

PERSONNEL/ADMINISTRATIVE AFFAIRS COMMITTEE

MARCH 6, 2003

A meeting of the Personnel/Administrative Affairs Committee was held on Thursday, March 6, 2003 at 7:10 p.m. in the Aldermanic Chamber.

Chair James R. Tollner presided.

Members of the Committee present: Alderman Stephen C. Lamos, Vice Chair  
Alderman-at-Large Paula I. Johnson  
Alderman Timothy B. Nickerson

Members Not in Attendance: Alderman Robert A. Dion

Also in Attendance: Alderman-at-Large Steven A. Bolton  
Alderman-at-Large David W. Deane  
Alderman Brian S. McCarthy  
Alderman Scott A. Cote (arriving at 7:30 p.m.)  
Stephen Bennett, Deputy Corporation Counsel  
Jane Joyce, Human Resources Manager  
David Fredette, Tax Collector/Treasurer

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Chair Tollner

I think Alderman Dion is probably watching this at home, and on behalf of the Personnel Committee and the rest of the Board of Aldermen – I know he was in the hospital for a few days – I want to wish him a speedy recovery.

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Chair Tollner

I have a letter from Mayor Streeter notifying the committee that George Pressly, Jr. and Betty Tamposi have withdrawn their names for the Industrial Development Authority as well as Maureen Lemieux to the Review & Comment Commission. I will speak to that a little later on the agenda.

INTERVIEWS

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Ethnic Awareness Committee

Linda S. Sprague (New Appointment) Term to Expire: December 31, 2005  
(Community Services Representative)

Alderman Nickerson

There is a memo saying she will not be here.

Mines Falls Park Advisory Committee

Karen Goddard (New Appointment)

Term to Expire: December 31, 2003

Chair Tollner

Please state your name and address for the record and then take a couple of minutes and let us know why you have interest in serving.

Karen Goddard Keagan, 29 McKean Street, Nashua

Serving on the Mine Falls Committee my interest is a number of reasons, but most is I love the park. I spend a lot of time there. My husband and I go snowshoeing and we bike in the park, we walk in the park, I just want to see it preserved. I think it is a wonderful treasure that the city has, and I want to see that it stays available to as many people as possible to the citizens of the city and that as many people can make as much use of it as possible.

Chair Tollner

Are there any questions from committee members?

Alderman Deane

Have you been involved in any of the trail days?

Karen Goddard Keagan

I haven't yet no. Actually I am new to the committee and actually being involved in the park at all other than using it as of about 4 months ago. Of course, trail days haven't started yet.

Alderman Deane

They are actively involved in renovation, repair of all the different trails throughout the park and it is – I did at one time attend a lot of Mine Falls Park meetings. It is an intense group of people and they do a lot of good. It is a beautiful place. You go up there and walk out in the middle and don't even realize you are in Nashua any more.

Karen Goddard Keagan

It is really nice that we have such a thing right in the middle of the city.

Alderman Deane

It is a beautiful piece of land.

Karen Goddard Keagan

We have the trail days planned out for the whole summer – one per month.

Alderman Deane

Thank you.

Chair Tollner

Karen you understand the time commitment and you have spoken with some of the other advisory committee members as far as time commitment and things like that?

Karen Goddard Keagan

I do. As a matter of fact I have been to the last I think 4 meetings and taken on some jobs already, and if I get approved tonight I will be co-Chairing the committee. I have agreed to do that.

Chair Tollner

Are there any other questions from the committee members? All right on behalf of the committee we thank you for your interest in serving. I will state this for anybody that is coming up. What we will do is we will interview everybody tonight, committee will vote on you in committee, and in turn your name will be forwarded to the full Board of Aldermen for a vote at a future Board of Aldermen meeting and then the Board of Aldermen will vote on it. You will be notified by the Aldermanic office and you can either come that night and be sworn in on TV. or if that is not a big deal for a lot of people and it isn't then you can go to the City Clerk's office at any time and someone from the City Clerk's office will swear you in.

Karen Goddard Keagan

Okay thank you.

Chair Tollner

Do you have any questions of us?

Karen Goddard Keagan

I don't.

Chair Tollner

Thank you.

Cynthia Overby (New Appointment)

Term to Expire: December 31, 2003

Chair Tollner

I think you have been in this Chamber before under not as happy circumstances. Maybe you could just take a second for the committee and state your name and address first for the record.

Cynthia Overby 520 Broad Street, Nashua

My interest in the park is that I see it as a historical landmark. I am very interested in preserving it, and I see it as a diverse park where it has the water and the wetlands and its habitat. We have wildlife there. It will be a great joy to sit on this committee and help care for such a jewel of Nashua.

Chair Tollner

You have a good idea of the time commitment and what the expectations are?

Cynthia Overby

Yes I do.

Chair Tollner

Are there any questions from the committee members? Okay well I for one would think that you would be a perfect candidate and participant in the Mine Falls Committee just based upon past experience with you, and I wish you a lot of luck.

Cynthia Overby

Thank you very much. I am very excited.

Chair Tollner

Do you have any questions of us?

Cynthia Overby

No I don't.

Alderman Bolton

Is the wildlife the adult softball players or the children soccer players?

Cynthia Overby

As a matter of fact I have a list of all of the species if you would like to see it.

Chair Tollner

Thank you.

Paul Keegan (New Appointment)

Term to Expire: December 31, 2005

Paul Keegan, 29 McKean Street, Nashua

I have been using the park for probably 10-12 years now in various capacities; fishing, biking, snow shoeing with my children and wife, and just hiking in general. I cherish having something like that so close by, and I became aware recently of this committee and its need for volunteers, and decided it was something I should do to help protect and preserve the park.

Chair Tollner

Are there any questions from the committee members? Are there any questions of us?

Paul Keegan

No sir.

Chair Tollner

Thanks very much.

Sherman R. Sewell (New Appointment)

Term to Expire: December 31, 2005

Bradley T. Vear (New Appointment)

Term to Expire: December 31, 2004

Bradley Vear, 6 Nichols Road, Amherst

I have to reiterate a lot of what has already been said. I find that the park is a jewel. It reminds me a lot of when I was growing up of what we had around us and I think there has been an awful lot done with the planning process already on the park. I would be honored to be able to continue in that committee and along the same lines of the planning that has been instigated. I think one of the areas that I would like to see focused on perhaps a little bit is more of the water aspects. For example the boat launch I think could be improved somewhat and we use that a lot without canoes really put in there some of those areas, but the trail system is outstanding. It just needs to be continued and maintained.

Chair Tollner

Are there any questions from the committee members?

How were you introduced to the option of participating on the Mine Falls Advisory Commission?

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Bradley Vear

In just some discussions I had. I spoke with Mayor Streeter a little bit about some ideas to be able to contribute more to the community. My business is in Nashua. This is one area that he thought I might be able to work and apply some of my time.

Chair Tollner

Do you have any questions of us?

Bradley Vear

No. Thank you.

Chair Tollner

Thanks very much.

Ethnic Awareness Committee

David M. Haney (Re-Appointment)  
(Replacing Harvey Keye)

Term to Expire: December 31, 2005

David Haney, I actually live in Bow, NH

I work for Fleet Bank and am engaged here in Nashua.

Chair Tollner

I know that you are replacing Harvey Keye.

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David Haney

Actually I have been engaged with it for 4-5 years now and part of the process is that the city kind of lost track of the appointment process and ended up being back engaged this way.

Chair Tollner

You are quite familiar with the situations and the work that the Ethnic Awareness Committee does.

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David Haney

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Correct.

Chair Tollner

Do you have any questions of us?

David Haney

No I don't other than to encourage the Board of Aldermen to participate in the activities. Statutorily the committee is supposed to have representation by the Board of Aldermen and in the 4-5 years that I have been participating we have yet to see representation from the Aldermen at those meetings themselves. I understand there are some discussions of changing times and things like that, but it has been very disappointing to a lot of the members not to have that kind of presence demonstrated as well as a lot of the other departments of the city.

Chair Tollner

I think Alderman McCarthy is just going to try and find out whom the representation is. We have individuals.

David Haney

Marc and Kevin are suppose to be the two operative folks, but again in my 4-5 years of experience of participating in all of the meetings we have yet to see anybody there.

Chair Tollner

I will make a note of that. Do you have any questions of us?

Alderman Deane

What time are your meetings?

David Haney

The meetings have been held historically from 4:30 p.m. to 6:00 p.m. on the second Wednesday of every month, and that was an attempt to try to accommodate the needs of many of the citizen representatives on the committee because of their challenges in and around families and things like that.

Alderman Deane

I sit on the Board of Public Works Retirement system and our meetings are the last Friday of every month at 11:30 a.m. and prior to being placed on that I was on the Board of Public Works and now the Board of Aldermen the first two years I was on that we had no Aldermanic representation either. That should be looked into.

Chair Tollner

We will look into that. Thank you for your willingness to participate.

Industrial Development Authority

Mr. Jack Tully (New Appointment)

Term to Expire: September 13, 2005

Chair Tollner

I will get to the committee a copy of Jack Tully's resume. I thought I would have it tonight but there was a little glitch with the computers so we will get that out to you as soon as we receive it.

Jack Tully, Middle Dunstable Road, Nashua

Thank you for receiving me tonight. I apologize for having missed one other opportunity to present myself before you a few weeks ago. I was traveling and couldn't make it. I am interested in serving on the Industrial Development Authority Board. I think I am uniquely positioned to do so. I am very interested in preserving employment in the area and making sure that industry with which I come in contact on a frequent basis has an opportunity to take a look at what may be available in Nashua from time to time.

Chair Tollner

Are there any questions from the committee members?

Alderman Johnson

Thank you for coming tonight. What do you envision coming to Nashua as far as Nashua? How do you feel that your role on this committee can help bring more industry to Nashua where we only have retail here?

Jack Tully

Well, we do have a lot of retail, certainly we do. I am an automobile dealer Alderman Johnson if you don't know what I do for a living.

Alderman Johnson

I do.

Jack Tully

There are in the United States economy probably 1 out of every 5 jobs in one way or another touch the auto industry. As a member of the National Auto Dealer's Association I am an officer of that group, I am in regular contact with many of these people. I would be able to provide awareness

around the country for whatever Nashua may have to offer and in fact the whole state through my travels. I don't think I can specifically name an industry or a company at this point in time.

Alderman Johnson

I think out of all of the candidates we interviewed I think you gave me about the best answer with your travels and working with other companies especially in your line of work. My concern is that we are retail oriented, we are a border city and everybody comes over here basically because of having no sales tax. I am wondering how we are going to get industry back in here to raise our wages in Nashua.

Jack Tully

Wouldn't the goal be to try to have a balance between retail and other industrial efforts over time?

Alderman Johnson

Absolutely.

Jack Tully

We don't want to drive away the retail people I hope.

Alderman Johnson

Right now we are not balanced at all.

Chair Tollner

Jack do you have any questions of us?

Jack Tully

I have no questions thank you.

Chair Tollner

Thank you.

## COMMUNICATIONS

MOTION BY ALDERMAN NICKERSON THAT THE RULES BE SO FAR SUSPENDED AS TO ALLOW FOR THE INTRODUCTION OF A COMMUNICATION RECEIVED AFTER THE AGENDA WAS PREPARED  
MOTION CARRIED

From: Paul R. Bergeron, City Clerk  
Re: O-02-129

MOTION BY ALDERMAN NICKERSON TO ACCEPT AND PLACE ON FILE  
MOTION CARRIED

From: Mayor Bernard A. Streeter  
Re: Board Appointments

MOTION BY ALDERMAN NICKERSON TO ACCEPT AND PLACE ON FILE  
MOTION CARRIED

APPLICATION TO LICENSE HAWKER'S, PEDDLER'S, ITINERANT VENDOR'S

APPOINTMENTS BY THE MAYOR

Ethnic Awareness Committee

-  
David M. Haney (Re-Appointment)  
(Replacing Harvey Keye)  
40 Ridgewood Drive  
Bow, NH 03304-3507

Term to Expire: December 31, 2005

Linda S. Sprague (New Appointment)  
(*Community Services Representative*)  
18 Mulberry Street  
Nashua, NH 03060

Term to Expire: December 31, 2005

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MOTION BY ALDERMAN NICKERSON TO RECOMMEND THE CONFIRMATION OF  
DAVID M. HANEY TO THE ETHNIC AWARENESS COMMITTEE FOR A TERM TO  
EXPIRE DECEMBER 31, 2005  
MOTION CARRIED

-  
MOTION BY ALDERMAN NICKERSON TO HOLD IN COMMITTEE THE  
APPOINTMENT OF LINDA S. SPRAGUE TO THE ETHNIC AWARENESS COMMITTEE  
MOTION CARRIED

Industrial Development Authority

Mr. Jack Tully (New Appointment)  
147-149 Daniel Webster Hwy  
Nashua, NH 03060

Term to Expire: September 13, 2005

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MOTION BY ALDERMAN TOLLNER TO RECOMMEND THE CONFIRMATION OF  
JACK TULLY TO THE INDUSTRIAL DEVELOPMENT AUTHORITY FOR A TERM TO

EXPIRE SEPTEMBER 13, 2005  
MOTION CARRIED

Mines Falls Park Advisory Committee

- Karen Goddard (New Appointment) Term to Expire: December 31, 2003  
29 McKean Street  
Nashua, NH 03060

Cynthia Overby (New Appointment) Term to Expire: December 31, 2003  
520 Broad Street  
Nashua, NH 03063

Paul Keegan (New Appointment) Term to Expire: December 31, 2005  
29 McKean Street  
Nashua, NH 03060

Sherman R. Sewell (New Appointment) Term to Expire: December 31, 2005  
3 Reservoir Street  
Nashua, NH 03064

- Bradley T. Vear (New Appointment) Term to Expire: December 31, 2004  
547 Amherst Street  
Nashua, NH 03063

MOTION BY ALDERMAN NICKERSON TO RECOMMEND THE CONFIRMATION OF THE FOLLOWING INDIVIDUALS TO THE MINES FALLS PARK ADVISORY COMMITTEE: KAREN GODDARD AND CYNTHIA OVERBY FOR TERMS TO EXPIRE DECEMBER 31, 2003, BRADLEY T. VEAR FOR A TERM TO EXPIRE DECEMBER 31, 2004 AND PAUL KEEGAN FOR A TERM TO EXPIRE DECEMBER 31, 2005  
MOTION CARRIED

- MOTION WITHDRAWN BY ALDERMAN NICKERSON

Chair Tollner

Come forward.

Sherman R. Sewell

- I apologize for being late. I was driving down from Manchester.

Sherman R. Sewell (New Appointment) Term to Expire: December 31, 2005

Chair Tollner

No problem. If you could just take a moment and state your name and address for the record and let the committee know why you have interest in serving on the Mine Falls Park Advisory Committee.

Sherman Sewell, 3 Reservoir Street, Nashua

I have lived in Nashua for 12 years and have a very devout interest in preserving the natural resources within the city both for citizens and for a variety of uses that city parks can be used for. I live right in back of Greeley Park so I get to use that quite a bit with my children and also myself.

Chair Tollner

Are there any questions from the committee?

Chair Tollner

Are there any questions from the other Aldermen that are here? Do you have any questions of us?

Sherman Sewell

I do not.

Chair Tollner

Thank you very much.

MOTION BY ALDERMAN NICKERSON TO RECOMMEND THE CONFIRMATION OF THE FOLLOWING INDIVIDUALS TO THE MINES FALLS PARK ADVISORY COMMITTEE: KAREN GODDARD AND CYNTHIA OVERBY FOR TERMS TO EXPIRE DECEMBER 31, 2003, BRADLEY T. VEAR FOR A TERM TO EXPIRE DECEMBER 31, 2004 AND PAUL KEEGAN AND SHERMAN R. SEWELL FOR TERMS TO EXPIRE DECEMBER 31, 2005

MOTION CARRIED

MOTION BY ALDERMAN TOLLNER TO REMOVE THE APPOINTMENT OF BETTY TAMPOSI TO THE INDUSTRIAL DEVELOPMENT AUTHORITY

ON THE QUESTION

Chair Tollner

As we all heard earlier she has declined to participate for a number of valid reasons.

