

PERSONNEL/ADMINISTRATIVE AFFAIRS COMMITTEE

APRIL 3, 2003

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A meeting of the Personnel/Administrative Affairs Committee was held on Thursday, April 3, 2003 at 7:05 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  
Alderman Robert A. Dion

Members Not in Attendance: Alderman-at-Large David W. Deane  
Jane Joyce, Manager, Human Resources

Also in Attendance:

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INTERVIEWS

Ethnic Awareness Committee

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

Chair Tollner

There is no Linda here. We will give her ten more minutes and then accept a motion to hold the appointment in committee.

COMMUNICATIONS - None

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

APPOINTMENTS BY THE MAYOR

Ethnic Awareness Committee

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

18 Mulberry Street  
Nashua, NH 03060

APPOINTMENTS BY THE PRESIDENT OF THE BOARD OF ALDERMEN

Auditorium Commission

Tony O'Malley (Re-Appointment)

Term to Expire: December 31, 2005

24 Webster Street  
Nashua, NH 03064

MOTION BY ALDERMAN NICKERSON TO RECOMMEND THE REAPPOINTMENT OF TONY O'MALLEY TO THE AUDITORIUM COMMISSION FOR A TERM TO EXPIRE DECEMBER 31, 2005

MOTION CARRIED

Hunt Legacy Trustees

Barbara B. Pressly (Re-Appointment)

Term to Expire: December 31, 2004

11 Orchard Avenue  
Nashua, NH 03060

MOTION BY ALDERMAN NICKERSON TO RECOMMEND THE REAPPOINTMENT OF BARBARA B. PRESSLY TO THE HUNT LEGACY TRUSTEES FOR A TERM TO EXPIRE DECEMBER 31, 2004

MOTION CARRIED

Ira F. Harris Lecture Trustees

Mary E. Swanson (Re-Appointment)

Term to Expire: December 31, 2004

11 Birchwood Drive  
Nashua, NH 03064

MOTION BY ALDERMAN NICKERSON TO RECOMMEND THE REAPPOINTMENT OF MARY E. SWANSON TO THE IRA F. HARRIS LECTURE TRUSTEES FOR A TERM TO EXPIRE DECEMBER 31, 2004

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

#### ON THE QUESTION

##### Chair Tollner

I think there are a couple of people here tonight who are here to provide the committee with comments. Why don't we do that first? If anybody is interested in commenting if they could come up and take a seat. Please state your name and address for the record.

##### Jane Joyce

I have been asked to address some of the issues that appear to still be of concern to some of the members. One more time I would like to state that clearly there are sufficient policies both in City Hall and within the Fire Department, the Police Department, that are maintained in collective bargaining agreements, and in telecommunications policies that affect all employees of the City that prohibit any misuse of any electrical equipment, telecommunication or network resources within the City. In addition to that, under Section 273 of the Ordinances, it addresses the standards of conduct for municipal employees, and it clearly states that employees cannot conduct any business/ inappropriate business that could unduly influence anyone's behavior or performance. I would like to say in summary that I feel that there is sufficient amount of whether it be through current ordinances, policies, SOPs that clearly protect the city from anyone misusing any telecommunications or network resources throughout the whole city. When I say protect the city it addresses it through disciplinary action up to and including termination depending on the severity of the issue.

##### Alderman Deane

Can you go over the disciplinary actions that are – are they consistent with what is in this ordinance? How are they carried out? Who carries them out? Is it a decision to carry them out?

##### Jane Joyce

Currently under collective bargaining agreements they vary from agreement to agreement, but clearly it is someone who is in the position to hire and fire ultimately, which would be left to management. If in fact the supervisor makes an observation or has an experience or a working relationship with the employee where they are calling the employee on any issues of performance, any issues related to use of equipment, they make a recommendation to management on that. This ordinance, my reading of the ordinance is that the supervisor has to discipline the individual and that the discipline is also accompanied by a fine that is levied and I believe it is up to \$1,000 for each event.

##### Alderman Deane

The disciplinary action depends on the collective bargaining agreement with each and every

collective bargaining unit that we have within the city so there is no consistency within bargaining agreements?

Jane Joyce

There is consistency in terms of just cause.

Alderman Deane

What about the penalties?

Jane Joyce

The penalties are consistent – again just cause depending whether or not there are any prior infractions or if the infraction is so serious management certainly can recommend for a discharge. That is within every collective bargaining agreement.

Alderman Deane

When you weigh out the disciplinary action is it the same in each collective bargaining unit? If I am a fireman and the first offense is a day off without pay, but if I am a policeman they just give me a written warning – how much consistency is there on the disciplinary action?

Jane Joyce

In discipline it is progressive discipline. By progressive discipline I mean that clearly it generally starts with an oral warning, a written warning, suspension, and discharge.

Alderman Deane

The progressive discipline is the same throughout the collective bargaining units?

Jane Joyce

Correct.

Alderman Deane

That was my question. Thank you.

Alderman Lamos

Mrs. Joyce would the passage of this ordinance enhance the supervisor's ability in terms of giving them another tool in their tool kit relative to misconduct on the part of employees?

Jane Joyce

In my opinion it would not enhance their ability to do that. They have that ability under current language whether it is in policy, collective bargaining, or Ordinance 273.

Alderman Liamos

At the full Board level when we re-referred this back to committee one of my colleagues made a comment that the passage of this would lead towards an increase in grievances. What is that based on?

Jane Joyce

Clearly the pending legislation calls for discipline and a fine up to \$1,000, and I don't know if you were present for the last committee meeting on this legislation, but for those of you who weren't here, Steve Lyons who is in the audience tonight, clearly raised some issues on whether that would constitute additional discipline above and beyond the just cause provision within collective bargaining. That essentially – I don't want to speak for Mr. Lyons – he referenced that they would file an unfair labor practice, which I am sure that they would. That in and of itself would require the Legal Department then to represent the City at the Labor Board in Concord.

Alderman Liamos

That is strictly because of the issue of fines?

Jane Joyce

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Correct.

-  
Alderman Liamos

Thank you.

