

A regular meeting of the Board of Aldermen was held Tuesday, September 22, 2020, at 7:30 p.m. via teleconference.

President Lori Wilshire presided; City Clerk Susan Lovering recorded.

Prayer was offered by City Clerk Susan Lovering; Alderman-at-Large Michael B. O'Brien, Sr. 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:***

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

*To join by phone dial: 1-929-205-6099 - Meeting ID: 843 4793 9789 Passcode: 794985*

*The public may also view the meeting via 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](http://www.nashuanh.gov) and publicly noticed at City Hall and Nashua Public Library.

***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 15 members of the Board of Aldermen present: Alderman Michael B. O'Brien, Sr., Alderman Patricia Klee, Alderwoman Shoshanna Kelly, Alderman Richard A. Dowd, Alderman June M. Caron, Alderman Benjamin Clemons, Alderman Thomas Lopez, Alderman David C. Tencza,

Alderwoman Elizabeth Lu, Alderman Ernest Jette, Alderman Jan Schmidt, Alderman Brandon Michael Laws, Alderman Skip Cleaver, Alderman Linda Harriott-Gathright, Alderman Wilshire.

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

Alderman O'Brien

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

Alderman Klee

I am present, I can hear the proceedings, I am alone and I am home due to (audio cuts out) distancing.

Alderwoman Kelly

I'm here, I am alone and I am attending remotely due to the Governor's Order.

Alderman Dowd

Yes, I can hear everyone, I am here alone and I am practicing social distancing in accordance with the Governor's Orders.

Alderman Caron

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

Alderman Clemons

I can hear everyone and I am here at my home alone.

Alderman Lopez

I can hear everyone and see everybody; I am with all of you but there's nobody in the room with me. And City Hall is closed so we wouldn't be able to meet there anyway.

Alderman Tencza

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

Alderwoman Lu

Present, I can hear everyone and I am alone.

Alderman Jette

I am here, I can hear you and I am staying safer at home with my wife.

Alderman Schmidt

I am present and I am alone in the room.

Alderman Laws

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

Alderman Cleaver

I'm here and I am practicing social distancing, my daughter is with me.

Alderman Harriott-Gathright

I am present, I am in this room alone, I am practicing social distancing and I can hear you.

President Wilshire

I am here, I am alone and I am practicing social distancing. Also with us this evening is – I'm sorry Madam Clerk, I didn't mean to interrupt.

Susan Lovering, City Clerk

You have 15 in attendance.

President Wilshire

Thank you very much.

Ms. Lovering

You're very welcome.

President Wilshire

Also in attendance this evening is Mayor Donchess and Corporation Counsel Steve Bolton. Does the Mayor wish to address the Board this evening?

REMARKS BY THE MAYORMayor Donchess

Yes, thank you Madam President. Of course we have a number of items on tonight's agenda. I am going to mention a few of them which I think are definitely important. But before I get to that I wanted to report to you regarding the Coronavirus. As you know I tested positive, but fortunately I had not a serious case. I went through 10 days of isolation and am now received so I am back to sort of regular COVID life. But as part of the developments with COVID, six people including myself in City Hall have contracted cases. They are varying degrees of severity; a couple of people have recovered but others are still working on that. So as a result of that outbreak working with Public Health, Bobbie Bagley, Director of Public Health and other medical professionals, we decided that the best thing to do to prevent any further spread within City Hall or to members of the public was to close City Hall again as we did back in March. That will take place for two weeks. It's like a two-week quarantine period for everyone who works in City Hall. People will continue to work remotely mostly, although we do have some people in City Hall such as automobile registration people who are handling automobile registration via mail, via e-mail and via a delivery service at the back of City Hall. I visited there today, people are wearing their masks, are socially distanced, we are trying to make sure that there is no further outbreak, no further spread of the disease, but those were steps we thought we needed to take in the interest of safety of the public and, of course, of our employees.

On the Agenda tonight are a few items that as I said I would mention, Madam President. First, we have one Resolution that would apply \$4.5 million dollars of surplus to the tax rate. That will help us, that is what we projected at the beginning of the year and this will help us keep the tax rate to the lowest we possibly can get it. This is consistent with the amount of surplus that we have applied to the tax rate in prior years.

I wanted to mention, Madam President, the escrows which were reviewed by the Budget Committee last night. The escrows are a process that we have gone through for decades. What we do is we generate surplus in two ways. First of all revenue which exceeds the budget estimates, \$4.5 million of that as I said is being applied to the tax rate. The other way that surplus is generated is we work throughout the various departments work throughout the year to save money and not spend everything that is appropriated. As a result, we have money that is left over at the end of the year. And in the so-called escrow process that is reappropriated to various needs that the City has. Again, this is money that we have already collected from taxpayers which is being redirected.

The biggest items are really deposits into reserve accounts of various nature. The biggest being nearly half the money would be directed to the Capital Equipment Reserve Fund which is the fund from which we buy equipment. As you will recall, Madam President and Members of the Budget Committee and the whole Board, we didn't budget much for equipment for the Capital Equipment Reserve Fund during the regular budget and over some years now we have been using money saved of these so-called escrows to deposit into that reserve account. We've also got money going into the reserve accounts for City Buildings for other uses that we could detail. And there was one amendment recommended by the Committee which I expect that you will adopt and pass.

The issue came up last night, Madam President, of well why did this or was this considered by the Committee one night before the final vote. And of course that's something we wanted to think about and we looked into what we've done in prior years. And what we found is that in prior years we have been able to make the escrow proposals one meeting before we did this year, one Aldermanic Meeting. And this year things were slower, really because of COVID-19. In order to figure out what your surplus is, you need to have all of the bills that are provided by the vendors at the end of the year, the last month or so come to the City and then paid and then all those bills reconciled so that you can come up with the final tally as to how much money is left over.

Now sometimes the City does not receive – we are on accrual basis here – so sometimes the City does not receive bills that were incurred say in June until late July or even early August. Then those have to be paid and then the reconciliation has to be done by the Financial Department. This year some of the bills came in more slowly. It was more difficult because people were working remotely so we were one meeting slower. But I can guarantee you that, at least in the Mayor's Office, as soon as we get the number we proposed the escrows as soon as we could. Now you Madam President suggested that we should do it earlier next year if we can and certainly this having happened, we will be glad to try to target the meeting in August rather than the meeting in September to get this done. But this year we were significantly impacted by COVID.

Now people on the Budget Committee asked, well could we have more time to consider this, this list of escrows? We need to have the accounting done, the audit done by the end of the year, by December 31<sup>st</sup> in a so-called CAFR prepared, that's a financial report. We could wait another two weeks if you think that's really necessary. I mean it will make life more difficult for the accountants, it's not ideal but given the impact of COVID if you feel, you the majority of the Board feel you want to wait two weeks, it would cause a few problems but would not be you know a disaster of any kind. So if you decide you want to wait two weeks that would be alright under all of these circumstances. Again, we will keep this in mind next year and try to make sure that we get it to you in August, one meeting earlier than we did this time. But again, really COVID was what caused us the delay. And I am available to answer any questions regarding the escrows and Mr. Griffin is on here as well if people have them. We talked through some of the issues with the Budget Committee last night.

Of course we have the mask ordinance, Madam President, and I know that will engender a lot of discussion but I think it has helped protect us, us the community, the public members, all of our families, our friends, our neighbors, from the spread of the virus. Nashua has had relatively few cases. I mean 900 but significantly less than the cities of similar size around us: Manchester, Lowell, Lawrence in part. I am sure there are other factors, but that we have been quite careful about the public safety steps that we have taken.

Also, Madam President, I wanted to the request for the transfer to fund a Right to Know Coordinator. Now this going to take a little discussion because there's some detail here and people have asked some questions which I think we need to answer. Just for members of the public, the Right to Know Law says that anytime a citizen requests any documents or any number of documents, the City must respond and produce those documents with certain limited exceptions, no matter how large the volume, no matter how many requests are received, no matter how many employees are working part time or half time or no matter how many hundreds of thousands of dollars it is taking for the City to respond to these requests.

So about two years ago, we began receiving a deluge of Right to Know Requests regarding – first Assessing then other departments. Back in the summer of 2019 I believe, early summer, we had already produced 34,000 documents in response to hundreds of Right to Know Request. At that point, the Legal Department got involved because we didn't want people just working full time on Right to Know Requests. There is other work to do in City Hall believe it or not and I know you know that very well. So the Legal Department began to handle them and since that time there have been hundreds more Right to Know Requests. We estimate, and we've got two employees here on the meeting tonight, but we estimate that there, well we know that there are four employees who are spending about half their time for the last two years on Right to Know Requests from one or two individuals. And if you count up what the staff time and the benefits are, that's around \$200,000.00 a year. That doesn't count Attorney Bolton and Administrative Services Director Kleiner and others who spend significant time but not half time. Frankly, and you can hear from two of them, and we've got Manuela Perry from the Legal Department and Karina Ochoa from Administrative Services on the call who can tell you a little about what they've gone through. But they need some relief, people are getting burned out from just working on Right to Know Requests so much, so we need a Right to Know Coordinator to help do all this work.

Now the question I think we need to answer is, well why don't the Departments just go ahead and answer these things. The first answer which was some time ago when the Legal Department was involved, it was that the volume was so great and we basically get at least one every day on average and one communication can include many requests which can request hundreds of documents. Sometimes there will be a period of three days and there will be many, many Right to Know Requests coming in all at the same time. So the first answer was well we can't have people just working full time on Right to Know Requests, because that could definitely happen under these circumstances. But the other answer is that there have been – this is I don't think well understood – many legal complaints brought regarding against the City and its employees. For example, there have been criminal complaints lodged against the volunteer members of the Board of Assessing, criminal complaints against those volunteers. Criminal complaint against City employees in the Assessing Department. A multi-count litigation against the City regarding what are alleged to be Right to Know violations, you know, kind of cherry picking out of these many hundreds and thousands of documents, five, ten different instances when a lawyer can sort of allege that there was some kind of technical violation. And there are numerous complaints that have been lodged against City employees in the Assessing Department and elsewhere in agencies in Concord against these employees seeking significant discipline against those employees. So we need to retain some degree of confidentiality there so I won't get into that in any more depth.

The point being that any time, if any employee just responds but somehow makes an error because they are not a lawyer, because they and I'll give you an example. They are not a lawyer, they are not schooled in all this, the law behind the Right to Know, the case law and exactly what is permissible and what's not, if anyone slips up or at least arguably a little bit, let's say they do it right 99 times but the 100<sup>th</sup> time there's some little error, they get sued. And the lawsuit that's pending against the City requests legal fees which purportedly already are \$100,000.00. So they are seeking money damages against the taxpayers of the City of Nashua. Now let me give you an example of the kind of case that I'm talking about, the kind of claim, this is just one of many claims. After a criminal complaint was filed against one of the Assessors which turned out, of course, to be groundless.

The Police Department though did a full investigation, interviewed everybody, spent a lot of time on this criminal investigation. At the end of that, when it was all over and no charges, of course, were brought,

there was a Right to Know Request made to the Police Department for the “investigatory file”. Now the Police Department, that’s a common term at the PD, investigatory file. They do a lot of investigations. They have a meaning for investigatory files. And what that includes is all the documents that they have accumulated as well as reports, written reports regarding all of the interview that they have conducted. When the Right to Know is requested for all those documents related to this criminal complaint which was found to be groundless, the Right to Know Request was made. The PD ok they want the investigatory file, they assemble the investigatory file and they produce it. What’s the problem? Well the plaintiff says when I said “investigatory file” I meant the tapes of the interview. Well the Police Department says we don’t include, you know we don’t – when we use that term and we produce these investigatory files we don’t include the tapes because we don’t transcribe them, that takes too much time., too much money and time. So we don’t normally transcribe them. “Well I meant that the tapes should be included” – OK.

Well in order to produce the tapes because there could be personal information because this was against a City Employee this criminal complaint and it had to do with workplace conduct, at least alleged workplace conduct. So they needed to transcribe the tape in order to produce them and make sure that they could redact what needed to be redacted. So the PD and the Legal Department say, OK we will transcribe the tapes at the City’s expense of course and produce them and we will give you a transcript and the tape. So they agreed to produce them, but wasn’t done soon enough, wasn’t done immediately so there’s a lawsuit, that is a lawsuit. That’s one of many claims in the lawsuit against the City, many similar claims.

So the point being here, it’s not so simple that, oh well why doesn’t the Department just produce the document because if anyone, it might be 1,000 documents it might be 100 different requests and if anyone makes a mistake there’s a lawsuit, or arguably a mistake like this thing with the PD. That’s why we need the Right to Know Coordinator and that’s why the Legal Department needs to be involved. Now I spent a little time on this because I know you’ve had some questions but we have had multiple, as I say, four people working half time on these request for two years, a couple hundred thousand a year. This has probably cost the City \$400,000.00 so far, not even counting the cost of all the litigation and all that, not counting what the PD is doing with the investigations and with the transcribed, it doesn’t even count all of that. So I think we need this Right to Know Coordinator to help us relieve these people from the duties to track all of this to help with all the redacting, because given that we’ve been in this for two years, we can expect that we will continue to get Right to Know Requests on nearly a daily basis.

Finally, Madam President, I would like next meeting and we’ve discussed this, you and I, to recognize the wonderful people who put together the lighted kayak events this past Saturday and a few weeks before that, a very beautiful event which is highlighting the beauty of our river. This is exactly what we were looking for when we initiated the Riverfront Master Plan which we are just about ready to begin implementation on. We think that this can be a great asset for the community, for the downtown, for the City as a whole and this is the kind of spontaneous activity that I think should make us all feel good and proud of the City and its citizens. So I am going to have a Resolution prepared for the next meeting and we will name the individuals who were involved and ask them to come to the meeting. And I think the President has said that’s a good idea. In any event, Madam President, that concludes my remarks, but I will be available for questions and if you wish I could introduce, when the times comes, Corina and Manuela.

#### RESPONSE TO REMARKS OF THE MAYOR

##### President Wilshire

Thank you, Mayor, appreciate that. Response to remarks of the Mayor - anyone have any response? Sorry I have a lot of people on here so I’ve got to do a thorough job of looking. Ok seeing none.

##### Alderwoman Lu

I’m sorry, Madam President I was slow to react. Thank you. Mayor Donchess mentioned the escrows and I just, I am wondering if I should respond to that now or wait until we are dealing with it.

President Wilshire

If you want to respond to the Mayor's remarks you may, otherwise you can wait until we take it up.

Alderwoman Lu

I just wanted to respond to, I was a little bit confused. I understand this is a big job and it's been slower, it's been more difficult because of the constraints we are under. But my understanding of an accrual system is that we can predict our expenditures because we are accruing them as we go along and so for me that explanation didn't really explain to me why this has been somewhat short time frame to make this decision on these items. I understand though that in the past it's been more of a procedural thing where you know it is presented and it is done fairly quickly. But I just don't understand the difficulty with accrual. If we were cash accounting, I mean I am sure, I just thought that Director Griffin was comfortable – I'm sorry my point is that the accruals are done every year so I am not sure what took it so long this year. I'm sorry for talking on and on.

Mayor Donchess

As I said it took only a few weeks longer this time than it has in previous years. So I think you underestimate and John Griffin the CFO can address this or Kim Kleiner or the others that are involved. But this is a \$280 million dollar budget, a lot of independent departments they are making independent orders, School Department, Police Department, Fire Department, Public Works. You know, as see from the escrows there are hundreds of checks written every week and all of that has to be reconciled at the end of the year. This is not like a little quick books thing or something like that. So I think you need to talk to these people and understand the complexity of the job and the idea that this can just be done the day after the year is over I think is a delusion. This takes a while, there's a lot of work, there's a lot of people involved and yes, in prior years we have been able to produce, they have been able to produce it a few weeks earlier. This time it took a little longer, this is the first time we've been through a COVID pandemic, there was a lot of stuff going on. If we are still in the pandemic, next year we will try to get it a few weeks earlier as I said. And if you think it's necessary to delay this, you can.

President Wilshire

Are you all set Alderman Lu?

Alderwoman Lu

Yes, I am.

President Wilshire

Thank you. Anyone else response to the remarks of the Mayor? Alderwoman Kelly? We can't hear you Alderwoman Kelly. No, can't hear you. Ok anyone else have any response to the remarks of the Mayor. Alderwoman Kelly, oh you're trying to connect to the audio, we'd like to have you present for the meeting so we will give you a minute. Are you connected yet do you think? Now you're on mute, unmute; can't hear you. Do you want to call in? OK. I can hear you now.

Alderwoman Kelly

But you'll be able to hear everybody.

President Wilshire

Are you all set Alderman Kelly? Alderman Lopez.

Alderman Lopez

I just wanted to point out that this deafness awareness week, so I think we all just got a little bit of a taste of what people are going through. So in all seriousness it would be nice if we had a deaf translator or something like that in future meetings where we are doing these visually things, but yeah it was a good solidarity moment we just had about the frustration people experience trying to speak and be heard and also trying to understand what people are saying.

President Wilshire

Thank you, Alderman Lopez. Alderman Kelly?

Alderwoman Kelly

What is going on?

President Wilshire

We can hear you now Alderwoman Kelly.

Alderwoman Kelly

You can hear me now?

President Wilshire

Yes.

Alderwoman Kelly

Oh my gosh thank you. Is it too late to respond?

President Wilshire

No, I've recognized you. Go ahead.

Alderwoman Kelly

Thank you for bearing with me, I have no idea, I could hear everybody and then I could not respond. I just wanted to say thank you to the Mayor for looking into what the procedure has been in the past and being willing towards giving us more time in the future for the escrows.

President Wilshire

Ok, thank you. Anyone else? Seeing none, recognition period.

RECOGNITION PERIOD - None

READING MINUTES OF PREVIOUS MEETINGS

**There being no objection, President Wilshire declared the minutes of the Board of Aldermen meeting of September 9, 2020 accepted, placed on file, and the reading suspended.**

COMMUNICATIONS REQUIRING ONLY PROCEDURAL ACTIONS AND WRITTEN REPORTS FROM LIAISONS

From: Mayor James Donchess  
Re: Masterplan Committee Designees

From: Linda McGhee, Deputy Planning Manager  
Re: Referral from the Board of Aldermen on proposed R-19-183, to establish a Committee to draft a Master Plan

From: Linda McGhee, Deputy Planning Manager  
Re: Referral from the Board of Aldermen on proposed R-20-059, authorizing the sale of City real property located at 141-143 Burke Street. (Map 11, Lot 158) to Burke Street Nashua, LLC

From: Donna Graham, Legislative Affairs Manager  
Re: Communications Received from the Public

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

COMMUNICATIONS REQUIRING FINAL APPROVAL - None

PETITIONS - None

NOMINATIONS, APPOINTMENTS AND ELECTIONS

Laurie Ortolano, 41 Berkeley Street President Wilshire, can you hear me?

President Wilshire

Alderman Caron?

Ms. Ortolano Hello?