MOTION CARRIED

MOTION BY ALDERMAN TOLLNER TO REMOVE THE APPOINTMENT OF GEORGE PRESSLY TO THE INDUSTRIAL DEVELOPMENT AUTHORITY  
MOTION CARRIED

MOTION BY ALDERMAN TOLLNER TO REMOVE THE APPOINTMENT OF MAUREEN LEMIEUX TO THE REVIEW & COMMENT COMMISSION

ON THE QUESTION

Chair Tollner

I would just like to comment on this particular piece. I think at the last Board of Aldermen meeting or two Board of Aldermen meetings ago I guess there were a number of comments regarding this appointment representing the Mayor's office. I'm not sure whether all of the Aldermen knew that the work of this committee really took place after working hours. Not that it was disputed but Alderman Lemieux had a lot to offer to the Review & Comment Commission. I think that she participated in that group while she was an Alderman as well as during the time here that she was working with the Mayor. I personally think that situation or comments around her appointment to the Review & Comment Commission could have been handled a little more appropriately. She was a colleague. She is an excellent worker. Looking back I was really disappointed on how that whole situation rolled out. Those are my comments.

Alderman Johnson

I wasn't going to make any comments, but I feel that I need to clarify a few things here. I think a lot of work was done in this committee and nobody faulted Mrs. Lemieux. Nobody said anything negative about Mrs. Lemieux. I think the comments that came out of this were that we were concerned on the workload that the Mayor was putting on her shoulders. Mrs. Lemieux works about I think approximately 35 hours a week. Her time is spent after – she is on the Nashua Stays in School Committee, which takes up a lot of time, she sits with the Mayor all the time working on the budgetary information, he leans on her completely. For us to have asked her to continue to stay on this committee – we had asked the Mayor could he show us other ways that her time could be spent in other areas other than this or if this is the lead area then he needs to take her off of some other work that she is doing. She wasn't doing other specified work, which I believe it was the space needs assessment for City Hall, which she is in charge of. She handles a lot of departments here. We understand how hard she works, but I think maybe somebody had to come before the Mayor and say where are her priorities, where does she need to be mostly. I didn't take that night as being very negative. I thought it was a positive night and I thought that the Aldermen were looking out for her best interests also here. To say that it was negative I am a little bit offended by that because I thought the dialogue here and Alderman Cote brought up some valid points that we never talked about. I think he gave it quite a bit of thought. He served with her. I never had the pleasure of serving with Mrs. Lemieux, but she does a lot of work, she works very hard, and you can't have her pulled in 15 million different directions because then the quality of work is not there where it needs to be. Thank you.

Chair Tollner

I just want to clarify one thing. With this position we don't ask her to participate on it the Mayor has asked her to participate on it and that time that she would spend would be after work hours. If people had taken the opportunity to ask Mrs. Lemieux did she have interests to continue serving on this committee I think she would have provided them with a resounding yes she would have. She enjoyed it, she enjoyed the participation, she enjoyed giving the feedback, and she thought it was very valuable.

Alderman Bolton

I guess I have to agree with what Alderman Johnson had said. I had understood that one of the reasons we asked her to come tonight was so we could ask her those sorts of questions, and it has not been the Board of Aldermen that has prevented her from giving us those responses. For whatever reason either she or the Mayor has chosen not to pursue the nomination. I am frankly very disappointed in that. I think it may well be that Mrs. Lemieux should have and could have served on Review & Comment, but as Alderman Johnson said maybe then her involvement with the Stay in School task force or what the Mayor refers to as his internal committee on the Pennichuck acquisition or some of the other activities that are going on. That same evening that this discussion came up the Mayor made a point to say that the reason why the space needs assessment had not gone forward was because Mrs. Lemieux had been overburdened with her work on Pennichuck. I think it was fair and no aspersions and many of the members of this Board went out of their way to indicate that they were not trying to cast negative aspersions on Mrs. Lemieux. I don't think anyone did in any way. It is obvious that there is only so much one person can do and we were in fact told that there were delays in getting some work done because of some of the additional responsibilities assigned to Mrs. Lemieux over and above what is ordinarily part of the Administrative Services Director's job responsibilities. I would have been perfectly willing to listen to Mrs. Lemieux's preferences on these things. I would have been perfectly willing to listen to the Mayor's thoughts and concerns in this area and if he could have allayed all of our concerns I would have been more than happy to have had them so allayed, but it is not this Board that has done away with this. It is Mrs. Lemieux and/or the Mayor who have decided that they don't want to respond to our questions.

MOTION CARRIED

UNFINISHED BUSINESS – RESOLUTIONS – None

UNFINISHED BUSINESS – ORDINANCES

O-02-129

Endorser: Alderman-at-Large Steven A. Bolton  
Alderman Timothy B. Nickerson  
Alderman-at-Large Paula I. Johnson

ESTABLISHING PROHIBITIONS ON CAMPAIGN ACTIVITIES BY MUNICIPAL EMPLOYEES

MOTION BY ALDERMAN NICKERSON TO RECOMMEND FINAL PASSAGE AS AMENDED

# MOTION BY ALDERMAN NICKERSON TO AMEND O-02-129 BY REPLACING IT IN ITS ENTIRETY WITH THE COPY DISTRIBUTED THIS EVENING

## ON THE QUESTION

### Alderman Bolton

I have been working with the Legal Department on this to try and address some of the concerns that have been brought up. Essentially we have agreed that the main focus was preventing the misuse of city equipment and facilities and the like, and focusing on that eliminates some of the gray areas that have been brought up – someone uses their own car while on city business and it has a campaign bumper sticker is that or is that not a problem or what have you – by focusing on the use of city equipment we get around those difficult issues. At some other point in the future someone may want to address those, but what you have I believe now is acceptable to the Legal Department, addresses the areas of concern they have, and I think we have got a good piece of legislation now that does not contain some of the problems that the earlier version did.

### Chair Tollner

Before I go to Corporation Counsel, I would like to recognize Alderman Cote is present.

### Stephen Bennett

As Alderman Bolton said we have been working closely with him all week and have discussed both the concerns raised in prior meetings by this committee and at the full Board of Aldermen last week as well as comments made by employees throughout the city. I think the major focus of all of those comments or concerns was in the original piece of legislation Section 7-80, which was a campaign activity by individuals that was also the major focus of the memorandum by the Legal Department on the original legislation. As Alderman Bolton has indicated that has been removed now and the focus is on the inappropriate use of our city property or the systems or what have you. In effect, that does address some of the original concerns of the original Section 7-80 regarding activities. Basically it would strip any employee of the ability to really actively campaign without the use of the systems. It is a violation if they use any of our property for that purpose. I think it does address some of the original concerns of 7-80, but takes out as Alderman Bolton says a lot of the gray areas. I think it is pretty clear cut. You don't use city property of any kind for political campaigning purposes. I don't think there is a lot of gray area there. It's city vehicles it is not private vehicles. The e-mail system for example or the computer systems here those are city systems and there is no right to privacy on them. That is a policy we have. People can't just use those for their own purposes.

The second area that we had concerns about were the violations. Those were also addressed. We have while the purpose section of the new amended ordinance addresses how serious a matter this is, and that is reflected in the violations section. It is a serious matter. It doesn't mean that every violation will be treated the same, but again it is considered by the sponsors and I believe by most of the Board a serious matter that if a person violates this section that a serious disciplinary action would be taken. Of course, we are bound by the provisions of any CBAs we have. Conditionally progressive discipline is applied, however, when a legislative body makes this strong statement

regarding how they feel about a certain offense that is something that is taken into consideration by either an arbitrator or for merit employees by the Mayor or by the any appeal board that they may go through.

I think at least as far as the Legal Department is concerned this proposed ordinance does meet constitutional muster and we believe it strikes a fair balance between the legitimate concerns of the city and making sure that government is perceived as non partisan while respecting the rights of our employees.

### Chair Tollner

Jane Joyce is here. Jane if you want to come up and take a seat. I guess some of the concerns that I had were when you said some of the violations will be treated differently or could be treated differently. I guess the first question I have regarding that would be who would decide how particular violations are looked at, adjudicated, dealt with? The second question would be, and I guess I would address this to both you and Jane Joyce, is we have one person in a bargaining unit and another person not in a bargaining unit the penalty that could be applied for the same exact situation could it be drastically different and how is that fair?

### Stephen Bennett

I guess to address the issue of – any time you punish anybody I think we do it starting with our children or when the courts do it they always look at the specific circumstances of each case. You don't punish your child for leaving their shoes on the steps as you would for going next door and breaking all of the neighbor's windows. Just because they did something wrong you don't punish them the same you look at the offense. The courts always look at the person's record and the nature of the offense before they sentence. There is a wide range of punishments for the same class B felonies. I wouldn't think that we would treat our employees here any differently. We would look at each case individually. The supervisor would be the first one to look at it and would impose whatever discipline they thought was appropriate. There are appeal procedures for merit employees to go up through the ranks, up to the Mayor and then to the Personnel Advisory Board for an advisory opinion unless they are discharged.

### Chair Tollner

This legislation clearly states any person violating any provision of this article shall be fined \$1,000 for each offense.

### Stephen Bennett

We would go to the – that would have to be done at court. We don't have the power to impose a fine through the city unless we go through the district court. Once you get to the district court it is always up to the court to determine the fine. We may go in there and ask for a \$1,000 fine. It will be up to the Judge to determine whether or not he or she thinks that is appropriate. Again for the arbitrator once you go into the arbitration process it is up to the individual arbitrator what that arbitrator thinks is fair discipline. Many times you end up with people charged with the same

offense getting different punishment. It is due to the circumstances. Sometimes it is due to the mindset of that particular arbitrator. Not everybody thinks the same. Not everybody looks at an offense the same way.

Chair Tollner

With this legislation it would be the city's intent that every time there is a violation to – that they would be fined \$1,000 and whatever avenue that takes after that is what you are saying would be different depending upon a court case, but if Mr. Nickerson and I are employees of the City of Nashua and we commit the same penalty the original action by the City would be to fine both of us \$1,000.

Stephen Bennett

Under violation it wouldn't be. That would be the recommendation.

Chair Tollner

For everybody? We need some consistency here.

Stephen Bennett

As it is written.

Jane Joyce

My only concern in addition to what Steve has raised is that there can potentially be discrepancy in which it would be implemented based on the action of the supervisor. If the supervisor in one case takes the action appropriately according to legislation then the punishment would pursue, but if a supervisor for whatever reason chooses not to there is disparity in the treatment assuming both are of equal concern.

Chair Tollner

You work with a lot of collective bargaining agreements. What type of issues do you think would come up if a piece of legislation like this is passed?

Jane Joyce

Certainly I think that if someone in a collective bargaining position could demonstrate that a fellow member was treated differently than he or she was I think that an arbitrator is going to look at that very seriously. There are currently whether it be collective bargaining, the merit handbook, the personnel advisory board, and by policy alone that addresses many of the concern if not all of the concerns that are raised in this ordinance in which there is a, if you will, a levy of punishment in the event that there is a violation. Again, my concern would be the supervisor who chooses to address it

in accordance to the way it was written in its intent and a supervisor that perhaps doesn't interpret it the same way.

### Stephen Bennett

Two comments; first the provision dealing with the \$1,000 fine is always going to be handled in court. It is outside the CBA process. If we were to file a violation in the court that is where that would be handled. As far as again talking about the same issue – what is more important consistency in punishment does everybody get punished the same or should we look at each case individually and allow our supervisors or arbitrators who will do it because they have that right but our supervisors to look at things individually. Section B, which deals with that aspect of it is always going to be some level left to the discretion of the supervisors. Not all supervisors think the same, and again I think that when you get down to it you want your supervisors to have some discretion not discretion just to overlook a violation, I am not talking about that. I think if there is a violation they are required to take appropriate disciplinary action, and that is one of the sections that was added, which says that when an employee violates a section or appears to have violated it, it has to be investigated and if there is a violation appropriate discipline. In some cases that may be a warning. In some cases that may be discharge. That is what is built in here. It allows for it. It is looked at as a serious offense but there will be different degrees.

I think people are hurt more by attempts at having a flat punishment, everyone would be punished the same as to they will lose their job no matter what then they are by taking the time to look at things individually. All employees no matter how good and dedicated they are to their job are probably during a long career going to make a mistake. We wouldn't want to have to terminate an employee who has had 30 years of doing a great job and then violates this. That is not what we are looking for. We want consideration, people's records, people's – the nature of their infraction and that is what this allows for.

### Chair Tollner

My concern with it is if there is no – we need to be consistent regardless of whether you are working at 30 years or 30 minutes – you commit the same infraction it should be dealt with the same way. I think if there isn't consistency we open ourselves up to an incredible amount of headaches, issues, lawsuits, debates, whatever it is.

### Stephen Bennett

I agree that if two people are situated exactly the same, they do exactly the same thing, it should be dealt with the same way. I think in some instances you said 30 minutes or 30 years – I might cut the employee who has been there for 30 days a little more of a break than I would the 30 year one in some of these cases because they just don't know everything that is going on – they don't know all the rules yet. That may be a reserve consideration. Thirty years of good employment, but you should know the rules by that time as opposed to the one who has just started working and might not know all the rules and might do something to violate this law. I am not sure they would punish them both the same. I understand and representing the city in arbitrations, I have heard endlessly from the union representatives why this person was treated differently than this person – this person

only got 10 days why do you want to fire my client. It is up to us to explain what the difference is. It does create headaches for me too in my job if every punishment isn't exactly the same, but I am not sure that is fair unless they are exactly the same offense. The circumstances don't always or very seldom are exactly the same for any two employees.

-  
Alderman Bolton

Many of the points raised exist in every other ordinance that we have that deals with the conduct of public employees. One supervisor may regard the theft of office supplies as more serious than another, one supervisor may regard drinking on duty more serious than another. There may be differences imposed pending upon the past disciplinary history of an employee. The ordinances we have now about conflict of interest if they are violated decisions have to be made as to what the level of discipline that ought to be imposed. I think we have an ordinance about preventing the acceptance of gifts and gratuities – the same situation – someone comes in and is pretty much distributing free pens or something that is trivial but someone else comes in and is spreading around more valuable commodities – people ought to draw the line and when there is an infraction people get punished I think the way people think is accorded, but I don't know of anywhere in our ordinances, in state law where everything is so rigid that someone who commits the same offense but in a different way and has no prior history and someone has a long history either good or bad are going to be treated identical. No code is set up that way. The closest thing would be the federal sentencing guidelines in particularly dealing with drug offenses, but even there, there are factors to be considered, which increase or decrease the time. This ordinance presents no more difficulty on those issues and opens us up to no more danger of ongoing litigation than most of what else is in the books already.

Alderman Lianos

I have questions for Attorney Bennett through the Chair if I could. In Section 7-81(a) it says "No city official". Will you define to me what a city official is – elected, appointed? Can you give me the general definition of how that applies?

Stephen Bennett

I think if you look at our code of conduct we have municipal employees and we have – I was hoping we had a city official here too – city official would be any member in commission of a board, appointed or elected, employees would be special and regular employees – any of the members who are appointed or elected.

Alderman Lianos

In Section 7-81(c) (4) – paragraph c starts out saying "This section shall not prohibit:" (1) I understand, (2) I understand, and (3) I understand – (4) "The receipt of unsolicited communications including mail, deliveries, e-mail, facsimile transmissions, and telephone calls by city officials or employees through the use of city systems, vehicles, equipment, and supplies." Walk me through that so I can understand it.

Stephen Bennett

We didn't want our employees or city officials who receive unsolicited campaign or election material through some system in the city to be charged with – to have some supervisor walk in and have somebody who had just popped open an e-mail that they didn't ask for and be reading and looking at this and realize it was a campaign material and suddenly have that person subject to the provisions here because that would be an unintentional – it is an unintentional act that they had no control over. We didn't want that to be caught up in this prohibition. It was to clarify that. If you are out there and unbeknownst to you somebody is funneling this stuff towards you and you may open it up, read it, and before you realize that it is really stuff that is inappropriate for your workplace you could get caught by a supervisor. We wanted to make it clear that was not the intent.