Chair Tollner

Just to clarify before I go to Alderman Johnson, I was the one that made those comments. I do think that the legislation is not union friendly. It is really more or less anti-union. I think my comments were going in the direction where due to the collective bargaining agreement we do have stipulations that guide the conduct, and this particular piece of legislation doesn't really enhance the guide that we want to see from the employees and at the same time with the fine up to \$1,000 it is almost like a double penalty. As a result of that I do agree that I think there would be some filings on the union part as far as the grievance. I can understand where they might be coming from. Just to clarify that.

Alderman Johnson

May I ask Mrs. Joyce a couple of questions through the Chair?

Chair Tollner

Yes you may.

Alderman Johnson

This covers all city employees.

Jane Joyce

Correct.

Alderman Johnson

What percentage is union and what percentage is non-union?

Jane Joyce

There are approximately 117 non-union employees throughout the city out of a total of 900.

Alderman Johnson

What would the difference be then if an employee was caught doing something improper within the guidelines of our policy? I thought it was brought up the last time that you could be fired and also be fined under certain guidelines of our city policy. Is that correct?

Jane Joyce

Under the current city policy that was adopted you are disciplined. There is no provision for a fine.

Alderman Johnson

There is no provision for a fine. I thought we talked about last time that there was provision for a fine somewhere in this city.

Chair Tollner

If I could interject, I think that was conversations on the criminal side that you could be fined or if you lost a court case you would be liable, but not as far as the collective bargaining agreement that we have in the city.

Alderman Johnson

Let's say hypothetically an employee was caught stealing from the city they would be terminated and then they would be fined because the case would go to court – we would prosecute most likely right?

Jane Joyce

In all likelihood that is what would occur.

Alderman Johnson

Okay so they would be terminated and then a fine would be levied at the Judge's discretion.

Jane Joyce

The employee would be terminated from the city and then charges can be filed against the employee in a criminal setting.

Chair Tollner

Outside of the collective bargaining agreement.

Jane Joyce

Correct.

Chair Tollner

It would have nothing to do with the collective bargaining agreement.

Jane Joyce

Correct.

Alderman Johnson

Okay but this would be outside of it.

Chair Tollner

No, this would apply to people – if this legislation passed if you were in a collective bargaining group this would apply.

Alderman Johnson

So would anything else with the city.

Chair Tollner

Right, but the example you used if someone was caught stealing the city would have fired that individual and then criminal charges separate from anything that would be covered under the collective bargaining agreement would be separate – separate and distinct.

Alderman Johnson

Right, but even if they are a union employee.

Chair Tollner

Right. If they are a union employee if they were fined – the criminal portion has nothing to do with – it is totally separate from the collective bargaining agreement.

Alderman Johnson

This states a Judge – any person violating any provision of this article can be fined up to, and I put that up to in there because I didn't think a \$1,000 was fair for each offense. We talked about this that this would be going before a Judge the last time. That is why I am trying to take the correlation between the two – if you were prosecuted by the city that would be over and above your termination, which would be sent to a Judge and that is where this whole thing came into play last time also when we had discussed this. Whether you are a union or non-union employee this would apply to anybody in the city no matter where you work.

Chair Tollner

As long as you are an employee of the city.

Alderman Johnson

Right. Thank you.

Alderman Nickerson

I have a few questions about the numbers of employees. You mentioned there is 900 union employees and about approximately 117 non-union. That is just on the city side, but not on the school district side correct?

Jane Joyce

That is correct.

Alderman Nickerson

Do you have a sense as to – I know there is a fair number of people such as the food service workers, the para-professional unit, etc. that are not members of the union so I don't think that the number is as even as the 90/10 split as to what was mentioned before.

Jane Joyce

What I referred to was only on the city side.

Alderman Nickerson

Do you have a sense as to overall citywide?

Jane Joyce

No. I really don't have sufficient information with me. I certainly can provide you with that though.

Alderman Nickerson

Okay. Going along the lines of what Alderman Johnson was saying is whether there are existing policies and provisions in the city to deal with an action such as this or not this does something beyond that – it actually provides for the criminal situation and criminal prosecution for issue such as this. I think that is certainly a very important item that we need to have in our city ordinances. I see very good cause to have something like this so I am certainly going to support it.

Alderman Johnson

I think we have to separate certain things on the criminal end. If we are saying that city computers and city equipment belong to the city and it is not allowable to be used and some people violate it I guess you can look at that because you are not supposed to store your personal data or any campaign letters or any campaign activities in the computer here. This isn't done really to pinpoint on a union or non-union person. I think this is done to just send a clear message that city business time when we are hiring people is supposed to be done for city employees to represent the citizens not campaign activities. I made it very clear I don't care what party you belong to if you want to campaign and do the party's business don't do it on working time. We allow people in the auditorium to have debates for both parties and I don't have a problem with that, but the time we have people here working they are here for the citizens of the city and they should not be doing or bringing anybody in to do the campaign activities. I feel strongly about that. I think things that have happened in the past we can't go back and undo them, but what we need to do now is move forward and not have it happen again. This isn't targeting union employees, merit employees – this is just targeting that what is right is right and what shouldn't be done in city hall should not be done in city hall that is it or even in the school department basically too let's not leave them out. Let's bring everybody in together. Thank you.

Chair Tollner

I understand what you say when you say you are not targeting union employees. We are targeting everybody. It doesn't make any difference whether it is union or non-union we are. I think what Mrs. Joyce has been very clear on is we already have, through the guidelines and the collective bargaining agreement, something in place. I think everybody on this Board and everybody in this room agrees that while you are on the city clock you should not be performing any political work effort whether it be on your computer or on the phone, having any detailed conversation. I think we have effectively addressed that in the past. I think this particular piece of legislation is a direct result of something that happened a while back, which I think if that person had to do it over again

probably wouldn't have done it, but the policies & procedures are already in place. To approve this particular piece of legislation really, as someone said a couple of week ago, is taking two bites out of the same apple. I think it is very clear now. I think every city employee realizes that they should not be doing those activities, it is not appropriate for them to do those activities, but I think that this particular piece of legislation puts the city in serious jeopardy with the agreements that we have made in good faith with the unions and just opens us up to a lot of headaches and a lot of issues that probably aren't even going to arise. We have put these agreements together in good faith and I think this particular piece of legislation is overkill and unnecessary.