President Wilshire

Alderman Caron, I can hear you.

Ms. Ortolano This is actually Laurie Ortolano, you skipped Public Comment for items to be acted on, is that intentional?

President Wilshire

Oh no I am sorry; I did not intentionally skip that.

Ms. Ortolano Ok thank you.

President Wilshire

My apologies.

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

President Wilshire

Period for public comment relative to items expected to be acted upon this evening. Is there anyone that wishes to address the Board?

Ms. Ortolano I do, I thought somebody else might dive in but this is Laurie Ortolano at 41 Berkeley Street. I just want to speak briefly to the comments by the Mayor, pretty disappointing to hear his tone and what he said to you folks. He said that, he used the word "deluge" of Right to Knows began about 2 years ago. Actually I believe there was a ramp up that started in June 2019 and that's when the Legal Office started tracking these things. I know the other individual who was involved I believe put their first Right to Know in, in June or July. So I disagree with the 2-year time frame. I also think he said by that summer of last year, there were 34,000 document requests, or documents provided. That's a gross misrepresentation. He's talking about the request where I wanted to see the KRT Property Record Cards. Turns out those were 31,000 records which I didn't know when I put the request in and the City denied them and didn't produce them at all. So that's a misrepresentation.

Also, I am going to send to all of you the letter from Attorney Lehmann where he made the request for the audio/video files. We did not request the transcripts. We were fine with just getting the audio/video files and didn't ask the City to do that. The City is the one that said without giving a reason, we will transcribe these and we will redact them. And we did not ask for that. And to give you a perspective on the amount of work, its 13 hours a tape. Now I've been involved in the Assessing Department and I've gone to many meetings during abatements, those meetings are 4 hours long. And they transcribe those down there in a matter of you know two days. So 13 hours which is working not full time, 13 hours of minutes for somebody who is skilled at that is not asking for a lot but we didn't even ask for it. And I'm going to produce the letter from Attorney Lehmann that verifies. Because really when I see a Mayor put out wild accusations and really appear frightened by what's happening here. I think his fear has gotten the best of him. I think he misrepresented what the position is about.

President Wilshire

Mrs. Ortolano can you stick to the Legislation and not the Mayor please?

Ms. Ortolano Well the Mayor is the one who pitched it and he said he was going to provide some answers to good questions raised by the public. So I hope he's able to do that and put his fear aside and get us to the answers. I would have liked to have heard that at the beginning instead of his frantic dialogue. I don't like listening to people who I don't think have integrity. I wish he had stuck to the issue and answered some of the questions the public brought forward so that when I gave my first input I would have something to say for you. So step it up Mr. Mayor. Thank you.

President Wilshire

Anyone else wishing to give public comment on items to be acted upon this evening? Mr. Teeboom?

Fred Teeboom Yes, I do. This is Fred Teeboom. This is the first time I have participated in this Zoom business. I have a comment on R-20-067 which is the use of fund balance for tax rate. First of all, there is supposed to be a letter from the Mayor to explain why this is to be done, that's by the Ordinance as quoted in this Resolution. I did not see the letter from the Mayor. Can somebody explain to me why the Mayor did not address this in a letter? Anybody?

Alderman Clemons

We received a letter today.

Mr. Teeboom I did not see that in the Budget Committee's Agenda which took place yesterday. Anyway let me then go forward. I hope I don't have to do a Right to Know to request another one. The request is for \$4.5 million so the fund balance is supposed to stay above 10% of Fiscal Year Appropriations. What is the amount in fund balance at this moment before this Resolution is adopted? Can somebody address that?

Steve Bolton, Corporation Counsel

Madam President?

President Wilshire

Attorney Bolton.

Attorney Bolton

The Ordinance allows for public comment. It does not mean that the Board of Aldermen is subjected to a cross examination.

President Wilshire

Thank you, Attorney Bolton.

Mr. Teeboom In absence of his letter which does not exist to my knowledge, it's fair for me to ask the question what is the fund balance. Could somebody address that question?

President Wilshire

I am not seeing anyone stepping up to answer your question, Mr. Teeboom.

Mr. Teeboom Alright, then I'll make some more comments.

President Wilshire

Ok.

Mr. Teeboom The Fund Balance is supposed to be a certain amount that after you deduct this \$4.5 million you are still supposed to have 10% or more of that fund balance to represent Fiscal Year Appropriations. So, the question then is, what are the year fiscal appropriations ending on June 30<sup>th</sup> of this year? Is the fiscal appropriations the General Fund Appropriation? Is it total appropriations? Is it all appropriations including county taxes? Could somebody address to me exactly what is meant by "Fiscal Year Appropriations" relative to this Resolution?

President Wilshire

As the Attorney just stated, we are not going to go back and forth. If you have some comments, please leave your comments Mr. Teeboom.

Mr. Teeboom Like Lori Ortolano said, how can you ask questions if you don't produce the letter you are supposed to address this with? I have no idea if this \$4.5 million leaves 10% of fiscal appropriations in the general fund. Generally the General Fund is about \$30 million dollars. So we should at this moment have at least \$30.5 million dollars thereabout in the General Fund.

Mayor Donchess

Madam President, if it will shorten things, I could answer this.

Mr. Teeboom That would be helpful.

Mayor Donchess

The letter did go out but Mr. Teeboom hasn't received it. A fund balance will go up at the end Mr. Teeboom so Mr. Griffin can you give the exact number but I believe it's – the fund balance will go up above the figure you just mentioned and is going to be added to, to the tune of about, I think about \$700,000.00.

Mr. Teeboom So you are \$700,000.00 above the 10%.

Mayor Donchess

No above what is now and it is already about the 10%. So to get the exact figure, why don't we turn to Mr. Griffin. But the fund balance is above the 10%, more like 11 something, 11 and a fraction of a percentage and will be going up if this proposal is adopted.

Mr. Teeboom So after this proposal is adopted and you take \$4.5 million out of ...

Mayor Donchess

But remember that it is being back filled by the surplus which exceeds \$4.5 million. So yes, in essence what we are doing is we are applying surplus but the way the Resolution reads is it is fund balance money but then the surplus moves into the fund balance. So at the end of the day it will be higher at June 30, 2020, it will be higher than it was on June 20, 2019.

Mr. Teeboom Mayor, I understand how it's supposed to work. But I do not understand exactly what is counted as fiscal year appropriations under the Resolution.

Mayor Donchess

Well that's the answer that I have for your question. Mr. Griffin can give you the exact numbers. But it is above 10% and it's going up not down.

John Griffin, CFO

Mr. Mayor and Madam President, I can help out a little bit here if I may?

President Wilshire

Mr. Griffin?

Mr. Griffin

As I indicated last night during the Budget Review Committee, the anticipated – we anticipate \$36.8 million dollars of fund balance before the application of the \$4.5 amount towards the tax rate. That leaves us with an 11.4% of the fiscal '20 budget. Mr. Teeboom, you've asked why don't we include more than that. We never have, since I've been here. So we use the General Fund Appropriations as the denominator.

Mr. Teeboom Ok you use general fund appropriations of the denominator. I think somebody on this Board ought to take a look at this Resolution, at the Ordinance that the Resolution refers to which is NRO 5135 A, and B and C that starts fixing the thing. Because anybody that looks at it will be completely confused exactly what is meant here, I've asked for that before. And a letter from the Mayor would help. I think if the Mayor would address this question that I have of 5135 A and B and try to clarify this with maybe an Ordinance change that would be helpful. Because right now there's language you here I won't bother you with that is not clear. With that I appreciate it. I would say though I am surprised that not a single, I've listened to the tape because there are no minutes on this Budget Meeting last night. So I listened to the audio recording. I do not remember any Alderman asking any detailed questions other than Alderman

Clemons asking what the tax rate was going to be and that is surprising. The Aldermen ought to be more familiar with this kind of accounting and the fact that you only give them a day for the meeting on this question as well as on the escrow question which is quite complex, you give them only a day to make a vote is not excusable. Thank you.

President Wilshire

Thank you. Anyone else from the public that wishes to give public comment?

Beth Scaer, East Hobart Street First of all when I connected about a couple of minutes before the meeting started, I could hear some of the Aldermen mocking the protesters against the face covering ordinance and I felt that was really disrespectful. It is their first amendment right and they don't deserve to be mocked. And also, I wanted to speak about the updated face covering Ordinance that you are going to be voting on tonight. I am asking all of you to please strike the provision from the updated face covering Ordinance that requires businesses to block customers from entering who aren't wearing a face covering and don't produce documentation proving that they have a medical condition.

This Ordinance could bring serious harm to Nashua small businesses, especially since the surrounding New Hampshire towns don't have this requirement. Blocking customers from entering a business could put businesses at risk of a lawsuit for discrimination against someone with a disability and this provision brings new financial hardships to Nashua small businesses that have already suffered so much under the COVID shutdowns and restrictions. And too many of our small businesses are barely scraping by. If this Ordinance were working as intended, the outbreak at City Hall would not have occurred. Were the Mayor and his staff flouting the current face covering ordinance. If so, they know themselves how difficult this ordinance is to follow. Why would they require businesses to enforce the wearing of face coverings when they can't follow the ordinance themselves. And thanks very much to Alderman Ben Clemons for speaking up and voting on behalf of Nashua's small businesses at the Committee Meeting on the updated ordinance. Thank you.

President Wilshire

Thank you, anyone else that wishes to give public comment? Hello?

Laura Colquhoun Laura Colquhoun.

President Wilshire

Can you, name and address for the record please?

Robert Farineli 92 Ledge Street I would also like to voice my displeasure first of all at the few Aldermen who were mocking the face mask protest. That's very, extremely disrespectful to your constituents who have the right to exercise their first amendment right. And I would ask the Aldermen to strike this updated ordinance down. Our Nashua business owners have already gone through enough hardship as it. Some are very afraid that the City will come after them after this law and they the right to exercise their business the way they want to. It's been very clear that the Police have no interest in enforcing this and quite frankly that business owners have the right – business owners that do not want to enforce this have the right to run the business the way they want to. Again if you do not like the fact that a business doesn't want you to wear a mask, you should not shop there. And as I said again, and I'll say this again, if you want to wear a mask, go ahead. If a business wants someone to wear a mask, whatever. It's their business. But the fact that you, the people who support this feel they really have the need to go in and force businesses that are already struggling to enforce mandates they don't want to under the threat of I would assume Nashua Boards going after this business licenses or what not is what you are planning to do for punishment. It's totally unacceptable.

President Wilshire

Well that's not the case Robert, that's not the case at all.

Mr. Farineli Then how to do plan on enforcement, who is planning on enforcing this and how?

President Wilshire

This isn't a give and take, I'm just telling you the City is not looking for people's business licenses. Do you have anything else Robert?

Mr. Farineli Can you explain to me how you plan on enforcing this then?

President Wilshire

No I cannot.

Mr. Farineli Of course Nashua loves to keep its secrets.

President Wilshire

Thank you. Anyone else wish to give public comment? Laura, name and address for the record?

Laura Colquhoun 30 Greenwood Drive. First of all I am very insulted by the tone and what the Mayor said, I don't think he knows what he's talking about. I had sent a Right to Know last year in and I asked for a listing of open building permits. I got back over 33,000 documents. No one bothered to call me or anything else, I just got 33,000 documents back and they said, "Oh we can't tell you what's open". It's also happening now that if you even ask a question to Assessing they are going in and they are sending a stupid question to the Legal Department and making it a Right to Know. I think that's a waste of time and money. I have had Right to Knows with Dave (inaudible) I send it to him, no problem I get it back and if he doesn't understand what I am asking for, he gives me an e-mail or he gives me a call and he gets me the information. If we start not going to the Departments, we are going to get garbage out and that's what we have been getting right now with going through the Legal Department. So I do not feel that we need this person, I think if the City could get the people and their Departments to actually give the information that we are asking and not try to inundate us with paperwork which we don't even want, it would be much more efficient and we wouldn't be spending so much money. And I really think if the Mayor looked at the Legal Department, they are not getting one Right to Know a day. I know for a fact its maybe up to one a month or something like that. But the more the City is trying to hide, the more people are going to ask for Right to Knows. And we have a Right to Know. And that's it, thank you.

President Wilshire

Thank you. Anyone else wishing to give public comment this evening for items on the Agenda? Seeing none, we will go back order of our business. Nomination, Appointments and Elections. Appointments by the Mayor.

Appointments by the Mayor

The following Appointments by the Mayor were read into the record:

Cultural Connections Committee

Eric Drouart (Reappointment)  
52 Main Street, Unit 206  
Nashua, NH 03064

Term to Expire: December 31, 2020

Mohammed Mustak Arif (Reappointment)  
1 Kinsley Street  
Nashua, NH 03060

Term to Expire: February 28, 2023

Adelina Hernandez (Reappointment)  
56 Chestnut Street  
Nashua, NH 03060

Term to Expire: July 30, 2023

Jessica Gorhan (Reappointment)  
97 Western Avenue  
Henniker, NH 03242

Term to Expire: December 31, 2023

Nashua Arts Commission

Judith Carlson (Reappointment)  
5 Manchester Street  
Nashua, NH 03064

Term to Expire: April 1, 2023

Paul LaFlamme (Reappointment)  
28 Lutheran Drive  
Nashua, NH 03063

Term to Expire: April 1, 2023

Steve Ruddock (New Appointment)  
5 Town Crier Road  
Amherst, NH 03031

Term to Expire: July 30, 2023

Travis Tripoldi (New Appointment)  
15 Manchester Street  
Nashua, NH 03064

Term to Expire: April 1, 2023

Tax Increment Financing Advisory Board

Angelina Spillios (New Appointment)  
15 Technology Way  
Nashua, NH 03062

Term to Expire: September 30, 2021

***There being no objection, President Wilshire accepted the Appointments by the Mayor as read and referred them to the Personnel/Administrative Affairs Committee.***

REPORTS OF COMMITTEE

Personnel/Administrative Affairs Committee..... 09/10/2020

There being no objection, President Wilshire declared the report of the September 10, 2020 Personnel/Administrative Affairs Committee accepted and placed on file.

Human Affairs Committee..... 09/14/2020

There being no objection, President Wilshire declared the report of the September 14, 2020 Human Affairs Committee accepted and placed on file.

Finance Committee..... 09/16/2020

There being no objection, President Wilshire declared the report of the September 16, 2020 Finance Committee accepted and placed on file.

**There being no objection, President Wilshire suspended the rules to allow for the oral report of the Budget Review Committee meeting held Monday, September 21, 2020 regarding proposed Resolutions R-20-066, R-20-067, and R-20-069.**

Alderman Dowd gave an oral report of the Budget Review Committee meeting of September 21, 2020 with respect to Resolutions R-20-066, R-20-067, and R-20-069.

Alderman Dowd

Yes, thank you. We did have a meeting last night on R-20-066, it's a Collective Bargaining Agreement with the Nashua Association of Schools on a one-year contract at a 1.5% increase and it passed the Board unanimously. On R-20-067, that's the \$4.5 million that was mentioned before going towards the tax rate, we did get a letter from the Mayor today and it is 11.4% that will be in accordance with NRO S-135 and that also passed the Budget Review Committee unanimously.

On R-20-069 which was the escrows, we had some discussion. The reason it was sort of short notice was the fact that with all that's going on with City Hall closed that people have to do all these calculations and everything, the timeframe was shortened. But we have had one change. I made a proposal to change Line 22 which is the CERF amount by \$100,000.00 to add \$100,000.00 to the Police Expendable Trust Fund. The Police Expendable Trust Fund is a fund much like we have an expendable trust fund for snowplowing, not that they are equivalent. Right now that expendable trust fund is to handle pop up, emergency, major crimes that need to be investigated right away and they don't have time to come back and go through a series of Aldermanic Meetings because as we all know the trail goes cold when you are dealing with those kind of activities. Right now the balance in there is like \$405.00 and we put \$100,000.00 in there to cover any major expense. And being the liaison to the Police Commission I note that they really have a dire need for this. In the past, we have years where we didn't have to use it. We've had other years where we've had to use more than that. It all depends on what happens in the City of Nashua. So in order to be able to entertain major crime that happens, they need that money to refer to and it passed with one negative vote. And I believe that's it.

President Wilshire

Thank you, Alderman Dowd.

CONFIRMATION OF MAYOR'S APPOINTMENTS

Business and Industrial Development Authority

***There being no objection, President Wilshire confirmed the reappointments of the following individuals to the Business and Industrial Development Authority: Jack Tulley, P.O. Box 600, Nashua for a term to expire September 13, 2023; and Mark Prolman, 70 Crestwood Drive, Hollis, for a term to expire April 30, 2023.***

Oath of Office to be administered at a later date.

Energy and Environment Committee

***There being no objection, President Wilshire confirmed the reappointment of the following individual to the Energy and Environment Committee: Anita Arden Cala, 15 Taylor Street, Nashua, for a term to expire March 31, 2023.***

Oath of Office will be administered at a later date.

Master Plan Committee

***There being no objection, President Wilshire confirmed the new appointments of the following individuals to the Master Plan Committee: Mary Ann Melizzi-Golja, 2 Amble Road, Nashua; Homa Jaferey, 5 Poliquin Drive, Nashua; Gloria McCarthy, 65 Musket Drive, Nashua; Peter Schaefer, 15 E Street, Nashua; Gene Porter, 77 Concord Street, Nashua; Marjorie Bollinger Hogan, 67 Cannongate III Road, Nashua; and Amber Logue, 20 Lock Street, Nashua.***

Oath of Office administered by Corporation Counsel to Gene Porter, Gloria McCarthy, Amber Logue, and Peter Schaefer; Oath of Office administered to be administered at a later date for those not present.

Mine Falls Park Advisory Committee

***There being no objection, President Wilshire confirmed the reappointment of the following individual to the Mine Falls Park Advisory Committee: Greg Andruskevich, 3 Caraway Lane, Nashua, with a term to expire June 30, 2023.***

Oath of Office to be administered at a later date.

Nashua Airport Authority

***There being no objection, President Wilshire confirmed the reappointment of the following individual to the Nashua Airport Authority: David Heath, 4 Southgate Drive, Nashua, with a term to expire August 31, 2025.***

Oath of Office administered by Corporation Counsel.

David Heath A correction on my address, Madam President. My address was really 4 Southgate Drive if that matters.

President Wilshire

Ok we will note that for the record. Thank you. Thank you for stepping up.

Nashua Arts Commission

***There being no objection, President Wilshire confirmed the reappointments of the following individuals to the Nashua Arts Commission: Paul LaFlamme, 28 Lutheran Drive, Nashua, with a term to expire April 1, 2022; and Judith Carlson, 15 Manchester Street, Nashua, with a term to expire April 1, 2023.***

Oath of Office administered by Corporation Counsel to Judith Carlson; Oath of Office will be administered at a later date for Paul LaFlamme.