Alderman Liamos

I will use our computer network here – our city network – I guess what had me confused here is you said that you don't want employees putting stuff on the network and I know we don't get any pop up ads on my company network so you are telling me that the city network gets such ads or things coming into it.

Stephen Bennett

I am always amazed with what show up on my computer on a daily basis so I try to unsubscribe and that never works. You can never unsubscribe to this stuff at least the first time. Either on the e-mail or in the mail – there are mass mailings that come out and sometimes they end up with us or just somebody handing stuff to you – we wanted to make sure that unintentional receipt of the material and somebody is sitting there holding onto it or reading a letter that is not what we are trying to prohibit because we realize that you couldn't help that. We are not looking to punish people for their unintentional acts.

Alderman Liamos

Thank you. Thank you Mr. Chairman.

Jane Joyce

Just for clarification – I just got a copy of this amended ordinance – in Section 7-81 in subsection (a) you talk about person and in (b) you talk about municipal official or employees. Are they different? How is person defined in (a) referring to employee?

Stephen Bennett

The only people that are subject to these prohibitions are under that first section – under (a) is no official or employee so that limits it by that. I suppose I could have been more consistent when I wrote it out, but person can only mean those particular ...

Chair Tollner

When was this amendment finished?

Stephen Bennett

About 5:00 p.m. today.

Chair Tollner

It looks like a totally different document than the one that we had – I wouldn't say totally but drastically different than the one that we had – the golden rod copy at the last Board of Aldermen meeting where we discussed this. I would appreciate in the future that the committee had more time to review this ahead of getting it dropped on our laps at the meeting tonight. I look at it and it is substantially different.

Stephen Bennett

I agree. I apologize. We tried to get it worked on as quickly as we could. The major change is that first section, which I think precipitated the largest amount of concern. In some ways you think justifiable concern by everybody and we tried to address those concerns. In the future we will try to get to these in a more expedient manner.

Chair Tollner

In your opinion, this piece of legislation does not violate freedom of speech for the employees that work here in the city?

Stephen Bennett

I don't believe so.

Alderman McCarthy

I actually want to applaud the amendment. I think it addressed virtually all of the concerns that I had brought up at a couple of Board meetings where we discussed this. I do have one question, which is the original text excluded elected officials as city employees and therefore made them not subject to the provisions based on some of the discussions we had about what happens when the Board of Aldermen is discussing an item that we are going to put out for a referendum or whatever. You potentially have the same situation here that discussing something that is being televised from this Chamber is actually the use of city systems and facilities for that purpose. I am just wondering if we have addressed that.

Stephen Bennett

I guess I don't understand your concern. If you could pass it by me one more time I would appreciate it.

Alderman McCarthy

The concern is that when the Board meets it is using city facilities and using city equipment for example to televise the meetings, and if somebody sits here – we had this discussion about the appropriateness of commentary addressed to the public, but I tend to think that any member of the Board is within their rights to say in their remarks that gee the citizens ought to go out and support a referendum that is to the city's interest. Under the current wording, it would appear to me that when you do that you are in violation of the ordinance, and, therefore, subject to forfeiture of office according to its terms.

Stephen Bennett

That clearly is not the intent of the ordinance.

Alderman Bolton

Why don't I take a shot at that and then I have something to say on something that came up a few minutes ago. I think arguably it falls into the exception in ( c ) ( 1 ), but having had it pointed out I don't think we ought to rely on that. I think we probably ought to draft in another exemption. It raises the issue – I think citizens who come before us at our public comment period or at the public comment period at Board of Education meetings or whatever they do at the Fire Commission and Board of Public Works and anything else have the right to advocate having established a public forum they can advocate for whatever they would like to see happen and whether that is a valid measure or the election of a particular candidate or what have you so I think we ought to think about some exception that captures all of that during periods of time where comments are accepted from city officials or from members of the public that ought to be an exception. We will think about that and I am sure we will try and capture that some how.

As far as when this was prepared and ready to go, I would like to remind you Mr. Chairman my original intention was to hold this at the full Board, bring it back at the full Board, and we would have had plenty of time in advance to get out copies to everyone. At that time, it was mentioned that City Attorney Connell was away last week and the earliest he would be available to participate in these discussions was when he returned this week and in fact when he caught up on the work that obviously would be waiting for him. Essentially I met with Attorney Bennett and Connell and Clarke on Tuesday and drafting of this or redrafting of this took place on Wednesday and today. I have a business that I run and I am not available on a full time basis in City Hall either so the very earliest it was available was today and it was known in fact when you suggested that it be returned to this committee that would be the case. I just want to remind you of that. Certainly no dilatoriness on the part of the Legal Department that was the result. We all knew that was going to be the result.

Chair Tollner

I just wanted to know when it was and I think the committee and most of the members of the Board of Aldermen would agree that when we are fine tuning a piece of legislation to the extent that we have done with this one that work belongs in committee not necessarily at the full Board.

Alderman Bolton

I don't disagree Mr. Chairman ... tape flipped ... impossible and knew it was impossible at the time you asked for this to be returned to this committee, and at the time you promised to deal with it tonight. Frankly it was an effort to get it done by tonight.

Chair Tollner

I don't think I chastised anybody I just said we appreciate the legislation getting here, and I just wanted to know when it was done.

Jane Joyce

I just would like some clarity again to revisit the issue of the discretion of the supervisor with the subordinate employee. What is the intent of the legislation when a supervisor chooses to discipline under the telecommunications policy or under if you will issues related to insubordination and not as it regards the use of equipment as intended here?

Stephen Bennett

Without looking at those policies or ordinances I think you always look to see under the circumstances which of the policies or which of the prohibitions most accurately fits the situation. You can violate the computer use policy in any number of ways just by sitting there playing games all day. That would not violate the policy we are discussing here. On the other hand if you are sitting there popping up political messages on our system I think the more appropriate ordinance to be punishing the employee under would be this one here. I think you look to the circumstances. It is no different than in criminal law, which I am still far more familiar with than municipal law. There sometimes are 3-4 statutes that you could charge somebody under. You pick the one that is most appropriate. Again, there will have to be some tough decisions made by our supervisors in enforcing this statute, but as Alderman Bolton pointed out, is that unfortunately that is part of what we have to do. Those are tough decisions. You have to weigh the circumstances, look at the facts, and make your decision. They won't always be the same. We know that. We trust and hope our supervisors will do the best job they can. I think a lot of the supervisors also know that they have to get the best out of their employees they have to treat them fairly and hopefully even handedly. I hope that is what they do. All ordinances are open to some amount of interpretation and discretion.

Jane Joyce

I am not trying to be difficult here, but I can think of several instances when a supervisor may choose to look at it as insubordination, handle it and discipline it appropriately for the purposes of avoiding if you will the assessed fine. That is my concern. Should a supervisor continue to address it in this manner is the supervisor going to be subject to any provisions or intent of this legislation?

Stephen Bennett

I think that is what Section 7-81(b) is designed to do is to avoid that situation where there is an obvious violation of this section and for whatever reason the supervisor decides that they don't want to enforce it and that would subject the supervisor to action under this ordinance. That was one of the concerns we were trying to address. I suppose one of the scenarios is a supervisor and an employee could be – having a supervisor kind of overlook these kinds of things obviously sets the stage for the employee to continue to do this or other employees to continue to do stuff like this and that is what we are trying to avoid by putting this section in for supervisors. Again, if the supervisor is charged because he made a close call where I really didn't think it was a political activity I really thought it was just a violation of our computer use policy and it is in fact shown to be a close call I would suspect whoever is going to look at disciplining that supervisor would say you know it is a close call. We have to use anytime we enforce our ordinances we try to be fair about it and we try to use common sense. I think that is what you have to use for this ordinance just like any other one. That is what judges use, that is what juries use. I think that is what we should use here.

Chair Tollner

Just a follow up – maybe I can ask either you or Alderman Bolton – so the intent of the legislation in section 7-81(b) would be if I am a supervisor and I don't take action then the applicable penalty and fines can be placed upon me as well.

Alderman Bolton

Yes.

Chair Tollner

You should get then a level of consistency or more consistency than if that wasn't the case.

Alderman Bolton

Part of the idea is to avoid the sort of look the other way situation. In communities that I have heard about and far from what goes on here in Nashua, but I understand there are places where people, actually get jobs and get on the public payroll and the employer comes in and says here is 1,000 names and e-mail addresses and here is a computerized form letter and your job is to spend all day today sending out e-mails of this form letter to all of these addresses and you get actually what they call down in Massachusetts political hacks on the public payroll doing political sort of work and the supervisor is part and parcel of it and says don't worry about it if anyone says anything I will take care of it. We're trying to head that off before it happens here.

Alderman Deane

Thank you. I understand everybody's concern, but I think you could sit here all night and look at hypothetical situations, and as Attorney Bennett said just like a judge they will look at the best interest of what is going on here and deal with it accordingly. The one thing I have a problem with is

the amount of the fine even though that is going to be imposed by the Court. I don't know how many people work in this place that are day to day employees that could afford to pay \$1,000 for an incident like this. I think that is a little severe. I don't know what the court would end up imposing. I do agree that this facility is here, the employees are here to service the community they are not here to run political campaigns. I do agree with that. I think that is wrong and it shouldn't happen, but this \$1,000 I think is kind of harsh. It goes on to state in the event of a violation occurring over a continued period of time, which I don't know how you would define continuing period of time, each day shall be deemed a separate offense – so this person could have a real bad week and we out \$5,000 - possibly depending on what the court imposes. I think if you are going to sit here and take an employee and charge them \$1,000 a day for these offenses – I just think there should be another way to deal with this. If you are going to reprimand them then it should be done – there is formal reprimand in this building now depending on which union you are in, but whether they get a letter put in their file and they get written up and then they get a suspension and then they get termination. I believe that is the way the ASFME works correct it goes into a file right?

Jane Joyce

Right it is in progressive terms. That is handled that way in progressive discipline with all of the bargaining units, which was my concern that if a supervisor and/or a manager had the same concerns as Alderman Deane just expressed they could choose to discipline under another policy if you will and that is my concern – to avoid the fine.

Chair Tollner

I know Alderman Johnson is waiting and Alderman Bolton wanted to respond. I had the same concern. I think that we would probably be more apt to fine somebody if the fine was more reasonable. The same intent is there and we may be more likely to take action if the fine was more reasonable.

Alderman Deane

As an Alderman this also applies to me as well.

Chair Tollner

This particular piece of legislation.

Alderman Bolton

If you come in here and use a city copy machine to copy off campaign materials yes.

Alderman Deane

Thank you.

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Alderman Bolton

Let's understand. The idea is not to fine anyone \$1,000. The idea is to let everyone know that this is serious and it will be more than you can afford so don't do it. If you make it \$50 and someone looks at it and says hey it is only \$50 if I get caught so what, that is when you have a problem. Again, this is the standard fine in our code of ordinances. All this stuff about conflict of interest and so forth if that gets violated that is a \$1,000 fine the same way. All the stuff in there about other things that municipal employees are supposed to do or not supposed to do \$1,000 – that is the standard fine. I think this is more serious than most of the stuff in the book that applies to city officials and city employees. If this isn't worth a \$1,000 fine we ought to go through there and reduce all of the others to \$10 and \$12 and \$15 because this goes to the heart of open government and not having a political machine that gets entrenched in power and aggrandizes to itself that power by funding their political operation through the public till and this is intended to be harsh if someone gets caught because it shouldn't happen. It is intended to make it clear to our employees you don't want to do this, don't do this. It is intended to make an employee stop when a supervisor says to do something that may be a violation of this and say no I am not going to do this, you may be the supervisor, but I am not going to do it. It is intended to be taken seriously. I hope no one every gets fined \$1,000. I hope none of this ever happens.

Alderman Johnson

I just want to elaborate on Alderman Bolton's comments. I guess my question is going to be posed either to Alderman Bolton, Corporation Counsel, or Mrs. Joyce. What happens if the supervisor decides to do this who then rats on the supervisor to say that the supervisor is asking me to do this? Who does the employee go to? I guess we are putting this all on the lower end and you just brought up a good point here with the supervisor. The intention of this is not to have anybody doing political actions here at City Hall, but the supervisor tells the employee to do it – who does the employee go to and say that the supervisor is making me do this because we're all looking at below, but if the command comes from higher up down to the supervisor to come down to the lower level who then is going to be the one to help that employee? If we rate on somebody do we get consequences and retaliation against that employee because they are being asked to do something that they know that they can't do? That is my first concern.

Alderman Bolton

Can I answer that?

Alderman Johnson

Can he answer that for me through the Chair?

Chair Tollner

Yes he can.

Alderman Bolton

It is the same thing as now whenever a supervisor would ask a subordinate employee to do something illegal. If, and I am not saying this has ever happened and I don't want the people in these positions, but, if the head of the Building Department tells some inspector to pass property when it doesn't meet the building code that lower level employee commits a crime if he or she follows that order so he or she should not follow that order and should report that illegal command to higher authority and that is either go to the Human Resources Department or go to the supervisor's supervisor or call the police or some appropriate level. That exists for everything we have so this is just one more law that is a law and if any employee is told to do something against the law they should not do it.

### Alderman Johnson

I just wanted to make sure that we're aware of this also. A couple of issues were raised in this piece of legislation regarding employees and the consequences of a \$1,000 fine. If people would be happy we could put it up to \$1,000, but when you talked about discipline, you have an employee handbook and this is really no different than if you would have discipline in the employee's handbook because they are not allowed to do certain things. There are different levels of consequences – there is probably an oral warning, there might be a second one up and then written and then termination. I don't believe that this is going to be any different than if you had an employee handbook. My goal here and the people who have sponsored this legislation's goal is political activities do not belong in City Hall. City Hall is to represent everybody no matter what party they belong to and to send political literature out of here and to have a campaign running out of here – I don't care if it is this Mayor, the last Mayor, the Mayor before, what has gone on over e-mails – everything in this city belongs to the citizens of the city and when we violate this and allow a lot of political activities coming out of here I think it is very offensive to everybody in the city and it should not go on and that is why I supported this at the beginning to find this step, but I hope nobody every gets to that point here because of the fact that it should not be going on at City Hall. I would hope that my colleagues support this and we once in for all squish political activities here at City Hall. Thank you.

### Alderman Cote

I have been following this closely and I just have a quick question and am trying to align it to perhaps activities that have occurred here in the past. Not long ago there were political activities that occurred in this building where there were endorsements of candidates that were running for federal offices and I am wondering Attorney Bennett if you could tell me the activities that occurred in the building not long ago in that regard would that be appropriate or inappropriate under this legislation?

### Stephen Bennett

Federal candidates appear on state ballots – I think that is what – I don't think we are making any distinction between that you are banned from state and local politics and you can do federal politics. If city systems were used for that purpose to me that would violate the act because there are state ballots. I think that is what the intent was anything that is on local or state ballots.

Alderman Cote

Do you need me to be a little more specific for you? This is the forum that occurred upstairs in City Hall where I believe Congressman Sununu was endorsed and there was a visit by former Mayor Rudolph Giuliani. I am sure you are very familiar with that activity that occurred – would that sort of a forum is permitted in City Hall any longer?

Stephen Bennett

There is an exception under 7-81 (c ), which does allow certain activities to go on in those areas of City Hall, which have traditionally been used that way. Our auditorium is one example. They have had political activities in there. I don't think that is what it was intended to cover. We do allow certain activity and certain forums. If you are saying that if someone used our systems to say please go to attend these activities then that would be a violation under this section if that is what you are asking. If someone was to go out and run off signs saying, whoever my candidate might be, is going to be appearing here at City Hall later on in the auditorium, which is legitimate that he is there, but my actions of advertising that and using the city systems would be a violation of this.