Alderman Deane

It appears to me that what Jane Joyce has told us that sufficient policies are in place to address this type of activity and management is willing to carry it out and everybody understands what the penalties are – I have looked through this and the one thing that really stood out was the fine, but in one of the questions we had at the full Board meeting was who was going to carry this out and I don't know whether it was carried out for the penalty of the telecommunications that Jane had mentioned, networking and the use of city equipment for that type of activity that was done – I am sure the problem has been addressed. It would seem to me that if sufficient policies are in place and the union has agreed to those policies then we should stick by what agreements we have with the different unions within the city.

Alderman Dion

I have checked into this legislation and checked with the policy in City Hall, and I agree with you Mr. Chairman that I think it is overkill as far as this ordinance is concerned. I think there is sufficient legislation and policy existing right now to take care of this problem without agitating even more and even having unfair labor charges filed against the city for one thing and agitating the relations between management and the unions. I think it is unnecessary to pass something that we have already got in place. To me it is the wrong thing to do. Thank you.

Alderman Nickerson

There are a couple of comments that I want to respond to. Alderman Dion had just stated that he is not wanting to pass something that agitates relationships and harms our relationships with the unions – I think it is pretty clear the way that I voted at least on contract issues on this Board as well as when I was on the Board of Education that I am certainly very fond of and support unions and their rights in order to organize and negotiate with the city and so forth, but I also think it is important for us as a city to make sure that we have policies and laws in place that protect the citizens. I see people campaigning on time in which they are being paid by the city to do a specific function as in a way of a theft of service. They are actually stealing from the citizens. They are stealing funds from the city in promoting one or another cause. I certainly don't think that is appropriate.

Whether there are policies in place or not I haven't seen them, I haven't had a chance to thoroughly look at them. I would actually like to see Mrs. Joyce's opinion on each of the different parts of this proposed ordinance and where those parts are actually covered in our existing ordinances. If it is such that they are covered then we can certainly amend this ordinance to exclude those portions that are already covered by ordinances yet include the criminal portion. I think that as Alderman

Bolton had stated at our last meeting that this is very similar to stealing equipment from the city itself. We have personnel action that deals with that. I think we also need to deal with what would happen in a criminal situation. We don't have any provisions for the criminal situations right now. I think it is appropriate that we do. That is absolutely necessary. As far as this targeting specific groups or not whether it is union or non-union I really don't think it is aimed towards targeting people. I think what the heart of this legislation is to making sure that what people do on city time is on behalf of the city as a whole not towards one group or another. I really don't think that it is aimed at targeting specific people. Thank you.

#### Alderman Johnson

We talk about campaigning in City Hall. We talked about issues like that, but I guess a perfect example was several years ago when the spending cap came up pro and con. It was brought to my attention by a constituent because I kind of forgot that – when a city employee said if you need any information call me, here is my number at city hall. The information was coming out of city hall against an issue here. We have had many times whether it was this Mayor or the other Mayors where we have had campaign signs and literature up in the office – vote against the spending cap – I remember even with Rob Wagner what was coming out of the office for political signs. This is just a way to curb it. I would say probably 99% of the employees don't even do it. I can probably name the 1% where it is going on. When we have a campaign against a specific issue it shouldn't be city hall taking a position on that issue. It is coming out and we are using a phone number right here at city hall. That is wrong. If we are abiding by what we have right now then that should have never happened two years ago. It should never have happened, but it did.

What I am concerned about is that it will happen again in another few months as political season starts again. What will be coming out of certain places? I think it is unfair that employees of the city are asked to do things that are not part of their daily routine. What they want to do after hours that is their business, that is their time, they can support anybody they want, they can campaign for anybody they want, that is fine, but when they are on the clock here no campaign material should be going through this building in certain parts on working time. That is what my concern is. I know the spending cap is coming around so are we going to be having a phone number here at city hall that if you are not in favor of it vote for it, speak to a person here? That is wrong.

When my constituent advised me of this and it came to my mind right now when we were talking about this – let's squish it now. If you are going to tell me that we are not going to have any of this going on then I will ask to hold this in committee, and I am sure some of the other sponsors of this will too, but I will let you know if that starts happening this is going to resurrect like the phoenix and it will come back to haunt everybody because I am taking people's word, and I feel that a person's word is just as good as their handshake. It better be because I don't want to be made a fool and I don't think any other Aldermen want to be. I am willing to work with people, but I don't want things to continue going on the way they are. Thank you.

#### Alderman Dion

I would like to ask Mrs. Joyce a question through the Chair if I may.

Chair Tollner

Go ahead.

Alderman Dion

You have heard the comments made about campaigning in city hall pertaining to the spending cap and other things. You are at city hall a lot more than we are. You work here. Did you have any knowledge of this going on?

Jane Joyce

I have no personal knowledge of what Alderman Johnson is referring to.

Alderman Dion

Thank you.

Alderman Johnson

Mr. Chairman may I respond to that?

Chair Tollner

Very quickly.

Alderman Johnson

I remember I was still on the Board of Education and there was a meeting at Birch Hill Elementary School and it was on city time, and Mrs. Lemieux was there to point/counterpoint on the spending cap because Dr. Fuller was there and some other people were there. It was clearly given if you want any more information here is a city hall number. That is campaigning. That is taking a city employee out there doing campaigning. It is not for a person it is for a position on the ballot. That is another issue. You can't do that. When we had this whole thing about Pennichuck Water we had to stay neutral a lot of us on certain things in this Chamber – we couldn't take a position. It came out very clearly on certain things. I brought that up on that night too that wait a minute the city took a position regarding the spending cap. It was very clear that the city was against it. They were opposing it. Their argument was against it so we took a person who was campaigning for a question/ against a question and it was out there. I don't think that is right either. I think we really – I don't have a problem holding this in committee and maybe bring it back next meeting for Alderman Bolton to discuss this a little bit more and then we can go from there, but if I withdraw and hold this in committee I want assurance that nothing else is going to go on. Thank you.