Nashua Planning Board

***There being no objection, President Wilshire confirmed the reappointments of the following individuals to the Nashua Planning Board: Michael Pedersen, 11 Delaware Road, Nashua, with a term to expire January 1, 2024; Scott LeClair, 10 Daylily Drive, Nashua, with a term to expire March 31, 2022; Lawrence Hirsch, 12 Salmon Brook Drive, Nashua; and Maggie Harper, 3 Taft Street, Nashua, both with terms to expire March 31, 2023.***

Oath of Office administered by Corporation Counsel; Oath of Office administered to be administered at a later date for those not present.

Tax Increment Financing Advisory Board

***There being no objection, President Wilshire confirmed the reappointments of the following individuals to the Tax Increment Financing Advisory Board: Sarah Marchant, 229 Main Street Nashua; Chris Lewis, 670 North Commercial Street, Manchester; David Fredette, 229 Main Street, Nashua; Eric Drouart, 57 Main Street #206, Nashua; Tim Cummings, 229 Main Street, Nashua; Michael Cerato, 4 Water Street, Nashua; and Tia Phillips, 2 Clocktower Place, Nashua; all with terms to expire September 30, 2021.***

Oath of Office to be administered at a later date.

Peter Schaefer This is Peter Schaefer, I was selected for the Master Planning Committee and I hope I got on to the video in time to get sworn in. Is this the right time?

President Wilshire

Corporation Counsel, would you please do the honor?

Oath of Office administered by Corporation Counsel to Peter Schaefer.

UNFINISHED BUSINESS – RESOLUTIONS**R-20-059**

Endorsers: Mayor Jim Donchess  
Alderman Richard A. Dowd  
Alderman Linda Harriott-Gathright  
Alderman David C. Tencza  
Alderman-at-Large Lori Wilshire

**AUTHORIZING THE SALE OF CITY REAL PROPERTY LOCATED AT 141-143 BURKE STREET (MAP 11, LOT 158) TO BURKE STREET NASHUA, LLC**

Given its second reading;

Alderman Jette

I have a motion to amend but I will defer to Corporation Counsel. I know that Alderman Tencza is going to make a Motion for final approval. Should that come first and then the Motion to Amend following that or I am to go first.

Attorney Bolton

You should go first.

Alderman Jette

Ok.

**MOTION BY ALDERMAN JETTE TO AMEND R-20-059 BY ADDING TO EXHIBIT A OF THE PURCHASE AND SALE AGREEMENT ATTACHED THERETO THE FOLLOWING PARAGRAPH, "SAID PARCEL TO BE CONVEYED SUBJECT TO ALL MATTERS OF RECORD, INCLUDING THE 'PROPOSED CONSERVATION EASEMENT' AS SHOWN ON THE PLAN, WHICH EASEMENT SHALL BE RESERVED TO THE CITY AT THE TIME OF CONVEANCE," BY ROLL CALL**

ON THE QUESTION

Alderman Jette

And I'd like to speak to that. Madam President?

Alderman O'Brien, Vice President

I think Madam President has had trouble with her internet, we discussed it earlier. So in her absence, until she comes back, as Vice President of the Board, I'll take over the meeting and Alderman Jette, you are recognized to speak.

Alderman Jette

Ok, thank you very much. So the reason for this amendment is that the Conservation Commission and Sarah Marchant, Community Development Director wanted to reserve an easement around the pond, Edge Ville Pond, or also known as (inaudible) Pond which is located on this lot that we are conveying. And the plan outlines the dimensions of the easement, however, the Resolution and the description on the Purchase & Sale Agreement did not reserve that easement. So I thought for clarification it should be made clear that we are reserving that conservation easement. I reviewed this with Deputy Corporation Counsel Leonard who provided the language that I just read to you. She also spoke to the buyer who has agreed that the conveyance would be subject to this easement. Director Cummings is also aware. I haven't heard one way or the other from him. I don't think he has any problem with this. So I would ask that we adopt this amendment.

Vice President O'Brien

Thank you, Alderman Jette. Is there any further comment on the Jette amendment? Alderman Dowd?

Alderman Dowd

I just wanted to say Alderman Jette that's a very good catch and I'm glad you made that catch and I will be supporting the addition, I think it's important that we provide that protection on the wetland.

Alderman Jette

Thank you.

Vice President O'Brien

Thank you, Alderman Dowd, any other further comment on the Jette amendment?

Alderman Caron

Yes, Alderman O'Brien?

Vice President O'Brien

Yes, recognizing Alderman Caron.

Alderman Caron

Yes thank you. I also agree with that amendment, I thought it was already part of the project because there was some talk about it. So I think that's great Alderman Jette that you brought it in as an amendment and I will support it.

Vice President O'Brien

Ok, thank you, any further comments on the Jette amendment. Seeing none, would the Clerk please call the roll, by roll on the Jette amendment please, adopting the Jette amendment.

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

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

Vice President O'Brien

And I welcome back our President, Alderman Wilshire. What we have now before us for you to bring before the Board is R-20-059 as amended.

**MOTION BY ALDERMAN TENCZA FOR FINAL PASSAGE OF R-20-059 AS AMENDED, BY ROLL CALL**

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

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

Resolution R-20-059 declared duly adopted.

**R-20-062**

- Endorsers: Mayor Jim Donchess
- Alderman June M. Caron
- Alderman Richard A. Dowd
- Alderman Thomas Lopez
- Alderman Linda Harriott-Gathright
- Alderman Jan Schmidt
- Alderman Patricia Klee
- Alderman Skip Cleaver
- Alderman-at-Large Lori Wilshire

**RELATIVE TO THE ACCEPTANCE AND APPROPRIATION OF \$37,903 FROM THE UNITED STATES DEPARTMENT OF JUSTICE INTO POLICE GRANT ACTIVITY-"2019 JUSTICE ASSISTANCE GRANT (MULTI-JURISDICTIONAL)"**

Given its second reading;

**MOTION BY ALDERMAN HARRIOTT-GATHRIGHT FOR FINAL PASSAGE OF R-20-062, BY ROLL CALL**

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

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

Nay: 0

### **MOTION CARRIED**

Resolution R-20-062 declared duly adopted.

### **R-20-063**

Endorsers: Mayor Jim Donchess  
Alderman June M. Caron  
Alderman Patricia Klee  
Alderman Richard A. Dowd  
Alderman Thomas Lopez  
Alderman Jan Schmidt  
Alderman-at-Large Lori Wilshire

**RELATIVE TO THE ACCEPTANCE AND APPROPRIATION OF THE SUM OF \$37,500 FROM THE STATE OF NEW HAMPSHIRE, DEPARTMENT OF SAFETY, "STATE HOMELAND SECURITY GRANT PROGRAM", INTO POLICE GRANT ACTIVITY, "2019 HOMELAND SECURITY GRANT PROGRAM"**

Given its second reading;

### **MOTION BY ALDERMAN KLEE FOR FINAL PASSAGE OF R-20-063, BY ROLL CALL**

#### ON THE QUESTION

President Wilshire

Discussion on that motion? Alderwoman Lu?

Alderwoman Lu

Thank you. I just don't understand do these grants come in unexpectedly after the Budget passes. So this is just an unexpected \$75,000.00?

President Wilshire

No grants are kind of on a rolling basis. Some of them are annual. Some of them every two years and they don't go by our Fiscal Year or our Budget at all. They apply for these grants and they are granted whenever the grantor decides to approve them. So yeah, we don't always know when we are getting these. You know, we apply for them, they come in when they come in.

Alderwoman Lu

Thank you.

President Wilshire

You're welcome. Any further discussion? Seeing none, would the Clerk please call the roll?

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

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

Nay: 0

### **MOTION CARRIED**

Resolution R-20-063 declared duly adopted.

### **R-20-064**

Endorsers: Mayor Jim Donchess  
Alderman Patricia Klee  
Alderman Richard A. Dowd  
Alderman Linda Harriott-Gathright  
Alderman Thomas Lopez  
Alderman-at-Large Lori Wilshire

**RELATIVE TO THE APPROPRIATION OF \$99,800 FROM DEPARTMENT #194, "CONTINGENCY,  
ACCOUNT #70100 "GENERAL CONTINGENCY" INTO VARIOUS ACCOUNTS IN DEPARTMENT  
#103, "LEGAL"**

Given its second reading;

President Wilshire

I'd like to take an opportunity to recognize the Mayor. This is something that he did talk about in his opening and I'd like to give him an opportunity to speak up again on this issue. Mayor Donchess.

Mayor Donchess

Well I think I covered it pretty much in the opening remarks. All these Right to Know Requests are cataloged; I mean there are hundreds and hundreds of Right to Know Requests. In any event, what we've got is two people who are going to tell you a little bit about their experience, two employees. I don't know if they are still on but we have Manuela Perry, is she on now and Karina Ochoa? Are you still on? I saw them at the beginning, I don't know if they stayed with us or not.

President Wilshire

I see that Karina looks like she's still on.

Karina Ochoa

I'm here.

Mayor Donchess

So could you tell the people, I know you're not used to appearing in public meetings, but could you tell the people about your experience with the Right to Know Request?

Ms. Ochoa

Certainly, Mayor. I am the Administrative Assistant for Administrative Services Division. So when the Division started, the Right to Knows also started. So it's a year, a little bit over a year now that we've been

dealing with this and it really is time consuming. We have many hours of these Right to Know like Mayor Donchess said, the first half that I was there, it's been over 34,000 that we did hand out for you know or did for them. And then when Legal started taking over it's been hundreds of Right to Know Requests and Manuela has helped me learn more about the Right to Know Law and help me figure out how to do redactions so I can help them out more too. So it's been a lot for all the Departments, Assessing, anybody who gets the Right to Know.

President Wilshire

Manuela is on as well, Mayor Donchess.

Mayor Donchess

Is she on too? Manuela works in the Legal Department. Karina works for Administrative Services and has been cataloging the hundreds of Right to Know Requests, so there's actually a catalog of these things. Is Manuela here? Steve is Manuela around, is she on the meeting?

Attorney Bolton

Her picture is there, I don't know if something has gone wrong.

President Wilshire

Yeah it looks like maybe something.

Attorney Bolton

It was on before but now it appears to be frozen.

Mayor Donchess

Well she at one point was keeping track of her time and she'd been to like 943 hours on the Right to Know Request.

Attorney Bolton

Over the last year it's been over 1,100 hours. And that's her, she's a Legal Assistant in the Department. Celia Leonard is a Deputy Corporation Counsel and nearly half her time over the last year has been spent on Right to Know Requests. So we are hoping that the addition of this new position will free both of these people up to perform their normal duties so that we can get back on the path that we prefer to be on. I think Manuela is now back, although maybe frozen again.

President Wilshire

Yeah it looks like she may have frozen again.

Mayor Donchess

There she is.

President Wilshire

Manuela?

Attorney Bolton

Can you hear?

Manuela Perry, Legal Assistant

Can you hear me?

President Wilshire

Yes, we can hear you.

Ms. Perry

I can hear you, yes.

President Wilshire

Ok.

Mayor Donchess

I think she went off.

President Wilshire

I think so.

Mayor Donchess

Well if she were available, I think she'd just tell you that she finds this quite a lot.

President Wilshire

Ok. Alderman Cleaver, do you have a motion?

**MOTION BY ALDERMAN CLEAVER FOR FINAL PASSAGE OF R-20-064, BY ROLL CALL**

ON THE QUESTION

President Wilshire

The motion is for final passage by roll call, discussion on the motion. Alderman Clemons?

Alderman Clemons

Thank you. I'll just say briefly I was a bit taken aback during the public comment period with how upset one of our constituents got over what the Mayor was saying. I, until that point, had no idea who he was talking about because he never mentioned any names. But now that I know it seems to make a lot more sense. So I would only thank her for bringing that forward to let us all know who is responsible for a lot of this. Thank you.

President Wilshire

Thank you, Alderman Clemons. Alderman Klee?

Alderman Klee

Thank you, Madam President. I am in favor of this position and I'll tell you why. When I worked for the Department of Defense and even through the VA, the Department of Veterans Affairs, I dealt with FOYA. That was one of my duties and one of my jobs. And when the Departments would get a request for any kind of information they would forward it to me. I would go through, look through what documents needed to be gotten. Then I usually sent it back to them telling them what documents I needed in order to do it. It would come back to me for a review and if necessary, redaction and to make sure that nothing went out. I usually sent it back to them so we did this back and forth and so on. The reason why we did that both when I worked for West (inaudible) Airforce Base and when I worked for the VA was because it's impossible for every employee to know every little nuance of what can be given and what can't be given, especially sometimes when it comes to numbers. Sometimes we were able to give a street address but we couldn't give the number of the street. If someone called and wanted a salary, at that point in time, we couldn't give, they couldn't say, "OK I want to know what this person's salary is". We could not give it. We could give a range of what the position was. And sometimes just to save everybody it and as the Mayor said, sometimes just the wrong answer can get you in a whole lot of trouble. So I think having one center point is the best way to handle all of these thank you.

President Wilshire

Alderman Lu?

Alderwoman Lu

I appreciate Alderman Klee's description of her experience with this. I wish that I heard that sooner because it's very helpful. I feel that, I wonder if there has been education, you know, how much training we have given to the various Departments. This just seems like standard operating procedure to some extent. I mean at least as far as, I don't mean the number of requests that are received, I understand that's really high. But it seems to me that every Department needs to be trained to, that was what I came into this meeting believing that each Department should be prepared to address this. But I take Alderman Klee's comments – my concern is that it's centralized and there is one individual that becomes like a gatekeeper to some extent.

I also want to take the opportunity at this point to ask about whether its – can an individual ask for information without it having to go through their attorney? Because I know that the lady who Alderman Clemons referred to, I believe, the woman who spoke very upset about this, has told us all in her letters to the Board of Aldermen that when she's tried to get information on cases subsequent to a case which she did hire an attorney, that we no longer allowed her to deal as an individual with City Hall. And I just wonder if that is the case?

Attorney Bolton

May I respond?

President Wilshire

Attorney Bolton?

Attorney Bolton

That is untrue. We have answered every single Right to Know Request that she has made. We have not refused to deal with her because she is or because she isn't represented by an attorney on any particular Right to Know Request. We have had some difficulty in determining when she is being represented by an attorney and when she is not. One of her complaints has been we have sometimes copied her attorney who is representing her in many things, in some cases where she says he is not representing her. The fact

is, it is a violation of an attorney's disciplinary rules, meaning we could get barred if we address her on something she is represented by an attorney on without copying that attorney. So we err on the side of caution, when in doubt, the lawyer who is representing her on a great many things gets a copy. If she doesn't want him to spend time, if she doesn't want to be charged, she can tell him not to open it, not to read it, not to look at it. But it is absolutely untrue that we have forced her to be represented or prevented her from being represented or failed to respond to her request for documents. That is categorically untrue.

President Wilshire

Anyone else? The Motion before us is for final passage of Resolution 20-064. Alderman Lopez.

Alderman Lopez

Yeah, I was on Page 3 sorry and there's a lot of little squares going on here. So first I want to ask a quick question to Alderman Clemons just to be clear. There were two speakers that sounded really upset, were you speaking, I think one was Laurie Ortolano, but the other was another Laurie? Which one were you referring to?

Alderman Clemons

Definitely Laurie Ortolano.

Alderman Lopez

OK so I wasn't clear on that. And then the second thing is Attorney Bolton just did a pretty good job of demonstrating part of what I was about to say. With regards to the Right to Know Requests, everybody's job in any kind of a serious administrative position is going to be how to communicate with people and how to communicate with the public and then the different regulations that are involved in whatever field you are in; whether it's FERPA for education or HIPAA for healthcare or Right to Know when dealing with the public. But there's definitely deeper levels of nuances that it's not fair for people who are hired for one job (overlapping conversation) – it's not fair for someone who is hired to do a specific job like be an Assessor or a City Clerk or DMV or whatever to also be expected to know that sophisticated level of detail. So I appreciate that the Legal Department has taken that role on and I think it's largely a reason why Nashua has been winning all the cases that are brought against them. They are very careful and very meticulous with how they attend to that. I think by expecting all of our staff to dedicate their time and professional effort to this element or this area, I think that's going to take away from City Services. I think we already stretched very thin, we are already having a number of struggles just keeping things operating with City Hall having to open or close or change whole procedures, I don't this is really a good time for a huge number of Right to Know Requests.

Now that being said, they have the right to ask those whenever they want. That's guaranteed by law, so we have to respect it. So I think we have to be adaptable and we have to look at creating a role that meets the evident need for these requests. I think the complications involved and the nuances that are appearing throughout the course of this are an opportunity for that position to also provide guidance to other city staff and say, "Ok these are best practices for these questions through myself or through Legal". I think we can get better at it at both dividing the responsibilities so that it's not taking away from full responsibilities of City Staff. And I think that we can get more specific with how to create a system that's more efficient and easier for the public to access. I think it's important that we look at this because there's a large number of people that are involved in generating documents that are subject to Right to Know that are not City Staff. They may be Committee Chairs or participants or even Aldermen, nobody here went to school for how to be a legislator. So we all have to go through training at the beginning of what not to do and don't reply to all and don't share your opinions you know off the record with too many other Aldermen and accidentally create a quorum. There are areas that we all have to be trained to do and I think it's important for the City to recognize it's vulnerability as well as its strength and say that it is going to provide a resource for people who may not have that background.

And then finally I also, I was on the Board when that particular staff was being targeted repeatedly as well as other members of the Department, his brother and we had to have some conversations about what public comment is supposed to be used for and whether you are allowed to berate City Employees, the Mayor, whoever you feel like apparently during public comment when it is really supposed to be your opinion on activities that are to be acted upon like Legislation or issues that the Board of Aldermen can do something about. We are not really supposed to get into things like Human Resources, HR issues and that. But it seems to be the tendency of some members of the public to come and use the microphone as a chance to publicly express themselves in a way that their target could interpret as bullying. That can create a very hostile workplace. We don't want to see our City Staff subjected to any undue discomfort. It's very easy for them to be exposed to that if for example something is not redacted or if somebody who is looking for one thing suddenly finds a million of other things that there may be no substance to them but now they have information that they can tug on and trace it through its logical conclusion.

So I think it's important for us to have this position. I think it will improve both our ability to provide Right to Know information and our ability to improve our internal mechanisms for doing it. And then finally I think it will help us assure internally our staff and then volunteers that the City of Nashua understands Right to Know Laws and has enough staff to adequately address those needs.

President Wilshire

Alderman O'Brien?

Alderman O'Brien

Thank you, Madam President. I am going to support this Resolution. I see this as a very sad state of affairs. Here we have a situation where one our citizens has deemed themselves or any citizen could deem themselves as sort of like a watchdog of what we do here in the public format. And that's why we do have the Right to Know Law. But what has happened here is I think it has gotten a little bit too much out of hand so therefore I would support this to have this new position.