If I could say just one other thing and not to violate any of the rules of the committee, but there have been several comments about our use of progressive discipline and that is a fundamental part of a lot of our CBAs that we have. You look at a warning, you look at a one to two day suspension, and maybe if they keep repeating it you go to termination. I think it should be clear though that while that is what happens in a whole lot of cases because most of the transgressions by employees are relatively minor and warrant that, there are infractions which one offense; the first offense is serious enough to warrant termination. I didn't want anyone to think that everyone will get one bite of the apple no matter what they do under this ordinance. That may not be the case. That first bite may be so big that you are going to end up with termination. I just wanted to make that point that it is not always progressive. Sometimes you can make a really big mistake and you are going to get the full stroke of the punishment.

Chair Tollner

Can I just build on Alderman Cote's question? I agree with the intent of this particular legislation, but going back to that example of that situation, if you were an employee here in the city during your lunch hour you went down to Kinko's had some fliers made up and pass them around during your lunch hour and it was just announcing that a particular candidate was going to be up in the auditorium that night and it rolled out that way, there wouldn't be a problem with this legislation underneath that circumstance?

Stephen Bennett

Well, assuming during the lunch hour – we are not trying to impose on people's non-working hours. We are looking at this as when you are working here. If you are not using a city system as far as copying. I'm not sure what your means of distribution are. If some employee started walking around and handing them out and talking to other employees who are not on their lunch hour I might have a problem with that. It might not be in violation necessarily of this, but it surely would warrant some

supervisor saying do you mind leaving my department you are kind of disrupting my work. There are other ordinances ...

Chair Tollner

I understand that, but if they were to give it out ...

Stephen Bennett

It depends on where they are giving it out. If we have a place where we allow people to post material I think that our employees have that right during their non-working time to post that as long as they didn't copy it on our machines.

Chair Tollner

That particular instance – I know there have been with both parties, it is raining outside so they are announcing their candidacy upstairs in the auditorium – the situation with that event with Congressman Sununu at the time, no city time, no one was communicating via e-mail, voice mail, phone, whatever, that particular situation separate that occurred there would not be affected by this particular piece of legislation?

Stephen Bennett

No as long as – that is what that section says is as long as you are following the other requirements that we have that is fine. I could also see where there could be – this is one of these gray areas where you have to use common sense and we would expect our supervisors to do that is that sometimes these meetings particularly when we had former Mayor Guiliani here and I think he was outside on the front steps for a while – sometimes we do pass around information to one another saying hey you might want to avoid going out the front door for a while there is a big crowd out there or if all that racket out there you are going to hear around 5:00 p.m. is because there is some event going on out there. That is when you consider is this person violating this ordinance or is that purpose of that notice just informational purposes just to keep the employees from all running down the front of the building to see what is going on. Again, you have to use common sense. You have to look at what that was. A message that says hey a candidate is here and let's all go out and show our support for that candidate that is over the line and that would be a violation, but you might want to avoid going to the auditorium right now, there is something going on is something else.

Chair Tollner

Are there any other questions? You would like to make a comment?

Steve Lyons, 80 Linwood Street

I am also the staff representative for AFSCME Council 93. I was made aware of this legislation and I would like to speak on some of the modifications. Again, I have gotten it this evening as the rest of the committee has. There are some concerns regarding interactions with collective bargaining agreements that we currently have and the ordinance. Hopefully they can be resolved. There has

been a lot of talk of progressive discipline this evening. What is the discipline? Imposing a monetary amount plus other discipline – we would view that as additional discipline. When you give someone a written warning that doesn't include what would possibly with the people I represent between a 1 and 2 week suspension economically. Progressive discipline is a written warning, is a reprimand or suspension, then possibly termination. We have a just cause provision within the collective bargaining agreement. That just cause says discipline must be given out fairly and equally distributed. There has been discussion on a case-by-case basis. People talk about mitigating circumstances. I think that is what the Corporation Counsel was indicating or alluding to. The problem is this is in a first offense constituting at least a two-week suspension. I see it violates just cause. This is my opinion. Instituting it would change the collective bargaining agreement because when you defer to the courts they use a different standard. Reference was made to the courts. That is beyond a reasonable doubt. That is higher than just cause. There is a different standard being applied. On top of it, the individual will now have to possibly obtain legal counsel. There are additional fees. You take him to court that is outside of the collective bargaining agreement. However, we see it as discipline is going to be imposed or applied that will change this. Just cause has that each individual will be evaluated on the standards and merits but that discipline has to be even. If you impose this we could see a violation of the state law 273(a) section 5, paragraph 1 subsection (I), which says to make any law or regulation or to adopt any rules relative to the terms and conditions of employment that would invalidate any portion of this agreement entered into by the public employer, making or adopting such regulations and laws – the employer is prohibited from doing that. This in my view would violate or change the standard of just cause because you are defining that you have the ability to terminate on a first offense. Just cause is waived by the arbitrator, the cases are presented, the standard is applied. If it is a just cause case determination the city would have to prove their just cause standard. You are imposing immediate possibility of termination under this rule.

With respect to it, there are concerns – I will not discuss the issues of should there or shouldn't there be a rule regarding this in the workplace, that is not my concern. My concern is encroachments on first amendment rights, concerned that the city is looking to constrain rights. May there be consorted activity or may they not that is one of the issues that wasn't discussed here. Is it a consorted activity under the rules of the law. With respect to this my understanding of the discussions over personal vehicles – it is my understanding that has been cleared up. I only received the initial draft with respect to utilization of vehicles. The indication that the supervisor shall discipline I see that as not a discretionary situation under the provisions of the new statute that is out. It says no supervisor upon learning of the violation of this article by a subordinate municipal employee shall fail to initiate discipline. What if the discipline by the supervisor isn't warranted? Maybe it doesn't go to the degree of termination that it is a simple notice that may not be documented. Would that supervisor then be in violation in imposing that and saying that if he doesn't do something would violate the just cause standard because it has to be applied and weighed and investigated fairly? There are concerns with how it would interact with the just cause standard in our collective bargaining agreements.

I represent the custodians; I represent the Department of Public Works for municipal side. I do also the city transit, however, they are under separate rules in the ... tape inaudible ... The two units I do represent we do have concern and reservations that this could encroach on agreed upon terms with the city or the School Board and subsequently cause concern. With respect to this there was a

discussion about amendments with regard to the elected officials and department heads. My concern is when employees come to these forums as well we want to make sure those employees would be included in that modification.

Alderman Bolton

Everyone – and I said everyone.

Steve Lyons

That specifically those people are included because they do have the right to have discussions in an open forum in a public forum. I don't think the intent was I just want to make it for the record that we want to make sure those people are included. That basically is the concerns with the collective bargaining agreement.

Chair Tollner

I would just like to get some feedback from Jane Joyce and Attorney Bennett to the comments that were just made.

Jane Joyce

I would not doubt for one second that AFSCME would not file an unfair labor practice. Their interpretation of the progressive discipline, the discipline whether it be warning, a suspension or if warranted termination is an action in and of itself. The additional fine would be an issue in which the city would have to overcome before a hearings board and at least in my experience when it is perceived if you will double jeopardy, generally speaking the employer is not as successful as they could be.

Stephen Bennett

I think the city has every right to pass ordinances regarding the illegal use of its property by its employees. There are plenty of rules that restrict that. That isn't something that we bargain with unions with – their inappropriate use of property. I can't see where that would violate it – nor do we negotiate terms with unions about obvious misuse of city property. First of all I have to take issue at suggesting that this is something that is part of the bargaining process as far as passage by this body of any ordinance, which clearly is designed to prevent the misuse of city property. Then as far as the concerns about the progressive discipline I think that is clearly addressed in Section 7-82(b) where it says "this Article shall be subject to discipline under applicable procedures". Clearly the CBAs are contained under that and we are as has been indicated here clearly bound by whatever the procedures are. There is a just cause provision and any time that anybody is disciplined we have to either meet that burden of proof or we lose. As far as supervisors being required to impose discipline, as we discussed earlier the purpose of that is either one to avoid supervisors who are basically in cahoots with the employee on either requesting that they do it or looking the other way or in another instance it also avoids the concern we had about not treating everybody fairly. Now when we say that the supervisor has to do something what we are saying is they have to conduct a fair

and impartial investigation and following that fair and impartial investigation if they conclude that the person has violated this section then they are under an obligation to enforce it and to then recommend whatever discipline is appropriate under the circumstances. I think that is expected of all supervisors, but it doesn't in any way do away with whatever due process is required during the investigation or the hearing process. I don't see this as any different than any other process. We're bound by the CBA and we can – again ultimately if it goes to arbitration we let the arbitrator consider circumstances and what was appropriate. There are cases and the city has been successful in taking forward cases to arbitration where one instance of this conduct has resulted in termination. There are cases of employees who have stolen city property who have been removed on their first offense. There are situations where we have employees who assault other employees on the job who are removed. They are not given a second chance to assault an employee. There are employees who use drugs on the job and who have been terminated for that. There are a number of instances where that has occurred. Most instances follow progressive because most of our employees don't make that big mistake the first time. Again, I don't think we can argue about it, I think we have a disagreement, but the discipline is what the discipline is in the CBA and it is what is appropriate. That goes for merit employees the same way it is what is appropriate.

Also as far as changing the just cause all union employees have just cause provisions as far as I know for their punishment, but that is not the limit of the punishment. We can file charges against employees, bring them to court for committing offenses which result in both discipline on the job, but also entitle us to request criminal charges be filed against them also. We can go to civil court and request damages on someone who steals something. We can fire them for that and seek to recover the money or whatever has been taken. We're not just limited in circumstances to seeking some type of job action. There are other alternatives. You are correct that it is a different standard in district court. If we went to district court it is reasonable doubt. I find it difficult to favor an argument that is worse for the employee than just cause. Just cause I think is a lower standard than beyond a reasonable doubt. I am not sure I appreciate how the employee comes out on the short end on that if we have a higher standard of proof there. I can't see how this violates the provisions of the CBAs either in the establishing this ordinance. I think it is conduct that clearly should be prohibited, and, therefore, this body has the authority to pass this ordinance. It is not something that I think we would negotiate with the union whether or not they can misuse city property.

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Steve Lyons

If I could respond. At no time did I indicate that the issue at hand of utilization of the equipment was a subject of bargaining. Respectfully, I indicated I wasn't here specifically on the topic of that but more so of how that ordinance would interact with the Collective Bargaining Agreement. I am not indicating nor to I advocate that assault – anything of that nature and I need to make that very clear. Issues of concern – you are indicating specifically items that have been brought up with arbitrators that first offenses are grounds for termination, that to some degree depending on the insubordination or the mitigating circumstances – I am not going to dispute you that certain levels for those issues have been determined by arbitrators as first offense they are termination issues. Here you are indicating a standard that can be met on a first offense through establishing this ordinance under just cause is just cause for termination. I see that there is an interaction here that may violate the collective bargaining agreements. That is the concern. We can disagree if there is a double jeopardy or not and that is fine we can respectfully disagree, however, when you make discipline

under just cause you have the right to impose suspensions if the severity under it warrants it but there needs to be mitigating circumstances. I sat and heard the discussion earlier where it would be on a case-by-case basis – one person could be fired and another person could get a written warning or oral warning. That raises concerns to me. Under the just cause standard there is consistent application of discipline barring severe mitigation. I will not dispute you. The mitigations come into factor, however, under this ordinance language I see that it will not interact more like boiling water than water and water. There is going to be a separation that I see is a problem and that was the concern I wanted to raise.

Alderman Johnson

I think I have a couple of concerns with what you said. First of all I would think that the union and the employees would be happy that this is coming into place here with the fact that they can't be asked to do any campaigning on city time. I can't see where this is a violation of their first amendment right because their sole purpose here at City Hall is to come to work and do their job and not do campaigning for any candidate because their supervisor or somebody else who is in charge is asking them to do that. Their sole purpose here is to work for the city and not campaign so I would think that the union would be happy that an employee is not being asked to do something outside of the premise of their own duties. The other thing is I guess I am confused here when you talk about the level of punishment I am reading this over, and I guess when you look at any type of punishment there is always supervisors discretion no matter what it is. If somebody steals something the punishment is going to be different than if somebody just said to somebody get out of my face. It is the severity of the crime of what the action was that will dictate the type of punishment that will be in the contract or anything else. You have a standard code of conduct in City Hall that needs to be followed and abided by. It should be. I don't care if you are a union employee or a non-union employee there is a certain code that an employee is expected to follow and just because you are a union it shouldn't be any different because you have a contract. People are people and they are supposed to follow certain rules and regulations when they are employed by anybody. If I remember correctly New Hampshire is not a right to work state and I correct other than the fact that with a union – It is a right to work state?

Alderman Bolton

No it is not.

Stephen Bennett

That is before the legislature as we speak.

Steve Lyons

That is House Bill 821.

Alderman Johnson

I mean there is nothing that prevents an employer ever, other than a union contract, to just get rid of somebody – if they don't like the shoes you wear you can be gone other than a contract and I have seen that happen in places before. I think you have some valid points here, but I think if you really take a look at the intent of this whole thing it is to prevent things, and in my feelings it will better things at City Hall rather than worsen things at City Hall. I don't know if you took a survey among the people in your collective bargaining unit, in your union as to how they feel. I am sure if I worked and someone told me that I had to do campaigning for somebody I didn't like and I was told I had to and then I said I don't want to – I am stuck even if I went and squealed. A lot of people might not say anything because of fear of retaliation. Let's be honest here. Not everybody speaks out. We shouldn't be doing any political work here and I think you should embrace something like this.

Chair Tollner

Alderman Johnson I don't think any of his comments – he agrees with the intent of the legislation as far as not using any city property and things like that. I think his concern was the penalties and the way the penalties are going to be passed out. I think he concurs with the intent that the city employees regardless of whether they are in a union or not should not be politicking and doing any of that.

Alderman Johnson

Maybe I misunderstood but I didn't follow that.

Chair Tollner

I don't recall him ever stating that he had a problem with a good chunk of the legislation other than the penalty.

Steve Lyons

My position actually is neutral on the terms of it. My issue was with respect to the discipline and how it was going to interact. Again, I have not said people should be running around soliciting people for elected officials. Again this is not being portrayed as a union issue relative to their actions or inactions.

Alderman Johnson

But you did mention first amendment right. You shouldn't be here campaigning while at work anyway so I can't understand how first amendment is really going to fall on that because your job is not here to solicit a candidate, your job here is to work and do city business. The first amendment would be outside of city hall if you want to solicit about a candidate but not here.

Alderman Bolton

If you could tell me how the first amendment is implicated by this in its amended form I would be very much interested in that because right now it is not prohibiting anything but use of city equipment

and we are talking about particular conduct. We are not talking about speech at all. I understand that in the earlier version there might have been some concerns in that regard, which is one of the reasons for its drastic amendment. The other thing Mr. Lyons, I guess I don't understand your concern about it not melding or not blending with oil and water with existing collective bargaining agreements. It says subject to discipline under applicable procedures. Applicable procedures is meant to be referring to the collective bargaining agreement in situations where there is one. Up to including removal or termination that means anything up to that, which in all of the collective bargaining agreements I am familiar with that is the same thing – discipline can be up to termination. I don't see how this is at all at odds with the AFSCME agreements that you are familiar with or with any of the other bargaining units that we have.

The discussion about one supervisor may do something different from another supervisor I think exists in every situation and exists currently, and it is something that people struggle with, but I think that would be true that someone may be treated differently here in City Hall in the Planning Department if they were caught smoking in the rest room as opposed to someone in a school situation under a separate collective bargaining agreement with a separate supervisor and so forth. It is inherent in the human condition that no two situations are absolutely identical and no two people view different situations exactly the same. I think you can be assured this is meant to fully comply and meld seamlessly with collective bargaining agreements where they exist. Your suggestion that the types of examples that Attorney Bennett gave about people being terminated on one offense where that offense is theft or that offense is fighting or drug use, by saying that those things had to be previously determined by arbitration that is not accurate. Where those things have happened and where an arbitrator has examined those situations it is because that discipline was imposed and then the matter was taken to arbitration. You never get arbitration until something happens and there is a dispute. The first time someone was ever terminated for fighting on the job that had never previously been subject to arbitration and the same thing will be true here. The first time it goes to arbitration will be the first time it is there. This is something that is important. This is something that strikes to the heart of representative democracy and we're trying to deal with it. We are trying to deal with it respectfully to employees' rights, but I think that we have a right to say that this is wrong and we want you to know in advance that it is wrong and we want you not to do it and if you do do it then you will be subject to discipline in accordance with the collective bargaining agreement if there is one, but if it is against the law it is against the law. If people steal from the city they can be prosecuted for stealing, if people assault people they can be prosecuted for assault, and if people break this law they can be prosecuted for that. That is what it is meant to do.