Chair Tollner

I don't think anybody on the committee – again, I know you spent a lot of time talking about the situations that should not have occurred and I think everybody here agrees. I am just not

comfortable with this particular piece of legislation. If you gentlemen would like to come up and take a second to introduce yourself. I will recognize Alderman Deane first.

Alderman Deane

I just wanted to comment on a campaign that I was involved in last January. I have a picture right here on the steps of City Hall. This was something that City Hall was active in, it was something the Aldermen were active in, and we were very, very careful – I didn't bring these signs through the building. I parked my truck in the back and walked down the walkway and brought them out front. When I was done I walked down the walkway and brought them out back. We were told by the administration that material was not to come into this building. We abided by what the administration told us. The administration was aware of what had transpired when Mr. Guiliani and Senator were here. We fully understood and the Mayor came down and told us that was not allowed to come through the building so we abided by what we were told.

Tim Soucy, President Nashua Firefighter's Association

I am not really here tonight to speak for or against this I just wanted to comment on what seems to be a misconceived notion. When Mrs. Johnson was talking about campaign activities. As you all know the firefighters in Nashua and throughout the state are very politically active along with the rest of the labor groups. We had a bill up state just recently and there was a state rep. that was talking about the election two years ago and made a comment that there are our firefighters, we are paying them to be out there and hold signs. I want to tell this committee here that under no circumstances was that a true statement because we don't work 24 hours a day or we do work 24 hours a day, but there are different shifts. When we are out there the guys that are out

campaigning holding signs we break the shifts up – they get off at 6:00 p.m. and you may see some of the guys in their uniforms, but they are just getting off work, and under no circumstances are they being paid at that time while they are doing campaign activities. I just wanted to clear that up because I know that there were comments made in the past about that. Thank you.

Chair Tollner

While you are sitting here – when Jane Joyce was talking about how this particular piece of legislation would affect – I think there was a little confusion out there over the last couple of weeks – this particular piece of legislation would cover and affect all city employees whether they be with the Board of Public Works, Fire, Police, City Hall everything. You were aware of that?

Tim Soucy

Yes.

Steve Lyons, 80 Lynwood Street, Nashua  
Staff Representative for the DPW and School Custodians

I am here this evening regarding some comments that were made at the full Board and I just want to

make some clarifications. Alderman Bolton indicated that I was – I will give his words specifically – I spoke with him on the phone meaning I, had gotten a copy and based upon his conversation with him I believe he has no concerns that were expressed. I did have one conversation with Mr. Bolton. It was prior to a fax being received in my office. After that fax I left a voicemail and had no further contact with him. At no point in time did we ever indicate that or he asked me that we were clearly all set with the legislation that is before you. This legislation still has what we see as a double jeopardy issue, which was brought up last time. I do have a copy for the Board regarding 273(a), which was quoted (Mr. Lyons provided a copy to the members of the committee). At the last discussion I was involved with I did cite specifically section 273(A):5 on page 7, which would indicate to make any law, ordinance, or adopt any rules relative to the terms and conditions of employment that would invalidate any portion of the agreement entered into by the public employer making or adopted such laws, regulations or rules. That is part of the concern. We have just cause. Just cause standard is progressive as you have heard from Jane Joyce of Human Resources – it is progressive in nature. Above and beyond it the ultimate action an employer takes is termination. Once you take that action you have now severed the individual's benefits, source of salary, and on top of it then subsequently a second action, which may be levied up to and including a \$1,000, which was modified last meeting by Alderman Johnson. I see that as a double jeopardy. The ultimate act of termination, which is under all collective bargaining agreements, is there and it is the stiffest penalty that really could be enforced.

Last time where there were discussions regarding stop signs. There were discussions regarding theft. Those are criminal natures that were not instituted by the employer. I want to make that clear there is some delineation. Those are state statutes. The state has invoked those unlike you being the employer having collective bargaining agreements. That is the concern that I brought before the Board the last time. I am not sure that it was understood once the discussions went back and forth between state legislations and employer adopted policy & procedures. That is why I gave you this handout. It is important that you are informed on the decision that you make.

Again, I made myself available to Alderman Bolton when he requested. Subsequent discussions did not occur after that fax, and I do want to go on the record to indicate that AFSCME still does have a concern regarding this. Again, we are not indicating for or against the opinion of this policy and that was stated last time, but ultimately the interaction with the collective bargaining agreement. It is important to the employees and important to the city. Those were reached in good faith and it is my understanding through discussions here that the city has ordinances. Just cause is the standard and progressive discipline is under it. Just cause doesn't say a union employee cannot be disciplined. We have rules. What I have heard discussed in accusations or suggestions regarding prior activities I think may have been covered under those. The administering of those is really the issue. What I am hearing is there is a minority that has resulted in bringing this to the forefront. I am not sure that it is really recognized in this ordinance and that is where really we have a concern. I do thank you again for entertaining my comments.

### Chair Tollner

For the record I know that Mr. Lyons has received a number of phone calls over the last week or so based upon some of the comments that were made at the last Board of Aldermen meeting, and I just want to clarify that in the conversations that I had with you a couple of weeks ago as well as over the

last couple of days you have been very clear where you stood on this and that you were uncomfortable with it. I apologize that you had to go through the last week and a half or so. Is there anybody else out there that would like to comment on this legislation?

MOTION BY ALDERMAN TOLLNER TO RECOMMEND INDEFINITE POSTPONEMENT OF O-02-129

MOTION BY ALDERMAN NICKERSON TO HOLD O-02-129 IN COMMITTEE

ON THE QUESTION

Alderman Nickerson

I actually made a request when I made some comments earlier about – actually Mrs. Joyce had made a comment about how some of the items that are proposed in this ordinance are already covered by existing ordinances. I would actually like to see a summary of those and Mrs. Joyce's rational for those. Also Alderman Bolton, who is the prime originator of this ordinance as well as sponsor, was not able to be here tonight so I would like to have his weigh in on some of the comments that were made here tonight as well as his statements in regards to items that Mr. Lyons had stated – not to say that what Mr. Lyons has stated is not true, but I would like to get Alderman Bolton's version as well. I would like to have this held in committee until the next meeting.

