

A special meeting of the Board of Aldermen was held Thursday, May 21, 2020, at 7:00 p.m. via teleconference.

President Lori Wilshire presided; City Clerk Susan Lovering recorded.

Prayer was offered by City Clerk Susan Lovering; Alderwoman Elizabeth Lu led in the Pledge to the Flag.

President Wilshire

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

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

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

We are utilizing WebEx through the City's IT Department for this electronic meeting. All members of the Board of Aldermen have the ability to communicate contemporaneously during this meeting through this platform, and the public has access to contemporaneously listen in to this meeting through dialing the following number 978-990-5298 and using the password 273974. The Public may also view this meeting on Comcast Channel 16.

b) Providing public notice of the necessary information for accessing the meeting:

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

c) Providing a mechanism for the public to alert the public body during the meeting if there are problems with access:

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

d) Adjourning the meeting if the public is unable to access the meeting:

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

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

The roll call was taken with 13 members of the Board of Aldermen present: Alderman Michael B. O'Brien, Sr., Alderman Patricia Klee, Alderwoman Kelly, Alderman Lopez, Alderman June M. Caron, Alderman Benjamin Clemons, Alderman Thomas Lopez, Alderman David C. Tencza, Alderwoman Elizabeth Lu, Alderman Ernest Jette, Alderman Jan Schmidt, Alderman Linda Harriott-Gathright, and Alderman Lori Wilshire. Alderman Richard A. Dowd was recorded present after roll call.

Alderman Brandon Michael Laws and Alderman Skip Clever were recorded absent.

Corporation Counsel Steven A. Bolton, Sarah Marchant, Community Development Director, and Tim Cummings, Economic Development Director, were also in attendance via teleconference.

Alderman O'Brien

I am present, I can hear the proceedings, I am alone and practicing social distancing.

Alderman Klee

I am here, I can hear you, I am alone at the moment but my husband and greyhounds are in the house and can be visited at any point.

Alderwoman Kelly

I am here, I am alone, I can hear everyone and I am practicing social distancing.

Alderman Clemons

Yes, I am here. I can hear everyone and I am by myself and practicing social distancing.

Alderman Lopez

I am here, I am by myself and I am pretty good at social distancing at this point.

Alderman Tencza

I am here, I can hear everybody and I am by myself.

Alderwoman Lu

Present, I am alone and I can hear you.

Alderman Jette

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

Alderman Schmidt

I am here, I can hear you and except for my parrot I am alone.

Susan Lovering, City Clerk

Alderman Caron, I can hear you. Alderman Caron?

President Wilshire

I am here, I am alone and I am staying home due to social distancing.

Susan Lovering City Clerk

I've recorded 10 participating.

Steve Bolton, Corporation Counsel

Madam Clerk, this is Attorney Bolton. I believe Alderman Harriott-Gathright was muted but is trying to acknowledge her presence.

Alderman Harriott-Gathright

Yes, I am here. One of my daughters is here. She may come at any time and I am practicing social distancing and I can hear everyone. I can see you.

Susan Lovering City Clerk

Thank you very much. I've recorded you, thank you.

Alderman Harriott-Gathright

Thank you.

President Wilshire

I did talk to the Mayor; he is up in the Planning Board Meeting as is Alderman Dowd. So they may be joining us at some point during the meeting.

COMMUNICATIONS

From: Lori Wilshire, President, Board of Aldermen

Re: Calling a Special Board of Aldermen Meeting on Thursday, May 21, 2020 at 7:00 p.m.

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

From: Tim Cummings, Economic Development Director

Re: Request for Special Board of Alderman Meeting to Seek Approval to Narrow Main Street

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

Alderman Caron

Hello? Can anyone hear me?

President Wilshire

Yes Alderman Caron we can hear you.

Alderman Caron

Finally, thank you.

President Wilshire

Thank you. Madam Clerk, sorry.

From: Travis Tripodi
Re: Board of Public Health Recommendation (wearing masks)

From: Andy Cooper
Re: Ordinance Requiring Face Masks

From: Jeff Locke
Re: Face Masks

From: Mary Ellen Carter Gilson
Re: Please Support the mask Ordinance

From: Susan Merrigan
Re: Supporting becoming a mask city

From: Willie Reed
Re: A letter against mandatory mask wearing

From: Kathryn Blair
Re: I support the mandatory use of face masks

From: Kathleen Daughan, Ward 3
Re: Mandatory mask opinion

From: Gene Porter
Re: Mandatory Masking

From: Amanda Blair
Re: Support of Mask Ordinance

From: Rita Costanzi, Ward 3
Re: Masks

From: Jeff Gilson
Re: Mask Ordinance

From: Evelyn Danforth and Violet Vesey
Re: Make it mandatory to wear a face mask in public buildings

From: Laura Wuorinen
Re: Face Masks

From: Ralph Kelloway
Re: Masks

From: Beth Scaer
Re: Nashua restaurants are suffering

From: Robert Guzas
Re: Masks for everyone everywhere

From: Leah Donahue
Re: Mask Order: In Favor

There being no objection, President Wilshire accepted the communications relative to the masks and Nashua restaurants and placed them on file.

President Wilshire

There being no objection I will suspend the rules to allow for an introduction of additional communications that were received after the agenda was prepared.

From: Alderman-at-Large Ben Clemons
Re: The Downtown Improvement Committee Expenditures to date

From: Jeanne Batchelder
Re: Mandatory Masks

From: April Plourde
Re: Against Mandatory Face Masks

From: Paula Muzeroll-Smith
Re: Mandatory Masks

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

NEW BUSINESS ORDINANCES

0-20-015

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

RELATIVE TO TEMPORARY ROAD CLOSURES AND ELIMINATING OF CERTAIN ON-STREET PARKING FOR USE BY RESTAURANTS FOR OUTDOOR DINING

Given its first reading;

MOTION BY ALDERMAN CLEMONS TO SUSPEND THE RULES FOR A SECOND READING OF O-20-015 BY ROLL CALL

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

Yea:	Alderman O'Brien, Alderman Klee, Alderwoman Kelly, Alderman Clemons, Alderman Lopez, Alderman Tencza, Alderwoman Lu, Alderman Jette, Alderman Schmidt, Alderman Harriott-Gathright, Alderman Wilshire	11
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Nay:		0
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MOTION CARRIED

0-20-015

Endorsers: Mayor Jim Donchess
Alderman-at-Large Lori Wilshire
Alderman-at-Large Michael B. O'Brien, Sr.
Alderman-at-Large Ben Clemons
Alderman-at-Large Shoshanna Kelly
Alderman-at-Large David C. Tencza
Alderman Richard A. Dowd
Alderman Patricia Klee

RELATIVE TO TEMPORARY ROAD CLOSURES AND ELIMINATING OF CERTAIN ON-STREET PARKING FOR USE BY RESTAURANTS FOR OUTDOOR DINING

Given its second reading;

Second Reading of O-20-015 Relative to the Temporary Road Closures and Elimination of Certain On-Street Parking For Use By Restaurants For Outdoor Dining

MOTION BY ALDERMAN CLEMONS FOR FINAL PASSAGE OF O-20-015 BY ROLL CALL

ON THE QUESTION

President Wilshire

The Motion is for Final Passage. Is there discussion on that motion?

Alderman Lu

Yes, I have a couple of questions.

President Wilshire

Alderman Lu?

Alderman Lu

Thank you. Sorry. Perhaps this is better left to comments at the end. I'm all set, thank you.

President Wilshire

Thank you. Anyone else?

Alderman Jette

Yes.

Alderman Kelly

I have a couple of questions.

President Wilshire

Alderman Kelly?

Alderwoman Kelly

Yes, thank you. I know that there have been a number of calls and there has been a lot of good work on this. I just had a couple of questions from a standpoint of how this will all work. I was actually downtown looking at how many are out there. Are we going to allow them to expand on the sidewalk and then have the road be where pedestrians walk? Is that how we are doing it?

President Wilshire

I am going to ask Tim Cummings to address that question. Tim are you there?

Alderwoman Kelly

I see him.

Tim Cummings, Director of Economic Development

I am here Madam President. Can you hear me?

President Wilshire

Yes, Director Cummings?

Tim Cummings, Director of Economic Development

Yes, thank you and so just to be clear which Ordinance are we speaking to? Are we speaking to the narrowing or temporary road closure?

President Wilshire

Yes.

Tim Cummings, Director of Economic Development

So to that very specific question, the ability to still traverse the sidewalk will be maintained, adhering to the standards for ADA which is a five-foot width and that will be maintained throughout each entire block. The outdoor seating can, where appropriate, where you can still accommodate those types of standards and it is still safe, from both a public health perspective, could have some tables on the sidewalk, but where it is not it would be extended out into the street.

President Wilshire

Are you all set Alderwoman Kelly?

Alderwoman Kelly

If I can follow up, I'm sorry, I am not sure that I fully understood the answer. So are you saying that by ADA Compliance we have to keep the sidewalk open?

Tim Cummings, Director of Economic Development

Not the entire sidewalk, but you have to maintain five feet.

Alderman Kelly

So for example if I am at San Francisco Kitchen and there's no space, I happened to be there recently, there's no space between me and the street because there's a flower box. I don't get to expand my patio or I can expand it out onto the street.

Tim Cummings, Director of Economic Development

You'd be able to expand it out into the street under this proposed Ordinance.

Alderman Kelly

Ok, ok.

Attorney Bolton

This is Steve Bolton; I think I can help out with this.

President Wilshire

Ok.

Attorney Bolton

The five-foot requirement has been in affect since we have had dining on the sidewalks. So I think what you can expect on the sidewalks is what you've seen for many years. Out in the street, you will see more tables. But the tables, may be fewer of them, may be spaced further apart and be in the same places on the sidewalk that they have been before. The pedestrian pathway will be in the same place that you've been seeing it for years.

Alderman Kelly

That was my question, thank you Steve.

President Wilshire

Thank you, anyone else, discussion.

Alderman Lopez

I have a question.

President Wilshire

Alderman Lopez.

Alderman Lopez

I just have a question for Director Cummings. Given that the footprint for all of these restaurants isn't identical, some places may not have the same access to the sidewalks and that type of thing. Are we also working on potentially letting restaurants like SFK that don't have front accessibility figure out some opportunity if they have back property access?

President Wilshire

Director Cummings?

Tim Cummings, Director of Economic Development

Yes.

Alderman Caron

Hello?

President Wilshire

June, we can hear you.

Alderman Caron

OK now they can hear me, thank you. Bye. I'm sorry.

Tim Cummings, Director of Economic Development

If I may Madam President, as an answer to Alderman Lopez's question, very simply is yes.

Alderman Lopez

Yes, I figured it was in the works but you didn't have a chance to reboot the entire Downton.

President Wilshire

Ok the Motion before us is for Final Passage of Ordinance 20-015. Further discussion?

Alderman Jette

Yes, Alderman Jette here.

President Wilshire

Alderman Jette?

Alderman Jette

So I know that a lot of us have participated in presentations that Director Cummings has made explaining in great detail what this Ordinance proposes to do. But I hope I am not out of line in asking if Director Cummings, you know, for the people who are watching and who have not been able to attend those discussions, could I impose upon him to do a brief overview of what this plan is and what this Ordinance will do?

President Wilshire

I'll have to ask him, Director Cummings.

Tim Cummings, Director of Economic Development

Yes, thank you Madam President, if it's the pleasure of the body I have the map up and could share my screen and very quickly go through it if that is what you wish?

President Wilshire

That would be great. Thank you, Tim.

Tim Cummings, Director of Economic Development

OK so bear with me while I begin to pull up my screen and hopefully you can all see my screen on your computers and I believe this would actually be televised to the general viewing public. So I am just going to refresh to make sure I have the latest update. And I will slowly make my way up from Library Hill. So what you see here at Library Hill is the start of Main Street and the theory behind narrowing Main Street will happen right after Canal and I believe this is Franklin. The reason why we are not doing anything with this intersection is because this is a temporary proposal. To change this intersection, there would be significant expense and this is a very heavily used volume intersection as well. When we have the length of – for lack of a better way of describing it – runway here to narrow as this orange line indicates, we can safely transition the vehicular traffic into one lane.

With that being said, throughout this entire map, you will see purple and green and red. What this is indicating is if it is in red it is a handicap spot; it will be shifted; it will not be lost. If it is green it will transition to curbside, 15-minute parking; and that parking in a companion piece to this piece of Legislation is being asked to be for free. After that 15-minute curbside parking, you know, enforcement would be in effect. I'm sorry. I am seeing comments up on my screen here. Should I continue?

President Wilshire

Yes, please.

Tim Cummings, Director of Economic Development

So right here you have Peddler's Daughter, Peddler's Daughter is showing outdoor seating right here. If you are seeing yellow throughout this entire plan that is indicating a concrete barrier that will safely keep vehicular traffic from the outdoor dining patron. This would be the sidewalk as noted earlier. You can't block a public way, the 5 VA ADA access. So you know there really isn't an opportunity at Peddler's Daughter for any type of table seating on the sidewalk here due to the current state of the road condition. You could, and there is on occasion, outdoor seating along here, which would still continue to be the case if that's the business operation's desire. What we would be affording them is the ability to temporarily use this space right here for outdoor dining.

Continuing along, there's different traffic calming measures being implemented to narrow the street which is what my mouse is traversing right now to just outline how the roadway will be narrowed. Getting to this intersection here, this is the intersection of Water, it has been raised the question of, "Well can we have a right turn lane through here". The answer to that is, we will study it and if need be adjustments will be made. We will evaluate that as necessary. You can still make right-hand turns that is not going to be re-routed, you'll have through traffic. Then if you note, you'll have an ability to make a left here as well. So there is ample capacity throughout this whole entire proposal to accommodate vehicular traffic. What you are seeing from time to time, one-way completely through both north and south with the additional capacity for turning lanes where it can be provided.

Continuing along, you will see again the purple representing where outdoor dining would take place and in the green where you'd have that curbside type pick up. Curbside pick up would be along here, for San

Francisco Kitchen. There's a narrowing of the roadway back here to accommodate this new condition. Continuing along, you have the blue here does not represent outdoor dining, what it represents trying to maintain a consistent outdoor dining experience. Vehicular traffic, you have the traffic to continue through the roadway here by being confused by having an extra turn lane or additional capacity which may cause congestion later on down in the intersection. Continuing along, again you would have curbside outdoor dining, am just going to back it up here a little bit, show that this is High Street. High Street, as of today, you cannot make a left to go north on Main, you can only go right, going south. This would be outdoor dining here, curbside here. We provided outdoor dining here, but it may not be used as outdoor dining as the plan continues to happen. This still will be maintained for vehicular reasons. It may be more like the blue condition over here where we are just maintaining an outdoor space which you have to do to maintain this type of floor for vehicular movement and public safety reasons.