Steve Lyons

I had questions posed. First with regards to the first amendment specifically it is the inclusion for the employees within the public forum to be able to address the public forum. As I indicated that was a concern being included. That is a valid issue and that is a specific concern. Encroaching on that we see is well above and beyond and protected by the first amendment rights. With respect to the second issue, items are taken to arbitration, however, if you speak with Mr. Bennett he will probably concur with my opinion that other arbitrators there has been a standard established – I am not saying within only the City of Nashua – that this is standard. That is something that can be discharged. It may be the first time it happens in Nashua, but it is not the first time it has ever been heard. With respect to other issues I was using a broad spectrum with respect to applications of

enforcement and collective bargaining period. I didn't say the City of Nashua we will not get a termination based upon arbitrated decision. Obviously the employer takes his action first then should the case be determined to have merit or not based upon the union review, subsequently will go to arbitration. I am not disputing that in any way that issue. The other issue is I have not touched base upon the specifics in it. I have focused on the issue of interaction with the collective bargaining agreement. Again I think there are concerns on both sides. The union is not coming in here and saying they should be told to do these things, they are not being told that they have the right to do them.

More so is the concern and interactions with this law with the collective bargaining agreement with the discipline specifically. Originally I had come in here prior to this modification regarding the sections with the employment and individuals with regards to the issues that have been addressed in the modification. I did not intend on even discussing them or broaching them in my discussions with you, but that is what brought me with that collection bargaining concern so there were greater issues that have been diminished as a result of the modification. However, in the union's opinion, there is a conflict. I would rather discuss those here. What it is you do implore, institute double jeopardy. Jane Joyce from Human Resources did indicate that wording but it is specific. You issue me a written warning then you are going to turn around and impose an economic sanction then I think under the progressive discipline you should have issued me a two-week suspension. You would have gotten \$1,000 through me under the progressive discipline. In stead you are going to give me a two-week suspension then you are going to impose \$1,000 fee upon me as well. I guess I have a concern with regards to that double jeopardy issue. I am saying with the people I represent one there was an issue of can someone afford this. Probably 70% of the people I represent are check to check. That is a concern. Now you are going to tell them that on top of it you will impose a two week suspension plus impose possibly depending on that gamut of it, it could be a two day or two week or thirty – I have no idea what you are going to impose with regards to progressive discipline and what you determine, but then on top of that you are going to then impose \$1,000 fine.

Alderman Johnson

We don't have a

Alderman Bolton

We don't have a ...

Chair Tollner

Hold on a second. If you have a question that you want to ask, ask it through the Chair and an Alderman can respond to it.

Steve Lyons

I apologize.

Chair Tollner

No, no, you are not aware of that so ...

Steve Lyons

That is our concern. Respectfully we can disagree, and there are forums, however, I would prefer bringing it before the city at this time to attempt to have it addressed than in other forums. Again, do not take that as a threat. That is not. My concerns were to eliminate our concerns in this process.

Alderman Bolton

Can I try and understand. First of all the term double jeopardy is a term or art in the law and this is not double jeopardy as a matter of law. I think it does more to create misunderstanding to refer to this as double jeopardy because as a matter of law it is not. If you would explain to me how this creates a system or a situation that is any different from an employee – say someone in, and I don't think this would happen and I know the fine people who work for us in this area would never do that, but someone in an area of government where they have to take payments in and that employee takes cash payment in and instead of putting it in the city's till puts it in his or her pocket. That employee can be subject to discipline and be fire but can also be prosecuted in court and fined or potentially even jailed and this doesn't go that far, so how does this create a situation that is different from that? If someone commits something that is a crime they are subject to the sanctions that the law imposes for commission of a crime totally separate and apart from the affect on their continued employment. How does this create anything different from that, which exists now in myriad areas. I could give you a hundred example not just the one I did.

Steve Lyons

What you are talking about, under the theft it would probably be under 634 that would be the theft charges depending on what level that would be the state statute that would govern that. What we are talking about is an employer instituting as I have indicated under the statute 273A you are the bargaining ...

Alderman Bolton

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Let me give you a different example.

Chair Tollner

Hold on a second. I don't want a conversation going back and forth. You finish, ask your questions and then we will get them answered.

Steve Lyons

I didn't ask a question, but I will respond to the question. It indicates that an employer, which I would define the City as the employer with respect to these collective bargaining agreements, instituting

the law or regulation that would modify the contract. In my opinion this would modify the just cause standard. You are establishing the standard of just cause being a terminating offense on a first offense up to that. That is the section of law 273.

Alderman Bolton

Let me give you another example since you want to differentiate between ordinances passed by the city and state statutes. Suppose this city says we're now going to put a stop sign at the corner of Courtland Street and Webster Street and if anyone goes through that stop sign they are subject to a fine. Are you saying that we can't do that because if a city employee goes through the stop sign that would create some kind of violation and create a further work rule?

Steve Lyons

Actually not in that – again it is under a statute that would indicate – establishment of the stop sign would be the city's responsibility, however, I believe the motor vehicle enforcement would be included with regards to citations relative to the violation of stop sign. I am not sure if that differentiates from the first question posed.

Alderman Bolton

It doesn't. Right now we have authority same as the authority to enact stop signs to enact ordinances governing the use of city equipment and we have authority under state law to establish fines up to \$1,000 for a violation to that so our authority to do this is identical to our authority under state law to erect stop signs. It is absolutely identical.

Steve Lyons

I do not see it identical because you are specifically ... tape flipped ... you are imposing a fee outside of the state statute with respect to violation. For example, I have to go back to one of your stop sign – there is a specific fee that you would pay for a citation according to the statute where this is enacted by the state – here you are establishing an ordinance in the city, which will govern employees as the employer where under the stop signs you were enacting under a state legislation and adopting those. Those stop signs do not directly impact the employee's statute regards to employment. If he gets a citation he gets a citation and he pays it. Here this ordinance has direct bearing on the ability of the employee to maintain employment. There is a difference in the statutes. You are the employer.

Alderman Bolton

Yes, but if our city employee were driving a city vehicle and were to be cited ...

Chair Tollner

Hold on a second. Just before we start again I think this conversation probably could go on until

midnight.

Alderman Bolton

I am trying to understand because if I do understand then I will try and amend it to address these concerns, but thus far I have not seen a distinction. Are you trying to say that if we enact an ordinance to erect a stop sign on a certain corner and one of our employees goes through that stop sign and is cited by the police and pays \$50 fine that we cannot also take disciplinary action for driving the city vehicle through the stop sign and give them warnings or suspensions or whatever is appropriate given the just cause provisions of the contract?

Steve Lyons

Quite honestly I have yet to see an employee cited for going through a stop sign so I think an employer could probably attempt to do anything and have it weighed against the just cause standard. I have yet to see one. I have not had to deal with something of that nature. Could you do it? I think you could probably do anything. The question is going to be would it apply under the just cause standard as appropriate.

Alderman Bolton

That is what I am trying to understand. You seem to be telling us that the law prohibits an employee from being disciplined in his employment and also subject to court action and I have never seen that before. That is a concept that I – I have done legal law. I have represented unions. I have represented employers. I have never seen that argument before. I have never seen it applied. I don't know of one case that stands for that.

Stephen Bennett

Just so we all walk out of here thinking this is unique as far as impacting the CBAs with city ordinances, we have conduct regulations in this city, which apply to all city employees. We have punishments that allow us to fine them I believe for violations and terminate them if they violate those. I think those apply to employees whether they be merit or subject to the union. We have had those on the books for years so I think that we do have other ordinances, which in fact have the same impact if you suggest we can't have with this ordinance with the CBAs. Again, I think that first of all double jeopardy it is not – fining and putting people in jail is something that is done all the time. That is not double jeopardy it is not just two types of punishment – double jeopardy is something to the same person two separate charges for the same thing. We are not doing that. There may be different forms of punishment we can apply simultaneously, but it is not double jeopardy. Again, I think that as far as the procedures for imposing discipline again we have tried to write this to say applicable procedures. In a lot of cases you are absolutely right, there won't be a violation of this statute and in many ways probably would not end in termination, but surely I can see the instance where someone comes in here after hours and runs off 4,000 political posters, sticks a bunch of them around here, and then goes home and gets caught for that where an arbitrator may well say boy you really went over the line for that and that could be termination. He might. I

suppose when you go to arbitration we both take our chances on that and that is how it works in every instance, but there are not a finite number of offenses which have been established and only for those can you be terminated. That is not how it works. There will be new misconduct in the future, which will be subject to discharge that we haven't even thought of yet.

Chair Tollner

I would like to try and come to some sense of closure on this.

Alderman Johnson

I am going to try to. It seems to me like there are two sections under section and subsections under 7-82 Violations that seem to be sticking points here.

MOTION BY ALDERMAN JOHNSON TO AMEND O-02-129 BY ADDING THE WORDS "UP TO" BEFORE \$1,000 IN SECTION 7-81(a)

ON THE QUESTION

Alderman Johnson

I would like it to read this way since the court is the one who will impose the sanction of monetary value. I think maybe that basically from what I understand is out of our hands and the court decides that up to \$1,000 for each offense.

Chair Tollner

Do you have any other motions in that section?

Alderman Johnson

That is it. That is the only thing that I want to amend.

MOTION CARRIED

Chair Tollner

Given that this is a substantially different document I am comfortable with all the sections still with the exception of Section 7-82 the violation piece. It still causes some concern. While I am comfortable with the rest of the legislation I am going to vote against it, and then I will try and sit down with Jane Joyce prior to the next Board of Aldermen meeting to have some discussions and hopefully I feel more comfortable with that particular piece. I think it just – I am just not comfortable with that particular piece given the collective bargaining agreements that we have.

Are there any other comments from the committee members? The motion on the floor is for passage of the ...

Alderman Nickerson

It is actually to amend.

Chair Tollner

We just did the amendment.

Alderman Nickerson

That was just one amendment. Now is the level of the amendment, which I proposed with Alderman Johnson's inclusion.

Chair Tollner

Okay so the motion is to amend O-02-129?

Alderman Nickerson

Correct.  
MOTION CARRIED

MOTION BY ALDERMAN NICKERSON TO RECOMMEND FINAL PASSAGE AS AMENDED

ON THE QUESTION

Alderman Liamos

I am going to vote in favor of moving this out of committee to the full Board tonight, but I still think there are questions that revolve around this legislation that I too have some issues with. The intent of it is fine. I think the intent of it is honorable. At the same time we have seen still questions raised tonight that between now and the full Board meeting I will also examine. My point with the four members of the committee here tonight I want to make sure that this doesn't stalemate and I want to see it go forward, but at the same time don't look at this as an endorsement but mindful that I just want the full Board, my other colleagues, to get the opportunity to take a look at this. Thank you Mr. Chairman.

MOTION CARRIED

NEW BUSINESS – RESOLUTIONS – None

NEW BUSINESS – ORDINANCES

O-03-137

Endorser: Alderman-at-Large Paula I. Johnson

## REMOVING ALLOWABLE DIRECTOR AND DEPARTMENT HEAD POSITIONS FROM THE PERSONNEL ADMINISTRATION MERIT SYSTEM FOR PURPOSES OF DETERMINING SALARY AND PROVIDING FOR FREEZING THEIR SALARY

MOTION BY ALDERMAN JOHNSON TO RECOMMEND FINAL PASSAGE

ON THE QUESTIONAlderman Johnson

The reason I have put this forward is because of the fact that the Mayor has said that the city is in a financial crisis and that he is now talking about possible layoffs to employees in the city. That was said on WOTW on Monday. I questioned him because I said the Board of Aldermen has not mentioned anything about layoffs. Given the state of the city and what is going on in the area and basically – this country is in a recession. I am very concerned with the salaries, and I brought my concerns forward yesterday at the Mayor's meeting. This has nothing against any employees of the city. I think employees do a good job but I think we got to then point here that we can't afford to do everything anymore. The perfect example was Economic Development Manager. He got a \$7,000 raise. Five thousand was in contingency from last year and the rest of it is from this year's budget. When I hear that there is a chance that there could be layoffs here I can't give salaries out like this. We also had somebody in the Department of Public Works that got a \$5,000 raise. When we are talking about contracts and some employees the amount of the contracts might only be 2 1/2 – 3% increase and we are giving raises out like this – I think there is a time that we have to take a look and just reflect on where we are going. When most of our costs here in the city are salaries – some department 80-85% is all salaries – you can't do anything right now. If we are being told we have to cut in every area. I am asking to freeze. I am not asking to cut anybody's salary all I am asking is to freeze salaries at this point in time. I think we are at a turning point with the city that we need to do this. This is why I brought this legislation forward and I – this is my own belief. I don't know if anybody else is going to agree with me on this, but I think we're going to have to put our money where our mouth is right now when we are going to be cutting everything through this city.

Alderman Deane

I have a question for Mrs. Joyce the Human Resources Director. What boggles my mind is the amount of adjustments that are done to people's pay when they change their grade, they fill out the new PDFs and – can you bring me through that process? Why is it done? You have a director or a department head or whatnot come in and say I feel as though this employee does this so I want to move him up two grades and five steps and give him a pay increase. I realize that things do change, but it seems like in the last year and a half or so that has gone on quite a bit. The thing that bothers me the most is the fact that it is being done mid term of the budget and monies that weren't budgeted for these types of activities and monies that were budgeted for overtime or other employees that weren't hired are being used to accommodate pay raises. I have the same concerns Alderman Johnson does. When I got this budget book from the Division of Public Works there are 10, 11 and 12% pay increases to some employees. That is absolutely ridiculous. I am not saying that people don't do a good job, but when you look at what is going on in the economy and the amount of people that are out of work and there is a continuous parade down to your office to

reclassify all of these people and give out double digit pay increases. I sent a request to you. I wanted to see from what I understand the Mayor stated that all grade or salary increases have to be brought through his office for approval. I would love to see the list of the grade changes, step increases, and the salary increases that he has approved since he has been here.

Jane Joyce

In reference to the proposed budget from Public Works, I am not familiar with that information at all so I cannot address the increases in the salaries that are exceeding the recommendation of the Mayor. With regard to the reclassification process, the process isn't quite as you describe. What originally occurred is that either the employee and/or the supervisor/manager indicate that there is a change – a substantial change in the function of the job at which point they review the current position description form, make any changes that are needed to reflect the actual function, then it is returned to Human Resources for evaluation under the HAY system. At no time in my experience in Nashua has anyone come down and said that they wanted the PDF changed, go up two grades, and X number of dollars be awarded to the incumbent. That is not how it is done. Once the evaluation is made if the determination is that the classification grade needs to be changed due to the primary function then that is what is recommended. That recommendation goes back to the division director gets signed off by the CFO and Mayor Streeter. At that point, it is implemented. The reclassification is not something that is determined at the will of anyone. You have to go through a review of the actual functions of the job. If it is warranted then the grade classification would change.

Alderman Deane

Off the top of your head how many reclassifications do we do a year?

Jane Joyce

When I first arrived in Nashua, which was four years ago, none of the positions had been reviewed in a period of anywhere from 5-15 years. It is absolutely critical for classification review to be an ongoing process. We still are in the process of reviewing positions throughout the city. Certainly I think we are well beyond 50% of the 900 positions have been looked at.