Chair Tollner

I think the motion of indefinite postponement...

Alderman Nickerson

No it does not.

Chair Tollner

Discussion on the motion to hold – I want to remind everybody that this piece of legislation came to this committee, went back to the full Board of Aldermen, came back to this committee, went back to the full Board of Aldermen, and ...

Alderman Johnson

It can't hurt to hold it in committee. I have legislation that has been held in committee since July 2<sup>nd</sup> and it isn't going anyplace. This way we have a chance that if we decide that we don't want to act on it at this point in time we can just let it stay in committee and go from there. I too would be curious to see the summary of what Mrs. Joyce is talking about. I think at this time it can't hurt to hold so I think let's just leave it here. I will support the motion.

Alderman Dion

Mr. Chairman I will not support the motion to hold. I think we have discussed this enough. I agree with you that we have had this before the Board and back in committee, before the Board, back in committee, and I think it has been beaten to death. I will not support that motion. Thank you.

#### Chair Tollner

One of the reasons why I don't want this hanging out in committee is because I think there are a number of city employees that are very concerned about this particular piece of legislation not being decided upon. I understand some committee members may want to get some information from Mrs. Joyce and they can do that. It will be another at least two weeks before this comes before the full Board. They will have an opportunity to review whatever correspondence that they receive. Keep in mind that the Board of Aldermen did not vote in favor of this. Alderman Liamos made the recommendation to send it back to committee for a little more discussion and I think we have given it a fair hearing and discussion through the numerous committee meetings that we have had. I will not support the motion to hold.

#### Alderman Nickerson

Yes we may have discussed this quite a bit, however, there has been new information that has come out, and I certainly think it is important to have all information before the committee make a final decision and a recommendation to the full Board. Like I said earlier I would like to see the information as to where Mrs. Joyce thinks that the provisions of this ordinance are covered in existing ordinances. I would like to see that summary. As far as trying to get information between now and the full Board meeting, which is two weeks – when there was a motion to hold this ordinance at the full Board level there was a comment made by the Chair of this committee that the proper place to have discussion of the ordinance is in committee. I am certain that if that information is gathered there will be a discussion about it. As you had stated Mr. Chairman the proper place is in committee. I don't see the problem with holding it in committee and allowing further discussion upon new information. It is only appropriate to have a discussion in committee when new information comes forward and there is no harm with having it held in committee. Thank you.

#### Chair Tollner

I have one question for Mrs. Joyce. At the last committee meeting I thought that you had communicated to this group that the information that you are going to provide to some of my colleagues that the city already had in place the appropriate language to deal with the situation.

#### Jane Joyce

Yes it does. What it states is any misuse of any telecommunication and network resources the employee who violates those policies would be subject to discipline up to and including termination.

#### Chair Tollner

Thank you. One other comments was when we did refer it back to committee I think the endorser of the legislation the only reason – I should say one of the reasons why he supported sending it back to

committee was because we were going to have a committee meeting and the committee had the ability of sending that legislation back to the full Board without delaying that particular piece of legislation.

Alderman Lamos

Let's see we have a motion to hold, we have a motion to indefinitely postpone, we had a motion for favorable passage, and the committee can also make a motion for unfavorable recommendation is that correct Mr. Chairman?

Chair Tollner

Yes, that would be the same as indefinitely postpone. If you wanted to word it that way I have no problem with that, but it defines the same thing.

Alderman Lamos

I would prefer it to go back to the full Board unfavorably and let the full Board have their opportunity and then let the full Board if at that time they want to indefinitely postpone it following a vote on that let that occur.

Alderman Nickerson

The motion would be with no recommendation.

Chair Tollner

He could make a recommendation unfavorable.

Alderman Lamos

I see sometimes we have favorable and unfavorable when we have the ordinances before us. I am not as experienced with Masons as the esteemed clerk.

Alderman Dion

I think the motion Mr. Chairman for holding it in committee supercedes any other.

Chair Tollner

I don't think it does, but we will take care of holding it first. Alderman Johnson do you have any new comments as far as pertaining to holding it in committee?

-  
Alderman Johnson

-  
I have a question for Mrs. Joyce because when a question was posed something just came into my

brain – a god question. When was the last time you enforced this ordinance because somebody used city computers or anything else?

Jane Joyce

It was approximately 2 months ago.

Alderman Johnson

Nothing prior to that?

Jane Joyce

No, there had been several incidents prior to that.

Alderman Johnson

What happened in those incidents?

Jane Joyce

In the last incident the person was discharged.

Alderman Johnson

And prior to that?

Jane Joyce

I believe there were reprimands that put it into progressive discipline.

Alderman Johnson

How long ago were those other ones?

Jane Joyce

I have been here for approximately 4 years and I would say we basically implement the provisions of our policy on an ongoing basis. I would say throughout the last 4 years.

Alderman Johnson

Thank you.

Alderman Nickerson

A couple of questions to Mrs. Joyce – a couple of times you had mentioned when referring to our existing ordinances that if something is determined a misuse – what do the ordinances state as far as a misuse of city equipment?

Jane Joyce

What it states is that – if I may – under, 273 the standard of conduct for municipal employees subsection 5 “By his conduct give reasonable bias for the impression that any person can improperly influence him or unduly enjoy the favor on the performance of his official duties or that he is unduly affected by the kinship, rank, position, or insolence of any party pursue the course of conduct that will raise suspicion among the public that he is likely to be engaged in acts that are in violation of his trust.” In addition to that there was an updated telecommunications network resource policy that was passed in 2002. In addition to that there are several SOPs that have been established through the Nashua Police Department and the Fire Department. There are series of issues that address any misuse not just political misuse, any misuse of any telecommunication or network resources.

Alderman Nickerson

There are other questions as far as about this information or this legislation that I would actually like to see the summary in comparison between this and our existing ordinances. That was just one of the possibilities or one of the items listed in this ordinance that I would like to see a summary on. There are other items that we haven’t had a chance to get into. Having a written summary or what have you between now and the next committee meeting I think is only appropriate for us to fully digest whether this is in our existing ordinances or not. It sounds like there may be some that are and there may be some that are not. I certainly think it is appropriate for us to hold this in committee to get that information and we would be able to fully digest it.

