you want in a non-binding fashion and if the whole board adopts it, we will put it on the ballot given the constraints of time?

President Wilshire

Any further? The motion before us is for indefinite postponement, would the Clerk please call the roll?

Yea: Alderman O'Brien, Alderman Harriot-Gathright, Alderman Dowd, Alderman Klee,
Alderman Caron, Alderman Schmidt, Alderman Clemons Alderman Wilshire 8

Nay: Alderman Lopez, Alderwoman Kelly, Alderman Jette, Alderwoman Melizzi-Golja,
Alderman Tencza 5

MOTION CARRIED

Ordinance O-19-037 declared indefinitely postponed.

O-19-041

Endorsers: Mayor Jim Donchess
Alderman Jan Schmidt
Alderman Mary Ann Melizzi-Golja
Alderman-at-Large Shoshanna Kelly
Alderman Tom Lopez
Alderman Patricia Klee

ADDING TWO STUDENT MEMBERS TO THE ENVIRONMENT AND ENERGY COMMITTEE

Given its second reading;

MOTION BY ALDERWOMAN KELLY FOR FINAL PASSAGE OF O-19-041ON THE QUESTION

I just wanted to quickly as the liaison to this committee, talk a little bit about the new recommendations that we've done and how I think there's a lot to do. Having these student members will be critical to not only getting that work done but also having a younger mind set as we really look forward to making some real change in terms of climate and our City and our fossil fuels. So I hope everyone will support this thank you.

MOTION CARRIED

Ordinance O-19-041 declared duly adopted.

O-19-043

Endorser: Alderman-at-Large Michael B. O'Brien, Sr.

**UPDATING THE ORDINANCES REGARDING THE BOARD OF PUBLIC WORKS
RETIREMENT SYSTEM**

Given its second reading;

MOTION BY ALDERMAN O'BRIEN FOR FINAL PASSAGE OF O-19-043**MOTION CARRIED**

Ordinance O-19-043 declared duly adopted.

NEW BUSINESS – RESOLUTIONS**R-19-140**

Endorser: Mayor Jim Donchess
Alderman-at-Large Michael B. O'Brien, Sr.
Alderman Linda Harriott-Gathright
Alderman Richard A. Dowd
Alderman Patricia Klee
Alderman Tom Lopez
Alderman June M. Caron
Alderman-at-Large Shoshanna Kelly
Alderman Mary Ann Melizzi-Golja
Alderman-at-Large David C. Tencza
Alderman-at-Large Lori Wilshire

**AUTHORIZING THE CITY OF NASHUA TO ENTER INTO A LEASE AGREEMENT WITH
NASHUA
POLICE ATHLETIC LEAGUE**

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

R-19-141

Endorser: Alderman June M. Caron
 Alderman-at-Large Michael B. O'Brien, Sr.
 Alderman Linda Harriott-Gathright
 Alderman Richard A. Dowd
 Alderman Patricia Klee
 Alderman Tom Lopez
 Alderwoman-at-Large Shoshanna Kelly
 Alderwoman Mary Ann Melizzi-Golja
 Alderman-at-Large David C. Tencza
 Alderman Jan Schmidt
 Alderman-at-Large Lori Wilshire

**RELATIVE TO THE TRANSFER OF \$25,000 FROM DEPARTMENT 194 "CONTINGENCY",
 ACCOUNT 70100 "GENERAL CONTINGENCY" TO DEPARTMENT 109 "CIVIC &
 COMMUNITY
 ACTIVITIES", ACCOUNTING CLASSIFICATION 56 "OUTSIDE AGENCIES" FOR THE
 PURPOSE
 OF PROVIDING FUNDING TO THE NASHUA ASSOCIATION FOR THE ELDERLY**

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

NEW BUSINESS – ORDINANCES

O-19-044

Endorser: Alderman-at-Large Brandon Michael Laws
 Alderman Patricia Klee
 Alderman June M. Caron
 Alderwoman-at-Large Shoshanna Kelly
 Alderman-at-Large David C. Tencza
 Alderman Jan Schmidt
 Alderman-at-Large Lori Wilshire

AMENDING THE BOARD OF ALDERMEN COMPENSATION ORDINANCE

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

O-19-045

Endorser: Mayor Jim Donchess
 Alderman Linda Harriott-Gathright
 Alderman Patricia Klee
 Alderman Tom Lopez
 Alderman June M. Caron
 Alderwoman-at-Large Shoshanna Kelly
 Alderman Jan Schmidt
 Alderman-at-Large Lori Wilshire