On East Pearl Street here, you are going to have the curbside pickup back in through here and then the outdoor dining right in through here. That would service these restaurants, including Fratello's. Fratello's would have an opportunity to have outdoor dining right in through here; curbside parking would be here, this would be MT Local's right here. This is Surf, this is again could be Surf right here as well, curbside parking. We also have, I believe, Joanne Kitchen and Main Street Gyro in through here. The narrowing of Main Street for going north does not happen back here at Kinsley, it actually happens closer to St. Patrick's and the condition would begin right in through here. So you'd have all this capacity and you would not interfere with the volume back here.

This plan has been reviewed both internally and externally. It has received public comment. An informational briefing was given to the Board of Public Works. I've had individual conversations with many of the restaurants and shops on Main Street to make sure we were accommodating their needs. I am pleased to report it has been well-received by many, many people. So with that being said, Madam President, I think I very quickly went through this for you and addressed, I believe, the concerns.

President Wilshire

Thank you very much Director Cummings. Alderman Jette, did you have any other questions?

Alderman Jette

No, thank you very much Mr. Cummings for going through that. I do want to say that, you know, this Ordinance was proposed, or this plan, in the Ordinance to enact it, it was in response to the Governor's starting to open up the economy and allowing various businesses to reopen. One of them being restaurants, but the Governor's Order does not allow indoor dining, only outdoor dining. Most of our restaurants rely upon indoor dining for their business and don't have the capacity to accommodate outdoor dining. So this plan gives them outdoors, an area outdoors where they can serve their patrons. So I think it is a good idea. A side benefit of this, there has been talk for a number of years about the possibility of narrowing Main Street on a permanent basis, similar to what Concord did in order to kind of re-design Main Street in the downtown area, to make Main Street more of a destination and less of a thoroughfare.

So as a side benefit, I think it is a great opportunity for us to experiment with that and see how that works out. So I appreciate all the work Director Cummings and a lot of other people have done on this and I am going to support it. Thank you.

President Wilshire

Thank you Alderman Jette. Anyone else?

Alderman Clemons

Yes, Madam President.

President Wilshire

Alderman Clemons.

Alderman Clemons

Thank you. And I hope that you can afford me a little bit of leeway here because the question that I am going to ask is actually geared to Director Cummings or Corporation Counsel and it may not seem germane, but I will get to that. So my question is, is there currently an Ordinance or rule that prohibits umbrellas with advertising downtown?

President Wilshire

Director Cummings?

Tim Cummings, Director of Economic Development

Yeah, I can answer that, Madam President. What there is, there is a regulation in the current outdoor dining process that was approved by the Board of Public Works that prohibits logos or something of that nature "advertising" on umbrellas in the right of way.

Alderman Clemons

OK. My question next would be definitely to Corporation Counsel and I am doing this because Alderman Laws was unable to attend this evening and he wanted to perhaps entertain an amendment to see if we could potentially have an exception to that rule via an amendment to this to allow for that. The reason being is that on the east side of Main Street, the sun gets extremely bright in the afternoon. A lot of the restaurants that are downtown are able to get through their various liquor vendors or other vendors, you know, umbrellas or things like that, that they can get for free. If they were able to put them up on their tables, this would definitely be there for the customer experience, plus it wouldn't cost them anything.

The issue is that on some of these, you know, to get a non-branded one, the really nice umbrellas that you would want that won't blow away in the wind, you know, somewhere cost anywhere between \$150.00 to \$250.00. So my question to Corporation Counsel is because it is a Board of Public Work's rule, would it be possible for the Board of Aldermen to pass an amendment to this Legislation that would temporarily allow umbrellas with advertising and Logos?

President Wilshire

Attorney Bolton?

Attorney Bolton

I have not looked at this recently but it seems to me that this question came up two or three years ago and while there is in the Board of Public Works Set of Rules about outdoor dining and placement of tables and so forth wording about advertising signage, which encompasses that located on an umbrella. I think the real impediments are the regulations of the State Liquor Commission. And they have on four inch maximum for advertising, four-inch maximum size for Logos and Advertising of alcohol products. So beer, wine, what have you. That seems to be the biggest impediment. So it may be that you want to address that in amendment to this Legislation; it may be better to let us take a longer look at this and bring it up as a separate piece later. I am not 100% sure that you can achieve your objective, because you cannot overrule the State Liquor Commission.

Alderman Clemons

Ok so yes and then, you know, with all due respect to Alderman Laws I am glad I asked the question. What I will ask you if you can look into that for us a little bit further, so that we can propose Legislation to get that done. It could be that some of these liquor distributors know that that's a rule and they manufacture these things that way; I don't know. But yeah if you could look into that, that would be great. Thank you.

Unidentified Speaker

I hate to interrupt, but we have lost the bridge. So we are getting it back right now.

President Wilshire

Ok, we are going to hold.

Unidentified Speaker

I'll get right back to you on it.

President Wilshire

Thank you.

Alderwoman Lu

I was eager to drive through and just see what it looked like to have restaurants open and people on the sidewalks chatting and eating. I think that with this opening it will probably attract a lot of people who feel that way even if their towns aren't open up or if they don't live in a town. It is going to attract a lot of people in the beautiful weather, even just to watch. And as we do every year, I think we may have a lot of motorcycles coming through and my concern is the loud exhausts. And I think to make this a great experience, we should, I am hoping that we can have the Police Department have dedicated patrols to stop those loud exhausts before they can enter the Downtown area because I think that will just make it a much better place for the people that are downtown. Thank you.

President Wilshire

Thank you, Alderwoman Lu. Anyone else? Would the Clerk please call the roll?

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

Yea:	Alderman O'Brien, Alderman Klee, Alderwoman Kelly, Alderman Caron, Alderman Clemons, Alderman Lopez, Alderman Tencza, Alderwoman Lu, Alderman Jette, Alderman Schmidt, Alderman Harriott-Gathright, Alderman Wilshire	12
Nay:		0

MOTION CARRIED

Ordinance O-20-015 declared duly adopted.

President Wilshire

And that Motion carries. Ordinance 20-015 is duly adopted.

O-20-018

Endorsers: Mayor Jim Donchess
Alderwoman-at-Large Shoshanna Kelly
Alderman Richard A. Dowd
Alderman Thomas Lopez
Alderman Linda Harriott-Gathright
Alderman Jan Schmidt
Alderman Patricia Klee
Alderman June M. Caron

RELATIVE TO FACE COVERINGS

Given its first reading:

MOTION BY ALDERMAN LOPEZ TO SUSPEND THE RULES FOR A SECOND READING OF O-20-018 BY ROLL CALL

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

Yea: Alderman O'Brien, Alderman Klee, Alderwoman Kelly,
Alderman Caron, Alderman Clemons, Alderman Lopez,
Alderman Tencza, Alderwoman Lu, Alderman Jette,
Alderman Schmidt, Alderman Harriott-Gathright, Alderman Wilshire 12

Nay: 0

MOTION CARRIED

Alderman Klee

Madam President? I think they've asked us to take down the presentation because no one can see us on the television screen.

President Wilshire

Director Cummings, can you take down the presentation at this point?

Tim Cummings, Director of Economic Development

Yes, I'll be happy to. I am going to do that right now.

President Wilshire

Thank you.

Alderman Caron

Alderman Wilshire, can you hear me again?

President Wilshire

Yes, we can, Alderman Caron.

Alderman Caron

OK, I don't know if you got my vote.

President Wilshire

We did.

Alderman Caron

OK thank you.

O-20-018

Endorsers: Mayor Jim Donchess
Alderwoman-at-Large Shoshanna Kelly
Alderman Richard A. Dowd
Alderman Thomas Lopez
Alderman Linda Harriott-Gathright
Alderman Jan Schmidt
Alderman Patricia Klee
Alderman June M. Caron

RELATIVE TO FACE COVERINGS

Given its second reading

MOTION BY ALDERMAN LOPEZ FOR FINAL PASSAGE OF O-20-018 BY ROLL CALL

ON THE QUESTION

Alderman Lopez

And I'd like to speak to it.

President Wilshire

Alderman Lopez?

Alderman Lopez

So I proposed something similar to this or at least I asked the question as to whether there were any legal reasons we wouldn't be able to augment our Public Health expectations that we, for example, wear shirts and shoes in restaurants prior to the Governor's Orders to open within phases. I had briefly suggested that maybe we should wait and see what he did thinking that he would likely include some sort of plan for wearing protective equipment with his phasing and then that didn't turn out to be the case at all. So my concerns originally were that we were just hearing more and more reports that business owners were being blamed for trying to take precautions to protect their patients. People were wiping their noses on employee's shirts and generally abusing them. And I felt like this was a role where the City needs to take a leadership role in Public Health Protections because that is where we are elected and we have the access to planning and staff to implement it in a reasonable way. So I wanted to make sure that the City was an active participant in this strong public health standpoint.

More recently with the phased opening and steps that we have been taking, it has become evident that we are not going to go right back to the way things were. We are going to have to start making changes and kind of recognize that there is the risk of the COVID-19 Epidemic but there is also the necessity of maintaining an economy and helping small businesses achieve the success that they need. So I think that this is a crucial step in all of that because businesses can't afford to lose employees due to an outbreak. We can't afford to have manufacturing plants or stores closed because multiple employees were suddenly caught with COVID-19, whether or not its fatal, they are still are out sick. So there is that element of risk and then additionally the danger to our senior residents. Nashua has a large senior population and while

we have seen in New Hampshire most of the fatalities taking place in Assisted Living Facilities, that is because those are facilities where individuals have no choice but to share air and a common HVAC system, work with common denominators like staff and share food and all that kind of stuff. So they are by far the most at risk but we have a large number of senior housing programs too.

When this was reviewed by the Board of Health, all three medical doctors on the Board unanimously supported this. Their questions weren't about whether or not this was a good move, it was whether this would be adequate to fully protect us or not. There's a lot of discussion about the changes that COVID-19 has taken. Being a recently discovered and a newly emerging disease, we had no idea even 3 months ago that infants and toddlers would be showing Inflammation Syndromes where they could potentially lose limbs and have life-long impairments. We didn't know that younger people, who we thought were just asymptomatic and not at risk, were starting to present a higher occurrence of heart, stroke and arrhythmia and risks like that.

We had been proceeding along the assumption that only a small percentage of elderly people would be impacted by this permanently, when the Public Health reality is that a huge number of people will be impacted either directly or indirectly, either fatally or in a manner that impairs them. So there's a tremendous amount of risk in reopening in the phased manner that we are doing, particularly here in Nashua. As Alderman Lu pointed out, as we start to have people eating outside and the weather turning nicer, you are going to see people coming from right over the border, which is one of the hot spots in the country, coming to check out what's going on, coming to experience their own return to "normal" and that puts our business people at risk. That puts our local residents at risk. We already know in Mine Falls and other outdoor recreational facility, there's a huge uptick in the number of Massachusetts plates that are coming over to use those facilities. If we aren't careful in Nashua, we are going to open ourselves up to unintended consequences. When we start to phase the reopening up at the same pace as the rest of the State, then what is happening north of Concord isn't going to be the same as what's happening in Nashua. We are going to see more and more people coming and using these facilities. We can't put the genie back in the bottle; we need to make sure that businesses have a large enough population that they can serve to even pay for the expenses of reopening. We need to guarantee their success and we also need to protect them and assume our own role of governors of Nashua.

So I think it's important that we consider this. I think this is a situation where we have a clear signal from the Board of Public Health that this is something that's important. Their opinion is qualified and in the meeting the question was asked to enable this, "Does the Board of Alderman have to take action". And to enable this, and Attorney Bolton can correct me if I misspeak, both the Board of Public Health and the Board of Alderman need to agree to enact it. Only one of those Boards needs to decide to remove it. So if the Board of Public Health decides that the coast is clear, ICU capacity is at a safe space and we have something approaching herd immunity or if miracle vaccine is – I mean I'm not going to put any faith in that, but if it happened, then we would be able to take corrective action and there wouldn't be a huge amount of Legislative Process with which to do it.

So I think it's important that we set this in place now in order to protect ourselves from the risk that we cannot reverse course on. I think it's important that we keep in mind that our businesses need us to do this. They need us to protect their ability to do business and they need us to do our roles that we have been elected to do.

President Wilshire

All set Alderman Lopez?

Alderman Lopez

Yes.

President Wilshire

The motion before us is for final passage. Is there further discussion on the motion?

Alderman Clemons

Yes President Wilshire?

President Wilshire

Alderman Clemons.

Alderman Clemons

Thank you. I have a question through you to Corporation Counsel. Can you clarify what the penalty is for this Ordinance if it was to pass the way it is written tonight?

Attorney Bolton

A court could impose a maximum of a \$1,000.00 fine. That is true for any violation of our Code of Ordinances, unless some other lesser fine is particularly established.

Alderman Clemons

So to be clear, no one could be arrested for this?

Attorney Bolton

A violation subjects someone to arrest it does not subject them to a jail sentence. Presumably, if they were arrested, they wouldn't have to be arrested, they could be summonsed, but if arrested, presumably they would get reasonable bail and be ordered to appear in Court. My expectation is if there is a violation for mere failure to have a proper face covering, no one is going to be arrested for that. It would be where some further offense took place, failure to leave the premises when directed to do so, could constitute a criminal trespass. If the Police attempted to remove someone from a place where they weren't authorized to be because they weren't wearing a mask, you get an additional to criminal trespass, you very often see where the person resists arrest, perhaps assaults an officer, perhaps gets loud and belligerent to the disturbance of others and you get a breach of the peace complaint at the same time.

It would shock me entirely if someone was arrested merely for the face covering violation and it would shock me entirely, if someone on a first offense and only offense were fined \$1,000.00. As I said a jail sentence is not available for an Ordinance Violation.

Alderman Clemons

OK thank you. Madam President if I could continue?

President Wilshire

Alderman Clemons?

Alderman Clemons

My problem with the way that this is written right now is that there is no warning mechanism, there's no, it is basically up to the discretion of the Court, you know, up to what they are going to put the fine at. So my,

you know, I don't deny the fact that masks are important. I know some people have questioned the science behind it; I don't question the science behind it or anything like that. I would like to a motion to amend and I would amend the Ordinance by saying that first offense you give a warning and on second offense you give a \$25.00 fine.

MOTION BY ALDERMAN CLEMONS TO AMEND THE ORDINANCE BY ADDING TO HAVE THE FIRST OFFENSE RESULTING IN A WARNING; SECOND OFFENCE RESULTS IN A \$25.00 FINE

President Wilshire

I'm sorry did you say \$25.00 fine Alderman Clemons?

Alderman Clemons

Yes.

President Wilshire

The motion is to amend by adding – the first offense would be a warning; second offense would be a \$25.00 fine. Discussion on the amendment? Anyone? Ok, would the Clerk call the roll?

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

Yea: Alderman O'Brien, Alderman Klee, Alderman Clemons, Alderman Tencza, Alderwoman Lu, Alderman Jette, Alderman Harriott-Gathright,	7
Nay: Alderwoman Kelly, Alderman Caron, Alderman Lopez, Alderman Schmidt, Alderman Wilshire	5

AMENDMENT MOTION CARRIED

President Wilshire

So the motion before us now is for final passage of Ordinance O-20-018 as amended. Further discussion on that motion?