Chair Tollner

The motion on the floor is to hold.  
MOTION FAILED

MOTION BY ALDERMAN LIAMOS FOR UNFAVORABLE RECOMMENDATION TO  
THE FULL BOARD  
MOTION CARRIED

-  
Chair Tollner

Thank you very much, when you provide the comments if you could provide it to maybe the entire Board of Aldermen and not just the committee that would be great. Thank you very much for coming tonight.

NEW BUSINESS – RESOLUTIONS - None

NEW BUSINESS – ORDINANCES

-

O-03-153

Endorser: Alderman Timothy B. Nickerson

SETTING THE MAYORAL COMPENSATION FOR 2004 THROUGH 2007

MOTION BY ALDERMAN NICKERSON TO RECOMMEND FINAL PASSAGE

ON THE QUESTIONAlderman Nickerson

This item came up a meeting or so ago with another piece of legislation that is held in committee. I had a discussion via e-mail with Attorney Connell about this and I actually made some comments at the last meeting that apparently are not true where we have any – the Board of Aldermen has any time to set the compensation for the Mayor. I think that before people announced or filed for candidacy for Mayor or before there is any election I think it is important for us to do this and deal with it so that we do away with any of the political personalities and political lobbying for certain compensation or not. As far as the percentages between the different years they range between 2.7 and 3.6% so it is right in line with the cost of living. This is certainly more of a cost of living adjustment than a raise. I think it is important for us to adjust the Mayor's salary based upon cost of living just like we do for any other position. That is why I certainly am supporting this legislation obviously and I would hope that my fellow committee members go along with it. Thank you.

Alderman Johnson

I'm going to give my comments and then I am going to make a motion to amend. I am not going to support this. I think we are in a pretty bad economy right now. I don't know if anybody read the paper today, but in case of point people say that American Airlines has cut 2,500 pilot jobs. You have to ask if these people were given 15% cost of living increase – how many of them might be living here in Nashua? Factory orders staggering march – how many of these people could be our neighbors too? They won't be seeing an increase in salary. I don't think the newspaper lately has been full with anything great it has been more like doom and gloom here. Manufacturing takes hit with factory orders down – computer sales have been down – I can't support this.

MOTION BY ALDERMAN JOHNSON TO AMEND TO SAY “SETTING THE MAYORAL COMPENSATION IF THE VOTERS APPROVE AT REFERENDUM AT THE NEXT ELECTION”

ON THE QUESTIONAlderman Johnson

Let the voters choose whether or not the Mayor should have a raise in this city. We talked about the fact that there is no witness paper test on qualifications, there is no PDF in the city, what qualifies any person to be Mayor, what qualifies anybody to be on the Board of Aldermen, or the Board of Education or any other elected body? Let the voters decide whether or not they want to raise the compensation for the Mayor. Thank you.

Alderman Dion

It might surprise Alderman Nickerson for me to make this statement, but I agree with you on this legislation. I think it is good legislation. I think the percentage is roughly where the cost of living is. There is nothing exorbitant about it. The beauty part about it is that we don't know who the Mayor is going to be for the next four years. Now is the time to do it before he is elected.

Alderman Nickerson

He or she.

Alderman Dion

He or she. I forgot about that one. Anyway I will support the legislation. I certainly won't support sending it to the voters to vote on as an amendment. No way.

Alderman Deane

I had a couple of questions on the legislation. The figures of percentages of increase over 4 years came to 13% and what were the figures – the first one was what Alderman Nickerson 2.7?

Alderman Nickerson

Actually between this year and next year is 3.3% - between 2003 and 2004 is 3.3%, 2004-2005 is 2.7% then 3.6% then 3.0%. If I may make another comment about that... just a clarification on the percentages – the previous four years went anywhere between 3.77 to 4.2 so this is certainly less than what was proposed for the last term of office.

Alderman Deane

For one you are figuring what the cost of living increases may be. I just look at when we have people come before us in this building we have a lot of the people that work downstairs, people that work throughout this whole building that don't get increases like this. If I remember correctly the Mayor just got a 4.04% increase. Yes he did in January. What people do now is they compare the Mayor's salary to the superintendent of schools, they compare it to division directors – I can't compare the Mayor's position as was stated in this morning's paper to somebody that is a CEO of a large company. For one I don't think we have had a Mayor for – I really shouldn't say this, but I don't know if we have had somebody of that caliber that has come out of a CEO position of running a large corporation to running for Mayor of the City of Nashua. Some people have come and gone to do other types of jobs like that, but if you are running for Mayor basically you are there to oversee the administration and you hire the competent people to run the divisions and departments within the city. That is what you are here to do. You are here to work with the Aldermen and run the city. You hire the competent people; the engineers, people such as Carol Anderson, Maureen Lemieux, George Crombie – you just go through the list of competent people that report to the Mayor. Those

are the people that are actually running the city not the Mayor. The Mayor is there to oversee the administration, but the work gets done below the Mayor with the division heads and directors that are actively involved.

When you run for office if you are running for financial compensation especially if you are running as an Alderman, or Board of Education member, or Board of Public Works, or Fire Commissioner you are running for the wrong reason. If you are running for Mayor and you look at the salary and you are not happy with the salary then don't run. If you are leaving a job that is paying you more money and ... tape flipped ... I think there is a lot of people in this people and that work within the city itself that deserve raises that aren't going to be offered these kind of cost of living increases. I think passing this legislation now is a mistake. If you are going to do something like this do it after the election don't do it before. Wait until the election is over if you want to raise somebody's salary.

### Alderman Liamos

I guess I have a question through the Chair to my colleague Alderman Deane on why he would prefer waiting until after the election. I will ask him to answer that if he could so that I can get the understanding. I tend to support this legislation, but I would look for a clarification and that clarification is we mention this is a cost of living adjustment – does the Mayor not receive a cost of living adjustment?

### Chair Tollner

It is not built in no.