We cannot, I mean part of our goal of being an Alderman is to try to give the best City Services we can to the public at the best price that we can. And if we have employees that are at the whim or having their time taken up by only a couple of citizens, then that's not really efficient Government. So I do support this and I think would help alleviate this problem. But with that being said, it's almost \$100,000.00 and my question is to the Mayor and to Corporate Counsel, are there any city agencies that do charge for documents that anybody so requires under the Right to Know Law. Do they charge for if somebody gets in a car accident to get the Police Reports or anything else like that? And if we do and if we are entitled to receive a nominal fee for the request of these documents, can that money be applied to the salary of this new position.

Attorney Bolton

I can respond if that's ok.

President Wilshire

Please do.

Attorney Bolton

Alderman O'Brien there's certain documents and an accident report might be one of them where the Legislature has seen fit to set a price for obtaining one. And I think in the case of accident reports it might be \$10.00. Generally speaking, however, under the Right to Know Law, we are prohibited from charging any fee other than the actual cost of making copies if we make a copy. Mostly, given the modern age, we are sending documents electronically and we are not actually making a physical paper and ink copy in which case the Legislature has provided that we cannot charge anything, zero. So if we only knew

someone in the Legislature, maybe that could be fixed. But that's the state of affairs as it currently exists.

Alderman O'Brien

I thank Corporate Counsel. I seemed to have heard that before, so I will refer this to Alderman Klee. You hear that Alderman Klee?

Alderman Klee

Yes, I do.

President Wilshire

Are you all set, Alderman O'Brien?

Alderman O'Brien

All set, thank you Madam President.

President Wilshire

Anyone else, final passage? Alderman Lu?

Alderwoman Lu

Thank you. I just wanted to clarify, we are voting on 20-064 but that is not the actual Resolution that forms a new position, am I correct?

President Wilshire

This is appropriating money from various other Departments, from various accounts for the position, so it is funding the position; so essentially yes.

Alderwoman Lu

Thank you.

President Wilshire

You're welcome. Any further discussion on Resolution 20-064? Alderman Cleaver?

Alderman Cleaver

Yes, thank you Madam President, I would just like to say that I believe that the Mayor and Attorney Bolton and the entire staff has done a great job on Right to Know under very difficult circumstances. I would also like to say that this position will hopefully be one of efficiency and lower cost because this has actually cost us hundreds of thousands of dollars over the course of this stretch and this should be more efficient and less costly. So I think this is the way to go and we will make everybody more efficient and happy. Thank you.

President Wilshire

Any other Aldermen before I call – it looks like Manuela has found her voice. I'll call on her if I could. Thank you.

Ms. Perry

Yes, I have. Can you hear me ok?

President Wilshire

Yes.

Ms. Perry

Ok for the past year and a half or so I have been doing the Right to Know Requests for the Legal Department. We get quite a few. We do keep track of them. The reason that I keep track of them in a chart and number them is that so no deadlines are missed and no documents are missed or anything getting lost. Now with that being said, over this past year and a couple months, I personally, just myself, have spent over 1,130 hours on these Right to Know Requests and Communications. That is not counting the attorneys, Karina who is in the Administrative Services Department, Assessing, or whoever else is working on it. That is just specifically for me. I catalog everything, I write it down. We have to respond within a 5-day period which means that there has to be letters drafted.

When we get requests for documents, they have to be reviewed to make sure that there is no confidential, personal or that kind of information that is not subject to the Right to Know. So that is extremely time-consuming, because if I read it, then it gets reviewed and then it gets reviewed, because we don't want to make mistakes. And we have answered every single Right to Know Request that has come through our office and then some. We also number the Communications that come into our office. We do not, however, consider those the Right to Know requests. The tracking is for our office so we don't miss anything. And not once have we not sent a document, and we are talking hundreds of thousands of documents, I have six boxes of requests next to my desk for this particular Right to Know issue. So I mean it's been very time consuming and I would say it's probably more than half of my time of what I spend on these. So I mean 1,130 hours, that's quite a significant amount of time for the past year. So I think that might be it unless somebody has any questions?

President Wilshire

We appreciate you. Thank you so much for everything you do for the good work you are doing in there and for being here and hanging on there with us tonight. We appreciate that.

Ms. Perry

Of course.

President Wilshire

Alderman Clemons?

Alderman Clemons

Thank you. I just want to say thank you very much for your work and for serving the City of Nashua, both the employees that spoke tonight and really all of the employees in City Hall and throughout the City. You do a great job under tough conditions and I want to say thank you for everything you do.

President Wilshire

Anyone else? Ok the motion before us is for final passage of Resolution 20-064 by roll call? Would the Clerk please call the roll?

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

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

Nay: 0

### **MOTION CARRIED**

Resolution R-20-064 declared duly adopted.

### **R-20-066**

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

**APPROVING THE COST ITEMS OF A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE NASHUA BOARD OF EDUCATION AND THE NASHUA ASSOCIATION OF SCHOOL ADMINISTRATORS AND SUPERVISORS, AMERICAN FEDERATION OF SCHOOL ADMINISTRATORS, AFL-CIO FROM JULY 1, 2020 THROUGH JUNE 30, 2021 AND RELATED TRANSFERS**

Given its second reading;

### **MOTION BY ALDERMAN DOWD FOR FINAL PASSAGE OF R-20-066, BY ROLL CALL**

#### ON THE QUESTION

Alderman Dowd

I'd like to speak to it.

President Wilshire

Alderman Dowd.

Alderman Dowd

Yes this came before the Budget Committee last night. It was unanimously approved. It's a one-year contract for the supervisors and administrators in the School Department. There's a total of 52 employees, the base pay increase is 1.5% for one year, and very few, if any, changes. Minor, minor changes in the wording, so I highly suggest that we pass this.

President Wilshire

Thank you. Alderman Dowd. Is there any discussion on Resolution 20-066? Seeing none, would the Clerk please call the roll?

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

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

Nay: 0

### **MOTION CARRIED**

Resolution R-20-066 declared duly adopted.

### **R-20-067**

Endorsers: Mayor Jim Donchess  
Alderman-at-Large David C. Tencza  
Alderman Patricia Klee  
Alderman Thomas Lopez  
Alderman Jan Schmidt  
Alderman-at-Large Shoshanna Kelly  
Alderman-at-Large Brandon Michael Laws  
Alderman Linda Harriott-Gathright  
Alderman June M. Caron  
Alderman-at-Large Lori Wilshire

### **ESTABLISHING THE USE OF FUND BALANCE FOR TAX RATE**

Given its second reading;

### **MOTION BY ALDERMAN SCHMIDT FOR FINAL PASSAGE OF R-20-067, BY ROLL CALL**

#### ON THE QUESTION

President Wilshire

You've heard the motion, is there discussion on the motion. Alderman Lu?

Alderwoman Lu

Is there someone that could address the questions that we heard from Mr. Teeboom regarding the Ordinance that he referenced; it is referenced in the Mayor's letter. I couldn't understand what the base rate was.

Alderman Dowd

Yeah, I don't see Mr. Griffin on here and I'm not sure the Mayor is on either.

President Wilshire

I just saw Mr. Griffin he's on.

Alderman Dowd

I will defer it to Mr. Griffin.

President Wilshire

Mr. Griffin.

Mr. Griffin

Madam Present, other Members of the Board, this particular approach that is encapsulated in the Mayor's letter is the same approach that has been taken for at least the last 10 years. I believe it was taken the previous several years in calculating the percent of unassigned fund balance to total appropriations. If you may recall, for those of you that were present probably 2 and 3 years ago, the resident had questions back then and we successfully indicated that this is a past precedent and that the calculations have been done very consistently which is a key component of any accounting system. That's why we use the NRO language in this particular Memo that is dated September 1, 2020 and September 1 on previous years to the Board of the Aldermen. So I personally as the CFO of the City (inaudible) the calculation and it has been for those relatively newer Aldermen it's been the same calculation that I've done for the last 10 years. Thank you.

President Wilshire

Thank you, Mr. Griffin. Attorney Bolton.

Attorney Bolton

I can add to that if I may. We have the highest possible bond rating that a municipality can get. The rating agencies write a summation of why they provide the bond rating that they do. And when it comes to Nashua one of the things they say is the fact that we maintain a more than adequate fund balance. And that has been true for several years now and those rating agencies which don't give high ratings away on a whim, found this approach to be acceptable to them and, in fact, desired by them and it plays a big part in the very good rating that we achieve. I think we'd be fooling around with something that works if we were to take that speaker's advice and tamper with the Ordinance as it is written.

President Wilshire

Thank you, Attorney Bolton. Mayor?

Mayor Donchess.

Madam President, may I elaborate slightly. So Alderwoman's Lu question basically I think was about you know, what we are trying to accomplish. The Ordinance says that we need to have 10% of the amount of the City Budget in the Undesignated Fund Balance. We have more than that; we have, Mr. Griffin can give you the exact number, but somewhere between 11% and 12% and after the conclusion of all of this we will have added to that balance which typically we do so it gradually goes up. I mean in a way I wish that we didn't have to reserve so much money but in the financial climate we face right now and with the Ordinance in place and everything, it is really an operational necessity and certain is necessary to maintain the bond rating.

President Wilshire

Thank you, Mayor. Alderman Lu are you all set with those answers.

Alderwoman Lu

Yes. Just a quick, so the total of the fund appropriations are what we need to have 10% of in our balance on June 30<sup>th</sup>, correct? And so the total fund appropriations are (inaudible) that got budgeted and appropriated for 2021, is that correct?

President Wilshire

Mr. Griffin, do you have that answer?

Mr. Griffin

It was – yeah – subject to check it was the attachment to the Mayor's letter. I believe the number was \$282 million so 10% of that is \$28 million and we are at \$80.7 million. So we are 11.4% over.

Alderwoman Lu

Ok thank you. I just wasn't sure how this worked. The document that we received today so thank you for clarifying that for me. That's all.

President Wilshire

Ok, thank you. Anyone else have any questions or discussion on Resolution 20-067. Alderman Jette?

Alderman Jette

Thank you, Madam President. So I appreciate former Alderman Teeboom's reminding us of the Ordinance that regulates this. So during the discussions, I took the opportunity to look at the Ordinances and you know I just want to make sure from Mr. Griffin, the Mayor and Corporation Counsel, that we are doing what we are supposed to be doing. The Ordinance that Mr. Teeboom referred to, Section 5-135 says in paragraph A that we are supposed to maintain as of each June 30<sup>th</sup> an amount equal to 10% of the Fiscal Year Appropriations plus the Statewide Enhanced Education Amount, plus the Local School Net Tax Commitment and plus the County Appropriation. So I want to make sure that we are doing that.

Secondly it says that prior to September 1<sup>st</sup> of each year, the Mayor shall provide in writing to the Board of Aldermen the estimated amount of anticipated, undesignated general fund balance which the Mayor proposes to use to reduce the anticipated tax rate. And then he is supposed to provide by Resolution and it says, "The Board of Aldermen must approve that action by Resolution adopted by 10 members of the Board on or before the Board's second meeting in September". So that second meeting in September is tonight. So we have to do it tonight, except if we don't do it then the Undesignated General Fund Balance shall not be used to reduce the anticipated tax rate. So I don't think we want to do that, so I think we are under the gun here to do this tonight. We really can't postpone this. But I want to make sure from Corporation Counsel that – I think the Memo that we received today although it is dated September 1<sup>st</sup>, we just got it today, I think. I was on vacation so I don't know if it was sent and we just got another copy today or if today is the first copy. And I just want to make sure we are ok with all of this. I guess I am asking Mr. Griffin, the Mayor and Corporation Counsel, you know, I just want to make sure we are complying with the Ordinance and we are ok.

Mayor Donchess

Well in terms of the letter, it is dated September 1 because I signed it on September 1 but you did not get it. I apologize, I don't really have an explanation as to why it didn't get to you; it was finished. Mr. Griffin had prepared it, I signed it, but for whatever is going on, it was intended to go to you then but it didn't. And we realized that it hadn't so we sent it to you when we figured that out. So I apologize that it's late getting to you but it was done on September 1.

Alderman Jette

Ok and as far as the basis that we are using, are we basing it upon the Fiscal Year Appropriations plus the State Enhanced Education Amount and the Local School Net Tax Commitment and the County Appropriation, are we doing that correctly?

President Wilshire

Mr. Griffin do you want to respond to that.

Mr. Griffin

Non-legally as I indicated a few minutes ago, I was trained to take the Unassigned Fund Balance and simply divide it by the - what I think is what we are trying to do is the General Fund Appropriations. The other two or three items is for towns. Net School Aid, County, we don't even approve the county appropriations it's added to the tax rate. So from a practical standpoint, I have been following the same procedure that I was trained on in 2010 and continue until this day. And as for Attorney Bolton I'm not going to speak for him, but he just mentioned that the rating agencies are very familiar with our approach. They are familiar with our audit. They are familiar with our ability to save. We've got over \$30 million dollars in the unassigned fund balance which they very much appreciate when they give us the two Triple A ratings from Standard & Poor's and Fitch. Thank you.

President Wilshire

Thank you, Mr. Griffin. Attorney Bolton?

Attorney Bolton

I leave the calculations to the Finance Department, to John and his capable people here. I can say that Nashua is somewhat different because the School District is part of the same municipal corporation as the City. So automatically the \$2.8 million dollars in annual budget that includes the School Department in Nashua so that doesn't have to be added in separately. The other items are small in comparison and while I have not done the math, my strong suspicion is they are not big enough to affect the calculation. Further, when our Ordinances require the Board of Aldermen to do certain things by certain dates or in certain ways, that is how can I put that. That's how you want things to be done, how you intend to do them and the dates by which you intend to do them. But truly one Board of Aldermen cannot pass something that binds its successors to do or not do things in a certain way.

Essentially you can pass these Ordinances and it directs those in your employ, City Government to get things to you at an appropriate time when you would them, how you would want them. But you cannot prevent yourselves from voting on what you want to do when you want to do it. So to the extend that the Mayor's letter reached you a few days late, you can determine whether that makes such a difference that you are going to vote against this Resolution, but you are not compelled to do that. You can exercise your judgement as to whether the best of interest of the City are served by passing the Resolution or by not. And that's what you are elected; but your hands are not really bound because some predecessor Board said it was the intention to have it done by the second meeting in September.

President Wilshire

Are you all set Alderman Jette?

Alderman Jette

I just would like to follow up. I guess what you are saying to us is that we can go ahead and vote on this without fear of getting into trouble. But you know we are a nation of laws. We are city of laws. And we have adopted Ordinances and we ought to abide by them. To have the CFO say that he does it his way because we've done it that way for a number of years, you know, I guess I would ask him to revisit, you know read the Ordinance and make sure in the future that he does it according to the Ordinance. This isn't a State Law, this our Ordinance and it says we are supposed to include the State Enhanced Education Amount, and the County Tax Amount in this calculation. And I think in the future you ought to do it the way the Ordinance says it is. If you think it should be changed, then ask us to change it.

I think this Ordinance is just regulating us. I don't know. I haven't done the research. I assume it's not based on a State Law. But if we have an Ordinance, we are asking our citizens, we are passing Ordinances and we are asking our citizens to obey. We ought to obey our own Ordinances. I am comforted by the fact that bond rating companies think so highly of us and I accept Attorney Bolton's recommendation or opinion that we don't have to abide by these dates, but I think we should be. I think the September 1<sup>st</sup> date was just an accident and I don't think anybody did that purposely and it sounds like it was done on time but for some reason it didn't get to us. I hope I don't get into trouble for this but I thank Alderman Teeboom for bringing this to our attention. And I would just encourage us in the future to make sure we do

It's the way the Ordinance says we should do it and/or change the Ordinance. Thank you.

President Wilshire

Alderman Clemons.

Alderman Clemons

Thank you. Yeah the – I mean I know from just discussions in the Budget Committee that it had always been intended to use \$4.5 million against the tax rate. That's what we talked about in the Budget Committee all through the spring and right up until we passed the budget. So I don't think that came as a surprise or it shouldn't have come as a surprise to anybody. As far as what the Unassigned Fund Balance would be, I mean I think relative to every year we usually put a little bit aside here and there, but it is always over 10% and I think that the way our CFO has done this calculation and has done this process makes a lot of sense. And I'd be happy to sponsor Legislation to change the Ordinance so that we can get it aligned with the way that we do business now because I have to tell you that we have, number one the best CFO in the State and probably in New England and I would argue the country. And two, we ought to be doing things the way that he suggests that we do it so that we can continue to have our AAA Bond Ratings. So if there's something in the Ordinance that needs to be changed, I am happy to sponsor that and get it done so that we are aligned in how we should be doing this, which is the way that we've been doing it the last 10 years. Thank you.

President Wilshire

Anyone else? Alderman Lopez?

Alderman Lopez

Yeah Alderman Clemons largely took the words right out of my mouth but I always have more. So I just wanted to extend to CFO Griffin my support as well, because I mean CFO Griffin has been working here despite or without change to all of the Boards that have come and gone and the Aldermen who have been elected. And I think it's largely because of his leadership and guidance that's we've had such a great bond rating. So if there is a different way to do it, then I think we need to recognize that. And while I agree with Alderman Jette that we are a nation of laws, we have to apply some common sense to those laws and we have to make sure that the laws, when we are elected to influence them or update them or change them, that we are doing that in a way that makes sure that the needs of the people are actually being met.

And I think if CFO Griffin has a proven track record and can make his case, we need to look at updating the Ordinance to that effect and we should use that knowledge rather than simply following the letter of the law. And I don't think the law is really meant to be like a magic spell that if you do it wrong, you summon a lawyer. I think in this case it supposed to be guidance on how we do business in the best interest of the City. And it would be getting in our own to ignore a system or a plan or presentation just because it was written down a specific way in the past. If we have to make an override here in this situation, then I am willing to do that. I don't have a heard a case for that to be done. But if we need to make changes moving forward so that it is more clearly communicated with what the expectations are, I wouldn't mind supporting

that as well. I would, however, like to continue to see the letter from the Mayor that introduces it presented and as was discussed at the beginning of this meeting, it would be preferable for that to be done with more advanced notice than has been done this year.

All that being said, I recognize we are in the middle of pandemic and there are difficulties, so I think it's important for us to outline our reasoning. But I think it is also important for us to be somewhat nimble within the context of the law. And I would just remind everybody on the Board that that's what Attorney Bolton is here for. He's the one who is guiding us in that particular area. So if he is giving us guidance that says, we are empowered to do a certain thing, then I think we should probably take that to heart.

President Wilshire

Thank you, Alderman Lopez. Anyone else? Seeing no one, I would ask the Clerk to call the roll?

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

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

#### **MOTION CARRIED**

Resolution R-20-067 declared duly adopted.

#### **R-20-068**

Endorsers: Alderwoman-at-Large Shoshanna Kelly  
Alderman Thomas Lopez  
Alderman Richard A. Dowd  
Alderman Linda Harriott-Gathright  
Alderman Jan Schmidt  
Alderman Skip Cleaver  
Alderman-at-Large Brandon Michael Laws  
Alderman-at-Large Lori Wilshire

#### **RELATIVE TO THE USE OF U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT HOME INVESTMENT PARTNERSHIP PROGRAM FUNDS FOR ACQUISITION AND REHABILITATION OF 82-92 AMHERST STREET**

Given its second reading;

#### **MOTION BY ALDERWOMAN KELLY FOR FINAL PASSAGE OF R-20-068, BY ROLL CALL**

#### ON THE QUESTION

President Wilshire

Alderwoman Kelly.