ON THE QUESTION

Alderman Tencza

Madam Chairman if I may?

President Wilshire

Alderman Tencza?

Alderman Tencza

Thank you. If I could make a subsequent follow up Motion. There was something that was sent around to all of us to look at what the Ordinance is or what the Executive Order down in Massachusetts. One of the things that stuck out at me is that as this Ordinance is written in Nashua, if you had some kind of medical issue where you couldn't wear a mask, you would have to provide proof of that medical issue, presumably now after the first or second time that you are stopped and questioned about why you didn't have a mask

on. I would just like to make an amendment to the Ordinance so that you are not required if you have a medical condition, not required to show proof of that medical condition for not wearing a mask.

President Wilshire

OK did you get that Madam Clerk?

Susan Lovering, City Clerk

I believe it was to further amend that if you have a medical condition that you are NOT required to show proof?

Alderman Tencza

Correct.

MOTION BY ALDERMAN TENCZA TO FURTHER AMEND O-20-018 TO NOT BE REQUIRED TO SHOW MEDICAL PROOF TO NOT WEAR A MASK

ON THE QUESTION

Alderman Schmidt

Madam President. Jan.

President Wilshire

Alderman Schmidt.

Alderman Schmidt

Item #7 says that "a face covering is not required to be worn by any person if said person can show a medical professional has advised that wearing a face covering may pose a risk to said person for health reasons". Is that what you wanted to change Alderman Tencza?

Alderman Tencza

Yes just the language that they have to have some documentation on them in order to justify not wearing a mask. I think that may be difficult and onerous for some people. Again, this was consistent with what the Massachusetts Executive Order says that was a good idea and so I am making the suggestion.

President Wilshire

OK, you have heard the amendment.

Attorney Bolton

President Wilshire, Steve Bolton. May I say something?

President Wilshire

Attorney Bolton.

Attorney Bolton

This amendment, the proposal will have to go back to the Board of Health. It is such a substantive change. It doesn't just change the penalty. It changes substantively what is required. The other thing is that it doesn't require to be on the person at the time. Certainly if one were able to show it to a Police Officer or whomever, it would probably prevent any summons. But it sets up an affirmative defense, if in fact, summoned, I expect the Police would deal with that, if you showed up at the station the next day, or if you showed up in Court and you were summoned to appear and had the documentation, they would dismiss the case right there. So I am not sure it is as onerous as some might think. But we are trying to do things in a hurry I gather and I just want everyone to know that this is a change from what the Board of Health adopted. It will have to go back to the Board of Health before I can take effect.

Alderman Klee

Madam President.

President Wilshire

Alderman Klee.

Alderman Klee

Thank you. I want to make two comments. One is I would have a little bit of anxiety about making this change anyways. Because the truth is if someone wanted to defy this order, all they have to say is I have an existing condition. Not that I don't believe that we should trust everybody who speaks, but that's the reality of the world. And I feel like we are setting ourselves up for failure and we are setting up the restaurants and the retailers and so on who truly do want this. I have heard from a lot of them.

The other thing is, and I don't know if there is anybody here to answer this. But when we talk about the face coverings of the nose and the mouth, it was brought up at another meeting today and I believe that it was from someone at the Board of Health, that said when they think about the face covering for the nose and the mouth, they exclude the check valve mask that some people like the fire fighters and so on had. That that would not be the same because that expels the vapors and so on and the droplets. So I want to know, maybe Attorney Bolton can answer this, does this sufficiently exclude those who want to have the check valve masks. They do cover the nose and the mouth. They are covered in that respect but they don't stop the expelling of (inaudible).

Attorney Bolton

There's a definition provided as to what face covering means for this purpose and it has to be made of cloth, fabric, or soft permeable material without holes. It covers only the nose, mouth and surrounding areas of the lower face". My interpretation is valves of the sort being described would not meet that definition.

Alderman Klee

That's perfect, that's what I just wanted to make sure that it did not – so it does exclude the ones with the valve in them. And I appreciate that. And I do want to also express my concern if we just said that basically anyone can walk up and say, "I have a medical condition". And trust me, as a woman who had a mother who was severely asthmatic, she would not be able to wear able to wear a mask. So I completely understand and I know there are a lot of people and some on our Board that would have that issue. But I don't want to put that provision in.

Alderman Lopez

Madam President.

President Wilshire

Alderman Lopez.

Alderman Lopez

I just wanted to second what Alderman Klee was saying. I would be concerned if we gave the opportunity for someone to say or just verbally state that, "OH I have a medical condition therefore I can't" because your mileage varies greatly with the definition of medical professional or medical individual. And you can state whatever you want to an officer on the spot. I do understand that it might be onerous for somebody to carry proof of a medical condition requiring an exception to the face mask rule but I think number 1) if you are not wearing a face mask either it is onerous to carry a face mask or it's onerous to carry a piece of paper saying you don't need a face mask but there's some equality there. And then, I think it puts our Law Enforcement in unfair position to just say and anybody can deny the need for facemask without really having to prove it. So if there's already a stipulation in there that it can be provided at a later date, then I think that's reasonable.

President Wilshire

Further discussion on the motion to amend.

Alderman Jette

Madam Chairman?

President Wilshire

Alderman Jette.

Alderman Jette

Thank you. I am not going to support Alderman Tencza's amendment, remembering that the Board of Health has brought this to us as a recommendation for protecting the public, you know, not only the employees who are working in the restaurants or the retail establishments, but the customers who are going to these places. I mean, wearing a mask as I understand it, you both have to have a mask for it to be really effective. And for people who cannot tolerate a mask, no one is forcing them to go to a restaurant or retail establishment. You know if they cannot tolerate the mask, they have a choice of avoiding those places and not going there in the first place. And, you know, as far as protecting the rest of the public, the majority of people who can wear a mask, I mean allowing people who can't tolerate a mask to be unmasked is putting the rest of the population at risk. So I am not in favor of this amendment.

President Wilshire

OK anyone else on the amendment?

Alderwoman Lu

I'd like to speak to it please.

President Wilshire

Alderwoman Lu.

Alderwoman Lu

Thank you. I just wanted to say that I've spoken with a lot of people in my area, my Ward. I read the numerous e-mails we received and I just want to say that I really like that so many people took the time to communicate with us about their feelings about this Ordinance. And I feel that it was pretty evenly for and against. My feeling, I am going to vote for it and the reason why is that the employees have to wear masks and that's because they will protect us. And I think that in order to protect the employees, we need to Legislate that people that come into the shops need to wear masks as well for the employees' protection. Thank you.

President Wilshire

Thank you, Alderman Lu, anyone else for the motion to amend by not having to show a medical reason. Anyone? Seeing, none would the Clerk call the roll on the amendment?

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

Yea: Alderman Clemons, Alderman Tencza	2
Nay: Alderman O'Brien, Alderman Klee, Alderwoman Kelly, Alderman Caron, Alderman Lopez, Alderwoman Lu, Alderman Jette, Alderman Schmidt, Alderman Harriott-Gathright, Alderman Wilshire	10

MOTION TO AMEND FAILEDPresident Wilshire

And that amendment fails. So we are back to the Final Passage or Ordinance 20-018 as amended.

ON THE QUESTIONAlderwoman Kelly

Alderman Wilshire, can I speak please?

President Wilshire

Alderwoman Kelly

Alderwoman Kelly

I appreciate the comments that have come through. I had a couple of comments that have now come and gone. But I think that there have been a lot of voices in this and a lot of really great communication from our City and I appreciate that. The Board of Health is recommending this so I am supporting this. We had earlier discussions before the State did some of the things that they did. One of the things I am most concerned about is we are, tourism is our number one industry here in New Hampshire. People are going to start coming to our State and by all means I am not saying close our borders, but I think anything we can do to make us safer and help our community get through this, it makes a lot of sense.

That being said, I did not care for the amendment to make the first offense a warning. I think we need to strike a balance where people will have to follow this. So I would like to move to amend and make the first offense a written warning and the second a \$100.00 fine.

MOTION BY ALDERWOMAN KELLY TO FURTHER AMEND O-20-018 FOR THE FIRST OFFENSE RESULTS IN A WRITTEN WARNING AND THE SECOND OFFENSE A \$100.00 FINE AND ANY OTHER SUBSEQUENT OFFENSES

President Wilshire

The motion is to further amend by changing the \$25.00 fine to a \$100.00 fine.

Alderman Kelly

I said specifically said to make the first one a written warning.

President Wilshire

Oh I'm sorry yes, a written warning, ok.

Alderman Kelly

Thank you.

President Wilshire

You're welcome. So the motion is to have a written warning for the first offense and a \$100.00 fine for the second offense and subsequent – Alderman Kelly?

Alderman Kelly

Is that how it was originally intended if I could potentially ask that to Alderman Clemons through you.

Alderman Clemons

Yes.

Alderman Kelly

That's fine.

President Wilshire

So it would be a \$100.00 fine for a second fine and any subsequent offenses. Any discussion on that motion to amend.

ON THE QUESTION

Alderman O'Brien

Madam President?

President Wilshire

Alderman O'Brien.

Alderman O'Brien

Thank you – question to Corporate Counsel through the Chair if I may. What does, in this type of circumstance, what does a written warning actually mean? I hate to say it like in St. Peter's Grammar School, is it part of your permanent record? But the thing is will the Police compile this? So if a stop received 2 or 3 of these, like with motor vehicles if you get a warning that is on record within Motor Vehicles, is there bureaucracy attached to this or somebody to do the paperwork on a written warning is my question.

Attorney Bolton

I'm sure the Police have no procedure for keeping track of warnings of Ordinance Violations. I think it's up to the discretion of individual Police Officers to give a warning. The next Police Officer won't be aware of what the previous Police Officer did as far as an individual. I cannot believe that there's going to be any money spent to keep an electronic record of warnings, be it written or oral for Ordinance violations like this.

Alderman Schmidt

Madam President?

President Wilshire

Alderman Schmidt?

Alderman Schmidt

Thank you. I honestly don't think there should be any specific punishment on this Ordinance. I think if someone is in a shop and they are refusing to wear a mask and the Police are called, I think it should be a disorder. I think if they are being disorderly and I think the law will already manage that, rather than to put all kinds of punishments in this. That's just my opinion.

President Wilshire

Thank you, Alderman Schmidt. Anyone else?

Alderwoman Kelly

Can I reply, respond?

President Wilshire

Alderwoman Kelly?

Alderwoman Kelly

Yeah just I was wondering I mean I sort of agree with you Alderman Schmidt, but I would prefer something to nothing. I was looking at what they do in Massachusetts as that's been brought up a couple of times and they do an up to \$300.00 fine. So my number wasn't just out of the air.

President Wilshire

Alderwoman Kelly, what do you think about the written first offense if as the attorney stated, they are not going to keep track of those offenses anyway. How would we know there was a first offense?

Alderwoman Kelly

I can take that off if we think it's too much paperwork for the Police. I don't think – we are definitely not trying to be punitive to anybody specifically. I am concerned if it is just verbal warning and \$25.00 that makes it a lot easier for individuals to be a little bit more loose about it. Not much more than a parking ticket.

Alderman Klee

Madam President?

President Wilshire

Alderman Klee.

Alderman Klee

Yes, I did support Alderman Clemons' amendment for the first offense as a warning and so on, but after hearing Attorney Bolton say that the Police will not have really a means of being able to do this, it seems like a moot point to even have had that amendment to the point that Alderman Schmidt made that we, you know, basically disorderly conduct kind of thing, and we already have something in place with that. I am wondering if we should review the amendment. I don't know if that would be possible or if something to do – we are taking away the whole idea of this is to get people to do the right thing, and if they don't give some teeth to the Police as what Alderman Schmidt says, that it is a disorderly issue and let it go as that. I don't believe for one second that anyone is going to get a \$1,000.00 nor do I believe that they are going to be doing any jail time. So I am not sure where to go at this point but perhaps we should revisit the amendment from Alderman Clemons.

President Wilshire

Ok Alderman Klee. We have an amendment before us for a written warning on the first offense and a \$100.00 for second offense and any subsequent offenses. That's the Motion before us. Any further discussion on the Motion to make that Amendment?

Alderman Tencza

Madam President.

President Wilshire

Alderman Tencza.

Alderman Tencza

Yes thank you, just briefly, you know my experience with the Police Department has been that any citizen or most citizen contact that they have is reported someplace at the Police Department through their internal transmission system. So it is easy enough for them to say, to radio in and say, "I'm with Joe Schmo here at Shaw's, he's doesn't have a mask, I'm giving him a warning". I don't think that would be sufficient for a

written warning requirement, but I think the Police Department probably would be able to track fairly easily first warning and then any subsequent warning if folks have a concern about that.

President Wilshire

Thank you, Alderman Tencza.

Alderwoman Kelly

Clarification please?

President Wilshire

Alderwoman Kelly?

Alderwoman Kelly

Alderman Tencza, are you saying that they wouldn't necessarily need to have a written to do the protocol you just suggested?

President Wilshire

Alderman Tencza.

Alderman Tencza

That's my suggestion is that giving them a written ticket or something like this is one thing, but they can keep an internal record of their contact with someone fairly easily just as they do when they pull someone over or do field interviews with people on a regular basis.

President Wilshire

All set Alderwoman Kelly?

Alderwoman Kelly

Yes thank you.

President Wilshire

OK so the Motion to amend is for a written warning on the first offense, \$100.00 on the second and any subsequent offenses. Seeing no further discussion, would the Clerk call the roll on the amendment?

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

Yea: Alderman O'Brien, Alderman Klee, Alderwoman Kelly,
Alderman Lopez, Alderman Jette, Alderman Schmidt 6

Nay: Alderman Caron, Alderman Clemons, Alderman Tencza,
Alderwoman Lu, Alderman Harriott-Gathright, Alderman Wilshire 6

MOTION FAILED

President Wilshire

And that Motion fails. The motion before us is for final passage of Ordinance O-20-018 as amended, further discussion on that motion?

Alderman Klee

Madam President?

Alderman O'Brien

Madam President?

President Wilshire

Alderman Klee.

Alderman Klee

Thank you. I think I'd like to go back to Alderman Clemons' amendment and I would like to ask to have it removed.

President Wilshire

So you are making a motion to take out the amendment?

Alderman Klee

Yes, please, thank you.

MOTION BY ALDERMAN KLEE TO RECONSIDER ALDERMAN CLEMONS' MOTION TO AMEND (1ST OFFENSE – VERBAL WARNING; 2ND OFFENSE - \$25 FINE)

ON THE QUESTION

President Wilshire

To reconsider the amendment, ok. Anyone have any discussion on that.

Alderman Clemons

Yes, President Wilshire.

Alderman Harriott-Gathright

I need to...

President Wilshire

Ok Alderman Clemons?