Alderman Deane

My question is – you are probably not responsible I am sure – Mrs. Anderson or the department head or the division director – if you do a reclassification and the salary goes up say \$6,000 where does the money come from that is associated with the pay increase and who makes the decision on whether to make the pay increase retroactive back to a certain date such as the one that was done in Public Works where it was retroactive back to the beginning of the budget season so the city cut a check for \$6,000. Who decided that?

Jane Joyce

With regard to the actual salary awarded to the incumbent there is a procedure in place where there is a minimal amount of compensation that has to be achieved when you are going through

reclassification that warrants a grade class change. Beyond that it is determined in conjunction with the funds available, the CFO, the Division Director, and the Mayor. It is a series of people that would make that decision.

Alderman Deane

What you are telling me is that if Mrs. Anderson, the Division Director, and the Mayor agree on taking money out of a certain line item to retroactively pay somebody back to a certain date that is the process?

Jane Joyce

It is not just the division director and the Mayor obviously the CFO has to be involved in that process.

Alderman Deane

That is what I said. That is what goes on. On the readjustment of when you go through to readjust the PDF and the pay scale and everything – how many people that work for the city have threatened to leave over not having their pay scale adjusted? Has there been a line of people that are willing to leave because they are not getting pay increases?

Jane Joyce

I wouldn't have any idea how many people may have made that remark to anyone.

Alderman Deane

How many of these are you currently working on?

Jane Joyce

How many are we currently working on?

Alderman Deane

How many jobs do you think need to be reclassified in the city that haven't been done in the last 5-15 years?

Jane Joyce

Certainly anyone that hasn't been done recently has to go through that review process. What I am saying – an educated guess at this point of the 900 positions that are on the city side we have probably reviewed more than 50% of them.

Alderman Deane

Do you know how many you reviewed this year?

Jane Joyce

Off the top of my head I don't, but I can get you that information.

Alderman Deane

How about this question – how many have been brought to the Mayor and been refused?

Jane Joyce

I'm not aware of any at this time. There are some review of classification that has not resulted in any movement of compensation or classification for the incumbent.

Alderman Deane

What warrants the – if you want to get in line to be reclassified how do you – can you explain to me the process? If you feel as though your job or you go to your department head and explain to him that you feel as though you need to be reclassified and it is a priority, how do you prioritize reclassifications?

Jane Joyce

Generally speaking if there is an immediate need the – if you will the development of a new position that is critical to the operations of the city that obviously would be a top priority for my office. Basically we're working on – we can be working on anywhere from 1-20 at any given time at the same time. There are varying stages because any questions that we may have we will go back to the incumbent and the supervisor for any clarification of what is being written.

Alderman Deane

My last question is even though there are reclassifications that are done there is not necessarily any pay increases is that what you said?

Jane Joyce

There are some instances in which classifications are – we are requested to review the job classification and the end result has been no change in classification, no change in compensation.

Alderman Deane

Was that due to the fact that they kind of went haywire off the scale when they were giving out cost of living increases and the cost of living increases aren't in with the way the scales are currently set up?

Jane Joyce

The function of Human Resources in a review of a job classification is to look at the function of the job in relationship to the evaluation tool that we are using – the HAY system, and if you will the organizational structure of the administration. The determination of the funding or the funding of a position from various sources is not something that I would get involved with.

Alderman Deane

You are not – when you derive these pay scales it is out of this system that we currently have in place so it is not necessarily what a -- say a city tax collector in Nashua and a city tax collector in Manchester are going to be paid two different rates of pay. Am I right to assume that?

Jane Joyce

Correct. We have a range for each classification and we're required to look at the job function, make the determination, assign the grade level, then the compensation is set within the established range whether it be through the collective bargaining agreement or through the merit salary structure.

Alderman Deane

Have they ever reclassified somebody and shown that they should be paid say \$2,000 more a year and then didn't give them the money?

Jane Joyce

Again, the reclassification process does not determine the compensation; it is the job grade classification that goes on during evaluation. The compensation is a formula whereby there has to be a formula implemented that they minimally have to give to the incumbent if the grade changes. Anything beyond that is a determination made by the division director, department manager, the CFO, and Mayor Streeter.

Alderman Deane

When they come in to do this with your department do they come in and tell you that this job needs to be looked at, reclassified, regraded whatever you want to call it, I do have money available to pay this person?

Jane Joyce

We wouldn't ask that question to start with. Again, we are not concerned about – we're looking at the function of the job. When the recommendation goes back to the department and the division director our recommendation, if it is to increase the job classification obviously then the issue of compensation and available funding for the compensation then takes on a different arena with the CFO.

Alderman Deane

If there are no funds available the reclassification sits in limbo until there are funds available?

Jane Joyce

In the event that there is new classification and it is warranted and a determination is made that it should be awarded then it would go before the Board of Aldermen for a request for funding.

Alderman Deane

If the funds aren't available in the operating budget.

Jane Joyce

In the payroll budget.

Alderman Deane

That is part of operations isn't it?

Jane Joyce

Payroll and operations are separate, and any transfer of funding from operations to payroll or vice versa have to go before the Board of Aldermen.

Alderman Deane

They can transfer. You can transfer it in, but you can't transfer it out of payroll right?

Jane Joyce

When you set your budget your budgets are your budgets for the entire year. If you have insufficient funds in your payroll account and the classification is warranted and supported and approved then that individual would have to come before the Board of Aldermen.

Alderman Deane

Thank you.

Alderman Johnson

I will continue with the line of questioning. I am a little rusty tonight. I am really tired so please bear with me. When the salary increase was given in the Department of Public Works that was I think a

12-15% increase if I am correct. I thought – am I wrong?

Alderman Deane

It was like 10.8% or almost 11%.

Alderman Johnson

I was told, and I could be wrong, that some of the money was transferred out of CSO.

Alderman Deane

No.

Alderman Johnson

Okay like I said I could be wrong. When somebody is hired do you offer them down the road in a year from now that they are going to get two-step increases?

Jane Joyce

When someone is hired they are either hired into a collective bargaining agreement or they are hired obviously into a merit position. There are provisions that clearly provide the parameters under which raises are given if you will a step raise is given. Most collective bargaining as well as in merit it is contingent upon a satisfactory job evaluation.

Alderman Johnson

Okay so if somebody is hired and they don't make the first round of raises – if they are hired in January they would not get a raise in July because they are not there. If they were hired in December they would make the July raise. Then it comes before us in the budget because I asked yesterday why is this person getting a two-step increase, which is about a little over a 10% increase. The Mayor approves this. No one is questioning the ability of people. What I am saying is the question of how do we justify 10%? Last year I know and I questioned it during budget time. There was a raise for the 2002 budget then I questioned the middle increase and then there was coming for 2003 and the middle was a cost of living increase. A lot of people I think across the board, now correct me if I am wrong, got about a 9% increase between the raise, the cost of living, and what they got this year all within from budget middle to budget.

Jane Joyce

Within that one budget cycle, I think it was FY '03, if they got a satisfactory job evaluation in the prior year they received their step raise. In January of that fiscal year there was a cost of living adjustment. That was for that fiscal year alone. As you moved into your next fiscal year you had again the provision for a step raise based upon a successful evaluation.

Alderman Johnson

That totaled how much basically? What was the cost of living increase?

Jane Joyce

It was a 2% cost of living increase.

Alderman Johnson

And what was each raise in between on the merit?

Jane Joyce

It is a 3% between each step so within a fiscal year there was a cost forward of 5%.

Alderman Johnson

We didn't get to all budgets yet, but is everybody in the merit system getting a step increase this year basically? Do you know?

Jane Joyce

We wouldn't know that at this point. We won't know that until we are at the end of the evaluation period, which would be some time anywhere from May through the end of June.

Alderman Johnson

If everybody has prepared their budgets to give to the Mayor wouldn't that have to show in there?

Jane Joyce

Generally speaking you would prepare to give the raise, however, there have been several instances in which the step raises have not been awarded due to poor performance.

Alderman Johnson

The other question is I know that basically any information you give to Alderman Deane I would like to get a copy of. I have asked again what are the critical, crucial jobs in the city? Have we hired? I would like to get a list of them.

Chair Tollner

Alderman Johnson if I could just – finish asking this question, but let's go back to asking questions that are pertinent to ...

Alderman Johnson

I am going to right now.

Chair Tollner

Thank you.

Alderman Johnson

I'm going to follow up on Alderman Deane. Any time you give the raises in the steps the Mayor has to approve of them am I correct? Most of them?

Jane Joyce

- Any time there is a step awarded in a math action yes there is a manifest that is produced and it is signed off.

Alderman Johnson

I would like to find out how many – same as Alderman Deane – how many the Mayor has signed off this year and what he is planning on signing off for the next year at this point in time that has come before him. I am really concerned about this. Again, I am not going to say that our directors or anybody in the merit system out there are not doing a good job. What I am trying to do is keep moral up in the city because when we give this high magnitude of raises here and we're not offering anyplace else in the city and I know we're collective bargaining, but there comes a time when people have to bite the bullet here and we can't give out high raises like this – high step increases because of the fact that we are in a crucial period here. There are only two things that you can do here – the Mayor says we are going to lay people off well if we are going to lay people off it is either we don't have enough money to fund it or we have, he has over hired people here too. How do you avoid this? In private sector they start freezing salaries and see if they can work everything out that way before they do any layoffs. My intention is if he would like to lay people off that is one thing, but what I am asking my colleagues now to do is support me on this piece of legislation so we can avoid anything and we can work things out within the system here. Thank you.

Alderman Deane

I have a question for Jane again. I know you are not Carol Anderson, but when I go through this budget book and I would imagine if they went through your process I see pay increases in here of 12.5%, 10.1%, 8.5%, 7.1%, 10.9%, 10.3% 6%, 7%, 6.8% - now would those be reclass? Are they reclassified to give those sort of raises?

Jane Joyce

I am really not able to answer that. I have never seen the budget.

Alderman Deane

Here I can show it to you.

Chair Tollner

Alderman Deane I will tell you what we will do. I think those questions are probably more appropriate during the budget because I do want to get ...

Alderman Deane

My question Alderman Tollner was to have sizable percentage increases were those jobs reclassified. If they weren't then wouldn't they push them out of their grade and their scale with that type of an increase?

Jane Joyce

Again, not knowing the information you have before you – generally speaking if someone is staying in the classification grade that would not result in a 10% raise so I really cannot answer that without seeing that budget.

Alderman Deane

If I got you all of these line items and gave you the line item number and the name you could tell me whether that job has been reclassified or not recently?

Jane Joyce

I could get back to you with that sure.

Alderman Deane

Not right now I am saying if I gave you a list Jane you could do that for me?

Jane Joyce

Sure.

Alderman Deane

Thank you.

Chair Tollner

Thank you Alderman Deane.

Alderman Deane

My pleasure Alderman Tollner.

Chair Tollner

Okay.

Alderman Deane

Just concerned Alderman Tollner that is all.

Chair Tollner

Thank you and I concur with your concerns over those increases.

Alderman McCarthy

I guess I want to reiterate the comments I had made on this legislation at the Board. I am very concerned that were we to take this action what we would wind up doing is causing the last group of unaffiliated employees to form a bargaining unit, which is probably about the last thing that we need at this point. The last time that we took an action like this was about 10 or 15 years ago and indeed that was what happened was that some number of employees who had been under the merit system previously formed additional bargaining units here in City Hall, which now give us some peculiar opportunities at least and I would hate to see it happen again. I think it is patently unfair to single out a small group of employees to take that action on just because we can. We clearly have to be prudent with our fiscal affairs at this point, but frankly I have been in private industry for a long time, and my experience is not that private industry has weathered the last two recessions by not giving out salary increases. The companies that I have worked for have in fact given raises at the same time that they were performing lay offs. There is a streamlining effect where people go and examine their processes, make things work better, get rid of the positions they don't need, and are careful to compensate the employees who are doing more work in the other positions reasonably well. I guess I would encourage us to be fairly careful about that.

There is a separate issue with some of the increases and I am completely supportive of some of the complaints about some of the actions. I think there are some things that we need to understand and understand why they happen and why they might not want to happen in the future, but I think that unilaterally taking an action of freezing that particular set of salaries is not going to result in our best interests in the long term.

Alderman Johnson

Okay so if you have a problem with this then let's freeze everybody's salary and nobody gets over 2.5% or 3% in line with everybody else. We can streamline City Hall and that comes in layoffs like the Mayor said. Maybe we over hired because the Mayor felt that every position that was open was a critical and crucial position and we had to load city hall up with employees and we have duplicate and triplicate operations going on here at City Hall. The last thing I want to do is give anybody a

hardship here and lay people off. Private industry does it and you read the paper everyday – you want to get rid of people they get rid of the middle management people. That is where they go in and get rid of the middle management, that middle rung of the ladder, and I have seen it when I worked at a hotel, when I worked at Red Roof Inn many years ago when the recession hit they got rid of all of the middle management people. I don't think we want to do that either. What I am saying here and the reason I have done this some of these step increases and some of these salary increases are out of control. Twelve percent is out of control. Ten percent is out of control. When people are only offering 2.5% to 3% every place else on our front line people the rest of the raises are out of control. I am tired of this. We have a duty and an obligation to the citizens of this city and when they are getting laid off and they get zero increase how do we consciously raise salaries like this? I brought it up last year during budgetary time and nobody went along with me when I started questioning. Everybody kind of poo pooed me on the first year on the Board here. I think it is disgusting. We say how concerned we are about our taxpayers – 4.9% increase – that was good last year we only gave them a 4.9%. What about the senior citizen who only got a 1.4% increase?

Chair Tollner

All right Alderman Johnson.

Alderman Johnson

I am tired of this. I really am.

Chair Tollner

I understand that you are tired. I just want to stay focused on the ..

Alderman Johnson

I am staying focused on this Alderman Tollner.

Chair Tollner

Well senior citizens...

Alderman Johnson

They are the ones who pay this.

Chair Tollner

Okay. Are there any other comments on this particular legislation?

MOTION FAILED

MOTION BY ALDERMAN NICKERSON TO RECOMMEND INDEFINITE  
POSTPONEMENT

MOTION CARRIED

O-03-138

Endorser: Alderman-at-Large Paula I. Johnson

REDUCING THE AMOUNT OF MAYORAL COMPENSATION FOR THE  
REMAINDER OF  
2003

MOTION BY ALDERMAN JOHNSON TO RECOMMEND FINAL PASSAGE

ON THE QUESTION

Alderman Johnson

I'm not going to change my position that I just did on the other one. I am really sorry that my colleagues couldn't go along with me, but you know what let the Mayor give his salary back to some of the other employees that are not going to get a nice increase like this. Again, I am going to say that this is sad. It is sickening, and something should be done. I am sure a lot of my constituents out there aren't going to be upset with me with what I am asking for here. If the Mayor wants to hire all of these people then he should be able to pay all of these people. It is not that much \$10,000 to lose over the year. He gets a nice car that he doesn't share with anybody. I made my argument on the last one and my argument stands on this one too.

Chair Tollner

Thank you.

Alderman Nickerson

I am going to make a comment then I am actually going to make a motion. I can certainly understand the rationale for doing this, however, I think that what we need to do is we need to consider the position as opposed to the person in it and determine what pay is appropriate for this type of position. My thinking is that this position regardless of the individual that is in it is actually rather underpaid when we have the Superintendent of Schools that is making around \$97,000 and the Mayor of the city that is making considerably less I think we need to certainly determine and adjust that salary accordingly. Four years ago, actually about 3 ½ or 4 years ago there was an ordinance put in that adjusted the Mayor's salary for the next four years meaning the next term of office. That ordinance had passed and I am actually going to propose a similar amendment.