UPDATING THE FINANCIAL STANDARDS FOR THE CITY'S WELFARE GUIDELINES

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

PERIOD FOR GENERAL PUBLIC COMMENT

Paula Johnson Just hold on to this, it kind of fell off, I'm kind of short. Paula Johnson, I still live in Nashua, exhausted from this whole thing. I don't know how I ever sat on this, maybe 'cause I was younger. I would like to thank the Aldermen for that bill, the smoking, I want to say it takes courage to vote what you feel is right, you beat a dead horse to death, you know, it went round and round. And some of the Aldermen that I don't agree with many times, I want to say thank you, because yeah does it have to be at the State Level?

Yeah I think it's better at the State Level that they address it so then it's at throughout the State, not just one community, another community, State Law supersedes City anyway.

I'm here to talk about and I know it's going for its first reading, O-19-044. Let's talk about that legislation and what has happened. I was the original sponsor of that legislation, remember Alderman Wilshire, remember Attorney Bolton. No? Well let me refresh your memory. The reason I did the compensation and what was the intent of this? The intent didn't have anything to do with pregnancy or adoption, it wasn't the reason why. And it had nothing to do with any of this. It had to do, we had an Alderman, if you remember correctly that never came to Committee meetings. He would show up more times at the full Board meeting and yet he was being paid to sit around the horseshoe for meetings and the full Board meeting. That was the intent of this. Not the intent of somebody being pregnant or adoption. And I'm a woman and I have the right to say that.

And I have the right to say what the intention was; because I was the original maker of it and there was no action. But over the years, it got watered down a little bit. And the reason I made so clear and I sat down with Dori Clarke and we really worked on this. So nobody would be left out but the question was, why should you be paid for meetings that you did not attend? Simple as all that. You go to work, you get paid; you don't go to work, you don't get paid. There is no sick time really here because it's not a job. That's why we never put in certain things because this is not a job this is an elected position. You go to the polls, you have the voters vote for you; you get a stipend, it's not a paycheck it is a stipend. By rights it is not even supposed to have taxes taken out if you look at the US Code. This was added in after. So this is why I wrote this piece of legislation. No action was taken because that person, after it got written, decided to show up to the meetings again. So this isn't a job and if you can't fulfill your duties because of maternity or adoption, there are other ways to be in touch with the Board. You can Skype, you can FaceTime.

There is a member of the Board of Education that doesn't come to any meetings anymore because he's ill and he's telephonically. So you don't have to have this in legislation that says because you are pregnant or you have an adoption that you can't come to meetings. You can call in at every meeting and you can still be part of the meeting and be paid for your presence. So when we did this, it was based on the attendance at meetings of the Full Board of Aldermen and the meetings of the standing committees; that's what you are paid for. All the work is really done in the Committee. Am I correct? Of course I am correct. And then you bring it to the Board to vote on it, which is assigned. And absence will be excused only if due to illness, which illness could cover pregnancy because you don't have to put down health, illness, and or death in the Alderman's family. Simple, it's simple. Let's not water it down and make it more complicated than it is. You are being paid to be here.

When I was on this Board I was raising 3 children; worked part-time, ran a business with my husband because he worked all the time so I was basically raising them by myself and I managed to be at every meeting here. Very rarely did I take any time off unless I was sick. So if you want to be an elected official, you can still have children, you can still have a pregnancy, you can still adopt, you can still have a baby and attend every meeting. You can Skype, you can FaceTime or you can be on the phone. This piece of legislation was written probably for somebody, you know, and if I'm correct I think she's pregnant she just put her name on the legislation which I think is a conflict now. Self-serving and the mere fact that it should not be like this. These words on the original and the ones that were changed covers everything, maybe you should just add in there 'can be at the meeting by FaceTime, Skype and / or telephonically' like on does at the Board of Education. So there's no reason why you can't attend a meeting unless of illness and/or death in the family. Thank you very much.

Michael O'Connor Hi Michael O'Connor, 42 Berkeley Street in Nashua. This is a long evening of course as you know, but I was glad I stuck around. There were two positive things that I saw; I like that decency act you have and the civil discourse. I'm just hoping that we will see some of that directed towards Ms. Ortolano who I think has done yeoman service and I think it's fair to say without her hard work you wouldn't even be aware of the mess that's is down in the Assessing Office.

The second positive thing tonight is you have this recognition method. And you know, a little biased obviously but I think Mrs. Ortolano deserves some recognition and I think if there is an official way for you to do it, the Board should really consider that.