Alderman Clemons

Ok so my concern with taking out the amendment is (inaudible) I completely understand the wanting to have disorderly conduct. So in other words, if a business has a policy or we have the Ordinance that says you have to a mask on. And a person comes in and they refuse to wear a mask and not only are they just refusing to wear the mask but they are being belligerent or they are throwing stuff or threatening people. That to me is a separate crime and that's a crime that's already on the books. So I think in those particular situations, even if we were to not pass this and a business had a policy where they required a mask and somebody refused to wear it, I believe that the Police should be called down and have that person removed from their property because they are violating the business owner or the property owner's wishes. So my fear in removing the warning is that if we do that, then we are leaving it up to a court to decide – well first we are leaving it up to a court to decide if they are going to fine somebody. And two, we are clogging the court. Now, again, if there is other disturbances and things like that, then you would call the Police anyway, you know, for that.

My fear is somebody coming from Massachusetts who doesn't know the rules or somebody coming from Hollis or some other part of New Hampshire where they don't have this. And they are innocent, they don't know, they come into Nashua and they are not aware of this. We want to educate people, we don't want to be punitive to people. So my thought is give people a warning and if they are a repeat offender, then they are a repeat offender and we give them a small fine to make sure that they abide. But that's my thoughts so I won't be supporting the motion to remove the amendment.

President Wilshire

Who was next?

Alderman Harriott-Gathright

Yes.

President Wilshire

Alderman Gathright.

Alderman Harriott-Gathright

I agree with Alderman Clemons with this issue. I would not be supporting that as well, removing the first amendment. I do believe that there should be some type of, even though it is small, but it is still a penalty attached to this Ordinance.

President Wilshire

Ok further discussion? Alderman Clemons?

Alderman Clemons

Thank you. Just to clarify, my concern is that if we remove this amendment, the penalty could be large, it could be huge, it could be \$500.00, it could be \$1,000.00 and if we pass it like that we cannot guarantee that that won't be the penalty. So by putting in a warning and putting in the \$25.00 we have a penalty. So if the idea is, we don't want a penalty, then we can make an amendment that there will be no penalty to this. But I can't imagine that that's what we want to do either; so that's why I suggested the warning and the \$25.00 was because I don't want to see it be a punitive penalty on people who really didn't know or whatever the case may be.

President Wilshire

Well I think Alderman Clemons that if we pass this Ordinance that there would be something that we could put downtown or near the restaurants that say "Per NRO you have to wear a mask". So even if you are from out of town or from Nashua, most people will see that and realize that masks need to be worn. Ok further discussion.

Alderman Lopez

Madam President, I had my hand up. Sorry.

President Wilshire

Alderman Lopez.

Alderman Lopez

I just wanted to point out that while I understand what Alderman Clemons is saying about people not knowing and then coming to Nashua and finding out, if you set the fine too small no one is really going to know about it versus if it is \$1,000.00 then they are definitely going to know about the potential of that. But I have a lot more faith in our Police Officers and our Judicial System, I think. Ad Attorney Bolton said, and Chief Carignan did say that this would be very carefully managed, in the Public Health Meeting and that he wasn't going to have officers out looking for people. It was going to be more like if it was creating an issue and to empower business owners. So I think leaving the concept of disorderly conduct intact is fair as Alderman Schmidt suggested. And at the same time having a maximum penalty gives the Court System and the Police the latitude to actually use their own discretion. Because I'd also hate to see a bunch of people come and plan to pay \$25.00 in order to make a demonstration or inconvenience others. Or just because they can afford that easily and therefore, they can afford to flout laws that people who don't have money can't.

Alderman Klee

Madam President?

President Wilshire

Alderman Klee.

Alderman Klee

Thank you and I think Alderwoman Lu also had her hand up but the whole premise behind this is exactly what Alderman Lopez had said. It is not to be punitive but we are a border State to Massachusetts. And my anxiety, I had a major anxiety attack the weekend before the malls were opening up because I saw the numbers of Lowell and Lawrence and while those numbers do seem to be going down, they are still the 3rd highest. And knowing that we are kind of the Gateway to New Hampshire where people are going to be coming to go on vacation and to do everything else such as that, I think as long as we have signage that says "You cannot enter without a mask" we are letting them know that. And if we tell businesses that they have to put that up in their window or recommend it or however it is that we want to do this, I think that's a good idea. I actually think we are building in a true punitive by saying a warning and then a \$25.00 fine; it's almost making it mandatory. So I guess I do voter's regret when I voted for it the first time. I would rather just leave it as is and make it more of a disorderly conduct type of thing. And while yes, we all know that the \$1,000.00 fine is sitting there, I seriously doubt it is going to implemented so I don't believe that someone is going to be in harm's way. And I just would like you to go through as clean and so on and I will stop talking now. Thank you.

President Wilshire

Alderwoman Lu.

Alderwoman Lu

Thank you. Through you to Attorney Bolton if I could. Does a store owner have the right to ask someone to leave their store?

President Wilshire

Attorney Bolton.

Attorney Bolton

Most often the answer is yes if the patron ... I didn't hear that.

Alderwoman Lu

Sorry. If they had a sign indicating masks required, would they have a right to ask a person to leave?

Attorney Bolton

Yes, in my answer to the previous question, under ordinary circumstances the proprietor, manager, of business property can refuse to serve anyone. There are certain bad reasons which you cannot exercise that right but in the case of a refusal to wear a mask if it is required by law or required by the property owner, by the business itself, yes they can say these are our regulations, if you come into my store or my restaurant, we are going to require you to wear a mask when you are in close proximity to others or there is any likelihood you'll be in close proximity to others. Or we require to wear a mask at all times. Yeah and then the store owner at that point, if the person refuses to comply and refuses to leave, that becomes a criminal trespass.

Alderwoman Lu

Thank you. So the way I see this is somebody walks into a shop without a mask, they are asked to leave, they leave, they are asked to leave because there's an Ordinance in town that requires masks, they don't leave, they become disorderly or a Police Officer is asked to help and it doesn't even have to become a fine for violating that Ordinance. The person has become disorderly.

Attorney Bolton

As I have said before, typically arrests in these kinds of situations result not from the original violation but from the escalation of bad conduct. So the breach of the peace, the criminal trespass, the assaulting a Police Officer, the assaulting of the store manager, the resisting arrest. Any of those things are not unlikely to become packaged together.

Alderwoman Lu

Thank you, Attorney Bolton. I hope those things don't begin to happen too often. But my thoughts are just who goes out in this climate and thinks maybe they don't have to wear a mask somewhere. I don't think many people would be surprised to find that in an Ordinance.

Attorney Bolton

OH – I have gotten more communications than the Board of Aldermen has about people who intend to do that if this passes, “I will be going downtown, I will be NOT wearing a mask and I dare you to do something about it”. I’ve gotten that type of communication. So I do expect there will be some testing of this.

Alderwoman Lu

My feeling, my point is that it won’t be harmless ignorance that causes this but maybe something else. I just don’t think there are many people that are not aware of the need to wear masks. And I don’t know that we have to belabor how it’s going to be addressed, because I think that our Police Officers do a really good job of using their fine discretion. Thank you.

Alderman Klee

Madam President.

President Klee

Alderman Klee?

Alderman Klee

Thank you. I wanted to mention one other thing and I don’t know if it is germane to the amendment that I’ve got sitting there. But kind of to answer some of the questions that have brought up, I have spoken to a number of businesses. Now while I have not spoken to every business that we have in Nashua, the businesses I have spoken to want this Ordinance to help support them. I can give you one instance, there was one business that when retail was starting to open up, put a sign in their window that basically said, “No Shirt, No Shoes, No Mask, No Service”. And they got phone calls that said, “you don’t have the right to do that, it is my constitutional right” and so on. This is kind of being brought up to the Governor. And they said to the Governor, you know, a lot of businesses would like this to be done and he said that he did not want to mandate this but that he understood especially those cities and towns that were right on the border of Massachusetts, he could see the need for it. He still did not mandate it but the businesses want it and I think this is our way of also supporting the businesses by saying, “We support those people that are frail that want to go out of their house”. I mean the Governor said that those employees have to wear it so why wouldn’t we want to protect those employees by us wearing them? And I can tell you, I’ve been in stores where people are not doing social distancing and I’ve been to a different place where they are not doing social distancing and they don’t have masks on. I find it very offensive because I always wear a mask. I even walked out of a store today and got in the car and my husband said to me, “Why do you still have your mask on” and I went, “I do?”. I am getting to the point now where it is almost becoming like putting on lipstick, it’s just part of my – and I am claustrophobic so I have gotten past it. I just think we are doing it to support businesses. I don’t want anything punitive to happen. And I pray that these people don’t come and protest just because they can. We are a live free or die State but we also have to think about all of our citizens. And I think that’s what this does. It is for caring for somebody else, not just myself but somebody else.

President Wilshire

For the record, Alderman Dowd had joined us at 8:30. Any further discussion on removing the warning and the \$25.00 fine? Alderman Jette?

Alderman Jette

If I could Madam President through you, if I could ask Attorney Bolton, when Alderman Kelly made the motion to amend by providing for a written warning, you expressed some misgivings about that. How do you feel about Alderman Clemons' verbal warning? What are your thoughts on that?

Attorney Bolton

I think both the written and the verbal warning basically renders the entire thing unenforceable. I do not think it will be easily proven that someone was given a warning, whether written or verbal for a prior offense. I just don't see careful enough records being kept; I don't see one Police Officer knowing what other Police Officers have previously done. So that's my opinion, it renders the measure unenforceable, written, or oral.

Alderman Jette

Can I follow up Madam President?

President Wilshire

Alderman Jette, yes.

Alderman Jette

So I am wondering what the purpose of the warning is, as contained in Alderman Clemons' amendment. Because as I understand it, you know, someone comes to a restaurant for example and is not wearing a mask, I would assume that they would be told that there's an Ordinance requiring that you wear a mask. I understand that businesses have been provided through the State, free masks they can use in order to protect their employees and their customers. So I kind of envision that if somebody shows up at a restaurant not knowing that they need a mask that they would be told that they need a mask and if they don't have one, they would be handed one. If they don't want to wear it, then they could leave. So I guess I am inclined to vote in favor of eliminating the written warning part of this. I understand reducing the fine to \$25.00 or \$100.00 to avoid the specter of a larger fine that some people might find offensive. I could probably support something like that, but as far as this motion to reconsider Alderman Clemons' motion I will vote for that.

President Wilshire

Anyone else?

Alderman Clemons

President Wilshire? May I speak?

President Wilshire

Yes, Alderman Clemons.

Alderman Clemons

Thank you. So I don't want to go down this road but apparently I see it going there. So Attorney Bolton alluded to this earlier with the people contacting him saying that they will go downtown to violate the Ordinance on purpose and things like that. The purpose of me making my amendment was two-fold, one is I don't think \$1,000.00 and up to \$1,000.00 is appropriate. Two, I really do believe that a warning system,

giving somebody basically the benefit of the doubt is important. And I think that absent that in the Legislation it gives too much leeway in my opinion.

But my concern is we are going to attract an element downtown and to City Hall that if we just make this have the warning and the \$25.00 fine, they might not feel that it is worth giving us as much attention. And what I mean by that is I can see as other States have witnessed and even New Hampshire to some degree up at the State House. I can see Nashua becoming a target of right wing folks who want to demonstrate that they believe that this unconstitutional and I can see them demonstrating with their firearms and things like that outside of City Hall because we are going to make Nashua a target for them to stand up for their beliefs and their causes.

Now that's fine, they have the right to do that. But as we are trying to pass things that make Nashua a friendly place to do business and a friendly place to come downtown to eat and dine, bring your family, things like that. If we have people like that protesting outside of City Hall every day, it is not exactly the place that I want to go with my family and I might think otherwise to come to Nashua. So I really feel that we are putting ourselves on the map as a target if we make this have a fine up to \$1,000.00 and no warning. Whether or not the Police give a warning to everybody, or whether or not you know they are a little bit more lenient, the fact of the matter is, if we leave in that potential, we are going to make ourselves a target of these folks. Mark my words.

President Wilshire

Alderman Lopez?

Alderman Lopez

I think if we as Legislators signal to the Community that we are not going to make policy based on what's best for our Community and what Public Health Professionals and Doctors recommend and if we signal that that will all take a back seat to anybody from anywhere coming and inflicting their views on our Community, then that makes us a target rather than us trying to focus on the pandemic that is happening and the risk is inherent in spreading diseases that is a biological fact versus a subjective possibility. I don't think that a warning or a smaller fine that is characterized publicly as intentionally to avoid a conflict is going to do anything of the kind. I think you just signaled if there is a certain amount of escalation then policy will back down to that. One of the principals of any kind of de-escalation is if you set a ground rule at the beginning for good reasons, you don't back down in the middle of the escalation. You stay consistent and you continue because that was the rule that was set, otherwise you are following the escalation. So I can't necessarily see us as enacting an Ordinance where the Police have the latitude to say, "Ok well this is a misunderstanding you didn't know, but you do now so as long as you are willing to follow along with it then the response can be minimal" versus a bunch of people coming deliberately to provoke a response. I think limiting or neutering that response is irresponsible.

President Wilshire

All set Alderman Lopez?

Alderman Lopez

Yes.

President Wilshire

Alderman Dowd.

Alderman Dowd

Yes, I am sorry I am joining the meeting late, the Planning Board got delayed because of a technical difficulty and we just went through the School Portion. So if I could have Ms. Lovering please read the amendment that we are addressing now. I understand the comments but I'd like to know exactly what the wording is of the amendment.

Susan Lovering, City Clerk

The amendment that passed earlier was to include a first offense as a warning and a second offense and any subsequent offenses to be a \$25.00 fine.

President Wilshire

And the current motion is to rescind that amendment that we already voted on.

Alderman Dowd

Ok thank you.

President Wilshire

Thank you. Alderman Klee.

Alderman Klee

Thank you so much, Madam President. I wanted to make two comments. One is I wholeheartedly agree with what Alderman Lopez said about if we start making Legislation based on threats or fear that someone is going to protest what we do, then we might as well just put everything on the ballot or just not even be here. It renders us impotent in so many ways. The other thing I wanted to mention is that the United Way and I have been working with them since Monday. Right in front of City Hall, they have been giving away hundreds and hundreds of masks. The first day, I know we gave 750 masks. We have been giving them to anybody who comes, three per person to the family; they have now expanded that. Starting on Tuesday, they are going to be at Railroad Square and City Hall giving away masks. The businesses do have masks and I am sure that many of them want to do it. I don't think if someone showed up without a mask they would be turned away; I am sure the business would have something. I am telling you we are flanking both ends of Main Street to make sure that people have masks. The United Way has completely stepped up incredible in helping in this way. So I don't think the fact that someone doesn't have a mask is going to become an issue. But I want to say very strongly that we can't give in to the possibility of threats. And I mean no disrespect to Alderman Clemons, but I do have two comments and one is that just passing this Ordinance alone with or without a fine, with or without a warning, in my opinion is still going to bring those same people out. To be honest with you, in some respects this was instigated by a Facebook post that said that this was ridiculous and so on. So again, I mean no disrespect, I am just being very honest. Thank you.

Alderwoman Kelly

Alderman Wilshire.

President Wilshire

Alderwoman Kelly.