Alderwoman Kelly

I'd like to speak to it please. Thank you. This piece of Legislation was reviewed at the Human Affairs Committee and the developer, Mr. Worth, came and the Committee had a good conversation around this piece of Legislation. It is to allow Mr. Worth to work on a new affordable housing project in Nashua which

we know we gravely need. And so his qualifications, he did this recently on Harbor Ave. and it was a really beautiful project that he brought forth so I hope that everyone will support this and I thank you.

President Wilshire

Thank you, Alderman Kelly, any discussion on the motion for final passage. Alderman Klee?

Alderman Klee

Thank you, Madam President. And I want to echo Alderwoman Kelly's remarks. It was a really presentation, he spoke to how he can change these and still be able to maintain the people that live within there as vacancies would come, he would relocate people possibly to the new areas and so on. I just think it's an incredible plan. I think it's something that we really need, that's a beautiful area right there on Amherst Street and I hope the entire Board will unanimously vote for this. Thank you.

President Wilshire

Thank you. Anyone else? The Motion before us is for final passage of Resolution 20-068. Seeing no one will the Clerk please call the roll?

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

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

### **MOTION CARRIED**

Resolution R-20-068 declared duly adopted.

### **R-20-069, Amended**

Endorsers: Mayor Jim Donchess  
Alderman Richard A. Dowd  
Alderman-at-Large Brandon Michael Laws

### **RELATIVE TO THE RE-APPROPRIATION OF FISCAL YEAR FY2021 ESCROWS**

Given its second reading;

### **MOTION BY ALDERMAN CLEMONS TO AMEND R-20-069 BY REPLACING IT WITH THE GOLDENROD COPY OF AMENDMENTS MADE AT LAST NIGHT'S BUDGET REVIEW COMMITTEE, BY ROLL CALL**

### ON THE QUESTION

President Wilshire

The Motion is to amend, is there discussion on that Motion?

Alderman Clemons

Yes.

President Wilshire

Alderman Clemons?

Alderman Clemons

Thank you. As was stated previously by the Budget Chairman what was added, so what we are amending in this is we are taking \$100,000.00 forgive me I don't have it but it is \$100,000.00 out of the CERF line and putting it to the Police Overtime for Major Crimes. So we are adding that line so there's no change to the bottom-line figure, but there is a change to the CERF and then, of course, adding it to the Police Account. That Police account right now only has I think it's less than \$300.00 or less than \$400.00 so they definitely this, the Police Department definitely needs this change. So I would kindly ask my colleagues to support this amendment.

President Wilshire

Anyone else? Alderman Lu?

Alderwoman Lu

Could I just have some guidance on whether – I like this change but I have questions about other items. So would now be the better time to ask those questions or after the vote on the amended copy?

President Wilshire

You could do either. You can wait until we get to those lines or you could make your comments now.

Alderwoman Lu

So as many of you know, I was at the meeting last night but I couldn't get audio, so I had hoped to hear, have most of my questions answered, but there were a lot of line items that were not discussed. And I have tried to get answers to them today and some of them I have. I want to apologize for the time it will take to ask a couple of questions but I would like to. So one question I have is during budgeting, how is it that we didn't budget the Police Department's Expendable Trust Fund? Was that just something that we didn't get to because of a tight budget? I am not on the Budget Committee and I'm not privy to that.

President Wilshire

Yes, that's the case.

Alderwoman Lu

Thank you, on the Riverfront Lighting, I had a question in to the Economic Development Department. I didn't get an answer. And my question isn't this a TIF or part of the TIF District that currently exists?

Mayor Donchess

Do you want me to answer that Madam President?

President Wilshire

Yeah Mayor, please do.

Mayor Donchess

So there is a TIF District, Tax Increment Financing District that covers the Riverfront and many of the adjacent parcels. And it generates a certain amount of income per year and that income is directed into the Riverfront, the implementation of the Riverfront Master Plan which was adopted by the Board of Aldermen several years ago. A very extensive, I think a very good project that will add a lot to the City. I think your question which I just saw up late in the day and so I didn't have time to answer it in writing. But the plan is ultimately when the major portions of the project are finally designed and they are in design now is to bond for those improvements and pay for the bond out of the money generated from the TIF as your question was suggested.

But in the initial stages here, both for the design work which is going on now and we have hired a design firm, they are designing many of the aspects of the Riverfront Master Plan that you can see there in the Master Plan or in other drawings and the like that have been done since. But the initial stages, the design work and this lighting project, we are just paying for out of the money that has come in, just paying cash because we haven't yet, the bond has not been authorized and we haven't yet been able to determine which until we get the design and an actual price estimate, a detailed price estimate, rather than simply in order of magnitude, we don't know what exactly which portions of the plan we could do; maybe all but maybe not quite for the money, the bond that could be covered by the income generated within the TIF.

So here in the early years before we do the bond, this year we are proposing you adopt the idea of paying for the design out of current funds and then this proposal would pay for the remainder of the lighting project. There is some money allocated towards it already. It would pay for the remainder of the lighting project with this escrowed money. Again as I said, the current funds have been used for the design and for part of the lighting project. Now I think this will add a lot to the river, you know, it will provide lighting along the river walks north, particularly on the north side but some on the south between the Main Street Bridge and the Cotton Transfer Bridge. It will also light the Cotton Transfer Bridge; I think you'll see a very significant transformation with just the appearance and the walkability and the safety of the riverfront even though it's really safe. But certainly being lighted will make that more obvious. So this will be a big step forward for the downtown.

I think we have seen how people have taken to the riverfront idea. And we've seen that through just the increase in activity on the water, but also as we talked about last night, the lighted kayak events which have been held now twice without the City's involvement at all, just spontaneous events down by Nashuans which started a few weeks ago. There was one and then probably it doubled or tripled in size on this last Saturday night. So I think that provides an answer to just do you think we should do this project now because it's been designed, because we have partially allocated the money already. And if we don't do it now it would wait a year or two or could; wait at least a year. And it seems like given the value of the project to the City it is worth proceeding in the short-term rather than waiting for a bond issue.

Alderwoman Lu

I have a follow-up.

President Wilshire

Alderman Lu?

Alderwoman Lu

Thank you. So this is part of the TIF District, thank you. My concern is I love what we are doing to the Riverfront. A couple of concerns I have are I don't know what else could be done with these funds because I don't understand if we project a \$5 million dollar problem with the retirement fund system in the near future, then why we would not keep things unallocated. But I am confused about the TIF District will

segment the captured value and devote that strictly to the TIF District. But prior to that we are spending our general funds on the TIF District. So it just to me doesn't seem like the process that we have described in establishing a TIF District. I am kind of surprised that we've had that TIF District for about 3 or 4 years. I have other questions and I am sorry to all of you, I would have liked to have asked these last night.

#### Mayor Donchess

Can I answer just part of that? The TIF District I think I can say did not really generate funds until 2019. And the initial funds really have been used to pay for part of this lighting project and the design. The design is quite expensive and that is ongoing now with the design firm and their whole team, team of associated entities that have different expertise. So sure the money could be allocated to something else, I mean that's always true. But it seems like this would be a big step forward and would really enhance the river, something we could do right now. And part of the money is already there. It's been fully designed. This has been fully designed unlike the rest of the project because this was a little bit ahead, because we have been trying to light the river for some time. This has been some years in duration even before the TIF District this started because we wanted to do this several years ago but as we got into it we discovered that there needed to be ... the electric infrastructure needed to be improved and added to in order to enable this lighting to actually take place.

I don't have the exact dates but going back pre the TIF we were working to, we wanted to do the project but then we discovered Oh My God the electric infrastructure is not sufficient. So now we have to get the design for electrical work. We had to then go out to bid, we hired an electrical contractor to come in and make the improvements near the river, extend the lines and all that kind of thing. So that delayed this and really this started before the TIF District and it has taken much longer than we had hoped in the beginning because of all the electrical work that was required. And so now it is sort of nearly half paid for and it seemed worthwhile to just go ahead and complete.

#### Alderwoman Lu

Thank you, Mr. Mayor. I thought that when we create a TIF District that we bond and so that excess, not the excess the captured value which is received in tax revenues goes to pay a bond. I thought that's the way that whole mechanism worked.

#### Mayor Donchess

Well, excuse me, it does you're right. I mean you're right that's what is one possibility and probably the way that we will go but it's exclusive. I mean you can also and we are proposing it here, if there's a little bit of a gap this year, we can fill it with appropriated funds. But you're right, with escrow appropriated but unexpended funds in this case. But you're right yes the basic concept of the TIF District as explained at the time it was adopted would be to as you said bond the project and then pay for the bonds out of the TIF District. But you could go a different way, you could make the decision, you the Board of Aldermen of the City could decide well we are just going to do it incrementally with cash, just pay as we go. But in the end I think we'll recommend that we do the approach you describe. But right now this seems like it's worth doing. At least I proposed it obviously in my judgment and in the judgement of the others involved, you know, Community Development, Sarah Marchant, Tim Cummings and everybody and the TIF Board, there's an Advisory Board. And in their judgement, its worth doing this.

#### Alderwoman Lu

Thank you. You know, I just feel the need to ask these questions about these things because I would have liked to just sit in on the meeting and heard the discussion. I understand this is the process I heard. But it seems as though this year, I don't understand why we don't hold back on some of – I may just not understand why you need to spend this money or it goes away.

Mayor Donchess

One thing you asked about was the retirement problem.

Alderwoman Lu

Yes.

Mayor Donchess

Using one-time money, which is what this is, doesn't really solve that problem, because it sort of diminishes the problem for one year, but then the next year your problem is sort of greater because you don't have this one-time money to replace. In other words our Budget is going up \$5 million but \$4 million because of this change that was made or \$4.something. You know, you use a few hundred thousand against that \$4 million in year one but you don' have that money in year two, so now you get hit in year two. So we could say we are never going to another capital project. But I think we need to try to balance the need for City-betterment projects with the ability to pay. I love the Riverfront, don't get me wrong, but I love the park that is proposed for and has been designed for the Library Plaza. I think that would be a tremendous addition to the City. But it costs a lot more than this \$400,000.00, we don't have the money. So even though I would love to do that project, I did not propose the expenditure of any money towards that.

One factor in that judgement is that we can complete this lighting with the money that you see here. And so you kind of balance how much good will do versus how much can we afford? I mean the park would be great but it's a lot more expensive than this and we simply don't have the money. I think we can squeeze this money out and do the lighting project. So it will be a big improvement and one-time money towards an annual, year after year after year increase like what the State has imposed on us. It helps us a little in year one but in year two it's not there, so in the end we really haven't solved the problem. In the end the taxpayers are going to have pay for it, year after year after year unfortunately.

Alderwoman Lu

OK thank you. I have a few other questions on the non-like and like escrows. I am basing these questions basically on you know, why don't we save the money for a rainy day. But \$15,000.00 seems like a lot to get a plan for the dog park. I am having a hard time understanding why our staff can't come up – I don't understand why that in this year why we would do that. But also, I am confused by the operating expenses being in here, because I thought operating expenses were fully paid for in the 21 Budget. Those are operating expenses.

Mayor Donchess

I could address those two if you wish.

Alderwoman LU

OK, thank you.

Mayor Donchess

Alright so the dog park we have a group of passionate citizens who really want and have worked hard to establish the dog park in the downtown area. And I get the point of view that that might not seem like a necessity. But here's why, if we are going to do it, this money would be necessary. The parcel that has been located is at the entrance to Mine Falls Park which is right next to the Nimco Building. I think you are probably familiar with that building. And between that – so you walk down the hill and into the park, but as you do that, to your left, as you get to the bottom of the hill, before you actually enter the park there's a

grassy field to the left with a radio antenna in it. But it's a few acres. The park doesn't start, believe it or not, until you get beyond that field and then there's a sign. You kind of enter the more wilderness area. That field is owned by the Millyard Association which is a co-op basically of Millyard owners of which we are some because we acquired some parcels for the Broad Street Parkway. So all the Millyard owners, ClockTower, Bagshaw, the City, you know, others like Nimco puts us in that group and there's a couple of other parcels we own.

Some on the mill yard association advocate that they develop that parcel for some other use. Now the Riverfront experts that we have, it used to be Madeline Minnow and now it's Deb Chisolm, believe that that parcel is not developable because it is in the flood plain. Unfortunately, I think we have to persuade the mill yard owners that that is the case. And in order to persuade them, we are going to need more than just Deb Chisolm's opinion. We need an expert, to get that expert costs money, so what we would use the money for, if you appropriate it, is to do the groundwork, the expertise, the justification to convince the mill yard association that it is not a developable parcel and therefore they should allow the dog park to use the land based on the argument that you can't really use it for anything else. Why not doing something nice like this. Now that's the dog park.

Now your other question had to do with the operating fund. I think you've asked about line, I forget which one. It's like the \$57,000.00, whatever line that is.

Alderwoman Lu

OK, yeah.

Mayor Donchess

35?

Alderwoman Lu

29.

Mayor Donchess

29. So that has to do with the operation of the Mine Falls Dam. In about 2015 and it might have been '14, I was an Aldermen then so I know it was one of those two years. The City acquired full rights to the Mine Falls Dam. We owned, we the City, owned the dam but had leased it long-term, this goes back to the '70's, had leased it long-term to a private operator. And they made the hydro-electric improvements so they turned it into a hydro-electric station generating power. We got a very small amount of revenue and they got the operating money from selling the power. At some point in the agreement with like 10 years left, the City had the right to buy out the remainder of the lease. At the time a financial analysis was done and the administration then under Mayor Lozeau proposed that we buy out the dam, buy out the lease and thereby capture the – you know – then get full ownership basically, full control. The argument was, and I agreed with it, that they were not taking very good care of the dam and we could do much better on our own, in terms of getting it up to snuff sort to speak, fixed up and it needs to be re-licensed as well by FERC, periodically needs to be relicensed.

The dam came with a lot of problems. It is like buying an old house. They knew that, "they" the City and Administration, people who were working on it at the time it was Madeline Minnow at the time who is very capable, but understood that we would need to make a lot of improvements and thought that they could make those improvements over time. You know, you buy an old house one year you fix the roof, another year you redo the kitchen or whatever. And what happened here is that during the course of this past year something broke and Sarah Marchant would have to get deeply into the details or Deb Chisolm, but something broke which they hadn't anticipated would break as quickly as it did. And say all of a sudden, the shingles blew off the roof. You didn't really think that was going to happen this year. You thought it

might happen next year. But the repairs had to be made from – there's a reserve account on this as well. Repairs had to be made, which they were, but that caused, because of the necessity to make the repairs, that caused the total amount spent between operations and repairs to be higher than had been projected by \$57,000.00. So there it is. Keep in mind that the dams are generating for the City somewhere in the vicinity of \$1.2 million in revenue every year. So really we are only directing conceptually a small part of the revenue of the dams into this.

Alderwoman Lu

Just a follow-up please. So I think Mayor Donchess the answers we make capital improvements out of the operating fund ...

Mayor Donchess

Correct.

Alderwoman Lu

... the operating budget in the past so we are just replenishing that.

Mayor Donchess

Correct.

Alderwoman Lu

Ok, thank you. It didn't make sense to me to have the operating expenses but I appreciate your patience with me. I want to just recommend that we consider not putting money into the barriers until we decide whether we want to do that.

Mayor Donchess

On the barriers, committing the money now does not commit you to buying the barriers. But what it does is it makes it possible that if you want to do that, you can. If the money isn't reserved now, you exclude that possibility. And if the decision were made, now obviously for reasons that we can discuss and it's pretty late now but I won't get into my whole thing about what that has done for the City. But if we didn't go ahead, then the money would go into surplus next year. But if we don't reserve the money in the escrows now that excludes, then there's no funds budgeted to do next year and we would be saying we can't do the barriers next year because we don't have any money for it.

Alderwoman Lu

OK I think that was one of my first questions, anything that we don't move, then it goes into ...

Mayor Donchess

Will come back next year, at the end of the year, we still have it, you know.

Alderwoman Lu

We still have access to it correct?

Mayor Donchess

Correct.

Alderwoman Lu

Ok, well thank you everyone for your patience, I am sorry that I had to ask these questions tonight. I am all set.

President Wilshire

Thank you. Aldermen we are considering the amendment to 20-069. Is there further discussion on the amendment? Seeing none, would the Clerk please call the roll?

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

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

Nay: 0

**MOTION CARRIED****MOTION BY ALDERMAN CLEMONS FOR FINAL PASSAGE OF R-20-069 AS AMENDED, BY ROLL CALL**ON THE QUESTIONPresident Wilshire

You've heard the motion, discussion on the motion?

Alderman Dowd

Yes, I recommend that we pass this and allow the Mayor and his staff to spend the monies that are allocated in these various lines. And I know they will do that judiciously and if there are changes, they will come back to us. So thank you.

President Wilshire

Anyone else? Alderman Lu?

Alderwoman Lu

I am very – I want to really encourage everyone to consider holding off on the river, the \$410,000.00 for Riverfront lighting. I love the idea but I think it's important when we have a tax incentive area project, that we ensure that as those tax increases happen that they don't just go into a – that they are put toward what they are supposed to be put toward which is the improvements in that district. I also want to encourage, so I'd like to move to amend.

President Wilshire

Ok?

Alderwoman Lu

I'd like to a motion that we remove line 32 and also line 35 from the transfer and we leave it in the general fund?

**MOTION BY ALDERWOMAN LU TO AMEND R-20-069 TO REMOVE LINES 32 AND 35 FROM THE TRANSFER AND LEAVE IT IN THE GENERAL FUND, BY ROLL CALL**

ON THE QUESTION

President Wilshire

Ok that's your motion?

Alderman Lu

Yeah, I am referring to the \$410,000.00 and the \$200,000.00; one for the lighting and one for the barriers.

President Wilshire

So the barriers are ... ok, you've heard the motion. Discussion on that motion? Alderman Clemons?

Alderman Clemons

Thank you. I can understand the argument for the Riverfront project of the lighting. I get that, whereas we have a TIF District. I can see that. I don't necessarily agree with that; I think that if we have this money I think we should spend it on that project. Because, as the Mayor said, we can complete it. But I definitely am not in support of not allocating the money for the barriers. Being on the Downtown Improvement Committee and also being very connected to the business folks downtown, I can tell you without a doubt that the barriers have made a tremendous of difference to our downtown community. Putting those up definitely saved business.

But in addition to that, it drew people to our downtown that might not have otherwise come and might not have otherwise seen what a great place our community is. That's particularly important because we set apart as a community that overcame the obstacle of the COVID-19 Pandemic by swiftly acting and really that was the biggest change to downtown in Nashua in my lifetime, and I was born here in 1982 and I can tell you that nothing in Nashua ever happens overnight. That happened overnight and it was for good. And because this community came together and we responded to an action that was really largely outside of our control, we did things to help our local businesses stay in business.