MOTION BY ALDERMAN NICKERSON TO AMEND O-03-138 AS PRESENTED IN  
THE COPY DISTRIBUTED THIS EVENING

ON THE QUESTION

Alderman Nickerson

I actually spoke to Corporation Counsel this morning about this to determine whether this was actually possible to do at the committee level and make an amendment such as this or whether it would be more appropriate to do as an ordinance. The opinion I got from Dave Connell was that this actually is germane per Mason's Rules. This is certainly an appropriate amendment, and I hope that my fellow committee members will support it as well. I think it is important that we set a course for the Mayor's salary for the next four years regardless of who the person is. I think we need to certainly look at that and adjust that. Looking at the percentage increases over the course of this plan they range between 3.3 to 4.3%. It is certainly no way near the 12-15% that has been passed along by within the Department of Public Works. I think it is a moderate route in order to get to a compensation for the Mayor's position to a level that certainly is appropriate. This will certainly not be anywhere near any of the other positions such as the Superintendent of Schools and based upon the numbers that I have done tonight, based upon a 3% increase over the current salary for the position say as Superintendent of Schools, the position for that pay will be around \$110,000 where this at the year of 2007 will be around \$104,000.

I think we also need to look at people and try to determine why some people run and some people don't. There are certainly many individuals out there in our community that would run that certainly may not be able to take such a pay cut to do such a position as the Mayor. There are certainly many qualified people that do run and certainly are willing to take a pay cut or live another lifestyle for that type of salary. I think it is important to amend the Mayor's compensation for something such as what I have proposed.

Alderman Johnson

I won't support this. This isn't about a person should want to run for money. If you want to make good money then government is not the place not unless you go to Congress where they make great money. This job should be able what you feel about leadership in the city and dedication to your constituents. When you compare the salary here with the Superintendent's salary – why don't you take a look at the police chief, the fire chief. The whole thing is all out of whack in this city to begin with. When it comes about money this doesn't deal with the person that is in the chair right now it deals with what the city can afford at this point in time. The city is in a crisis like the rest of the country. People are getting laid off. To run for Mayor if all you are going to run for Mayor for is for the money then you are in the wrong place. You are in the wrong place. I don't think it is about money to run for Mayor. Then again some people take different positions and take different jobs here in the city for money.

Alderman Nickerson

If you had gotten that I stated that people run for the office of Mayor just for the money that is certainly not what I meant. Obviously people run for the position and I certainly hope that people run for the office of Mayor first to serve the citizens and in order to make Nashua the community that they want it to be. Obviously in order to do that and do it to the level that is required they need to devote their entire time to do the full time duties. As a result they should get a full time pay.

Alderman Johnson

Full time pay ... tape inaudible ...

Chair Tollner

Okay. We're not going to have conversations back and forth.

Alderman Nickerson

The salary for a position such as this as a chief executive of a corporation of a budget that we have of what \$180 million or so, a salary at a level of \$92,500 or \$89,500 or \$104,000 as what I propose for the year 2007 is no way near in comparison to what private corporation makes. The CEO of a corporation of \$180, \$190 million is well above this level here. This pales in comparison with something that a private corporation would. I don't think that people are going to jump at it for the money, however, I think what we need to do is we need to have a salary at a level where we can get people that are of high enough quality to run. We need to certainly have an even mix of the two.

Chair Tollner

I am not in favor of the original legislation, which would be reducing the amount of the Mayoral salary for the remainder of the year, and I am also not comfortable, given the economic circumstances going on right now, changing the Mayor's salary at least for the next four years.

Alderman Deane

I just had one comment. I wasn't aware of what the Mayor makes as an hourly wage. He gets plenty of other perks though. As far as taking taxpayers' dollars and increasing the Mayor's salary to attract what people may consider more qualified personnel this is city government. This is what you get. That is fine. If you don't want to do it don't. I don't think you will get a change in what you will get for personnel to run for Mayor. I would like to make this kind of money. It would be twice what I am making today.

Alderman Johnson

I just want to say – about high quality, high caliber people – you can get the highest quality caliber person but if they are not interested in government and running a city they are not going to run. There are no qualifications. There is no test to becoming a Mayor. I can't see about the money. The people who want to be Mayor and the people who want to deal with government or be an elected official like an Alderman, they are the ones who are going to run either for an Alderman, School Board, or Mayor's position. Is it about money? Well again I am going to say if that is what you are running for that is a poor reason to run for Mayor. It has got to be the devotion. It has got to be the constituents. It has got to be the people that you want to work for not the money. Believe me that is a lot more than what I make a year and I have ever seen.

Alderman Liamos

I understand my distinguished colleague's recommendation here and why he is making it. It makes perfect sense. I just don't think it makes sense now during these economic times. I too am against the original legislation. I will be against the amendment here. I do think that the maker of the amendment raises very good points on the fact of where a chief executive of the city is compensated relative to his peers or her peers and relative to other department heads within the city. Let's move on with the meeting.

Alderman Nickerson

Four years ago there was some discussion as to when the salary for the Mayor or different offices should be adjusted. It was determined back then that the salary for the Mayor's office, for the Mayor's position could not be adjusted during the term of office for that current office holder. In order to amend to adjust this salary for the next term, for the 2004-2007 term it needs to be adjusted some time during this year. Whether we adjust it at a 2% increase or a 1% or something. If we don't adjust it anytime this year it cannot be adjusted for the next 5 years. During this next 4 years we can certainly see a huge economic boom as we did in the later '90s. It is certainly possible. Obviously it is certainly possible for us to see something as another yet great depression. I think it is important for us to realize that if we don't amend it during this current calendar year and during this current term of the Board of Aldermen then it will not be able to be adjusted for another 4 years from now until the holder of the following term, until the 2008-2011 term of office. I think by saying that, by not doing it now you need to certainly realize that we cannot do it until that time.

Chair Tollner

I have to look into that because I am not sure whether that is the case.

Alderman Nickerson

There is a state law that states that it cannot be done. That was the discussion back a couple of year back. Actually back in 1999 there was a law suit brought against the city and the Board of Aldermen I believe by the citizen's forum stating something along the lines of that...

Chair Tollner

Which failed.

Alderman Nickerson

Which failed. The lawsuit was actually stating that the current office holder, Mayor Davidson at the time, needed to give back the pay raises that he received during his term of office. It was determined that was certainly not valid, but the law suit also stated that -- it actually reiterated and backed up the state law that said you cannot adjust the salary for the Mayor's office during that current office holder's term of office.

Chair Tollner

I will have to take a look at that. Alderman Johnson do you have anything new?

Alderman Johnson

There is nothing that was not probably said – it should be looked at, and even though they are here it can't be when they leave office. I believe that happened that they said it so that when he left office it took affect when the new Mayor came in so even if you are down the line. The problem is nobody knows where we will be 4 years from now. Nobody knows where we will be a year from now. Once you give it you don't take it back.

MOTION FAILED

MOTION FAILED

MOTION BY ALDERMAN NICKERSON TO RECOMMEND INDEFINITE POSTPONEMENT OF O-03-138

ON THE QUESTION

Alderman McCarthy

I guess I want to caution the committee. We have had arguments back and forth about whether or not during a term we can reintroduce legislation, which is substantially similar to something we have indefinitely postponed so by indefinitely postponing something to which setting the salary of the Mayor's compensation might be a germane amendment. We may in fact put ourselves in a corned where we are not allowed to do that for the remainder of the term.

MOTION WITHDRAWN BY ALDERMAN NICKERSON

MOTION BY ALDERMAN NICKERSON TO HOLD IN COMMITTEE

ON THE QUESTION

Chair Tollner

I don't think that this particular piece of legislation is anywhere near what you are discussing. This is to reduce the amount of compensation for the remainder of 2003.

Alderman McCarthy

I understand that.

Alderman Nickerson

Alderman McCarthy's statement is that if it is considered germane to make an amendment to amend that legislation to adjust the salary for the next term of office it could certainly be considered that it is not possible for us to introduce another piece of legislation similar to the one that I have presented

this evening.

Chair Tollner

I disagree. We already voted on that.

Alderman Nickerson

We voted on the amendment.

Chair Tollner

Right. A piece of legislation looking like this was not submitted to the Board of Aldermen.

Alderman McCarthy

I just want to make sure that is still an option.

MOTION FAILED

MOTION BY ALDERMAN TOLLNER TO RECOMMEND INDEFINITE  
POSTPONEMENT OF

O-03-138

MOTION FAILED

Chair Tollner

This piece of legislation is no way shape or form – I understand what Alderman McCarthy says and if I though it was germane or even reasonably associated with this particular amendment I would be concerned. This is emphatically saying reducing the amount of the Mayoral salary for 2003, which is totally different than making any other motion with regard to the Mayor's salary.

MOTION BY ALDERMAN TOLLNER TO RECOMMEND INDEFINITE  
POSTPONEMENT OF

O-03-138

ON THE QUESTION

Alderman Nickerson

I think it would probably be appropriate for us to hold this in committee that way in the meantime we can certainly get an opinion from Corporation Counsel and say if there is an ordinance that wants to adjust the Mayor's salary at whatever level for the next term of office whether that is certainly possible if this piece of legislation is indefinitely postponed. I think by holding it to the next Personnel/Administrative Affairs Committee we're certainly not doing any harm by doing that. At the next committee we can certainly take it off the table and then recommend indefinite postponement then. Whatever the case may be I think it is certainly important for us to safeguard ourselves and

our flexibility in order to do that. I certainly won't vote for indefinite postponement for this tonight at all.

AMENDED MOTION BY ALDERMAN TOLLNER TO HOLD IN COMMITTEE

ON THE QUESTION

Alderman Tollner

I will make the amendment to hold it in committee with the anticipation that if anybody wants to make any further amendments to this legislation like the one last night, like the one we had tonight, they should submit a new piece of legislation because I think if you had Corporation Counsel still here one title on the legislation is reducing the amount of the Mayoral compensation for the year 2003 – this particular amendment is totally, totally, 100% different than the intent of the person that brought it to this committee.

Alderman Nickerson

Can I speak to that?

Chair Tollner

Go ahead.

Alderman Nickerson

This morning I spoke to Attorney Connell and discussed ... tape flipped ... what I was intending to put in as far as an amendment. He then looked at it, referred to Masons, had a conversation with Sue Lovering, and actually looked at Mason's and said Section 402, I am not sure if I got the exact item correct as far as the correct area, he said that it actually is germane, it is appropriate to do, and he certainly understood the whole scope of what the current legislation is as well as the proposal. By the comment of stating that if Corporation Counsel were to look at it they would say it is not germane, it is. I actually mentioned that earlier this evening when I made my amendment that I had spoken to Corporation Counsel and they said it was.

MOTION CARRIED

O-03-139

Endorser: Mayor Bernard A. Streeter

AMENDING THE PURPOSE AND COMPOSITION OF THE ETHNIC  
AWARENESS  
COMMITTEE

MOTION BY ALDERMAN JOHNSON TO RECOMMEND HOLDING IN COMMITTEE

ON THE QUESTION

Chair Tollner

We would ask someone from the Mayor's office to attend the next Personnel meeting.

Alderman Nickerson

I would like to see the Mayor here since he is actually the sponsor of this.

Chair Tollner

I will ask the Mayor. He may send someone in his place, but I will make that request.

MOTION CARRIED

O-03-141

Endorsers: Alderman-at-Large David W. Deane

Alderman-at-Large Paula I. Johnson

AMENDING THE BOARD OF ALDERMEN'S CODE OF CONDUCT

MOTION BY ALDERMAN JOHNSON TO RECOMMEND FINAL PASSAGE

ON THE QUESTION

Alderman Johnson

I think the additional number 8 is perfect.

Alderman Deane

I would like to make a comment sir. This legislation transpired after a heated debate with a – there were three constituents in at our Infrastructure meeting. There was a heated debate between two of my colleagues and the constituents and they turned to me and I thought it was absolutely wrong. I think we should understand the fact that we are elected by the people that live in this community to serve the people in this community and that this type of activity shouldn't be going on. I will add it as the 8<sup>th</sup> deadly sin. Thank you.

Alderman Nickerson

Actually when the original legislation of this was back before us whenever it was last summer or so I was actually mentioning then that we need to have something in there for members of the public and at the time I didn't have a chance to get to draft up any language associated with that so I am actually glad this is forward. I certainly will support this. Thank you.

MOTION CARRIED

O-03-151

Endorser: Mayor Bernard A. Streeter

AMENDING THE COMPOSITION OF THE MINE FALLS PARK ADVISORY  
COMMITTEE

MOTION BY ALDERMAN NICKERSON TO RECOMMEND TO HOLD IN COMMITTEE

ON THE QUESTION

Alderman Nickerson

We actually have this piece of legislation and O-02-127, which both amend the Mine Falls Park Advisory Committee. At the last Board of Aldermen meeting when

Alderman Deane

We indefinitely postponed 127.

Alderman Nickerson

We indefinitely postponed that?

Alderman Deane

Yes.

Alderman Nickerson

Well, at the time the Mayor wasn't even clear that he had actually introduced two pieces of legislation to amend the committee. He was actually surprised that there were two – one in the committee and one coming towards it. I would actually like to hear from him, his rational for one and not the other, and I would like to see that this is held.

Chair Tollner

While there are two titles, there are two separate purposes. If I do recall O-02-127 was to amend the composition of the Mine Falls Park Advisory Committee by allowing city staff to participate on the advisory committee and that was pretty much solely the intent to do that. While I applaud the intent of that legislation because it really is directed at one individual – I think I said that the last time we discussed it that I don't think it is appropriate to pass legislation based on a very good individual who has dedicated a lot of time to the city.

The piece of legislation that we are going to hold tonight is a completely different piece of legislation it just happens to be worded the same way.

Alderman Deane

I think you did a good job explaining it. I was just sorry to see that the very good individual is no longer involved with that facility.

Alderman Johnson

Again, I would ask that we request the Mayor really him because this piece of legislation in the second paragraph under section 1570 is a little bit confusing with a minimum of 7 members and then there should be no limit on how many members present and the maximum number of members. He is saying 7 and then he is stretching it real far so I would like to know what his intent of this is so I can understand his intent of how many people he actually wants as members of that committee.

Chair Tollner

I will make that request.

Alderman Nickerson

You had mentioned that actually both of them have different purposes. They do have different purposes but they are both actually amending the same section of our ordinances – both amending the section that deals with the established composition and duties of the Mine Falls Park Advisory Committee so we could in essence pass O-03-151 and O-02-127 and they would certainly have a combining effect. I would like to hear from the Mayor as to which one he would like to see passed and the rational for that.

Alderman Liamos

Thank you Mr. Chairman. Earlier this evening, which seems like a long time ago, we interviewed a number of people and recommended the confirmation to the full Board of Aldermen, for members of the Mine Falls Park Advisory Committee. My question Mr. Chairman is does this legislation that we are now looking to hold, is that enabling legislation that allows these members to join that committee or these folks just joining the committee as it currently stands in terms of membership? I really don't know that.

Alderman Nickerson

The current – the legislation 151 has in there a stipulation that actually removes the staggered terms. If you look back at the motion and the terms of office for which these people were nominated they currently do have staggered terms. One was ending in 2003, two were 2004, and a couple of them were 2005 so they are actually nominated under the current form of the Mine Falls Park Advisory Committee. Obviously if the legislation were to change their terms of office would probably change and such, but from looking at it they were nominated under the current composition of the committee.

Alderman Deane

I have something new to add as you would say. I don't know why people are beating this to death.

We have people that are willing to serve on a committee to take care of a jewel in the center of the city, the Mayor has stated that we know that 127 was directed at an individual, that should be indefinitely postponed, and then you should make a motion to pass 151. I went by the room 208 the other day and I never have seen that many people actively involved in a Mine Falls Park Advisory Committee meeting. That room was filled with people. These are all the people who have a good base of committee members, we just met some of them. I think we should pass the legislation. Spring is coming and they are working on plans over there. I think we are making this into more of an issue than it should be.

Alderman Johnson

May I make a comment to Alderman Deane?

Chair Tollner

Yes you may.

Alderman Johnson

It has nothing to do with – I am glad that people are serving on it. It is not very clear from one of the paragraphs. It can have 7 members and shall have no limit as to the maximum number of members.

Alderman Deane

That is awesome. The more the merrier.