Alderwoman Kelly

Yes thank you. I wanted to address something that was said a couple of comments ago about giving people the benefit of the doubt, I trust our Police. I trust them to have that wherewithal when they are interfacing with people, that's what they do all the time, they are a great force. So I think that's sort of a moot point. And then the last thing I would say is I think the intent of this from the Board of Health and in general, I think the Board here understands is that we want to make it easy to wear a mask and not so easy not to wear a mask and that is it. We want to make it easy for you to help support people like myself, I've got a baby, I have asthma, people on the Board are like that; your neighbor, your friend who is over 55. It is not a hard thing to put a mask on and we are making it very easy to get them. You can come to City Hall and get them. There is a whole group that is distributing cloth masks if you need them. That is all.

President Wilshire

Anybody else? The motion is to reconsider the amendment by removing the warning and the \$25.00 fine. Ok so that's the motion, would the Clerk call the roll?

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

- Yea: Alderman Klee, Alderwoman Kelly, Alderman Dowd,
Alderman Caron, Alderman Lopez, Alderwoman Lu,
Alderman Jette, Alderman Schmidt, Alderman Wilshire 9
- Nay: Alderman O'Brien, Alderman Clemons, Alderman Tencza,
Alderman Harriott-Gathright 4

MOTION CARRIED

President Wilshire

And that Motion carries. We are back to the original Ordinance, for final passage. Alderman O'Brien?

Alderman O'Brien

Thank you, I would like to thank everybody for their discussion on this and the various different motions that were presented. But in my communication with people down on Main Street in particular, what is our responsibility of Aldermen? Really not to punish but to educate and the thing is now we are right back to square zero and we are talking a \$1,000.00 fine. If you really want to get the quills up of the porcupine, you poke him with a stick. And I think in this case, we have. The \$1,000.00 fine granted I agree with Attorney Bolton in his assessment and many of course it won't probably really get that far. But I think it would our duty to be practical with it so therefore that is why I supported Alderman Clemons' point of view.

However, the ends to justify the means. We are talking about a virus that has debilitating effects and coming from my Fire Department background, if you lived in a single family home and you chose not to have a smoke detector, well you were foolish, but your home was your castle that was your choice. But in the situation of a duplex, your actions could definitely affect somebody else. So weighing the balance of this particular Ordinance, although I am very disappointed to see that there was some lightening that was not voted for on this and we are back to the \$1,000.00 fine and its potential, I am going to support this Ordinance because I feel that we need to protect the weakest among us, people away from this terrible virus. Again disappointed, but I am going to support the motion.

President Wilshire

Alderman Dowd?

Alderman Dowd

Yes. I would have been more in the favor of the motion or the amendment if there was no warning because who is going to track the warnings? And I don't think that's practical. First of all, I don't think the Police are going to be walking around trying to fine somebody because they don't have a mask. I think I heard when I first came on that the issue is going to be we are backing up the businesses who the Board of Health has said, if you want to be in business, you have to require masks. If we back up the Board of Health and somebody pushes their way into a restaurant or a store refusing to wear a mask. They are not going to be fined for not wearing a mask. They are going to be fined for trespassing or disorderly conduct which has a different type of fine structure, and maybe even an arrest. So if people want to stay six feet from people and they are not in a restaurant or a store and they don't want to wear a mask, fine. Let them. But if they get within six feet of people or if they are downtown and they want to go in a restaurant or a store, at least for the time being, they need to wear a mask. That's my opinion. I would support something that reduced the fine structure because \$1,000.00 is a pretty steep fine, but I really don't see the Police going around and fining people because they don't have a mask on.

President Wilshire

Anyone else? Alderman Lopez?

Alderman Lopez

I just want to reiterate that the – my understanding and Attorney Bolton please correct me if I am wrong, the Ordinance stipulates up to \$1,000.00, it doesn't stipulate \$1,000.00 so a lot of room for discussion there?

President Wilshire

Ok, Alderman Schmidt.

Alderman Schmidt

Thank you. I just wanted to make it clear that nobody is going to force people to go into shops. If you need something from a shop, you can pick it up curbside, you can have it delivered. This isn't like we are trying to force these on to people. It will be their choice and it is for safety of the other person, that's why you wear the mask, not for yourself, but for the other person. And I really only wanted to say one more thing, there were 9 more deaths in New Hampshire yesterday. Thank you.

President Wilshire

Thank you. Alderman Jette?

Alderman Jette

Thank you, Madam Chairman. If I could through you again call upon Attorney Bolton, you know I – and I am sure we all have received many e-mails from people on this issue, pretty much evenly divided on one side or the other. But the people against this Ordinance and very passionately against and I want everybody to know that I read all of your e-mails and I have received some phone calls. I must say I don't think I've received as much communication about a proposed Ordinance until back when the Tobacco 21 was an issue.

But some of the people who are against this Ordinance seem to basically have two major objections in different degrees but they fall into two categories. One if that they don't think masks are effective and that they are not going to do any good. And I must say that I rely upon our medical professionals on the Board of Health to guide us in that regard. They are the people with the expertise, they have determined that this

rule that they are – this is not something that the Board of Aldermen came up with. This is the Board of Health who is asking and who wants to implement this rule and they are asking the Board of Aldermen to approve it. So I bow to their expertise. If they say this would be an effective way of reducing the amount of exposure to this virus, then I believe them and I support them in that.

The other category of objections to this are that they are questioning whether or not the Board of Health and the Board of Aldermen in Nashua have the authority to impose this Ordinance to begin with – that is it unconstitutional, that is a violation of people's rights. I would ask Attorney Bolton if he could comment on the authority of the Board of Health and the Board of Aldermen to enact this Ordinance and whether or not that violates people's constitutional rights.

Attorney Bolton

New Hampshire is what is known as a Dillon's Rule State, which essentially means that the localities, the cities, and towns, have only such power as the State Legislature has granted them. In this case, the State Legislature has granted cities the authority to enact health-related, Ordinances, rules regulations and by-laws. That's RSA 47:17. Now in Nashua pursuant to the City Charter, which was also originally adopted by the State Legislature, in Section 79 of that Charter, provides that the Board of Health shall have control of and attend to all matters and perform all duties relating to Public Health and shall perform such special duties as may be imposed upon them by Ordinance or by the General Statute of the State. Now as part of that duty, the Board of Health is granted the authority to make such rules and regulations relating to the Public Health as int their judgement the Public Health and Safety may require.

All such rules and regulations shall be subject to the action of the Board of Aldermen approving the same. And that extends into Charter Section 81. So that is what you are doing here tonight, considering whether you are going to approve a Regulation already enacted by the Board of Health. So I don't believe there's any question that there's been a proper delegation by the State Legislature of the authority to make rules, regulations that the Board of Aldermen then adopt by Ordinance for the betterment of the Public Health. Now we have loads and loads of Public Health related laws all over this country. There are laws requiring shoes and shirts in restaurants and in stores selling food; those are laws. If this was unconstitutional, that would be. There are laws concerning the safety of food, there are laws concerning the wearing of head coverings by people who work in kitchens of restaurants. There are laws concerning requiring screens to separate the condition of the kitchen from infestation by insects. There are laws requiring cleanliness in restaurant kitchens. There are laws concerning alcohol consumption in restaurants. There are laws concerning the disposal of rubbish and waste and leftover food from restaurants.

It is inconceivable to me that all of these other laws can be held to be constitutional and a face covering requirement in the face of a pandemic which has now killed nearly twice as many people as we lost in all the years of the Vietnam War. All we have to do to pass constitutional muster is to have a reasonable goal, it's reasonably achievable by the measures we are undertaking. Reasonable goal is to try to reduce the spread of the Coronavirus. I'm not a doctor, I'm not an epidemiologist. The people on the Board of Health who are doctors and in their discussion of this last week talked about the medical literature that they had read and they believe that this would be effective to reduce the spread of this virus. I don't think there is a serious constitutional question at all.

Alderman Jette

Thank you.

Alderman Dowd

You are on mute.

President Wilshire

We'll get used to this. The motion is for final passage of O-29-018, further discussion.

Alderman Clemons

Yes, President Wilshire.

President Wilshire

Alderman Clemons.

Alderman Clemons

So I will not be supporting this. I am disappointed that I can't do so. But I cannot support something that potentially could give a \$1,000.00 fine to somebody. It is too much. Half of the people in this City are not for this. I believe that it is going to create and invite chaos to the City. I think we could have done it better. So disappointingly I am going to vote no.

President Wilshire

Anyone else?

Alderman Tencza

Madam President if I could just speak briefly?

President Wilshire

Alderman Tencza.

Alderman Tencza

So I too, I don't think this is a question about whether people should wear masks, I think the science is clear. Everyone should wear a mask when they go out, especially when they are shopping in businesses and cannot maintain a social distance with other folks. But like Alderman Clemons, you know, I think people realize this, this is a divisive issue and I think that when I go out and I go out in public I wear a mask and I see the vast majority of people being responsible in wearing masks. Quite frankly I thought long and hard about this issue and I watched the Mayor's Press Conference this week and one of the slides, one of the statistics that he showed, was the statistic that said, "If 60% of the people wore masks, that were 60% effective" then we could get a handle on this pandemic.

I think people are doing that on their own. I think businesses are requiring workers and other folks entering their business to go in and wear masks. So again, I think the penalty could be steep. I think it could be applied unevenly and unfortunately; I can't support this either.

President Wilshire

Alderman Lopez.

Alderman Lopez

I think my experience might be different just because I am in a different neighborhood. But I think this entire pandemic has been characterized by people not listening to public health officials. Whether it was

wash your hands, whether it was voluntary to enact social distancing, we've had to put markings on the floor of every grocery store. We have had to limit the people who were allowed per square footage. We had to do a whole stay-at-home order. This has not been my experience that people have figured it out and said, "alright let's do what's right for everybody else". I think that the majority of people do, in fact, support the concept of helping others but given the way virus transmission works and epidemiology works, you don't need the entire group to do it, you don't even need 60% of people in a room to wear masks, you kind of need 100%, because if that remaining 20% actually has COVID-19 and is asymptomatic then all the efforts of everybody else is for naught. So while we go through the process of phasing our re-opening, while our business owners are taking on the financial risk of opening their businesses and investing in new ways, whether it is umbrellas or buying tables or paying staff on the hope that people will come and patronize their businesses, I think we owe it to them to make sure their investment is being supported.

We cannot afford to have a second round of outbreak and I don't think anybody who has lost family or friends to this, thinks we could have easily avoided the first. When I go out in public I do not see more and more people wearing masks, I see people dropping their guard, trying to go back to normal, hoping this all behind us, even though we know statistically it is not. Even though the increased testing has actually showed that a lot of less of New Hampshire had COVID-19 than we could have possibly anticipated. That's a bad thing, because I think everybody was assuming, "Oh I probably had it back in November or December and therefore I'm immune". So when this crisis passes and there's not enough room in the hospital for the people who couldn't fight it off, I'll be ok and my loved ones will be ok because I've already had it. And as was discussed at the public health meeting, not only is not the case in terms of how individuals that are testing with antibodies are shaping up statistically, but we don't actually even know if antibodies do prevent a second infection or a third. We are seeing more and more evidence that this behaves in a bizarre way where sometimes it looks like it's gone and it's not. Sometimes you did beat it off but you don't have enough antibodies persisting in your system.

There's not enough known about how this is cured or how this will be resolved. But we do know how we can prevent it. And one of the steps that we can do first and foremost in collectively trying to do prevent this is to listen to public health professionals and prioritize the need that they are communicating to us and take this seriously. I think as Aldermen we have three choices – the first is we listen to public health officials and we embrace what they are saying and we act to support what they have asked us to do. Our second is to ignore them. And our third, I don't know if this is worse than the last one or not or hope that the rest of the Board of Aldermen does our job for us so we can walk that political line. I can't do that. I think this is a time when we need to signal to the public that we do support public health initiatives and every front line nurse that has listened to a bus honking or seen somebody flashing a light or holding a sign saying "We support you". I think we owe it to them to actually do that. Actually walk the walk and talk the talk.

President Wilshire

OK I have Alderman Schmidt.

Alderman Schmidt

Thank you, Madam President. Everybody is aware of the fact that the Governor is working very hard and making sure that the re-opening is working well. Everything is being very carefully studied, what can open when, why it is safer, using science to decide how to get us open again. If we don't do this right, we are going to have to go back to quarantine again. If we see the numbers continue to rise, even as they are right now, if we continue to see them rise, we would just go right back and it's not going to help us. It's not going to help the businesses that are on the edge, it's not going to help people who need jobs. We really do need to make people understand that in Nashua we would like you to wear masks. If you can't wear masks, then please stay away because you probably could cause more trouble for the entire State. Thank you.

President Wilshire

Alderman Klee.

Alderman Klee

Madam President, both Alderman Lopez and Alderman Schmidt said much of what I wanted to say and the bottom line is masks is to prevent any spreading. Because you can be so asymptomatic and not even know whether or not you have it, you could test tomorrow, I mean I'm sorry, you could've tested today and tomorrow you could have contracted it. And unlike what Alderman Tencza has experienced, I have not experienced the majority of people wearing masks. I am in the grocery store and I actually spoke to Director Bagley because I had concerns about people going the wrong way in the grocery store and anyone doing a little bit of a cough. And today I spoke to Mr. Roland about that very thing and was told, "you're ok as long as you didn't have a conversation with them, just passing them is ok". And I'm not as anxious as many people. We have so many vulnerable people that want to get out also. They don't want to be quarantined; they don't want to stay at home. But they want to know that when they go into the store that it's not just the employees that are wearing the mask but it's that their fellow shoppers that are wearing masks and they are protected.

I think we do this for the vulnerable. I don't think we are hurting anybody's rights; I don't believe for one second that \$1,000.00 fine would be implemented because of this. I do think possibly a fine or whatever because of the disorderly conduct that someone wants to make a stand. Any Legislation can have unintended consequences. I don't think that's going to be the case here. I think that if there are unintended consequences, I think it will be intended because I think these people will possibly come and try to fight and try to argue and try to make their point. I think we have to stay strong and we have to fight for those people who don't have their voices, those vulnerable people. We need to say to them, "You are Welcome. Everybody here is Welcome here in Nashua. But we do have laws". And I appreciate what Attorney Bolton said about having to wear a hairnet and having to wear gloves and having to put up screens to keep rodents and insects and so on. There's just common-sense health laws that we have put into place. I think that's basically what I need to say.

President Wilshire

Ok. Alderman O'Brien.