Lastly and you know I am going to try to do this very decently, I am going to try and be kind and civil. This is a you know, I could claim some sort of maybe Irish disability or something. Alderman Jette, I normally agree with you, I respect you and you seem a very reasonable man and I look around and there are probably other ex-service people here. As a Vietnam Service Veteran I found extremely patronizing your reference to people outside the Dalianis Building as smoking and the service had somehow, you know, caused them to smoke, nonsense. Ok, ask any one of them, I'm sure, maybe you are unaware but it would be as if you were saying "Oh these people over here, have this problem because they are those poor people over there" pick your favorite group to stigmatize. Yeah you sit next to them or you see them on the sidewalk, go over and talk to them but I am guessing and I don't know, I can't speak for them, but I am guessing that they don't feel victims that you portray them to be. And having been forced by the military to take up smoking, thank you.

Laurie Ortolano 41 Berkeley Street I followed all of this discussion on smoking and I think I've watched all of you debate it for probably 7, 8 hours. I wish you would spend a little more time all of you in debate on assessing. I think I've watched you really have discussions on it for just over an hour and 15 minutes. The presentation on the 30th generated about 25 minutes of comments but it was all compliments with the exception of Mr. Jette and I think Alderwoman Kelly asking some good questions and hard questions which were very appreciated. Everyone was just lock step in agreement and thought it was all wonderful.

It was an extraordinarily difficult meeting for me to sit and watch and listen to an individual up here presenting about all the hard work when I knew what that individual was doing. And it was anything but hard work. So I'd love to see you spend more time as a group, all of you, engaged in the topic of assessing and give it a good 90 minutes in a Board Meeting for me. I'd love to hear that.

Secondly when it comes to Mr. Lopez's comments about attaching e-mails to the minutes; every e-mail that I have sent to this Board is not attached. And I don't know that you have to request it but for me, e-mails that came to this Board were not acknowledged either, largely, fully. So you know I feel like anything I send to you just goes in the can. So I'd love to see these e-mails put with the record. And last week when I wrote an e-mail to the whole Board and I requested through Trish who was on the hiring committee, she said "Well it's not separate it's all the Board Members that you sent your letter to regarding your concerns about the Administrative Services Director". I went to that meeting and I watched whoever was chairing it acknowledge that several letters had been received and put them on the record, but mine was never acknowledge, because I probably didn't, I guess I had to ask for it. But it seems to me there are e-mails you are given and you should acknowledge them or they should go on the record somewhere. It wasn't as if I didn't give thoughtful attention to that.

Thirdly Right to Know Law. I think we've done a really poor job in this City of addressing Right To Know. You know when I look back October/November and I wrote a request to John Griffin trying to access information, one of the things I asked for were the expense logs, the travel logs. I knew that there was a log system down there that was supposed to tie to the expense report. I didn't know the specific name but I asked for the log. What I received back is no such information existed; but in fact that wasn't true. Logs do exist and they tie. And Kim had pointed it out when at the last month she asked all of the assessors to start stapling the log to the expense report. Cool, good idea. And then I had the name of it, the full name, you know, expense mileage reimbursement log. But just because as a resident or a citizen on the outside you don't know the formal name and you are asking without saying RTK but asking. It should have been given to me and what came back was a letter that went to all of you at an Aldermen Meeting with the answer that "no such logs exist". They existed and I could have had that information a lot sooner and I could've been looking at this travel information because I went to Mr. Griffin and I said to him after collecting 3 years of data, "your travel logs look fraudulent, you've got a fraud issue in here".

There's a problem especially with one that is grossly out of line. I was told they would get back to me, he would get back to me in a week and he did not. And then I asked for those logs and was told none exist.

I am going to be RTK'ing for them again. Let's see what we come up with. But I feel like you are not fully honest about that type of information. And I am now going to also try and find out what is the name of every report you print in assessing. There are a lot of reports you can print. Just because I don't know the names shouldn't mean that I can't get them. I don't know how to request them because I don't know their titles. I sat in a meeting with Ms. Kleiner on Friday, she had a whole sales sheet done up of a bunch of data. I am going to RTK that but I don't know what it's called. What is that sales data? I know I've generated my own, but I have no idea what that report is. So somehow we've got to get a list of all the reports that are being generated so that the public can see all these reports as well. So somebody help me figure that out. Thanks.