With that being said, the program was a success. And so we have gotten requests from the businesses and from many of the patrons that go downtown to continue that project. And to do it next year and to do it year over year. As the Mayor stated, if we do not fund the \$200,000.00 with the escrow, then we will find it hard to find that money to continue the project if we so desire next year. If we decide later on that we don't want to do it for whatever reason, we can always put that money back. The thing about the escrows, it is money that we have already taken from taxpayers. So this isn't – none of these expenditures are costing taxpayers any more money, we've already taken it from them, we have it in the bank. So we are not costing anybody anymore really in theory by doing this. Because if the motion that is before us passes, the money is just going to lapse into the general fund which will increase the unexpended fund balance that we were talking about earlier in the previous conversation which we have already heard from the CFO is at a balance that is good enough to get a Triple A Bond Rating with two different credit agencies.

So for all of those reasons I can't support this amendment and I hope my colleagues will consider not supporting it as well.

President Wilshire

Alderman Klee.

Alderman Klee

Thank you, Madam President. I want to echo much of what Alderman Clemons said, especially about the barriers. The issue that I would have with us not putting money aside, this year we were able to do it because of CARES money and so on. So we were able to use that money that we didn't have. It had not been "appropriated" or "budgeted" or whatever. I slightly disagree with, "we've already taken the money therefore we should spend it". I don't necessarily believe in that, but in this particular case, I think that it's good. I think that it's necessary. I believe that this is something we are going to continue year after year. I think it made downtown quite easy to move around. Everybody I talked to absolutely loved it. We had a hard time getting used to some of the traffic patterns. I will agree that in terms of noise downtown is not all that conducive. We had people that were literally going up and down the streets, I don't know for what reason, but in the end this is good for busines, it's good for downtown Nashua. I think we should put this money aside as if we had budgeted it. I mean obviously we came up with this idea after basically the budget had gone through. So we used the CARES money for it. If we don't budget it then I think we are not being fiscally responsible because we are going to have to take it from somewhere else sometime down the road. So for that reason I cannot support this motion.

President Wilshire

Alderman Lopez?

Alderman Lopez

Yeah, I just wanted to also express my support for the downtown barriers. That is the number one thing that businesses downtown have asked for us to continue. There is a lot of interest and enthusiasm for it. And as Alderman Clemons says, it really did re-shape the downtown into a much better communal space particularly in the areas where there's multiple restaurants and they are all collectively having outdoor dining, maybe a couple of them have some outdoor music. It also creates a space for people who aren't necessarily engaged in that particular scene can pleasantly walk and be involved in downtown, listen to music, and feel like they are included. So for that I think it's a lot for the City's morale at a time when we really needed it.

I think next year when we are looking at people coming back out, we really, really want to encourage that behavior to continue. Because we can have restaurants all just clam back up and go back to worrying about their own space all by themselves or we can take this opportunity to have a vibrant downtown that is interactive and works together and shares a population and a commitment to that group. So I want to see that continue and I want to see that sense of comradery that the outdoor dining has created. And I know businesses really, really do too. So for that, I am unwavering my support for it.

With regards to the Riverfront Project, I have never been the most vocally enthusiastic supporter of the Riverfront Project because I just really never understood the vision of it, particularly when all the trees were wiped out last year. I just couldn't understand why we were doing that to a Riverfront. But over the summer the grass is growing in, Nashua Area Kayak Exploration Destination has been much, much more active. People have been out using and enjoying the Riverfront. And as the Mayor and Lori have said, you can see it so much better and more clearly, I think that's also very good for our downtown community and our downtown climate. The area where the improvements are, if I understand correctly, is actually Ward 3. But that area has had a lot of new housing being put in. It has a potential use for people taking walks.

We started the whole green scooter, bicycles project last year and then we had to stop it this year, but I thin all of those things are going to come into play next year when we need them to. Because next year we are going to really want to see an economic return to vitality downtown. We are really going to want to see

people coming back out and enjoying Nashua. And we need to encourage that and to be very blunt, I don't have the same optimism that other members of the Board do for the Performing Arts Center. So I think this is a much, much more cost-effective mechanism and incremental investment in downtown that is going to pay dividends.

I understand that we have a Tax Increment Financing District in that area, but I also understand there's a lot of work to be done in that area and there's going to be a lot of maintenance and upkeep to be done too. So I don't want to try to count the same money twice. If we have the opportunity to do it now with a surplus that can be invested effectively now at this year's rates, and start capitalizing on that next year, I think we should do it.

President Wilshire

All set Alderman Lopez?

Alderman Lopez

Mm-hmm.

President Wilshire

Anyone else? Alderman Kelly.

Alderwoman Kelly

Thank you. I wanted to first express my thank you to everybody really for digging in on this issue and Alderman Lu in particular I thank you for bringing your questions forward. I don't think you should be apologizing for that at all. I don't feel that the particular projects that were pulled out that you were looking at are the right ones to be pulling, so I am not going to support this amendment. But I do appreciate that we are digging in and really talking about this. So thanks.

President Wilshire

Anyone else? Alderman Lu.

Alderwoman Lu

Thank you. I just wanted to respond to a couple of things. I don't think this amendment will make any difference to the unassigned fund balance because my understanding is it's assigned to one thing now. I could be wrong. And it's being requested to be put into some other category. My perspective is this will prevent the decision of funding the barriers from being a decision that's made at the Committee level because \$72,000.00 do I have that right expenditure will only go to the Finance Committee. And by leaving it there, I just feel that there's nothing preventing us from spending it on barriers at some later point. It's just, you know, this doesn't mean we are doing the barriers. And the amendment doesn't mean we are not doing the barriers.

I dispute the idea that if we don't move it into the barriers now it will be hard for us to do it later because the money will still be there. Thank you.

President Wilshire

Anyone else? Attorney Bolton.

Attorney Bolton

Madam President, may I correct something that was said?

President Wilshire

Yes.

Attorney Bolton

Any money that is in surplus that is not designated to be escrowed in this manner does lapse into undesignated fund balance. So if this amendment passes that amount of money that is struck from this Resolution increases the undesignated fund balance. That is not really here or there; you can do that if you want to do that. If in the future later in the Fiscal Year, there's a decision to again narrow Main Street by the use of barriers, and there was going to be a supplemental appropriation from fund balance, that would require 10 votes, not a simple majority. So it does impact the ease with which it could be done next year, or in the course of the year.

President Wilshire

Any further discussion on the amendment to remove the \$410,000.00 from the Riverfront Lighting and the cost of barriers for \$200,000.00. Alderman Cleaver?

Alderman Cleaver

Yes, thank you Madam President. These two line items are very important to the downtown, both are important, both are long-standing and proven to be beneficial. We have to go forward with this. I think it would be ridiculous to try and remove those funds at this point.

President Wilshire

Thank you, Alderman Cleaver, anyone else? Seeing none, would the Clerk please call the roll?

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

Yea: Alderwoman Lu	1
Nay: Alderman O'Brien, Alderman Klee, Alderwoman Kelly, Alderman Dowd, Alderman Caron, Alderman Clemons, Alderman Lopez, Alderman Tencza, Alderwoman Lu, Alderman Jette, Alderman Schmidt, Alderman Laws, Alderman Cleaver, Alderwoman Harriott-Gathright, Alderman Wilshire	14

## **MOTION FAILED**

President Wilshire

So that motion carries, so we are back to Alderman Clemons' motion for final passage as amended.

Alderman Clemons

I think you meant the motion fails.

Alderman Dowd

Fails.

President Wilshire

I'm sorry, the Motion fails. Yeah that's what I meant to say, thank you. Alderman Clemons?

Alderman Clemons

No I just wanted to clarify.

President Wilshire

Ok, it's been a long night. OK so the motion before us is for final passage as amended. Further discussion on that motion. Seeing none, would the Clerk please call the roll?

**MOTION BY ALDERMAN CLEMONS FOR FINAL PASSAGE OF R-20-069 AS AMENDED, BY ROLL CALL**

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

Yea: Alderman O'Brien, Alderman Klee, Alderwoman Kelly, Alderman Dowd, Alderman Caron, Alderman Clemons, Alderman Lopez, Alderman Tencza, Alderwoman Lu, Alderman Jette, Alderman Schmidt, Alderman Laws, Alderman Cleaver, Alderwoman Harriott-Gathright, Alderman Wilshire	14
Nay: Alderwoman Lu	1

Resolution R-20-069 declared duly adopted as amended.

**R-20-070**

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

**RELATIVE TO THE ACCEPTANCE AND APPROPRIATION OF \$294,676 FROM THE NEW HAMPSHIRE CHARITABLE FOUNDATION INTO PUBLIC HEALTH AND COMMUNITY SERVICES GRANT ACTIVITY "COMMUNITY HEALTH WORKER SUPPORT TO VULNERABLE POPULATIONS"**

Given its second reading;

**MOTION BY ALDERMAN CARON FOR FINAL PASSAGE OF R-20-070, BY ROLL CALL**

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

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

**MOTION CARRIED**

Resolution R-20-070 declared duly adopted.

**R-20-072**

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

**RELATIVE TO THE ACCEPTANCE AND APPROPRIATION OF \$356,046 FROM THE U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL TRANSIT ADMINISTRATION, AND \$26,828 FROM THE STATE OF NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION INTO TRANSIT GRANT ACTIVITY "LOW OR NO EMISSION GRANT PROGRAM"**

Given its second reading;

**MOTION BY ALDERWOMAN KELLY FOR FINAL PASSAGE OF R-20-072, BY ROLL CALL**

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

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

**MOTION CARRIED**

Resolution R-20-072 declared duly adopted.

UNFINISHED BUSINESS – ORDINANCES

**O-20-008**

- Endorsers: Alderman-at-Large Ben Clemons
- Alderman Patricia Klee
- Alderman-at-Large Michael B. O'Brien
- Alderman Thomas Lopez

**CHANGING THE STARTING TIME OF THE OVERNIGHT PARKING TIME LIMIT RESTRICTION IN CERTAIN LOCATIONS**

Given its second reading;

**MOTION BY ALDERMAN CLEMONS FOR INDEFINITE POSTPONEMENT OF O-20-008, BY ROLL CALL**

ON THE QUESTION

President Wilshire

Alderman Clemons.

Alderman Clemons

I'd like to briefly speak to that. Thank you. This was a companion piece to the Legislation that we disposed of earlier this year which would have changed the serving time to 2:00 a.m. The theory behind this particular Ordinance was that if we were to change that serving to 2:00 a.m. then we would have to change the parking. Obviously, we declined that; this was left in Committee and then COVID-19 happened and we forgot to basically move it out. So this is sort of housekeeping to just remove this because it is an unnecessary piece of Legislation at this point.

President Wilshire

Thank you, Alderman Clemons. Is there discussion on the motion for indefinite postponement? 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 Tencza, Alderwoman Lu, Alderman Jette, Alderman Schmidt, Alderman Cleaver, Alderwoman Harriott-Gathright, Alderman Wilshire	13
Nay: Alderman Lopez, Alderman Laws	2

**MOTION CARRIED**

Ordinance O-20-008 declared indefinitely postponed.

President Wilshire

Alderwoman Kelly?

Alderwoman Kelly

I would like to take O-20-017 from the table.

**MOTION BY ALDERWOMAN KELLY TO TAKE O-20-017 FROM THE TABLE 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 Tencza, Alderman Lopez, Alderwoman Lu, Alderman Jette, Alderman Schmidt, Alderman Laws, Alderman Cleaver, Alderwoman Harriott-Gathright, Alderman Wilshire	15
Nay:	0

**MOTION CARRIED**

**O-20-017****Endorsers:** Alderwoman-at-Large Shoshanna Kelly**AUTHORIZING FREE PARKING AT METERS AND PAY STATION SPACES THROUGH NOVEMBER 15, 2020****MOTION BY ALDERWOMAN KELLY TO TAKE FROM THE TABLE 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,  
Alderwoman Lu, Alderman Jette, Alderman Schmidt, Alderman Laws,  
Alderman Cleaver, Alderwoman Harriott-Gathright, Alderman Wilshire 15

Nay: 0

**MOTION CARRIED****MOTION BY ALDERWOMAN KELLY FOR INDEFINITE POSTPONEMENT OF O-20-017 BY ROLL CALL**ON THE QUESTIONPresident Wilshire

Alderwoman Kelly.

Alderwoman Kelly

And speak to it please? I want to clear this off the books, I think we have done a good job with the other things we have done downtown for businesses, including the barriers, so (audio cuts out), so let's clear it.

President Wilshire

The Motion is for indefinite postponement. Is there any discussion on that motion? Seeing none, would the Clerk please call the roll?

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

Yea: Alderman O'Brien, Alderman Klee, Alderwoman Kelly, Alderman Dowd,  
Alderman Caron, Alderman Clemons, Alderman Tencza,  
Alderwoman Lu, Alderman Jette, Alderman Schmidt, Alderman Laws,  
Alderman Cleaver, Alderwoman Harriott-Gathright, Alderman Wilshire 14

Nay: Alderman Lopez 1

**MOTION CARRIED**

Ordinance O-20-017 declared indefinitely postponed.

**O-20-029, Amended**

Endorsers: Mayor Jim Donchess  
Alderman Patricia Klee  
Alderman Richard A. Dowd  
Alderman Linda Harriott-Gathright  
Alderman Thomas Lopez  
Alderman June M. Caron  
Alderman Jan Schmidt  
Alderman Skip Cleaver  
Alderman-at-Large Brandon Michael Laws  
Alderman-at-Large Lori Wilshire

**SUPPLEMENTAL REQUIREMENTS RELATIVE TO FACE COVERINGS**

Given its second reading;

**MOTION BY ALDERMAN CARON TO AMEND O-20-029 BY REPLACING IT WITH THE GOLDEN ROD COPY OF AMENDMENTS MADE AT THE PERSONNEL/ADMINISTRATIVE AFFAIRS COMMITTEE, BY ROLL CALL**

ON THE QUESTION

Alderman Caron

And I would ask if Attorney would explain the amendment to the Board.

Attorney Bolton

The Amendment adds Section 17.

President Wilshire

Ok the Motion is to amend by replacing Ordinance 20-029 with the Golden Rod Copy. Alderman Jette?

Alderman Jette

Could Attorney Bolton elaborate what Section 17 is?

Attorney Bolton

Section 17 concerns the documentation if someone claims to have been advised by their healthcare provider that wearing a mask would be a risk to their health. It had been pointed out that the current version of the Ordinance, the current requirement, was not expressed, was more vague. So this essentially defines what we mean by a healthcare provider and makes it clear that the documentation has to express that the healthcare provider has advised the individual that wearing a mask would pose a risk to their health. So it makes more explicit the current requirement.

Alderman Jette

Thank you.

President Wilshire

The Motion is to amend. Further discussion on that motion. Alderman Caron?

Alderman Caron

Yes, thank you. A quick question to Attorney Bolton, if we don't approve this amendment it doesn't change the fact that we still have this mask ordinance, am I correct.

Attorney Bolton

You are correct, it does not affect the current requirements that you adopted by Ordinance 20-018.

Alderman Caron

Ok thank you.

President Wilshire

Alderman Lopez?

Alderman Lopez

I have a question to Attorney Bolton as well just because one of the communications we had some misinterpretation of it I think so I just wanted to clarify. Is the Ordinance requiring any businesses to block people from entering their business?

Attorney Bolton

No, the word "block" is not contained in the Ordinance.

Alderman Lopez

So the intention is that if somebody were not to serve somebody coming in the business and that person refused to leave, they would then call the Police and let the Police handle it like they would any other situation where someone was not following their rules.

Attorney Bolton

It is exactly the same thing as if someone walks into a restaurant or a grocery store without wearing shoes. It is the exact same thing.

Alderman Lopez

Thank you.

President Wilshire

You're welcome. Anyone else? Alderman Lu?

Alderwoman Lu

Thank you. Just two points, I wanted to clarify, there's a little more to it than just the requirement for a note if you are not going to wear a mask. Isn't there also the change that proprietors or managers are ordained to not permit or not transact, sorry it's late, to do the transaction with someone that does not wear a mask?

Attorney Bolton

When I describe Section 17, which is the amendment that was made, that just concerned the document

from the medical provider. There are 16, well actually no because it starts with number 10, there are a total of 7 other provisions in this Ordinance; one of which prohibits a business from transacting business from providing goods or services to people in violation of this Ordinance or Ordinance 20-018. And as I said just a few minutes ago it's precisely the same as if someone walked into a restaurant without wearing shoes. Current law provides that a restaurant cannot serve someone who is not wearing shoes. It would make this the same thing, if they are not wearing a face covering, this law would prevent that restaurant from serving that person. Similarly with a store or any other place of business.

Alderwoman Lu

Thank you, could I just follow-up?

President Wilshire

Yes.

Alderwoman Lu

I didn't mean to be argumentative. I wanted to establish that there are a couple small changes. It's exactly like the public health requirement to wear shoes but this amendment is not exactly like the standing Ordinance in terms of what the store owners are expected to do if I'm correct. There are a couple of changes and one of them does speak to the requirement that a store owner take some ownership of this. Attorney Bolton if you will recall, I sent you a question and I said, my understanding of the wording of the Ordinance as proposed just says that an owner has to put a sign in the window, that's new, there wasn't anything previously that said there has to be a sign in the window. And that's all I am trying to establish is that there are a couple of different changes in this Ordinance, rather, additions to the prior Ordinance. But I just want to finish up because ...

Attorney Bolton

Can I interrupt here? I never said there weren't other additions. There are 7 new provisions in this. I can speak to every one of those 7. Previously I was asked about the difference between as originally proposed and as amended this evening. As amended this evening, it only adds Section 17. Section 10 through Section 16 are new and different from what previously had been in Ordinance 20-018. So I am not trying to mislead anyone.

All of this stuff is in addition to what was in Ordinance 20-018. So if you want me to speak to each one I can, if you have specific questions about any one of them, I can speak to it. But yes, there are seven new provisions that will become law if this passes.

Alderwoman Lu

Can I just respond?

President Wilshire

Yes.

Alderwoman Lu

Attorney Bolton, I apologize it was a misunderstanding on my part. I didn't follow the discussion, I think. And I understand now that there was a recent further amendment to the amendment. I didn't realize you were answering – I hope you accept my sincere apology. Yeah I was actually just discussing that because I wanted to lead into what I feel is a helpful thing to keep in mind is that you and I had some communication a week ago or so and I felt like in my mind, knowing that, I asked you, doesn't this mean that a business

owner simply must tell them that they don't have permission to enter without wearing a mask? They are not required to bar or physically, you clarified to me in your response, they are not required, they are not responsible for if that person forces their way in. But they are expected to communicate that, that they cannot do business with them per the Board of Health.

So I am sorry for that misunderstanding. I did think that Attorney Jette's or whoever asked it question was what is this whole amendment about. I didn't realize that they were questioning the most recent change.