Alderman O'Brien

Thank you, Madam President. Boy this is a tough one for me personally. I was on the Fire Department, when I first started on the job. They never gave us any gloves. We never had to wear the latex type of gloves. If somebody was actively bleeding you stuck your hands right in it, it was your job. Then along came these other things, AIDS, I was around during the Bird Flu. Now I agree with everything as far as the health reason that they expressed with the COVID-19 and the dangers of it. But the thing is my personal mantra is to educate not to incarcerate. And I think the objective should have been, I wish we went with the compromise, should have been, "you should wear a mask". If you gave a verbal warning to somebody, I wasn't looking for the penalty. The objective was here to provide a safe environment to the people. But now we are back to square one where we have up to a \$1,000.00 fine on this. I would much rather stay with the educational part of it because I agree with everything Alderman Lopez says and what the Board of Health has and the professionals. I am concerned about personal family members who are on the Fire Department that are exposed on a daily basis to the potential of this. But the thing is it is education and again not the incarceration nor the fear of penalty without fear or favor of a fine. And so therefore I am going to join my colleagues of Alderman Clemons and Alderman Tencza and I am going to join with them and vote against this. Thank you.

President Wilshire

Alderman Gathright.

Alderman Harriott-Gathright

I just want to share some news, a 7-year-old child that was taken to Mass General and she was infected by a loved one, a family member that didn't know they had the disease today in Nashua. So just much prayer for the mother that's devastated by all this. And I am still struggling somewhat with the bill. I understand everyone's point of view. I really do believe that everyone should wear a mask that's not at issue with me. What the issue is, is the money piece. So I am still thinking about it, so I don't know what my vote is going to be right now.

President Wilshire

I've got Alderman Dowd and then Alderwoman Kelly.

Alderman Dowd

Yes, you know, again I don't think that anybody is going to be running around fining people \$1,000.00 but I think if we don't back up the restaurants and the store owners, two things can happen. One – other people that are going there see no masks, they are not going to go back and it is going to be a financial hardship on the stores and the restaurants. And you only need one person that's asymptomatic not wearing a mask going in a crowded restaurant that could infect 40 or 50 people and bang we've got a spark back up. We don't know how long we'd have to keep this Ordinance in effect, but right now it is a preventative measure and it is recommended by the health professionals. And if we don't back up our Board of Health, my God, I mean why do we even have them? Let's show them the support, they've been out in the front lines, risking their lives to the COVID-19 and they deserve our support. If somebody doesn't want to go downtown because they don't want to wear a mask, don't – don't go downtown stay at home or go somewhere else. I think it's a small measure of safety to protect not only the aged population who are really susceptible to it and the people with certain conditions, but also children now. You know, children who have been around the COVID-19 the symptoms set in much later. They could be in a restaurant eating with somebody and all of a sudden somebody comes in without a mask and they run right by them and you can have a young child that dies. I think this is a small measure for us, for the safety of everyone in Nashua. So I am going to support this.

President Wilshire

Thank you, Alderman Dowd. Alderwoman Kelly?

Alderwoman Kelly

Yes, thank you. I just want, I had two clarifications, Attorney Bolton, can you just clarify. It is not written in this Ordinance that there would be up to a \$1,000.00 fine that is just germane to any Ordinance, is that correct?

Attorney Bolton

Yes, there's a provision in the Code of Ordinances that says unless another fine is specified, that any violation can be fined by no more than \$1,000.00.

Alderwoman Kelly

So it's not anymore punitive than other Ordinances on our books?

Attorney Bolton

It's the exact same as throwing snow into the street.

Alderwoman Kelly

Great, thank you, I appreciate that analogy. The other thing I wanted to just point out is that it also covers Government Buildings. We've talked a lot about retail and being outside. But it also covers Government Buildings and I know I have heard from my constituents about opening City Hall. So I would like for us to reflect on that as well, making sure that all of the people who work for the City is top on my priorities as well

President Wilshire

Ok the Motion before us is for final passage of Ordinance....

Alderman Clemons

Hello? President Wilshire.

President Wilshire

Yes?

Alderman Clemons

May I speak?

President Wilshire

Alderman Clemons. Yes.

Alderman Clemons

Yes, thank you. I just wanted to just follow up briefly on something that was insinuated by previous speaker is that I make every decision that I make based on what I feel is the best thing to do for this City and for its residents. And I do not rely on other Aldermen to make that decision for me. I listen to their opinions and I listen to the discussion at hand and I listen to my constituents, I listen to science, and ultimately make a decision on things and so I just want everyone to understand that the decision that I am making this evening is an educated one on my part because to me, it is a shame that we can't come to a lesser fine, an agreement on a lesser fine or a lesser penalty as Alderman O'Brien says, "education". So that's the reason why. It's not that I deny the science or it's not that I don't want to back up the Board of Health. It's not even that I don't masks to be worn on City Property. I think if we wanted to create a policy like that that was just independent of this, I would have no problem with that. So I just want everyone to understand that. So thank you.

President Wilshire

Ok. Anyone else? Seeing none, the motion is for final passage of Ordinance 20-018. Would the Clerk please call the roll?

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

Yea: Alderman Klee, Alderwoman Kelly, Alderman Dowd, Alderman Caron, Alderman Lopez, Alderwoman Lu, Alderman Jette, Alderman Schmidt, Alderman Harriott-Gathright, Alderman Wilshire	10
Nay: Alderman O'Brien, Alderman Tencza, Alderman Clemons	3

MOTION CARRIED

O-20-018 is duly adopted

President Wilshire

And that motion carries - Ordinance O-20-018 is duly adopted.

O-20-016

Endorsers: Mayor Jim Donchess
Alderman-at-Large Lori Wilshire
Alderman-at-Large Michael B. O'Brien, Sr.
Alderman-at-Large Ben Clemons
Alderwoman-at-Large Shoshanna Kelly
Alderman-at-Large David C. Tencza
Alderman Richard A. Dowd
Alderman Patricia Klee

RELATIVE TO TEMPORARY 15 MINUTE PARKING

Given its first reading;

MOTION BY ALDERMAN TENCZA TO SUSPEND THE RULES FOR A SECOND READING of O-20-016 BY ROLL CALL

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

Yea: Alderman O'Brien, Alderman Klee, Alderwoman Kelly, Alderman Dowd, Alderman Caron, Alderman Clemons, Alderman Lopez, Alderman Tencza, Alderwoman Lu, Alderman Jette, Alderman Schmidt, Alderman Harriott-Gathright Alderman Wilshire	13
Nay:	0

MOTION CARRIED

O-20-016

Endorsers: Mayor Jim Donchess
Alderman-at-Large Lori Wilshire
Alderman-at-Large Michael B. O'Brien, Sr.
Alderman-at-Large Ben Clemons
Alderwoman-at-Large Shoshanna Kelly
Alderman-at-Large David C. Tencza
Alderman Richard A. Dowd
Alderman Patricia Klee

RELATIVE TO TEMPORARY 15 MINUTE PARKING

Given its second reading;

MOTION BY ALDERMAN TENCZA FOR FINAL PASSAGE OF O-20-016 BY ROLL CALLON THE QUESTION

The motion is for final passage of Ordinance O-20-016, discussion on that motion?

Alderman Kelly

Alderman Wilshire?

President Wilshire

Alderman Kelly?

Alderman Kelly

Yeah sorry I wasn't fast enough I was actually going to ask us to take them out of order, but this fine. I just wanted to chat a little bit about the fact that if we do this one then mine wouldn't make sense or vice versa. So Director Cummings, myself and a number of people on the Board have been talking to the business community about how we can help. I know that Director Cummings put in this 15-minute curbside, I think that's great. And then for you know purpose of discussion and what I have been hearing, I put in free downtown parking for the duration of the time that we have the seats out to really welcome people back and give that gesture, we want you to come in. So I think we just have to think about them both as we are discussing them, so I just wanted to make that clear.

President Wilshire

OK, anyone else?

Alderman Clemons

President Wilshire?

President Wilshire

Alderman Clemons.

Alderman Clemons

Thank you. I was very happy to have the conversation with Director Cummings about this proposal, the 15-minute parking, because I feel that during this, and it's a shame actually that it couldn't have come sooner to be honest. But I am glad that it's here now because to be honest, the businesses downtown have complained about seating. And part of it is people who are just going into a restaurant to pick up take out or maybe they are going to the pharmacy and they are in and out and they get a ticket. So you know, it's not really business friendly particularly when there's 20 open spaces downtown and they just pull in for a few minutes and hop in and out.

And with the fact that most of the traffic that has been coming downtown has been to pick up take out. So the parking there isn't the long-term parking that we normally see in downtown, it is just the quick come and go. So I was very happy to sponsor this Ordinance, because I think what it does is it takes into account the things that we have heard from business owners downtown and particularly the stakeholders who are most effected by this type of business and this type of parking. It strikes a balance with the purpose of charging for parking. One of the concerns that I have with the other Ordinance is that we could potentially lose a lot of money by doing that. With this Ordinance, we are already blocking off a lot of parking spaces to

accommodate restaurants so that they have outside seating. So to take the rest of the spaces that are along the way and make them be take out spots or just the 15 minute spots, I think is a good compromise measure that also strikes the balance of we don't want to lose the revenue that we've been getting for the Downtown Improvement Committee and funding a lot of the things that are important to our downtown.

So with all that being said, I was very happy to endorse this Legislation and I think it is a really awesome piece that came forward from having the type of Community discussions that we have had around this and I hope it passes tonight. Thank you.

President Wilshire

Alderman Klee.

Alderman Klee

Thank you, Madam President. And I agree with what Alderman Clemons just stated. I think we are losing the parking basically on Main Street because we are doing this widening. And I think having this as we saw earlier in the green areas being the takeout parking and so on, I think it was necessary to put in a 15-minute parking. I don't think we should be penalizing someone who is just running in and taking something out. The key issue also is that plan that we voted on also does not take away any of the handicapped parking, it still remains and that's not just limited to 15 minutes, it's as it always has been. When I look at the fiscal note of this even though there is a potential of \$14,000.00 or \$15,000.00 - \$57,000.00 lost in revenue, the next bill has a potential of \$100,000.00 to \$200,000.00 lost in revenue. I think that you know this \$14,000.00 to \$57,000.00 we will be gaining that and what we get for the businesses and so on.

The other one taking it a little bit further for me is just and then the taxpayers are going to have to pick that bill up and we are not supporting downtown. And there's I think \$758,000.00 that have gone to into the General Fund. This should not hurt that; the other one could truly have a negative effect on it but I won't talk about that. I am very much for this and considering we have already voted for the narrowing; this just enhances that and helps because many businesses – I've been to a lot of those business/economic meetings. Many of the businesses said that with this pandemic they are really upping their takeout and they've noticed more and more of it. And that was one their concerns, that they were going to lose that business because people wouldn't have a place to stop.

So when they developed this plan, they very, very carefully made sure that they put in this take out parking or this 15-minute parking. It also allows for quick deliveries too. So I truly stand by this and I am proud to be an endorser of it. Thank you.

President Wilshire

Alderman Lopez.

Alderman Lopez

Yeah so first of all I want to, I mean what I don't want to know is how badly this is going to hurt the parking study because we are going to have to tackle that eventually. But this is an opportunity again where you know you have a forced change to pilot out different models of things that may or may not work. I think based on what the public health department is thinking and medical professionals, this is going to be, the COVID-19 epidemic is going to impact our life until next winter, which is like the dead season downtown. And then likely, into the beginning of the spring too, even if we create a vaccine that doesn't mean it is distributed. So I think we are doing the right thing by encouraging creative thinking and approaches to problem solving.

I think it will benefit businesses tremendously, especially in the colder months. You have a larger population of take out and curbside pickup, because I can't really see anybody in November trying to sit out on Main Street, maybe diehards but I think that's going to impact businesses as well. And while I hope that at that point something has changed or there's a new dynamic or we have figured out new protections to allow for more inside dining and these do exist. I think this is something that we can immediately do that not only addressed the immediate need for business owners, but it may be something that we can maintain in the future. We could have multiple types of parking spaces that maybe we color then a certain way in the future and we leave it for parking. Maybe it's something that you know businesses can apply for.

So I like seeing changes in response to community needs. I think there may be the likelihood that some places are going to identify a need for longer term parking, longer than 90 minutes. I am just starting to hear from restaurants now because they've only had people sitting down this past week. But Director Cummings has been doing a really good job with doing the phone conferences and trying to maintain some continuity of development between the different stakeholders downtown. And finally I wanted to say that it is very gracious of the Downtown Improvement Committee to support this because their inclination is, anybody's inclination is, I would prefer to have revenue that I can use to support the downtown businesses. In this case, they are doing something that is counterintuitive from that perspective and they are really supporting downtown businesses by not collecting revenue. So I think that speaks highly of their attention to the crisis as it is unfolding and I think this is a very piece of Legislation.

President Wilshire

OK. Anyone else? Alderman Schmidt.

Alderman Schmidt

Thank you, Madam President. This is a perfect accompaniment to the previous bill, narrowing the road but leaving spaces for the 15-minute pickup and delivery. It's the perfect accompaniment to it and I am so grateful that this is brought forward. Thank you.

President Wilshire

Alderman Jette.

Alderman Jette

Yes, again if I could through you ask Attorney Bolton another question. I am keeping him busy tonight, helping him earn his salary. As I read this Ordinance, I don't see the part where it says that the 15-minute parking is free. Is that necessary or did I miss something there?

Attorney Bolton

If you look in the paragraph it says "now therefore be it resolved" in the third line down about 2/3rds of the way across, the 15-minute parking is free.

Alderman Jette

OK. We are talking about 20-016, correct?

Attorney Bolton

Yes, the first four paragraphs start of "whereas". The fifth paragraph starts off "now therefore be it resolved".

Alderman Jette

Yes?

Attorney Bolton

Are you down three lines from there, about two-thirds of the way across, the 15-minute parking is free. That's what my copy says.

Alderman Jette

OK mine doesn't say that.

President Wilshire

Mine does not say that either.

Attorney Bolton

That's interesting.

Alderman Klee

We need to amend this one then.

President Wilshire

Are you all set Alderman Jette?

Alderman Jette

Well no because if the idea is to make this free, I'm not against that I just think it should be reflected in the Ordinance. So which is the official copy? The one that Attorney Bolton has or the one the rest of us have?

Attorney Bolton

I think the easy way around this is just to amend this to add that sentence. I mean you are the ones that have to enact this and if you're looking at something different, let's have you do an amendment if that's the wish of the Board.

Alderman Jette

Well it's my wish to do an amendment. But could you supply the wording?

Attorney Bolton

In the second sentence, following the first sentence in paragraph 5, add a sentence that says, "15-minute parking is free".

Alderman Jette

OK and then the next sentence I have is 15-minute parking time limits shall not apply to designated handicap spaces. Is that still in your copy?

Attorney Bolton

That's what I have.

Alderman Jette

OK. I would move to amend the Ordinance as announced by the City Attorney.

President Wilshire

OK the Motion is to amend by adding "15-minute parking is free".

MOTION BY ALDERMAN JETTE TO AMEND THE LANGUAGE BY ADDING "THE 15 MINUTE PARKING IS FREE" FOLLOWING THE FIRST SENTENCE IN PARAGRAPH 5 BY ROLL CALL

ON THE QUESTION

Alderman Klee

Thank you, Madam President. I think that somehow our copies did eliminate that but when you do look at that fact that it talks about the Fiscal Note of the Loss, I think that was the intent when we look at the Fiscal Note on it. So I completely support Alderman Jette's Amendment and I am glad that it was caught. Thank you.