REMARKS BY THE MEMBERS OF THE BOARD OF ALDERMEN

Alderman Klee

I'd like to address a couple of things. First I'd like to address Mr. O'Connor's comments about filling the Chief Assessor position. I have full confidence in whether people think I'm over-complimenting or not, I have full confidence that Mrs. Kleiner will in fact eventually fill the Chief Assessors. I don't know, I have not spoken to her about it, I do think it would be a good position to do. Right at the moment I think we've had enough change, I'd like to get things moving. A lot of information has come but that's one of the feelings that I have on it but yes I do believe that eventually we do need a Chief Assessor. I think each of the departments should have a Director or at least a lead assessor, whether it's above and beyond the four or one of the four. I think we do need something like that, I think that would be putting too much pressure on Mrs. Kleiner to hold that position as well. Thank you.

Alderman Lopez

I just wanted to thank Paul Shea and Great American Downtown for the work they did with the Nu Muse Festival. It was a great event and I think it was enjoyed by many. And I also just wanted to remind the public that the Gate City Marathon is coming up on Sunday so there will be some traffic delays and a lot of tired people running around.

Alderman Caron

Yes thank. First I'd like to address Alderman Lopez's concern about the letters that came through. I did speak to our legislator manager and what we had were letters, not e-mails and she did say she would put them in as part of the record and the minutes. As far as e-mails that go out to the Full Board, I don't have control over that; but there some letters that came in at that last minute that were left on the desk. So she is doing that for you.

The other thing is I want to thank everyone who was able to attend Fire & Fusion a couple weeks ago to benefit the Nashua Senior Center. It was very successful; they made a little bit more money than last year. We are already getting requests to hold tables for next year's Viva Las Vegas. So plan ahead. Thank you.

Alderwoman Kelly

I want to address a few comments and things that have come up over the course of our very long meeting and I'll try to keep it brief. When we were talking about Kim my comment, I definitely want to talk about her being very competent and collaborative; I think that was covered by a lot of people. But I feel like reducing her role to a note-taker is pretty demeaning and downright incorrect. And perhaps Mr. Teeboom would feel different if she was a man. I want to address Mr. O'Connor's comments; I've

raised my own concern about eliminating the Chief Assessor both publicly and to the Mayor and Kim directly. I feel confidently that they will look at that and I plan to advocate for keeping the position open, that time would be at the Budget Meeting and making sure that we have that space for that. So I definitely see that is something we need to continue to look at in terms of technical experience. I want to address the tirade that happened with Ms. Johnson but I'm not really sure where to start so I am just going to leave that alone for now.

Alderman Jette

I too join in Alderman Lopez's request that all communications sent to the Board, whether it is in writing or a physical document or an e-mail I think should be part of the record. Today, people send e-mails instead of letters so I don't know how ...

President Wilshire

We are working on it Alderman Jette.

Alderman Jette

That's good to know. As far as the comments made by Mr. O'Connor directed to me, you know if I said anything to offend, if he felt that I offended anybody that certainly wasn't my intention. I am a Veteran. And when you say I should say I should speak to those people? I have spoken to those people. I know a lot of Veterans who are suffering from the effects of smoking who contracted that addiction in the service; I'm one of them. I was introduced to tobacco by free cigarettes put in my meal kits and that's how I got introduced to smoking and that's how I picked up what I thought was a bad habit at the time. But it turns out it was an addiction and I smoked for a long time. And as a result of that smoking for a long time, I contracted cancer and I am survivor of cancer. And you know my efforts in trying to eliminate or prevent people from becoming addicted to tobacco here were with the best of motives.

I was just trying to help people avoid that addiction and I certainly, you know, I've had conversations with the Veterans that I identified and that you spoke about. So I wasn't, it was not my intention to be callous towards them or to be demeaning of them. I do think that if you think saying that they are victims, if my calling them victims or describing them in a manner that made you think I was calling them victims, if you think that's wrong, I respectfully disagree. I think people who have become addicted to tobacco are victims, I was one of them. I know people who not only suffered the consequences of tobacco addiction with disease, but death. And my motives were, you know I had the best of intention and if trying to save lives, if some people think that's a waste of time, I'm sorry, I don't agree with that. I think it was an effort worth making, I'm sorry it didn't work, and hopefully our State Legislators will pass a Law that makes it, that prohibits purchase of tobacco State-Wide. Thank you.

Alderwoman Melizzi-Golja

I just wanted to comment on the appointment of the Administrative Services Director and I too have had the opportunity to work with Ms. Kleiner and as I've come to know her, I believe that if she sees things that she thinks aren't right, she will bring them to our attention. I also believe that she will give us a fair assessment of needing a Chief Assessor there or whether or not we at least start with outside consultation. And my reason for supporting her appointment was that I believe she will let us know when we need someone there or she needs additional support.