Alderman Dowd

Point of order, point of order. We are only discussing the addition ....the amendment which is the addition of paragraph 17 and not the basic Ordinance. So we are only addressing what Attorney Bolton just described as Paragraph 17 which has to do with the doctor's thing. None of the other parts are under discussion at the moment.

Alderwoman Lu

Alright thank. Alright, well if I could just finish my comment is that I was offering that for the public as an explanation of why this is a good idea. Thank you.

President Wilshire

Anyone else on the amendment?

Alderman Clemons

Yes thank you, briefly I won't support the amendment because I believe it is an undo burden for folks to have to go to get a doctor's note when they know their own health risk. I, quite frankly, don't think it is a private business owner or the City's responsibility to look into other people's healthcare decisions with their doctor. So I am going to vote "no" on this amendment.

President Wilshire

Ok, anyone else? Seeing none, the Motion is to amend with the Golden Rod Copy. 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 Lopez, Alderman Tencza, Alderwoman Lu, Alderman Jette, Alderman Schmidt, Alderman Laws, Alderman Cleaver, Alderwoman Harriott-Gathright, Alderman Wilshire	14
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Nay: Alderman Clemons	1
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**MOTION CARRIED**

**MOTION BY ALDERMAN CARON FOR FINAL PASSAGE OF O-20-029 AS AMENDED, BY ROLL CALL**

ON THE QUESTION

President Wilshire

The Motion is for final passage as amended. Discussion on that motion, Alderman Dowd?

Alderman Dowd

Yes, just a few points. This is not a new or a second mask Ordinance. We are amending, if you will, the existing mask Ordinance of O-20-018 to clarify the Ordinance and assist in enforcement. The majority of people I talk to in Nashua are strongly in favor of this Ordinance. People have written us saying they are taking away their right to choose about wearing a mask. Choice of which laws they want to adhere to, cannot go into restaurants or stores not wearing a shirt or shoes for health reasons, those laws come from our Health experts, as does this mask Ordinance. Wearing masks during this pandemic is requested by the vast majority of scientists and doctors, including the President's own medical experts.

This morning Dr. Fauci reiterated again that we need to wear masks especially with the number of cases growing in the majority of states including New Hampshire. Also, we are not asking store employees nor manager to get into arguments or fights with patrons. They simply point out to the patron that just entered that they passed a sign saying that they should come into their establishment and cannot be served without wearing a mask. If they give them a hard time for the person or persons involved, they need to get the store manager involved and if the patrons won't comply, the manager can call the Police.

I just came back from upper New York where the State of New York has done a fantastic job fighting this pandemic. All stores and all restaurants have signs on the doors saying they will not serve you if you come in without a mask. They offer the patron a mask and if they will not wear one they are asked to leave. I must say that over 98%+ of the people I saw were complying with the law and those that were not, I believe medical reasons for not wearing them which were fairly obvious. So without masks in Nashua right now, it is the law. We are only clarifying the law with this O-20-029. When the Board of Health says its time to rescind the mask Ordinance, we certainly will. Thank you.

President Wilshire

Thank you. Alderman Klee?

Alderman Klee

Thank you, Madam President and again I echo everything that Alderman Dowd has said. When we first put this supplemental out, I started looking at the ADA Laws and what can and cannot be done and it was hard actually to find information as to whether or not this fell within the ADA Regulations and Laws. It's even hard to get people like from the ACLU or so on to say "yea" or "nay" because they will be representing those people. So I can understand where they were coming from. But I was able to find on the ADA Southeast.org a web site where they talk about and say that this does not really fall within the ADA Laws. They went further to say is the best practice is to make sure you have some kind of – and I am scrolling here trying to find the exact – "reasonable modifications" is the way they said it.

So for instance, if someone wanted to go shopping to the grocery store and they couldn't wear a mask, we've made reasonable modifications, it said if you have a doctor's note than you could do it. A reasonable modification could be that you can order on-line and the store will deliver it to your call. That would be reasonable modification. The problem here people keep talking about, they lose their choice. Well the flip side of that are those people that are more vulnerable, that may have a pre-existing condition without having this kind of a mandate, they can't go shopping. So if there's anybody's rights that are being stomped on are those that are probably a little bit more fragile. And I want to protect those people and I want to make sure that they can go to the grocery store. And I want to make sure that we do look at everybody because the bottom line is, yes some people can't wear masks. I've read studies of people who say that your oxygen level drops and you're taking in CO2. And they've done studies were people have the ox-meter I think is what it's called, oximeter on their finger and they walk around for 15, they walk around for 30 minutes and there's almost no drop in their oxygen level. So I find that very difficult to believe. But I'm sure that someone will come up with as many studies as I say one way, they are going to come up with the other way.

The bottom line is I think we've made reasonable modifications. One of the important things in this supplement are for gyms. I know there are a number of gyms that have been telling people you have to wear face masks when you are on the equipment and machines. Everybody will tell you, including the CDC, is that when you are doing heavy exercise you should not be wearing a mask. And I think that's one of the things that we address in this. So I think it's important that we pass it. I think it's important that we look at all citizens. I can go with and say OK the shoes and the shirt and you have to be over 18 to be able to have a drink and so on. And yes, we can put that reasonably to this. But the bottom line is that if I wear a mask then someone who is more vulnerable whether or not they do it or they don't wear a mask, but they can go shopping. So they can't stop this from happening except for to stay home.

And I'll be honest with you, I had an e-mail that came in just before the meeting that basically said to me if I don't, if people don't wear a mask, I can't leave my house. And I don't want to see that happening. So I want to be fair to all citizens and I think we need to pass this, thank you.

President Wilshire

Alderman Cleaver?

Alderman Cleaver

Yes, thank you very much Madam President. Alderman Dowd hit everything on key and everything he said was exactly right and well-done. I think we have a moral obligation to pass this law. It is the least we can do to protect our citizens and I think we have to do, simple as that.

President Wilshire

Alderman Lopez.

Alderman Lopez

Yeah, I just wanted to clarify that for my part these Legislation amendments and stuff don't come out of a vacuum. There was a lot of constituent concerns that were coming to me regarding supermarkets particularly in May and how adherence was going. And people were starting to show pandemic fatigue at that point. They were already getting tired of being locked up, of having to change their life. It's been a huge and very difficult adjustment process for everybody. But at the same time, there's been a lot of concerns raised by individuals from those businesses too that they have to serve the public. They don't want to be in a position where they have to confront the public but we inadvertently – the suggestion was made to me that we inadvertently created something of that situation by making it an Ordinance that didn't include any responsibility by businesses, because otherwise the businesses would have to call the Police every time somebody did it. So now businesses as people get fatigued and customers start coming back that are a little less cautious are being put in a position where they have to say, ok well if you are breaking a rule I don't want to be Karen, sorry Alderman Caron, I don't like want to call the cops on you and all that kind of stuff. There's this whole like cultural pressure. So I think by having a consistent approach where we say, OK look, everybody is subject to the same Ordinance; Alderman are subject to it, the shop owners are subject to it, essential personnel are, non-essential personnel, customers.

I think we are doing more to make sure that everybody has the same script. I think that's also the reason why we have to have the posted signs. Because some people were kind of creating their own language and their own explanation of what was going on and that was creating all kinds of debates too. I think it's very important, something that Alderman Lu said at the Committee when we were speaking that there are a lot of different agencies and institutions that are providing public comment and opinions and things of that nature. This is the problem of having a pandemic in your front lawn. Typically when new diseases are discovered, they are in a far off section of the world, if they are even out of our country, they are isolated, action is taken to keep them from out of containment and then there's time to study them and fully understand what's going on and how they work. We didn't have that this year, in fact, we also had the

added burden of social media and instant clicking and 20 million platforms where people could spread memes that very much spread misinformation and confusion because the scientific process is one of constant refinement. There are absolutes that have been always been maintained by our own health professionals.

And I think we should look to those, such as the importance of wearing a mask to prevent inadvertently infecting somebody with your germs. I think we have Attorney Bolton sitting right here if we have legal questions about ADA or any of that kind of stuff, we can ask him, we can have those kinds of conversations and we have been having it. So I think here in Nashua it would be convenient if at the State level – hint, hint – we figured out how to get some kind of statewide mask ordinance or at the national level if there was even any helpful anything coming from there but there isn't so we are elected to represent Nashua. We need to look out for our constituents. My constituents say this is a pandemic. They don't want to lose family and friends. Some of them have lost family and friends and have lost people that they care about and I don't want to see that continuing either. So I support this amendment and I appreciate that it's being brought forward. I appreciate the disagreements that have been raised as long as people are being reasonable about how they present them. But I have full faith and confidence in our Board of Health, in our Public Health Professionals and in their qualifications to advise us appropriately.

President Wilshire

Alderman Schmidt?

Alderman Schmidt

Thank you, Madam President. I did have a question concerning number 11. What happens to businesses if they do not follow this?

President Wilshire

Attorney Bolton.

Attorney Bolton

They have violated the Ordinance, if convicted they are subject to a fine of no more than \$1,000.00.

Alderman Schmidt

Interesting, thank you. I do have a really big issue with this. I imagine a kid, 16 years old, being assigned to stand in the door and some big guy comes in and says, "I'm not going to wear a mask". That sets that person up for a terrible experience. And I don't know what the answer is at this point. Are we going to monitor what happens at all the shops in the City? Is there any way that we can actually make sure that this is going to happen and happen correctly? Or will the Police be extremely busy running between stores and telling kids everything is going to be OK, don't worry we will take care of that guy? Other than that, I wear a mask. I wear a mask even though I have asthma and allergies. And even though I've had asthma attacks with my mask on, I think everybody should wear it. So this is a really good idea. I think the Nashua Mask Ordinance really saved the State. We were a barrier between people coming up from Massachusetts and made a difference. It's a great idea. I'm just really concerned about what is going to happen when we fully get this involved. Thank you.

President Wilshire

Alderman Tencza?

Alderman Tencza

Thank you, Madam President. I think largely this new amendment to the mask ordinance does a good job, clarifies things. I appreciate the language that was presented last night and tonight about presenting a note if folks are able to do that and need to do that. My main concern still is shifting some liability back on to businesses to not necessarily enforce this but just to making that call and putting themselves in that position. I think I fear Alderman Schmidt's concern about how the Police are going to be involved. I know last night at the Committee Hearing Attorney Bolton outlined and Alderman Dowd outlined it a little bit tonight. All really the business is required to do is bring this issue up with the customer and then alert the Police if they are not compliant. Then the Police essentially issue that person a trespass notice which could lead to a second trespass notice which could lead to criminal charges. I know it's a little maybe farfetched, but maybe not if folks are shopping at places that they don't have access to go other places as well. So because of that I won't be supporting this tonight but I think it's a step in the right direction.

President Wilshire

Alderman O'Brien.

Alderman O'Brien

Thank you. I am going to support it but I do share the aforementioned concerns. I too have strong concerns with a young lady all 110 pounds of her who is working as a Clerk and trying to stop somebody coming into their business, particularly a guy that's going after his second six pack of the evening and telling him he's got to wear a mask where he isn't. So I see we have Chief Carignan here and I think to allay, I would like to hear NPD's opinion at this particular time on what they intend to do in those particular type of situations to help out the shop owners who will be basically putting them in the front lines with this. So with your indulgence, Madam President.

President Wilshire

Chief, do you care to weigh in?

Police Chief Carignan

Sure thank you very much. I've been listening to this argument for quite a while now and I respect each of the sides. Alderwoman Schmidt, I will say that the scenario you painted happens frequently. I was at Whole Foods this weekend and I saw a 16/17-year-old girl try to tell a person that the store policy was to have a mask. He walked right by her and told her he wasn't putting a mask on. She had to struggle to go get a manager. So it's really difficult to put them in that situation. I will say without the Legislation that puts the accountability on the businesses, it makes our job very, very difficult to enforce it. So I think with the Legislation it would allow us to be able to go into a store and say, hey, tell them they are not allowed to be in the store without a mask and if you do that and they continue to come to the store, call us, we will come and enforce it.

There's no expectation that any 16-year-old or 17-year-old or any store employee has the responsibility to enforce that mask Ordinance. They should call us that's what we are there for. If there comes a time when the call volume is so high that we can't get there in time, well that's part of prioritization that we do all the time. So we would make every effort to go and enforce it and support those businesses. We are not looking to penalize businesses. But I will say that we've had a couple that we get repeat constant calls on. There are at least three businesses that we were talking about today that's just always on-going and they don't care. They are in complete defiance of the Mask Ordinance. So we need the Legislation to help us support enforcement, to put the responsibility on the businesses but at the same time we don't want the businesses to have to suffer the enforcement issue. And I'll answer any questions.

President Wilshire

Thank you, Chief. Anyone else?

Alderman Lopez

Yeah, I just wanted to remind everybody that we were all 16 once and I personally I worked more than my fair share at grocery store. I am more worried about Thanksgiving rush when people are trying to get their food and we have to have ask a 16 year old how to figure it out how to get people through, get them to manage the line. 16-year old's do handle interaction with adults and when they can't then they go for another adult. This isn't going to create any kind of new dynamics where now a 16-year-old girl has to shield the door or anything like that. If anything, it just gives her a reason to contact the Police and it's fully understood that she's not doing it because she is a busybody which is the popular myth that's kind of being perpetuated locally. She's doing it because it's the law and she's trying to uphold the law and she's just as responsible as anyone else. I think there's plenty of 16-year old's that will probably out mass an adult how every many 6 packs he's been drinking; but they are not necessarily going to start a fight every time either. If the manager of that store is responsible for managing that property, typically they'll put somebody in a role that they can handle, otherwise they have to bear the consequences and I don't think this is going to be any different.

President Wilshire

Alderman Klee?

Alderman Klee

Thank you, Madam President. I want to kind of reiterate something that the Chief has mentioned. I had contacted him I think about a week or so ago about complaints that I was getting about a couple of different businesses and one in particular that I'd got a number of calls for. And this particular business had said that they don't need them because they are doing something else within their store that will, you know, mitigate any kind of a virus. And while I do believe that they really felt that way, that's not what our Health Department was saying.

When I spoke to Chief Carignan that was one of the things he asked me, "Have you guys passed this yet" and I said, "No it's still waiting to come to the Board" and he said the same thing that he just said here, "We need this in order to do our jobs and work efficiently' and so on. I don't think they are going to get an inordinate amount of calls, maybe they will, maybe people are going to try to challenge it. I don't that's going to happen but I never say never. I think it's important, I do understand what businesses feel like they are going through but the majority of businesses that I spoke to want this. They want this strength so they don't have to be the bad guy, because they want to protect their employees, they want to protect themselves and they want to protect their customers.

There are a few that just say, "no I don't want this and I should be able to make up my own mind". But I think we do need to pass this and try to work out some of the glitches as they come by.

President Wilshire

Chief, you want to respond?

Police Chief Carignan

Thank you, Madam President, and sorry Alderman Clemons. I just want to state that we are not looking – like when the original Ordinance was passed, we are not looking to run into businesses and start issuing every business owner summonses. We get that this is a struggle for everybody, we get that it's tough. But when we have a business that we've gotten a complaint about 3, 4, 5 times, it would be nice to have some

teeth to be able to go in and say, “hey we’ve warned you, we’ve told you, we’ve asked you, now you have to start following the rules”. So we are certainly about the education for the business owners as well as the customers, but without the enforcement, we really have no legs to stand on.

President Wilshire

Alderman Clemons?

Alderman Clemons

Thank you. So this I my question and I’m glad the Chief is here. This has been one of my major concerns with this Legislation and the way it is currently written. So if we have businesses and we will say businesses, that are not in compliance or we keep getting complaints and everything, let’s suppose we pass this Ordinance and you go down and you talk to the business owner, give them a warning and then it continues to happen even after we pass this Ordinance.

My question is who is getting the thousand fine or who is going to Court? Is it the owner of the business, it is the manager, is it the kid at the door. Who is going to Court?

Police Chief Carignan

Remember something Alderman Clemons, it is not necessarily \$1,000.00 summons. What happens is we go in and we give the person in charge which would be the manager, if the business owner is there, we would give it to the owner. We give them a Summons and they have to appear in Court and answer to a judge. The Police Department doesn’t issue a fine or give them a set fine. It would go into a judge for the violation. The judge would hear the facts and make a decision. A judge could say, “OK you have a \$10.00 fine”, “you have a \$100.00 fine”, “you have a \$1,000.00 fine” based on the violation and the history of offenses. So that’s beyond our control. We are just going in and enforcing that with a summons. We would give it to the person in charge at the time, so if it happens to be the manager is the senior most person. He would get it. The business owner is ultimately responsible for that fine and Attorney Bolton could correct me if I am wrong, but a business owner is responsible for any penalties assessed. But there’s not necessarily a \$1,000.00 it is a summons to appear in court for the violation of the law and the judge will hear the facts.

Alderman Clemons

Right, no and I understand that. I guess – here’s my concern and I hope that you have the discretion to further investigate and I think you would. But my question is this, if you go there and one night you talk to the owner let’s say and the owner says, “No I am not going to …” whatever, right? And even though you’ve warned them and you again and when you go because you get a complaint again, there’s a manager there. And the manager says to you, “Well look the Chief the reason is because I’m going to lose my job because the owner told me don’t enforce the mask ordinance”. Who gets the fine?

Police Chief Carignan

So you need to think of it in terms of serving alcohol to minors. Let’s say Alderman Laws is working in Penuchi’s and he’s serving alcohol to minors, he is accountable but the business is ultimately responsible for that penalty and they could lose their liquor license based on the Liquor Commission. I mean there’s a couple of different levels of this probably a little bit of an extreme example because he could also be summonsed, but the business is ultimately responsible with the loss of that liquor license. And that’s where the business owners if they have some accountability and they have some penalties that could be assessed to them are just going to say, “Hey put a mask on, it’s not our policy, but the Police require it, I can’t lose my license”. People get that and we are the bad guys all the time and I’m happy to be the bad guy to enforce the Legislation if it is passed.

Alderman Clemons

Ok I understand that I guess to a degree. I guess I am going to ask Attorney Bolton, is that true that the business owner would ultimately be responsible for the fine?

Attorney Bolton

Well to use the Chief's example, if Brandon serves an underaged person, Brandon is responsible for that, he can pay a fine. The owner may also be subject to loss of the Liquor License, it's not necessarily one or the other. I believe ...

Alderman Clemons

I'm talking about the Mask Ordinance.

Attorney Bolton

May I continue?

Alderman Clemons

Yes.