Alderman Johnson

That is fine, but you know I just want to get some clarity on this one paragraph because – doe she want 100 members? Where is the limit that you are going to put or is there going to ever be a limit? Then the committee shall have a quorum of 4 whenever 4 members are present. Your quorum becomes different the more members you have.

Chair Tollner

I understand your comments Alderman Deane. I think the motion on the floor right now is to hold in committee. I will speak with the Mayor myself.

MOTION CARRIED

-  
MOTION BY ALDERMAN JOHNSON TO TAKE FROM THE TABLE R-02-71

ON THE QUESTION

Alderman Johnson

Obviously this is not going to get out of the Board of Public Works regarding the Broad Street

Parkway. I would like to amend it. I spoke to Corporation Counsel and they told me to amend it right in committee. I spoke to Dory Clarke about it. I said to her I want you to type up an amendment and she said no do it right in committee. Given the fact that I did have a conversation with the feds on this and I did write down my conversation with them, as a simple amendment it says "Submitting to the voters at referendum the question of whether the city should terminate the Broad Street Parkway project because the current scope of work is not the original design that was voted on." The reason I am saying this is that the federal government said to me the scope of work is not the original design. You, myself, Alderman McCarthy, and some of the other Aldermen that were at the breakfast yesterday for the Chamber of Commerce, the Mayor made it very clear that the Broad Street Parkway project is not the original design that was first conceived. It has changed. It is changed again with the Master Plan. At this point in time they are still evicting people from their homes, the project is still moving forward with the state, the federal government said to me that they would see if we would be eligible for funding because of the fact that the public at this point in time have not been involved that much in it because of the fact of the changes. They need more public input. My issue is I think that this needs to go back to the ballot come November and be voted on.

MOTION CARRIED

R-02-71

Endorser: Alderman-at-Large Paula I. Johnson

SUBMITTING TO THE VOTERS AT REFERENDUM THE QUESTION OF WHETHER

THE CITY SHALL USE ALL AVAILABLE MEANS TO TERMINATE THE BROAD STREET

PARKWAY PROJECT

MOTION BY ALDERMAN JOHNSON TO AMEND R-02-71 IN THE TITLE AND BODY TO READ "SUBMITTING TO THE VOTERS AT REFERENDUM THE QUESTION OF WHETHER THE CITY SHOULD TERMINATE THE BROAD STREET PARKWAY PROJECT BECAUSE THE CURRENT SCOPE OF WORK IS NOT THE ORIGINAL DESIGN THAT WAS VOTED ON"

MOTION CARRIED

MOTION BY ALDERMAN JOHNSON TO RECOMMEND FINAL PASSAGE AS AMENDED

ON THE QUESTION

Alderman Liamos

Thank you Mr. Chairman. Question through the Chair to the distinguished Alderman-at-Large. There has been significant federal dollars assigned to this project. The city has been awarded this project. Can you tell me what the repercussions will be to the city relative to the dollars that have been taken in should the voters choose to reverse themselves on this?

Alderman Johnson

I kind of scribbled down some notes when I was on the phone. The State purchased the right of way

design consultants and they feel that the designs are not the same as they were to begin with. They did not talk to me about scope of the money, but I guess the question you have to ask is how much money does the federal government actually give us and how much did we actually spend. It is the State that is doing all of the taking of the land and we have been questioning for a while already whether or not the project, the design is correct. They have to go back and approve the project scope again because formalized public involvement, the voters voted yes then it was changed so it has already been changed from what the government has given us the money for.

#### Alderman Liamos

I have no issue with that. The Alderman is correct. I am just wondering what is the city's liability relative to the federal funds taken for the project so far. I would like that part answered because I don't want to send us down a pathway that will commit us to doing something that may or may not be in the best interest of the city regardless of how you feel on the Parkway. I agree with the Alderman's position relative to getting voters involved, but I want to make sure that we are not cutting off our nose to spite our face.

#### Alderman Johnson

May I answer that please I have some more information here. I also wrote down if the changes in scope are not gone through public involvement then the feds might not fund it. That is the case in any project. They said that they are trying to resolve it. The question they might not even fund it the way we are right now because the scope of the work isn't the same.

#### Alderman McCarthy

First to address the question of the federal investment, my understanding of it, and I have asked this question several times, first you need to understand that while the State may have purchased the right of ways they did that with money that was provided from the federal government under the grant to the state. My understanding is that expenditure is somewhere between \$7 million and \$9 million at this point and they were we to terminate the project we would in fact be responsible for reimbursing every penny of what has been put forth by the federal government. With respect to the scope, I guess I am not sure I understand exactly where we are with that. The State and the federal government seem to understand what a scope of work is that is currently covered because in recently discussions when we asked to have the scope of the project looked at and perhaps modified we were told that was something that we were not entitled to do with funds from the project. My belief is that project is on a path that is what was originally agreed to by the federal government and the state and that if we decide to change that we will be responsible for reimbursing – if we change it we will be responsible for reimbursing some of the funds. If we terminate it we probably will be responsible for reimbursing all of them.

#### Chair Tollner

I heard the same thing.

-

Alderman Johnson

First of all the design is not the same. That is number one because they put the Sargent Ave. extension on there, which was not there originally so the design has changed. Now when we bring in our consultants, the consultants changed the design again because they said the way the Broad Street Parkway was going to feed into was going to be Ledge Street and West Hollis Street so they redesigned the whole thing and have everything coming down to Franklin Street. The whole design is completely different on the Broad Street Parkway. When we changed the design and it is not the original design that was put to the voters and we keep changing it – I have seen it from the beginning to this point right now – then we ourselves we could be liable no matter how you look at it. What are we asking for? For the voters to vote on this because every day that they are going in and taking property – the design has changed...

Alderman McCarthy

We haven't changed the design. We have discussed amongst ourselves some proposals for how the design might be changed. The plan of record has not changed and is what was originally approved.

Alderman Deane

Form what I was – I read on a piece of paper from Director Crombie's monthly report is there have been cease and desist order on any and all work on the parkway as of for taking buildings, ripping things down – this is the information I get. The Broad Street Parkway Steering Committee supported and the Board of Public Works supported the other night appropriating \$25,000 out of Public Works Capital Improvements money for a terminus study for supplemental study by Rizzo Associates to look at the parkway – whether it should go from four lanes to two lanes. The Director's report stated that everything is stopped on that project. They are not doing any construction work at all.

Alderman Johnson

I was told that they are going to be evicting somebody, the state is going to be taking another house. I guess we have to wonder who do we believe now, the person who told me or whatever. I am just going to say this again. I guess whether or not we put it on the ballot there is probably going to be a petition that comes through that will probably put it on the ballot.

MOTION FAILED

MOTION BY ALDERMAN NICKERSON TO HOLD R-02-71 IN COMMITTEE AS AMENDED

MOTION CARRIED

MOTION BY ALDERMAN NICKERSON TO TAKE FROM THE TABLE O-02-96

MOTION CARRIED

O-02-96

Endorser: Alderman Brian S. McCarthy  
Alderman-at-Large David Rootovich  
Alderman-at-Large James R. Tollner  
Alderman-at-Large Steven A. Bolton  
Alderman-at-Large Fred Britton  
Alderman-at-Large David W. Deane  
Alderman-at-Large Paula I. Johnson  
Alderman Kevin McAfee  
Alderman Timothy B. Nickerson  
Alderman Kevin E. Gage  
Alderman Robert A. Dion  
Alderman Lori Cardin  
Alderman Scott A. Cote

ADJUSTING THE PROVISIONS OF THE ELDERLY PROPERTY TAX  
EXEMPTION

MOTION BY ALDERMAN NICKERSON TO RECOMMEND FINAL PASSAGE  
ON THE QUESTION

Alderman Tollner

I just have a couple of questions.

Alderman Nickerson

Before you do that I am sure Alderman McCarthy has an amendment that he probably wants to introduce. I would be more than willing to make the motion for that. He actually has copies of the legislation that was amended at the full Board level back in November or so.

Chair Tollner

I guess before we make the motion at amend – is it your intent for us to pass this tonight?

Alderman McCarthy

I would actually appreciate it if we did that because the deadline for the exemptions comes up in April. It actually just occurred to me that we were approaching that.

Chair Tollner

This is a pretty significant piece of legislation, which I know there are a number of Alderman that are in favor of it, but to put an amended version again like this and give it to us right now and ask us – do we have the financial repercussions if this passes?

Alderman McCarthy

When I asked for what they would be based on income limits I was told we had no capability to predict them.

Chair Tollner

When you were given that answer you are comfortable passing the piece of legislation that ...

Alderman McCarthy

I would like to explain what the amendment is first. I am not sure that the amendment is particularly burdensome in the end although it will cause some people to qualify. The amendment I would propose is changing in the first paragraph second to the last line and again on the second page in the third from the last line of paragraph (b) changing the – I am sorry it is the third from the last line and the fourth from the last line – changing the single exemption from \$26,000 to \$36,000. The reason for that is it occurs to me as we think about this, we always look at single and joint stuff. It doesn't make a whole lot of sense actually for an elderly exemption because one you typically don't see dual income retired couples, which is why we make those distinctions in the first place, the cost to maintain a household doesn't change significantly for senior citizens whether there is one or two of them and the cost is primarily in maintaining the house and keeping the heat turned on, and third there is an actually implicitly unfair facet to differentiating those, which is if somebody qualifies for the exemption with a salary that is or an income that is above the single limit and below the married limit perhaps one member of the couple's pension is in that range, we give them the exemption, if the spouse then dies the following year we reward the survivor by giving them an additional \$2,500 tax bill simply because their spouse is no longer with them. That seems to me to be inherently unfair.

What I would propose – I think the married limit is a reasonable household income limit and what I would propose is that we modify the single income limit to be \$36,000 as well and take that as the basic income limit to qualify for exemption.

MOTION BY ALDERMAN NICKERSON TO AMEND O-02-96 BY CHANGING THE SINGLE INCOME LIMIT FROM \$26,000 TO \$36,000

ON THE QUESTION

Alderman Nickerson

The \$36,000 single taxpayer income limit is not incorporated in this. Right now it is listed as \$26,000 so I am moving to amend the \$26,000 to \$36,000 on the first page as well as on the second. Am I right?

Alderman McCarthy

Yes, it is the \$26,000 on the first and second pages. I just wanted to talk briefly about how we

assess the financial impact. The only data that we really have that we can go by is the applications of people who were rejected. There is precious little data the city is capable of collecting that would tell you whether more people will qualify after making that change. It is not unreasonable. That is a fairly small income for somebody who is trying to maintain a home in Nashua. Their tax burden is going up because of the valuation of the homes, and it just seems to me like that is a reasonable number to pick.

Alderman Johnson

May I ask Alderman McCarthy a question through the Chair? Have you checked with other cities and towns? I thought that you were going to do that.

Alderman McCarthy

I did, and these are numbers that are in the same ballpark. I think everybody else does have the separation between the single and the married exemption. Our married exemption might actually be a little low at \$36,000. It occurred to me that I just don't think that those should be different at this point. If we want to change them both to some number – I think if you look at communities like Merrimack their single exemption is now in the \$34,000 to \$35,000 range and their married exemption is probably a little over \$40,000 and maybe as high as \$45,000. We're in the ballpark with everybody around us.

Alderman Johnson

I would like to hear from Mr. Fredette too if he could help us. He has been sitting here all night long.

Chair Tollner

I was going to ask that we should have Angelo come.

Alderman Johnson

I think we need to hear from both standpoints probably the financial plus – I don't have a problem giving an exemption to the elderly, but I think we all have to understand that ...

Chair Tollner

I think looking at the endorsers of the legislation I think almost the entire Board was in favor of it. I think if maybe some of the other Aldermen who aren't endorsers probably weren't there that night. I think we all concur that this is a good thing to do for the senior citizens. I guess I would be comfortable moving to amend the legislation. I would like some time to talk to Angelo and possibly some other people. If we are going to go forward with this, which I think we should, to survey maybe Manchester, Portsmouth – it is good to do Merrimack, but Merrimack is a town, and I do remember speaking with Angelo the last time the percentage of the senior population, residential housing that seniors owned in Merrimack was considerably lower with a smaller impact on the tax base than it is in Nashua. That is not to say that we wouldn't do it, it is just that if we pass a particular piece of

legislation like this looking at some of the budget items that we are going to be facing I just want to make sure that we have it in perspective. If we can't get an exact amount we should try and get some sense of a range. Did we know what the exact amount was with the original piece of legislation?

Alderman McCarthy

I don't know that we did. I think that the actual impact – the fact that we raised the exemption itself probably has as much affect as anything on that because we know how many people currently receive the exemption would receive that increase. That was somewhere – I believe that impact was \$100,000 to \$200,000.

Chair Tollner

Before I go to Aldermen Nickerson, my recommendation would be to deal with its first amendment first before we proceed on.

Alderman Nickerson

Alderman McCarthy stated that we need to have this done by April, the time for setting the elderly exemptions is sometime in April. I'm wondering if he happens to know when in April we need to have this set by, and if so can we have the information that you are requesting to a meeting of this committee and then have it acted upon by the Board of Aldermen such that we will actually meet that April deadline.

Alderman McCarthy

I don't know exactly when we have to have it set. I do know that the application period is in April. Maybe Mr. Fredette knows that.

David Fredette

I think Alderman McCarthy is right. I think April 1<sup>st</sup> or around there is the time they can start to file, but I think they go all the way through August and they can take application through August I think for the senior exemption because this wouldn't apply until the November tax bills.

Alderman McCarthy

Why not?

David Fredette

Because that is when the new tax year begins. The bills that go out in May is the current tax year that we are already in. That is how I understand it.

Chair Tollner

Mr. Fredette could you do the committee a favor and could you check and send us a memo?

David Fredette

Yes.

Chair Tollner

If the start date is April 1<sup>st</sup> but we do have a number of months and it wouldn't apply until the end of the year then maybe we can – not that we can – we can make sure that we have enough time to appropriately landscape this particular piece of legislation.

Alderman McCarthy

I guess it wasn't my understanding that we couldn't influence the first bill either.

David Fredette

I don't think it can be applied. I really don't because of the way the tax year is, but I can get the answer right away. If you need to do it before April 1<sup>st</sup> you could always have a meeting next week and get it passed on March 25<sup>th</sup> or something.

Chair Tollner

I don't have a problem with that, but I also want to make sure that we bring in Angelo and we have a little bit more data. The other thing is I would like to see what Manchester, Portsmouth – they are cities that have a more similar makeup than a Merrimack. I do specifically remember being told that the retiree population, residential owned in Merrimack was considerably less than ours. I think the figure is appropriate, the impact is more substantial.

Alderman McCarthy

When you do that you need to bear in mind that the assessments in Manchester are significantly lower than they are in the City of Nashua as well.

Alderman Nickerson

In Portsmouth they are considerably higher than those in Nashua.

Chair Tollner

I understand that, but if we are in a range – I think we are comfortable with the range of moving it to 36,000. If we find in Portsmouth it happens to be \$46,000 we're comfortable. In Manchester if it is \$26,000 we are comfortable.

Alderman McCarthy

Somebody had asked the question in the New Hampshire login lists over a while back and a number of people had responded and I think I have a table of what it was for many of those communities.

Chair Tollner

We have an amendment on the floor to increase it to \$36,000.

MOTION CARRIED

MOTION BY ALDERMAN NICKERSON TO HOLD O-02-96 IN COMMITTEE

MOTION CARRIED

MOTION BY ALDERMAN LIAMOS TO TAKE FROM THE TABLE O-02-127

MOTION CARRIED

-  
O-02-127

Endorser: Mayor Bernard A. Streeter

AMENDING THE COMPOSITION OF THE MINE FALLS PARK ADVISORY  
COMMITTEE

-  
MOTION BY ALDERMAN LIAMOS TO RECOMMEND INDEFINITE POSTPONEMENT

MOTION CARRIED

DISCUSSION

-  
ADJOURNMENT

MOTION BY ALDERMAN NICKERSON TO ADJOURN

MOTION CARRIED

The meeting was declared closed at 10:55 p.m.

Alderman Timothy B. Nickerson  
Committee Clerk