Also a reminder to everyone, you may want to, if it stops raining or snowing or whatever else it is doing, stop by the Picker Building, the Picker Artist's Building, because the Sculpture Symposium has started and our sculptors are there working, unfortunately in some cold, damp weather. But they will be there through to the beginning of June so I invite you to stop by and support them. Thank you.

Alderman Tencza

Thank you. Just very quickly I too wanted to just congratulate Kim Kleiner, I think one of the nice things for here, for people in City Hall, is that there is a comfort level with Kim. There will be good communication both ways, for employees and for the Board of Aldermen. And I also wanted to congratulate Paul Shea, the Great American Downtown; I had a chance to go down to the Nu Muse Festival for a couple hours. I am always impressed with the level of the musicians that they are able to bring in to Nashua, the number of people that they get downtown to enjoy. It was the one couple of hours when it wasn't raining this whole month, so it was a great time and I can only imagine the effort that he puts into pulling it all together. He makes it look easy; so congratulations to Great American Downtown.

Alderman Schmidt

Thank you, I too would like to congratulate Ms. Kleiner and I would like to make it clear to people in the City that everyone here has had dealings with Ms. Kleiner. I first did with the School Board and was totally impressed with how she maintained relationships with people that perhaps did not always agree. And she looked at every issue as very important and treated people who cared about things as very important as well. Nobody here just heard what the Mayor said and agreed along with it. We all have our experience with her and we are so grateful that she is doing this for us because I think she is the best person. Thank you.

Alderman Clemons

Just to follow up what Alderman Schmidt had just said and everybody really. I was on the Board of Alderman before and Mayor Lozeau was Mayor and I was called a rubber stamp and now we have a Democrat as a Mayor and I'm a rubber stamp so I guess I'm just a rubber stamp. But no, Ms. Kleiner is the one for this job absolutely in the City. And you know it's funny because one of the speakers tonight Mr. Teeboom went on and on and on about the amount of money that is being handled and he then went on to say that how Ms. Kleiner has over 20 years of accounting experience. Well who would you want better than an accountant to handle all that money?

So you know I think we are making the right decision there; we made the right decision. I have all the respect in the world for her. I think she is doing to do an amazing job and if she feels that Assessing Department needs a manager, I'm confident that she – number one, has the independence regardless of what the Mayor thinks to come forward to the Board of Aldermen and tell us that we need an Assessor, but two – I have all the confidence in the Mayor that he will listen as she is the manager there overseeing that and will bring forward a proposal to do so. I think that dynamic is there and it's good and I think we are in good hands.

President Wilshire

I just want to weigh in on that as well. I've known Kim for several years; she's awesome, she's professional, she is well liked by everyone because she puts herself out there. I can't think of anyone better to serve in that capacity than Kim Kleiner, she's wonderful. You know the Mayor gets elected and he serves for 4 years and he doesn't know everything about Assessing and IT and all that but he knows how to manage a City; he knows how to do that. That's what Kim brings. I was very insulted about the speaker who thought maybe you were just a good secretary because that was not OK and should not have been said, because I think a lot of you Ms. Kleiner and I think you know. Mayor, you made a good decision.

Committee announcements:

Alderman Dowd

Thursday is the public hearing on the Budget at 7:00 p.m. Nashua High North Auditorium. The Full Board is expected to be there. I believe we will have reserved seats in the front row so we conduct a regular meeting going into the Public Hearing and Tricia and I will be up on the stage as targets along with the Mayor and Chief Financial Officers. And all the Department heads will be there. So it's an opportunity to listen to the public and then we will be getting in touch with the budget wrap up and anyone that has proposed actions on the budget should be formulating them before the wrap up session. Thank you.

Alderwoman Melizzi-Golja

Yes PEDC next Tuesday and as long as we are here, I may or may not be at the Public Hearing depending upon whether or not they need me for quorum at the Planning Board since I am Alderman Tencza's alternate, it seems like he should be there since he's on the Budget Committee. So if I'm not there, I will be at Planning Board.

ADJOURNMENT

**MOTION BY ALDERMAN O'BRIEN THAT THE MAY 14, 2019, MEETING OF THE BOARD OF ALDERMEN BE ADJOURNED
MOTION CARRIED**

The meeting was declared adjourned at 11:08 p.m.

Attest: Patricia D. Piecuch, City Clerk