Attorney Bolton

If you read Section 16 it defines "business" and it defines "owner" and it is very expansive. In Section 11 it makes the business and the employee potential defendants because it says, "no business and no employee of any business shall provide goods or services etc". So if you've got a situation where the owner is ordering the employees to break the law, all of them could be cited. I think what would happen if that were the case, is the Police would use their discretion and whatever action was taken would be taken against the owner. Now if the owner, as far as we can determine, as far as the Police can determine, is telling his employees "enforce the mask ordinance" well not "enforce" but follow it, obey it, make sure the customers who come in are adhering to it. The owner is saying that to the employee and some employee takes it upon himself to ignore the Ordinance and it becomes known that hey, if you go in there on Thursday afternoon, Joe is working, he doesn't care about the mask ordinance. Well perhaps, if there are enough complaints by people, the Police will take a look at Joe and if he's the only miscreant, he's the one who will be summonsed. But there's a lot of discretion built into this and just for that purpose so that the appropriate person can be the one who is summonsed to Court.

Alderman Clemons

Ok thank you for the explanation, I appreciate that.

President Wilshire

Alderwoman Kelly?

Alderwoman Kelly

Thank you, I've taken notes and changed my notes and trying to keep up with the conversation here, I think it's been very productive. I want to make the point that we have our Police Chief here and he is asking us to simply to allow for some mechanism of enforcement. He's also telling us that he's going to use fair judgement when he engages with our community; whether it's issuing warnings, working with those people and we know that's how our Police Department generally operates. So I hear people's concerns here but I also know that this is a Public Health Issue, something that we have heard from our experts over and over

again. And while I am frustrated that it has become so polarizing for people, I don't think that's a reason to not pass this.

If we use that mechanism, we would look at it and not make – we don't make laws based on the possible misconduct for people who refuse to follow them. And as a City that was a border town, we were leaders on this. There are other cities that are now considering doing this because of the success we've had and I think we need to continue being a leader on this.

President Wilshire

Anyone else? Alderman Laws.

Alderman Laws

I kind of want to echo what Alderwoman Kelly just said. If we are doing this because our medical experts are telling us that wearing a face mask will help curb the spread of this disease and here we have our local Law Enforcement Expert telling us that he needs us to help him and pass this Ordinance so he can ensure that he can keep the public safe. It's the same thing, first of all. Second of all, I never serve minors. I think that's important to put that out there.

Police Chief Carignan

I do want to concur, I do want to concur he is very, very good.

Alderman Laws

Thank you.

Alderman Lopez

For all minors.

Alderman Laws

Third I think that we need to consider that, I mean I understand the concerns for the safety of the 16-year old who has to confront somebody. But I think we also need to consider that by passing this Ordinance and giving it to the Police to enforce, we are also protecting that 16-year old from potentially getting COVID and bringing it home to her grandparents and killing them. You know it works both ways and I feel like the alternative, you know, \$1,000.00 fine for businesses that refuse to adhere to this Ordinance, I mean they deserve it. We live in a society of laws, if you don't want to follow the laws, you pay \$1,000.00 fine. I don't think that politicizing this and thinking that whatever you think about science, I don't think that trumps the right of people to live healthy, safe lives; people who go to work and have no other option should be able to go to work and not have to worry about getting COVID because somebody doesn't want to wear a mask. That's it.

President Wilshire

Ok. Alderman Clemons

Alderman Clemons

Thank you. I appreciate the fact that the Chief came in and clarified some things for me. I know that when this passes that it will be enforced fairly and I appreciate that. With all of that said, I can't support it because I feel that the fine is too expensive as I was (inaudible) with that when we first passed this. And secondly, I won't support it because I don't think it's appropriate to ask somebody for a doctor's note.

That's just my personal opinion and I can't support that for those two reasons. Thank you.

President Wilshire

Ok anyone else? The Motion is for final passage of Ordinance 20-029 as amended. 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 Lopez, Alderwoman Lu, Alderman Jette, Alderman Schmidt, Alderman Laws, Alderman Cleaver, Alderwoman Harriott-Gathright, Alderman Wilshire	13
Nay: Alderman Clemons, Alderman Tencza	2

**MOTION CARRIED**

Ordinance O-20-029 declared duly adopted as amended.

NEW BUSINESS – RESOLUTIONS

**R-20-074**

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

**RELATIVE TO THE ACCEPTANCE AND APPROPRIATION OF \$821,500 FROM THE U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL TRANSIT ADMINISTRATION INTO TRANSIT GRANT ACTIVITY "BUSES AND BUS FACILITIES GRANT PROGRAM"**

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

**R-20-075**

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

**RELATIVE TO THE ACCEPTANCE AND APPROPRIATION OF AN ADDITIONAL \$7,060.53 FROM THE STATE OF NEW HAMPSHIRE, DEPARTMENT OF TRANSPORTATION INTO DPW GRANT ACTIVITY “SAFE ROUTES TO SCHOOL – CHARLOTTE AVENUE”**

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

**R-20-076**

- Endorsers: Mayor Jim Donchess
- Alderman Richard A. Dowd
- Alderman-at-Large Shoshanna Kelly
- Alderman Patricia Klee
- Alderman Skip Cleaver
- Alderman Tom Lopez
- Alderman-at-Large Michael B. O’Brien, Sr.
- Alderman Linda Harriott-Gathright
- Alderman-at-Large Lori Wilshire

**AUTHORIZING AN ENERGY PERFORMANCE CONTRACT AND LEASE FINANCING ARRANGEMENT**

Given its first reading; assigned to the BUDGET COMMITTEE, FINANCE COMMITTEE, and SCHEDULE A SPECIAL BOARD OF ALDERMEN MEETING ON TUESDAY, OCTOBER 6, 2020, AT 7:00 P.M. by President Wilshire

**R-20-077**

- Endorser: Alderman-at-Large Shoshanna Kelly
- Alderman Jan Schmidt
- Alderman Skip Cleaver
- Alderman-at-Large Ben Clemons
- Alderman-at-Large Brandon Michael Laws
- Alderman Linda Harriott-Gathright

**RENAMING COLUMBUS DAY AS INDIGENOUS PEOPLE DAY IN NASHUA**

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

NEW BUSINESS – ORDINANCES

**O-20-031**

- Endorser: Alderman Patricia Klee
- Alderman-at-Large Ben Clemons
- Alderman-at-Large Brandon Michael Laws
- Alderman Elizabeth Lu

**PROHIBITING DOGS IN FENCED-IN TOT LOTS**

Given its first reading; assigned to the PERSONNEL/ADMINISTRATIVE AFFAIRS COMMITTEE and the ANIMAL & DOG PARK ADVISORY BOARD by President Wilshire

Alderman Lopez

Madam President?

President Wilshire

Alderman Lopez?

Alderman Lopez

Should we also refer to the Animal Park Advisory Board?

President Wilshire

Yes, we could do that Alderman Lopez. Thank you.

**O-20-032**

Endorser: Alderman-at-Large Brandon Laws  
Alderman Tom Lopez  
Alderman Jan Schmidt  
Alderman Skip Cleaver  
Alderwoman-at-Large Shoshanna Kelly  
Alderwoman Elizabeth Lu

**REDUCING THE FINE FOR OVERNIGHT PARKING VIOLATIONS**

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

PERIOD FOR GENERAL PUBLIC COMMENTPresident Wilshire

Ms. Ortolano, please?

Laurie Ortolano Hi, I wanted to just provide a little clarification to some comments made regarding the Right to Know position. I think the City and the Legal Office in particular have created a very expensive process for what's happened here. Any general request, certainly from me, that isn't even a Right to Know was sent to Legal and for quite some time they were responding to general inquiries with denials because they didn't constitute Right to Know questions, which I was aware of. I wrote a number of Memos, really frustrated to stop the lunacy, and asked them to stop doing that because I didn't know. If I asked for a phone number and I gave you that example, it went up to Legal to be responded to. I just found that ludicrous. I can tell you I e-mailed the newspapers and I asked them what their process is. I got a response back from a reporter who told me in 10 years they've only had to file like 5 Right to Knows. They go right to the City Division and ask for anything they want and they use Carrie Miller if they need direction through the Mayor's Office on where to go. And that works beautifully, requires no written communications or instructions. And if the press can get information that easily, so should the public.

I also think the City has practiced very aggressively, the Legal Office, malicious compliance. Unlike any other Government Group I've seen, they will not communicate with the public to clarify a request. So Ms. Colquhoun and got on and told you how she asked for open permits. Apparently, they couldn't search for just open that would have been like compiling but they didn't communicate that to her and they sent her 31,000 records, which she would not have taken. But there was no option to say no and somebody worked on that. Just to let you know, I've sent you all the letters from Attorney Lehmann regarding the transcript. We never asked for the transcript, he asked for the audio/video recordings, period. We got a response back within 6 days from Celia Leonard saying that they were going to transcribe them. And that was fine, that was on June 8<sup>th</sup>. We really believed that within a month we'd have those. It's almost four months now and we still don't have that information. If I knew it was going to take them that long or be too expensive, I would have paid for it and found the transcriber. It has taken the City almost 3 months to find a transcriber. I am not certain why it took so long. But I can tell you my husband through his business, accesses these people like nothing. And they are not expensive services anymore. So I would have moved that along to help but the option wasn't there for us.

Also, I think the biggest problem happened when you promoted somebody into the Assessing Office as the Manager who had no understanding of Right to Know or what public information was down there. That is probably your biggest issue here and what caused all the problems.

As far as all of the pages requested, I can tell you that the City produced for discovery, 15,000 documents that I have requested since they have been collecting them and they sent to my attorney and I. And I went

through and cataloged them. At least 12,000 were not requested by me. So when I put in a Right to Know and ask for e-mails they sent me an extra 500 e-mails that weren't within the date range I wanted and redacted them. I didn't want them, I didn't ask for that range. They sent me 3,500 pages of the KRT new assessment data. I didn't ask for that, I just asked that it be put on-line and the City put it on-line, but they sent me the 3,500 pages. They sent me manuals I didn't want. You know it comes out to three-quarters of the information I didn't ask them for, they gave it to me. And when I Manuela say that she has spent 1,100 hours working or 1,000 hours, or two weeks a month, well you know, that's a lot of scanning and working and potentially redacting that I didn't ask for. So you know, I can go to the DRA put a request in have the attorney call me, have a worker call me and ask for clarification, handle it and be done. It's really simple. That process doesn't exist for some of us in the City. And if you start redacting documents like you are doing in Assessing, you're going to need more than one person because your Permit Department has a lot of data on it; phone numbers and e-mails. And everyone is down there accessing it publicly and they are not being slowed down from doing it. It's the assessing data that's being raced up to Legal.

President Wilshire

Ms. Ortolano, can you wrap it up please?

Ms. Ortolano Yes, I am extraordinarily disappointed in the Mayor. He does not take responsibility and he shifts the blame totally on the public. I've been wronged by this City, I think Attorney Bolton runs a pretty unethical office and I have certainly seen my costs run up legally because of what's gone on in there. Thank you.

President Wilshire

Is there anyone else from the public that would like to give comment?

Laura Colquhoun Laura Colquhoun.

President Wilshire

Hello?

Fred Teeboom Can I speak?

President Wilshire

Mr. Teeboom?

Fred Teeboom Yes.

President Wilshire

Yes.

Mr. Teeboom I'll be very brief because you've been over 4 hours. First of all R-20-064 were you approved \$100,000.00 for the Records Management position on the Right to Know question. First of all, I suspect that Ms. Ortolano stopped asking for Right to Know Law Request at number 1,100 hours I think and hundreds of thousands of documents I think were drastically reduced. So I suggest that \$100,000.00 not be spent on the position of a permanent employee, is sort of implied with the fringe benefits it's been \$7,000.00 that the \$100,000.00 be spent a contract so when the requests follow these so-called Right to Know Law Request which I dispute obviously, reduce this down to a slow number like I was used to when I was an Alderman and you can eliminate this new position without difficulty. So I recommend you make into a contract position.

The other thing I wanted to mention very briefly was the issue of the fund balance. There are some very simple changes to be made to that Ordinance 5-135. In the interest of time I will send the letter to the Board to make some very simple changes to basically spell it out exactly what the City is doing now. I'm at all opposed to what the City does now. I just think it ought to be very clear and every year this question comes up and obviously it's very unclear. And for CFO Griffin to say, well I've done this since I got hired, that's not adequate. Just because he's done it that way, if it violates the law, it still violates the law. You can change the law and I will suggest to make the change.

Final comment, I am going to congratulate Mayor Donchess because one thing about these Zoom Meetings is you can look the Library the bookshelf behind someone who is talking, I can see (inaudible) bookshelves. And I noticed that he has a three volumes of Winston Churchill called The Young Lion. And I must admire that, because if he's read those three volumes then he and I agree on the greatest statesman of the entire last century. Thank you.

President Wilshire

Anyone else for public comment this evening?

Laura Colquhoun Laura Colquhoun.

President Wilshire

Ok, you are up.

Laura Colquhoun I am making a comment on R-20-076.

President Wilshire

Can you give us your address for the record, please?

Laura Colquhoun Its Laura Colquhoun at 30 Greenwood Drive.

President Wilshire

Ok, thank you.

Ms. Colquhoun You're welcome. I'm calling about the Energy Performance Contract. This contract I think people really need to start thinking because it calls for \$6,700,000.00. Over 20 years it is going to cost Nashua \$9,100,000.00.00. At this point, with the economic crisis that we are going into I don't feel that Nashua has that kind of money to lay out right now. Also, on renaming Columbus Day, it would be a total insult to every resident if this was not put on a ballot so that people could vote for this. And just to assume that the Board of Aldermen are going to tell us what day it is is ridiculous. This needs to go on a ballot. I thank you very much.

President Wilshire

Ok is there anyone else wishing to give public comment this evening?

Beth Scaer Beth Scaer, East Hobart Street.

President Wilshire

Ok Beth.

Ms. Scaer To address the Mayor's comments concerning the Right to Know Request, if Laurie didn't keep finding big problems with the Assessing Department, she wouldn't keep filing Right to Know requests. I mean the Mayor went on as if the Right to Know Requests were all frivolous and not leading anywhere. But Laurie has found many problems, she keeps finding problems. I am delighted that she keeps doing it because I am a homeowner here in Nashua and I want my assessment to be fair. The Mayor just sounds really upset that Laurie has got the Assessing Department under a microscope and you know if you fix things, if he cleaned the Department up, if he got a good leader for it, you know these problems wouldn't happen. Thank you.

President Wilshire

Anyone else wishing to give public comment? Seeing none, remarks by members of the Board?

#### REMARKS BY THE MEMBERS OF THE BOARD OF ALDERMEN

President Wilshire

Alderman Lopez?

Alderman Lopez

Yeah, I just wanted to address some of the comments that were made at the initial public comment regarding some things that I said before the meeting started. I apologize if somebody's feelings were hurt by my expressing my opinion, but I do have the right to express it. I received a picture which I found amusing from a constituent asking why there was a mask ordinance when City Hall was closed due to COVID-19 and the picture had like 3 people in it and two of them didn't actually have posters they had pieces of cardboard that they had written on. They didn't look like the most organized mask demonstration I've ever seen. So I found it amusing. After our first mask ordinance the real one that we passed initially, there was a much larger, more organized presentation and I attended that because I wanted to see what people had to say. I wanted to spread information about what our Ordinance actually was and I talked to a lot of the people there. And respect their right to free speech and I respect the concerns that they had about this intrusive new idea of having to wear a mask and all that because it was very early on in the pandemic and we were just reopening. So I felt some explanation was in order.

Six months in and 200,000 people dead, 20 of them from Nashua alone if not more and our Mayor just getting over COVID-19, I don't have those feelings anymore. I respect somebody's right to free speech and I understand that the First Amendment says, "We will make no law to infringe upon it" but that doesn't mean I respect the opinion behind it. I think at this point, fighting masks and protesting is not time well spent and it's frankly a little bit embarrassing. So maybe if it was a bigger, more impressive event I might have felt differently because sometimes appearances are everything. Maybe if you had just gotten a better leader to organize it, then I would feel differently. But I really think that what it comes down to is somebody overheard my speaking in my free speech moment and felt that their free speech overrides mine. If during a meeting I am disrespectful, I appreciate the opportunity to be called out. So I do want to apologize to Alderman Clemons if he feels like I was threatening him in a previous meeting. I was intending to jokingly suggest that people could use his name for Police Reports and I would like to clarify to the public that is not a serious suggestion. If you are making a call to the Police, they are going to need to know your information so they can follow up with you. I don't believe Alderman Clemons was actually feeling threatened by that, I trust that a Legislator with his experience would have immediately called me out on it, but I do want to apologize if in my formal role as Alderman I did overstep a little.

Alderman Clemons

No apology needed, Tom. I understood the humor and it was fine. Thank you.

Alderman Lopez

Ok, I appreciate that. I do apologize to people whose feelings might be hurt that their feelings are hurt, but I have my opinions too.

President Wilshire

Ok, Alderman Schmidt.

Alderman Schmidt

DPW has been able to install a three-way sign (audio cuts out) and Pine Hill Road. And I stood down there for 45 minutes at peak drive time and everybody knew what to do. It was amazing so thank you everybody who made it possible and thank you for everybody who understands how a three way stop works. That's it, thank you.

President Wilshire

Alderman Dowd.

Alderman Dowd

I'm going to start by saying I've been through that a few times now and I think its fine. I was a little curious at first but it works ok. More good news is that the Safe Routes Program for Charlotte Avenue in underway. The equipment has been put in place, the poles have been moved, and the actual physical work is starting on Monday and it will be completed by the end of October. You will see a number of changes in the location of the sidewalk, the narrowing of the traffic pattern when you get near the school, the new crosswalk, the speed indicators. So it's five years in the coming and it seems to be going exceedingly well at this point. So just wanted to bring that up.

President Wilshire

Ok, anyone else? Not seeing anyone. Ok. City Announcements? Alderman O'Brien?

Committee announcements:

Alderman O'Brien

Yes, tomorrow night there will be a meeting of Infrastructure although we don't have any legislation on the docket, Director Cummings has contacted me and I think this is a good opportunity if you have any questions on some of the barriers that will be looked at in the future for Main Street, Director Cummings will be discussing them at tomorrow's meeting. That will be at 7:00 pm. Thank you.

President Wilshire

Alderman Dowd?

Alderman Dowd

Yes Thursday night, Joint Special. And I put out an e-mail to everybody on Joint Special. Elm Street is having an Open House for the parents. Three of our School Board Members of the Joint Special have students in that school so I am trying to get the meeting moved to 8:30. If I don't hear from anybody I am going to assume you can make it. I would rather hear from you that you can make it or can't make it, but we have to change it tomorrow. Donna is going to be putting something out either that or Sharon, one of the two, to formally change the meeting, we are just changing the time that's all to 8:30 p.m.

President Wilshire

I can make it Alderman Dowd.

Alderman Dowd

Good.

President Wilshire

Ok. Anyone else? Committee Announcements? None? Alderman O'Brien?

ADJOURNMENT

**MOTION BY ALDERMAN O'BRIEN THAT THE SEPTEMBER 22, 2020, MEETING OF THE BOARD OF ALDERMEN BE ADJOURNED, BY ROLL CALL**

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

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

The meeting was declared adjourned at 11:55 p.m.

Attest: Susan K. Lovering, City Clerk