### Alderman Liamos

I agree that no one runs for public office with the idea of gaining wealth. It is public service that drives a person here. I also think that what the sponsor of this legislation is proposing is not necessarily out of line with the guidelines that we look at for the other departments when we set up our 3% goals. The recent editorial of the Telegraph actually had a couple of good ideas, which I would like to see included in the legislation; one is to defer the start of this until the 2005 timeframe, the second would be to tie the increases to a cost of living arrangement. We use the spending cap legislation by Charter sets where we as a city are allowed to go up to unless of course the Board chooses to override that, but it to me would be appropriate to defer the effectiveness of this legislation until one year after say 2005 season and second to tie the increases to those set by the spending cap in a fashion that uses one set of statistics for cost of living allowance, and the Mayor's office would be tied to that. I am not sure how I would make that – there is an amendment on the floor already. I don't know if I amend the amendment, but that is something that I would like to see – perhaps the sponsor could articulate that for us. Thank you.

### Alderman Nickerson

Just to get clarification from Alderman Liamos – one of your recommendations is to get rid of numbers entirely, but just set one number and say they were to increase gradually based upon the 3 year average of the CPI Urban?

Alderman Lamos

That would be correct Alderman Nickerson.

Alderman Nickerson

Another one was to defer it to 2005 as what the editorial stated.

Alderman Lamos

It has merit so I thought perhaps...

Alderman Nickerson

I actually have a whole bunch of comments, but what I want to do is actually comment on the amendment on the floor and then I will make my other comments.

Chair Tollner

I just want to clarify one thing – Alderman Lamos you are making an amendment to change the legislation back to the original and then apply the urban CPI as the raises for 4 years?

Alderman Lamos

I was deferring that to the maker of the legislation, but yes Mr. Chairman that would be my motion.

Alderman Nickerson

I have a question about the motion on the floor, which is the amendment to amend the current legislation to include a statement that refers to a referendum and this would only take affect if the voters were to approve at the next election. Referendums that go before the voters need to go through a very specific process one of which is proposed or introduced at the full Board of Aldermen, there needs to be a vote by the full Board to determine whether it is necessary or not, and only if it is necessary can there be a public hearing and go through the committee process and then go back to the Board for final action. I'm not sure if the maker of the motion had gone through that process or discussed this with Legal. I'm sure it hasn't gone through the process. Whether the maker of the motion has an opinion from Corporation Counsel that it is actually legal I don't think that we actually can pass that amendment and let that go through. At this point I will make those comments and then I will defer the rest of my comments until after we deal with this motion.

Alderman Dion

Mr. Chairman there was a statement made a little while ago by Alderman Deane pertaining to the Mayor received a raise already in January, which is true, but when you try to change the date from 2004 –2007 to 2005 you are saying in directly that the year 2004 he will not get a raise. I don't think

we should do that. I think we should leave it 2004-2007 because we will have the same kind of hassle next year.

Alderman Johnson

I have discussed it with Legal. I was told to make the motion. I am making the motion. I will tell you I am sad to see that some members of this committee don't have the confidence that the voters would do the right thing – to let them vote on it. If this was a town you would be voting on it. We would not make the decision it would go before the voters.

Alderman Nickerson

But we are a city so...

Alderman Johnson

It doesn't matter. I am making a comment. I guess what bogs me down here is that we are going to use the spending cap as a guide here. We have a law on the books and when the budget comes we don't even abide by the spending cap because we found this little loophole in there. We go by the loophole because that is what the opinion has been of Corporation Counsel for two administrations. I can't trust that we are going to abide by the CPI index for the last three years with the spending cap because we don't even do it now with the budget and that is why the budget is out of control. To give this raise at this point in time – the teacher's union didn't even support this today in the paper. How do we compare the Mayor with the CEO of a corporation? I guess you could say also – the teacher's union was not happy with this today in the paper – I guess if we want to compare who has top salaries I know the Superintendent gets paid higher than the Mayor and he is a CEO of that corporation and if he was probably in the private sector he probably would have been fired because the profit is your children and when scores go down and dropout rates haven't come down you wouldn't accept that in private corporation – he would be gone. I am not going to support this legislation and I am sure that I guess that probably my amendment will go down the tubes like all of mine do, but I am voicing my opinion. I will not support this at this point in time. Thank you.

Alderman Deane

I just wanted to clarify something I said earlier. I like what Alderman Lianos has to say. Regardless of what people do when they vote to override the cap or whatever that – I don't agree with it, but that is another story. Alderman Dion is correct as well. I think if you are going to implement this implement it at what the Consumer Price Index is and have it affective January 1 of each year and if you want to do it at the start of '04 I would support that, but no more than what the Consumer Price Index is and leave that fixed amount so if it is up or down that is the way the ball drops and leave it at that. That I would support. I think still when you go back to the other people that work in this building and I have gone through the budget and seen 1% increases for some of these people – that is not right. We should be very, very careful on how money is paid out. I am going to scrutinize a lot of these pay increases. Some of the pay increases that I have seen so far are double digit – that is wrong. You get people downstairs working on the front lines all day in automotive/vehicle registration and that is not an easy place to work and when they turn around and tell those people

they are getting a 1% increase that is wrong. It should be fair and equitable to all. I would hope that during the budget season the Board of Aldermen takes a good look at what is being done in this midline management within the city because it is not right.

Alderman Dion

I just want to use as an example the senior citizens that are on social security. The average for the last 2-3 years has been about 2%, but low and behold every time they give you 2% once a year they bring up Medicare, which eats that 2% up so you end up with zero. I just thought I would bring that up. Another thing Mr. Chairman I want to say is that every one of us in this room, elected officials, were elected to make decisions. If every time we have a controversy some people want to send it on a referendum to the voters – that is why we were elected to make those decisions, and if we can't make those decisions we don't belong here. I am sick and tired of hearing about these referendums and sending it to the voters. This is not the Town of Hudson or Merrimack. This is Nashua, NH. Thank you.