Alderman O'Brien

Thank you, Madam President. A question to Corporate Counsel Bolton, as far as the handicap if there are no handicap spots available, a handicap person that is properly plated or placarded can park in a designated parking spot and would receive free parking, am I correct?

Attorney Bolton

Yes. Nothing you can do about that.

Alderman O'Brien

Not looking to do it but it's not changing anything. Follow up if I may Madam President, the 15 minute wouldn't affect the people with handicap proper placarding or plating?

Attorney Bolton

Correct.

President Wilshire

The amendment is to add 15 minutes parking for free in the fifth paragraph. Any further discussion on the amendment? Would the Clerk please call the roll?

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

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

Nay: 0

MOTION CARRIED

President Wilshire

The motion before us now is for final passage of Ordinance 20-016 as amended. Anything further? Seeing none, would the Clerk please call the roll?

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

Yea: Alderman O'Brien, Alderman Klee, Alderwoman Kelly, Alderman Dowd,
Alderman Caron, Alderman Clemons, Alderman Lopez, Alderman Tencza,
Alderwoman Lu , Alderman Jette, Alderman Schmidt,
Alderman Harriot-Gathright, Alderman Wilshire 13

Nay: 0

MOTION CARRIED

O-20-016 is declared duly adopted as amended.

O-20-017

Endorser: Alderwoman-at-Large Shoshanna Kelly

**AUTHORIZING FREE PARKING AT METERS AND PAY STATION SPACES THROUGH
NOVEMBER 15, 2020**

Given its first reading;

**MOTION BY ALDERWOMAN KELLY TO SUSPEND THE RULES FOR A SECOND READING OF
O-20-017 BY ROLL CALL**

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

Yea: Alderman O'Brien, Alderman Klee, Alderwoman Kelly, Alderman Dowd,
Alderman Caron, Alderman Clemons, Alderman Lopez, Alderman Tencza,
Alderman Jette, Alderman Schmidt, Alderman Harriott-Gathright,
Alderman Wilshire 12

Nay: Alderwoman Lu 1

MOTION CARRIED

O-20-017

Endorser: Alderwoman-at-Large Shoshanna Kelly

**AUTHORIZING FREE PARKING AT METERS AND PAY STATION SPACES THROUGH
NOVEMBER 15, 2020**

Given its second reading;

MOTION BY ALDERWOMAN KELLY FOR FINAL PASSAGE OF O-20-017 BY ROLL CALL

ON THE QUESTION

President Wilshire

The motion is for final passage of Ordinance O-20-017. Discussion?

Alderwoman Kelly

If I could speak to it, please?

President Wilshire

Alderwoman Kelly.

Alderwoman Kelly

Thank you. So I mentioned it when we brought up the 15 minute, but the idea here and what I had the Legal Department draft up is something very similar to Holliday Parking. I spoke to a number of businesses downtown, they are struggling. We are all struggling. But one of the points that was made to me that I thought was really poignant that even with the things that we are doing, allowing expanded, they may only recruit 20 to 50% of all sales over the next few months. So anything we can do to continue to make sure that they are prioritized for people, I've been in the downtown business community for a number of years now and consistently people say, "OH I go to Amherst Street because it's free parking".

So my intent here was to make sure that we can keep the downtown vibrant and offer a little bit of relief. It's not a long-term thing, I understand that there is a parking study going on and I want to make sure that we do that study and have some really solid answers. But I think as an interim step say to the community, "We understand you are struggling and we want to help you". This does achieve that.

President Wilshire

OK, Alderman Dowd?

Alderman Dowd

Yes, I think with all the changes we have done to Main Street, you know, we are already losing a lot of parking of revenue. As Chairman of Budget, I don't want to lose anymore revenue than we are already losing. We can't afford it. And if we don't charge for the parking that's not taken up by the changes that we just approved then either residents that live down there or store owners are going to park there all day long and not pay anything. I think that for those parking spaces that are left, that we should retain the parking fee.

Alderwoman Kelly

Alderman Wilshire if I could respond.

President Wilshire

Alderwoman Kelly.

Alderwoman Kelly

Just a clarification, it's just like Holiday. So your time limits are still enforced, your overnight parking is still enforced so we are not going to have people parking there all day long with no recourse there.

President Wilshire

Alderman Klee.

Alderman Klee

Thank you, Madam President. I have to agree with what Alderman Dowd had said. The problem that I have with this, and unlike the Holiday Parking, which is only certain streets, it's not every single side street, not Main Street when it comes to Holiday Parking, the parking garage and so on. But the problem that I have with this loss of parking revenue is that when I look at that Fiscal Note and I see that low end is \$108,000.00 and the high end, pre-COVID was \$204,000.00. This would be on the backs of the taxpayers, they would have to pay this money because it is a pay me now, pay me later situation. And the bottom line is that these fees are being paid not necessarily by the taxpayers but by people who come here. Maybe people come here from Amherst, maybe people come here from Massachusetts. They are the ones paying these fees. We are asking the taxpayers to make up this amount of money. There is already a lot that they are going to have to do. I can't see putting this on to the backs of our Nashua taxpayers, number one.

Number two is that I agree that people will stay a little bit longer in the parking spaces than they might have. I also disagree with that people are going to Amherst Street and they are not going into – any Friday night, Saturday night, there are waiting lists to get into Fratello's and to get into Martha's and to get into the Surf and all of our wonderful, incredible restaurants downtown. I also know that even parking sometimes is difficult to find because these restaurants are so crowded. I think that we've at least made one step forward by doing what we are doing what we are doing on Main Street and doing the 15-minute parking. I don't think we should sell the entire farm. We can't afford to lose anywhere from \$108,000.00 to \$104,000.00 and I don't think it is going to hurt the businesses. The businesses will only be, probably most of the time, up to 50% capacity, even when they are allowed to go back indoors it is not going to be full. This is going to go on for a long time and I don't see the need to do something like this. While I think it is a nice and kind gesture, the taxpayers are going to pay for this and I won't go for that. Thank you so much.

President Wilshire

Alderman Lopez.

Alderman Lopez

My objection isn't that residents might use the parking spaces because I am kind of like cheering them on and I know they are going to be hurt income wise and so they could probably use that boost. But it does seem like this has merit that needs to be vetted a little bit more carefully. I can think of some areas like maybe the High Street Lot where it primarily just serves a clinic, like maybe waiving the fees there. I also think that West Hollis doesn't have a lot of the advantages that Main Street has in terms of on-street parking and that type of thing, having the availability to put tables out and everything. And then additionally I was almost going to ask Director Cummings if he was still here for an update on the parking study. I kind of would like to see this go Infrastructure Committee so we can look at it like as in pieces and say where would this work effectively and where wouldn't it? Because I think there's merit here and I agree with what Alderman Klee said that like you can't necessarily give away the whole farm. But I think it could be useful in some areas in the same way that adding 15-minute parking downtown was useful. There may be areas where it is effective. So I wouldn't want to shoot the idea down, I would want to see it more go to the Infrastructure Committee.

Alderman Clemons

President Wilshire?

President Wilshire

Alderman Clemons.

Alderman Clemons

Thank you. So earlier this evening I had introduced a Memo that basically had the Downtown Improvement, it was in the history of the Downtown Improvement Committee what the money has been spent on from 2013 to 2020. Several years ago, we fought this battle really hard to figure out how we were going to come out with a revenue source for downtown. The idea was to strike a balance with the businesses that were downtown and say, "If we raise your parking revenue, we will make sure that money that we raise from that increase, stays downtown". And since 2013 we have kept that promise. And this Memo goes through all of the different things that we have spent for downtown throughout the years including over \$200,000.00 for various studies and things like that for the Performing Arts Center and the Farmer's Market and the Winter Stroll, things like that. There are a number of things.

So the point is, is that while I understand that it would be nice to be able to do this, if we do it, we are going to jeopardize some of those things that we have done in the past. And in addition to that, we are already in a weak position as it is because – let me go back a little bit. So the way that the Downtown Improvement money is budgeted is different than most of the Budget that the rest of the City runs. So the rest of the City runs on July to July schedule. Downtown Improvement Committee runs on a collected basis from January 1st to December 31st. So already because of the shutdown through March and all of April and then almost all of May, we have lost significant revenue already, from people parking downtown that we would have normally had. So we are already coming in at a loss.

My thought on this is that the way that it is structured is anything over \$728,000.00 collected from parking meters goes to the Downtown Improvement Committee. I don't even know if we are going to get to that threshold as it is. My hope is that we do because my hope is that we are successful with the changes that we are making on Main Street and that people want to come downtown and we kind of make up for what we would lose, normally like for regular business. But if we were to enact this Ordinance, we would just be cutting into that already large loss that we have taken and then that would begin to hurt some of the other parking operations that we do and some of the other expenses that the first \$728,000.00 goes to.

So overall, I can't support this and one last reason I am going to give that I can't support it and it goes back to how this is budgeted. If by a miracle we were to get over \$728,000.00 in fees collected, whatever amount that money is, would be allocated in July of 2021. I am hoping we get there, but if we didn't get there, the next time that we would have the opportunity to fund the Downtown Improvement Committee fund would be in July of 2022. So by passing this, if we pass this tonight, I can almost guarantee you that there will be no extra money added to the Downtown Improvement Committee fund, at least not from parking revenue, until 2022. And that is because of the structure of how it is funded. So for all of those reasons I cannot support this Ordinance. I can appreciate the gesture; I have definitely heard from people who think that having free parking downtown is a great idea. But we made a contract with businesses years ago and the benefits have definitely played out and I want to keep that going. And my fear is that we are already behind the game and we may not make it to the finish line in January. So thank you.

President Wilshire

Alderman O'Brien and then I'll call on whoever was next.

Alderwoman Kelly

It was Alderwoman Kelly.

Alderman O'Brien

Thank you, Madam President. I personally would like to thank Alderman Kelly for coming up with this. I think it is worthwhile. I have considerations, particularly to the folks and everything downtown in these particularly trying times in trying to make these adjustments and trying to get back to some degree of normalcy. But, however, we don't put parking meters on the street to really collect and give out tickets or anything else like that. As a matter of fact, the money that we make, and I hope you listened to my fellow Board Member, to Alderman Clemons, he hit it right on the head on exactly what happens when the money gets made.

Basically people who do go out and give the tickets that is funded with some of the revenue that is generated from the parking meters. It also has a very long train as Alderman Clemons said. Sometimes that money may go to Community Development, that may filter down to let's say the Holiday Stroll. And if we give too much away, could we be giving away the Holiday Stroll, which I kind of think we would like that and probably have it as a victory over this particular virus and everything. But Alderman Clemons really hit the nail on the head. It is a revenue that is, you know, generated. It is not going to be made up in the Budget. We have all sat at the Budget Hearings. We have heard different things. We have heard that different cuts are going into some of the other type of Divisions. We saw Main Street vacant pretty much since March 16th; I know the date because it was the day before St. Patty's Day. But we know we have seen Main Street vacant since March 16th. There hasn't been much revenue generated. So what Alderman Clemons says, we are already behind the 8 ball. And it's a lag of 6 months' worth of funding and everything.

I really, again, compliment Alderman Kelly for writing this, thinking of the people, but I think it would hurt. The other thing is what does a parking meter do? It is not to levy fines; it is to create a flush. Now when people coming in for the restaurants now, there is going to be a time limit from what I understand by the Governor's and for the restaurants in order to make money. So you are going to have so much time that you can spend at the table. So what is going to happen if you occupy the parking space, you are not necessarily going to compliment that flush that is occurring at that particular table. So I think it is well-intentioned but I think the loss of revenue at this particular time, we have bent over backwards to the business community, particularly in downtown, as well as we should have. But I think this is a little bit too much and I think the loss of revenue will be very difficult and we won't see the pain of it for at least another 6 months as what Alderman Clemons has explained. Thank you.

President Wilshire

Alderwoman Kelly.

Alderwoman Kelly

Yes, thank you. I appreciate everyone's comments and this is exactly what I was hoping would happen. I wanted to have a discussion about it because it has been brought to me time and time again. I want everyone to know I really appreciate all the work that is done by the Downtown Improvement Committee and the things that Director Cummings has been working towards. I think we are all just trying to do the best we can and help downtown.

I am wondering if it is possible Lori for me to rescind my motion for a second reading and send it to Infrastructure and potentially have a discussion with Downtown Improvement Committee.

President Wilshire

OK. So you are rescinding your motion for final passage and requesting that it be referred to the Committee of Infrastructure. Is that your motion?

Alderwoman Kelly

Yes.

MOTION BY ALDERWOMAN KELLY TO RESCIND THE MOTION FOR A SECOND READING AND INSTEAD REFER TO INFRASTRUCTURE

ON THE QUESTION

President Wilshire

Discussion on that motion?

Alderman Klee

Madam President, while I do think it is definitely a worthwhile conversation and I am not sure how I feel about it going forward, I do have some anxiety about the possibility of us killing any kind of additional parking revenue. I think it should be taken care of here but I do also respect the fact that working things out in Committee is always the best thing to do rather than trying to work it out here. But, again, I think it should end here and I am going to stop there. I don't want to see loss of revenue and I wouldn't even be able to support it I think if it went to the Infrastructure Committee.

President Wilshire

Alderman Lopez.

Alderman Lopez

I really want to know what is going on with the parking study. So I guess my question is to Alderman O'Brien, do we have an Infrastructure Meeting Committee coming up and can we maybe tackle this all there?

Alderman O'Brien

Thank you. Alderman Lopez, as you know with what is going on is Coronas 19, the pending Legislation before the Infrastructure Committee is a Public Hearing and it's a Public Hearing on renumbering Almost spelling ?Street, it is a discontinuance of Palm Street. What has been on the back burner has been the traffic study that we are all very much concerned about. But I am sure you have not iced since March 16 that Main Street has been kind of vacated. So to pay the money for that particular parking study at this particular time would not be prudent in my opinion to the tax dollars. And now that we are doing this and I don't know when this is going to terminate, we are going to have to have a meeting with Director Cummings and we may need to re-circle the wagons and come up with a new idea, you know, re-invent the wheel. So I will refer further questions on that, as far as the parking study, through the Chair, through the President, to Director Cummings.

Alderman Lopez

Just to clarify my question was whether we could talk about all of that. Like I wasn't expecting answers for it. As far as I understand, we were expecting the parking study to be done and as you have pointed out, we just re-drew Main Street so I don't if that's feasible. But it seems like a Committee would be a good time to actually have that conversation about what are we expecting, what can we expect and (audio cuts out).

President Wilshire

Ok the Motion is to refer Ordinance 20-017 to the Committee on Infrastructure.

Alderman Clemons

President Wilshire?

President Wilshire

Alderman Clemons.

Alderman Clemons

Thank you. You know respectfully to Alderwoman Kelly, I won't be supporting this. The reason isn't because I don't want to discuss parking or even free parking. The reason that I am not going to support it is for kind of what I said before, like we need to get through this year and we kind of need to see – first of all we need to see where we are going to be revenue-wise. But more importantly, we need to see where we are going to be with the virus. We need to see how it is going to affect the economy in the City. We need to see how the changes we made to Main Street. To have an honest discussion on that, we really need, we just kind of need to wait and see. My personal objective would be to try to get us over that \$728,000.00 finish line, if you will to get some extra revenue for downtown. So even if it did go to Committee, I don't think it's something that at least I would not advocate for it at any point in time this year. And I get what Alderman Lopez was saying about different areas, but still I wouldn't advocate for that. So while I think the discussion, and I agree with what Alderman Lopez said about the different areas and I agree also with Alderwoman Kelly about having a discussion like that. I don't think that – first of all I don't agree with the Ordinance at this time but secondly, to some of the stakeholders downtown it is a good thing but to a lot of the stakeholders it creates anxiety. Because they are like – well what are we going to do? We are trying to get Some people believe in the parking like I do and they believe in revenue sources and they are invested in that. So to have this hang out there is kind of – my opinion is we should just take care of it this evening. And then next year, let's see where we are at and try to come up with a conversation for the beginning of next year when we know a lot more than we know today. Thank you.

President Wilshire

Anyone else? Alderman O'Brien. As Chairman of the Infrastructure Committee, I would like to say to Alderman Kelly or to all the Alderman we do welcome anything that comes into our Committee. We will guarantee it will be properly vetted and discussed. But I kind of feel that is exactly what we are doing right here and right now. I am not saying nothing is dead on arrival, of course not. But the thing is, I just kind of wonder what would be the additional magic that would come into this at that particular time. But if it does come back to Infrastructure, we welcome it, we will do our due diligence and we will hear it and judge accordingly. So thank you.

Alderwoman Kelly

Alderman Wilshire if I could respond?

President Wilshire

Alderwoman Kelly.

Alderwoman Kelly

Thank you. I think one of the things that is on my mind is I would like to know a bit of the methodology for what the revenue was. I mean I put this in and I didn't hear what the revenue loss would be until, I mean we are going fast, but it was like maybe a couple of days ago. So I just wanted to know how they calculated that and just clarify that. I as a bit surprised too with what it came back with. So that is one of the things I would like to clear up before Infrastructure.

President Wilshire

We do have Director Cummings with us, I don't know if he wants to shed some light on that. Director Cummings.

Tim Cummings, Director of Economic Development

Thank you, Madam Chair, can you hear me.

President Wilshire

Yes.

Tim Cummings, Director of Economic Development

Great, so for the record, Tim Cummings, Director of Economic Development. Relative to how the calculation was arrived at; essentially what we did is we took basically a look at last year's revenue and we saw where we were at and then we compared it to, we took an average of what we have seen as a deduction for the last 6 weeks or so based off of the revenue that we weren't taking and we applied monthly. So, you know, that is essentially the best forecast that we could come up right now with the limited data that we had. We only had about 6 weeks' worth of revenue data to look at. I would have liked a little bit more but essentially, we developed that model. And that was the best way we could come up with it at this time. It averaged I believe to be something in the order of magnitude about a 53% deduction from, assuming last year's number that's what we would anticipate a loss moving forward. We assumed a June 1st start date and we concluded it November 15th, the mod of the month.

President Wilshire

Thank you, Director Cummings. The Motion is to refer to the Infrastructure Committee. Anyone else have discussion? Alderman Jette.

Alderman Jette

Yes, so I was initially going to say why is this being brought forth a second reading tonight? I mean we've got, you know the COVID-19 virus has given us all a fever of trying to get things done as quickly as possible and avoid the normal referral to Committee and discussions in Committee. I don't particularly like this Ordinance. I want to point out that there's already free parking after 5:00 p.m. or 6:00 p.m. in some cases. You know Main Street, it was 7:00 p.m. but there's no parking on Main Street anymore. And it is free on Saturday and Sunday. So I am not sure the boost that Alderman Kelly, of the people who put this forward, is going to be there. But I am a great believer in discussing things in Committee. So for that reason I will support her Motion to refer it to the Committee.

President Wilshire

OK anyone else? The Motion is to refer Ordinance 20-017 to the Committee on Infrastructure. Seeing no one, would the Clerk please call the roll?

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

Yea: Alderwoman Kelly, Alderman Caron, Alderman Lopez, Alderwoman Lu, Alderman Jette, Alderman Schmidt	6
Nay: Alderman O'Brien, Alderman Klee, Alderman Dowd, Alderman Clemons Alderwoman Tencza, Alderman Harriott-Gathright, Alderman Wilshire	7

MOTION FAILED

President Wilshire

And that motion fails. The motion before us is for final passage of Ordinance O-20-017. Any further discussion?

Alderwoman Lu

I do have a question.

President Wilshire

Alderwoman Lu.

Alderwoman Lu

The question is if this does pass, will we be keeping all of the parking enforcement staff on? So will we still be paying \$165,000.00 or half of that I guess if it's six months. \$80,000.00 this year for Parking Enforcement Staff that we do not use.

President Wilshire

I don't have that answer.

Attorney Bolton

I can help a little bit perhaps. There's nothing in this that cuts the Budget or directs the layoff of any personnel or otherwise provides any savings. Now you could other measures, we still haven't finalized the Budget for the period beginning July 1st. So you know, it is up to the Board what it would want to do about that, but this doesn't do any of that.

Alderman Lopez

Alderman Wilshire?

President Wilshire

Alderman Lopez and then Alderman Klee.

Alderman Lopez

Yeah, I just wanted to point out that Parking Enforcement doesn't just do parking at meters, it also does overnight parking and other types of parking so we probably would still need some of them.

Alderman Klee

Thank you, Madam President that was actually what I was going to say is that we don't just have Parking Enforcement for downtown. They do parking enforcement throughout the City and they patrol the City and so on for the violation of overnight parking and other things. I don't know whether or not this would mean that there would be loss of jobs, and therefore revenue savings. But I can't see that happening, it's usually not a one for one type of thing. Thank you.

President Wilshire

OK further discussion. Seeing none, the motion is for final passage of Ordinance O-20-017. Would the Clerk please call the roll?

Yea: Alderwoman Kelly 1

Nay: Alderman O'Brien, Alderman Klee, Alderman Dowd,
Alderman Caron, Alderman Clemons, Alderman Lopez,
Alderman Tencza, Alderwoman Lu, Alderman Jette,
Alderman Schmidt, Alderman Harriott-Gathright,
Alderman Wilshire 12

MOTION FAILEDPresident Wilshire

And that motion fails.

Alderman Clemons

President Wilshire?

President Wilshire

Alderman Clemons?

Alderman Clemons

I would make a motion for indefinite postponement.

MOTION BY ALDERMAN CLEMONS FOR INDEFINITE POSTPONEMENT OF O-20-017 BY ROLL CALLON THE QUESTIONPresident Wilshire

Discussion on that motion? Alderman Jette.

Alderman Jette

So could I ask you, Madam President, the Motion for Indefinite Postponement has the effect of preventing a similar Ordinance being proposed anytime during the rest of our 2-year term on the Board?

President Wilshire

Yes, correct.

Alderman Jette

So it would effectively forestall any possible consideration of the merits of this Ordinance anytime in the future, at least as far as the year and a half left on our terms, is that correct?

President Wilshire

I would like to defer to Attorney Bolton.

Attorney Bolton

The Board could suspend its rules if there was a need to address a similar piece of Legislation during the remainder of the term.

President Wilshire

Are you all set, Alderman Jette?

Alderman Jette

I guess I would just like to say that I am opposed to this. It strikes me as a parliamentary procedure to prevent further discussion of something. I think we ought to remain open to the possibility of things changing and being able to discuss things with just being forestalled by this parliamentary procedure to stifle further discussion. So I am against this.

Alderman Clemons

President Wilshire?

President Wilshire

One moment, Alderman Klee first and then Alderman Clemons.

Alderman Klee

I am supporting exactly what Alderman Jette had said, while I voted against this, I would never want to kill any kind of conversation. And I appreciate what Attorney Bolton said, is that we can suspend rules. I don't like the idea of making a blanket statement that we don't talk about it unless we have to have another vote. So I can't support an indefinite postponement.

Alderman Clemons

Yeah I just want to state for the record that I definitely want to be able to have a conversation on this, and I stated that before and I would be supportive of, if the time came, to have a discussion again. If it was next year, I would support a Motion to suspend our rules to allow for the Legislation to come back. But I think for the time being, you know, I think this is the best course of action.

Alderman Dowd

Yeah, we tend to reserve this kind of a motion for things that we are pretty sure won't come up again. I don't think we need it in this case because it was made with the intention of the things that are going on with the COVID-19 epidemic. We have no idea where this is going. And I wouldn't want to prevent it from coming up again without having to suspend the rules. If somebody wants to make a similar type of Legislation, maybe with different things within it that limit where the "no parking" is and that type of thing. So I don't think it's necessary. I agree with not passing the Legislation as it was just stated, but I don't think it needs Indefinite Postponement.

Alderman Clemons

President Wilshire.

President Wilshire

Alderman Clemons and then Alderman Lopez.

Alderman Clemons

Well I don't want a cycle debate, but I am going to change my motion.

MOTION BY ALDERMAN CLEMONS TO CHANGE THE MOTION FOR INDEFINITE PROPOSAL TO A MOTION TO TABLEPresident Wilshire

Motion to table. Ok well that's not debatable so would the Clerk call the roll?

Alderman Lopez

Can I have a point of clarification? How do we table something we just voted down?

Alderwoman Kelly

Are we tabling the motion ...?

President Wilshire

One at a time please. Alderman Lopez. Could you state your question again?

Alderman Lopez

We just voted against this so how do we table that Motion?

President Wilshire

Attorney Bolton?

Attorney Bolton

The Board acts by passing motions. You don't act when you fail to pass a motion. So just like if there was a motion to amend that failed, you wouldn't say "well our work is done" you still have the measure before you. There was a measure to pass it, it didn't pass. Now it is before you again and motions to table,

motions to refer to Committee, motions to amend, motion for indefinite postponement all of those things are in order. You don't dispose of something when a motion to pass fails, because in the proper circumstances you might amend it and pass it. Like table it and come back and re-work it, you might send it to Committee and re-work it there. So you've got a difficult thing that is done, then there's a motion for indefinite postponement and it is indefinitely postponed. In many ways indefinite postponement is a euphemism for rejecting. But it is still before and you have to do something it.

President Wilshire

Would the Clerk call the roll, the Motion is to table, would the Clerk call the roll?

Alderman Jette

Parliamentary inquiry, Madam President?

President Wilshire

Alderman Jette.

Alderman Jette

To Attorney Bolton. So what is the effect of a motion to table? If pass that, it would be tabled and it could be taken from the table at some future meeting of the Board of Aldermen?

Attorney Bolton

Correct.

Attorney Jette

OK thank you.

Alderwoman Lu

And another question about policy?

President Wilshire

Alderman Lu.

Alderwoman Lu

Would it have to be a full Board Meeting and how would it be, what's the process for taking something off the table, would it just be a motion that's voted on to take

Attorney Bolton

Someone would make a motion to take from the table Ordinance 20-017 and it would be voted upon. I suppose nothing prevents Committee from discussing the concept and so forth but the actual Ordinance could only be revived for possible passage at a Full Board Meeting.

Alderwoman Lu

Ok thank you.

President Wilshire

Ok the motion is to table Ordinance O-20-017. Would the Clerk call the roll?

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

Yea: Alderman O'Brien, Alderwoman Kelly, Alderman Dowd, Alderman Caron, Alderman Clemons, Alderman Lopez, Alderman Tencza, Alderwoman Lu, Alderman Jette, Alderman Schmidt, Alderman Harriott-Gathright, Alderman Wilshire	12
Nay: Alderman Klee	1

MOTION PASSED

President Wilshire

And Ordinance O-20-017 is tabled.

ADJOURNMENT

MOTION BY ALDERMAN O'BRIEN THAT THE MAY 21, 2020 SPECIAL MEETING OF THE BOARD OF ALDERMAN BE ADJOURNED BY ROLL CALL

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

Yea: Alderman O'Brien, Alderman Klee, Alderwoman Kelly, Alderman Dowd, Alderman Caron, Alderman Clemons, Alderman Lopez, Alderman Tencza, Alderwoman Lu, Alderman Jette, Alderman Schmidt, Alderman Harriot-Gathright, Alderman Wilshire	13
Nay:	0

MOTION CARRIED

The special meeting was declared adjourned at 10:29 p.m.

Attest: Susan K. Lovering, City Clerk

Board of Aldermen

City of Nashua
229 Main Street
Nashua, NH 03061-2019
(603) 589-3030



MEMORANDUM

TO: Nashua Board of Aldermen
FROM: Alderman-at-Large Ben Clemons
DATE: May 21, 2020
SUBJ.: Downtown Improvement Committee – Expenditures to Date

Attached you will find a list of everything the Downtown Improvement Committee has spent since the Special Revenue Account was recreated in 2016.

Attachment

Downtown Improvement Committee Projects and Expenditures

2013

\$140,000 for pay stations

2014

\$25,000 for public art project phase 1

\$12,600 for flowers (beautification project)

\$19,800 for banners/poles

\$6,000 for holiday banners

\$40,000 for sign package

\$4,000 cover GAD budget shortfall

2015

\$25,000 for PAC feasibility Study

\$20,000 for public arts phase 2

\$35,000 for sign package –

\$19,000 for downtown circular (“Trolley”) Study

\$4,480 Downtown Banners

\$825 Consulting Services Tracy Wampler – Design of Banners

\$3,923 Parking Meter Bag – Holiday Initiative

2016

\$1,320 Plantscape (beautification project – Artificial Hanging Plants)

\$25,000 Public Art Project (CityArts Nashua)

\$8,345 Downtown Decorations -- Lighting

\$1,543 Banner replacement

\$5,000 Marketing of Downtown Trolley

2017

\$12,100 CityArts Nashua (Downtown Public Art Project)

\$44,400 Wayfinding Signs

\$25,000 PAC Consultant Feasibility Study

\$14,000 Trolley Operations

\$15,000 Trolley Operations

\$7,481 Banners

\$16,000 Trolley

\$9,720 Holiday Season Lights/Winter Stroll Support

2018

\$7,900 CityArts Nashua – Public Art Project

\$4,710 Wayfinding Signs

\$5,960 Mesh Storefront Window Coverings

\$250 Photo Mural Project

\$4,500 Design Work For Banners
\$9,500 GAD (Holiday Lights/Winter Holiday Stroll)
\$4,000 Art work design for Banners
\$3,091 GAD (Farmer's Market)
\$105,000 Wayfinding Signage Program
\$50,000 PAC Consultant

2019

\$1,000 CityArts Nashua
\$173 PAC Reimbursement
\$15,908 GAD (Farmer's Market)
\$100,000 PAC Consultant

2020

\$750 Holiday Banner Design
\$5,259 Banner replacement
\$7,000 Downtown Lighting Study
\$9,000 Farmer's Market
\$35,000 PAC Consultant