Chair Tollner

I am comfortable with this legislation if we amend it to in the years 2004 –2007 to use the urban CPI. I think that is more than fair. I do agree with some of the comments whether they were written in letters to the editor or the Telegraph that – I don't compare the Mayor's position as a true CEO. I think the process that a true CEO would go through is there would be a number of people and a board of directors whatever that would go out and interview particular candidates that have the most experience, usually are the best qualified at what they do, and then they make that decision. It is a little different process as far as how they get to that position. I agree with Alderman Deane's comments earlier that the Mayor while he is more or less the city manager in Nashua's case, he does hire or makes decisions on department heads and those individual department heads have numerous years of experience in their particular area whether it be school, Board of Public Works, Fire, Police, etc. I do think it is reasonable to target the CPI.

I respect the comments that we should put it before the voters, however, in this city form of government that we have I think it is our responsibility to talk about these issues and vote on them and then take it to the full Board. Just to avoid any confusion I am going to amend the amendment so we are clear as far as using those four years at the CPI.

Alderman Johnson

As spelled out in the spending cap if that is what you are going to use it by.

Alderman Nickerson

I am actually working on language.

Chair Tollner

Or the same CPI formula that we use for the spending cap.

Alderman Dion

This is basically the same isn't it?

Chair Tollner

No the spending cap is an average of the last 3 years of the CPI Urban.

Alderman Deane

It is the average that you are using?

Chair Tollner

Right the average of the past 3 years, which gives us a level of consistency as we move from year to year.

Alderman Nickerson

It is an amendment to the amendment?

MOTION BY ALDERMAN TOLLNER TO AMEND TO READ "BASING THE INCREASE ON THE 3 YEAR AVERAGE OF THE CONSUMER PRICE INDEX URBAN"

Chair Tollner

Right. I hope that pretty much gets where a number of my colleagues were trying to target.

Alderman Johnson

I am just going to make a few comments here. I agree with Alderman Deane because I have spoken out many of times about the front line employees here at City Hall. Their contract wasn't even negotiated yet. They are still waiting a year for a contract. I believe though the senior citizens last year got a 1.4% increase for social security if I remember correctly in the paper. The reason I say send it to the voters here yeah we are elected to represent the people but I have legislation sitting here regarding the Broad Street Parkway that the city can't make a decision on that has to go back to the voters because it has been changed, and I can't even get that out of committee. I guess I really do take offense about sending it to the voters. I always feel when elected officials are entitled to a raise I don't like when Congress votes themselves a raise with my money. I think the voters should be the one who sets the salary or the stipend for all of its elected officials and they are the ones that tell us if we are doing a good job and deserve that extra additional money – never to vote on it ourselves or to vote for any other elected official. I will not support this.

Chair Tollner

Before I go to Alderman Nickerson I just want to clarify although some of us some day may want to be Mayor we are not voting on a raise for ourselves like Congress or the Senate has done. I agree with you on that.

Alderman Nickerson

On the motion on the floor, the intent of that motion was to have the increase for the year 2004 based upon the current salary of \$89,500? The salary for 2004 will be a percentage increase of the year 2000 salary so we would increase the salary by a 3-year average of the CPI Urban?

Chair Tollner

Yes.

Alderman Nickerson

What I will do then is I will work with Corporation Counsel to get the intent of that motion into language for this ordinance, and I will obviously include you on that discussion if this were to pass obviously.

A couple of comments that I wanted to make since we are now back to a motion that somewhat warrants the discussion, one of them was a desire or a comment to have this increase start upon the year 2005 if there were to be a new Mayor selected come this next municipal election. I think the thinking behind that is somewhat contradictory. The whole rationale for this is to give a cost of living adjustment for the position. It is not a raise it is more of a cost of living adjustment. The cost of living will increase for the year 2004 regardless of whether the City of Nashua has a new Mayor or not. The basis of when there is a COLA isn't hinged upon the selection of a Mayor in Nashua. That questioning is a little contradictory. Prices will increase; the cost of living will increase no matter what so I think it is important to have it done for all four years. That is certainly what I feel about when this should go into effect.

As far as whether the Mayor is a CEO of a corporation I think it is somewhat similar yet there are many differences like my colleagues have stated here tonight. The person does select very well qualified or deal with the process of selecting qualified individuals many of which are run through this committee and this Board for their eventual election or denial for a position. I think it is certainly very important that is stated. There is some similarity between a CEO and not, and whoever runs for Mayor certainly does not do it for the money. I don't think we should peg the compensation of the Mayor to a CEO's position. First of all it is not appropriate, we're not that size, municipal employment does not pay that, second of all it is a political position not a process as Alderman Tollner had stated of going through a board of directors, a selection committee, and so forth. I think that is important to note.

Another items that I actually spoke to Maureen McNeil today who is the president of the Teacher's Union. In her letter she made a comment that the veteran staff had received about a 17% increase over the last 10 years – 14% pay increase over the last ten years. I mentioned to her that the

collective bargaining unit is just that it is a collective bargaining agreement. It is an agreement between both sides of the negotiation table. In this situation it is an agreement between the teacher's union and the Board of Education with the eventual approval of the cost items by this Board. Whether the veteran teachers wanted to approve that contract or not that is their prerogative so I think that statement in there is a little flawed as well, but I can certainly respect her opinion and her advocating for her membership, which she does very well and I am glad to see her in that position. I certainly think that this amendment is worthwhile and I will support the amendment.

One other question I had about the amendment was the intent was just to have it for the next 4 years. Do we want to have it go in perpetuity and just set that as a blanket rule for the Mayor's salary or just do it for the next 4 years? If we do it for the next 4 years I have a feeling we will be in a situation of whether we want to extend that 4 year timeframe or I should say the Board of Aldermen wants to extend that 4 year timeframe for another 4 years or another 2 years or whatever – I think if we were to do it as a blanket rule that the Mayor's salary is to have an increase based upon the 3 year average of the CPI we are pretty much done with it and don't have to worry about it in the future.

Chair Tollner

I don't know what will happen in 4 or 5 years from now. I think 4 years is a sufficient period of time. I don't disagree with your intent, but I have no idea what will happen 4 or 5 years from now.

MOTION CARRIED

Alderman Nickerson

So you amended Alderman Johnson's amendment so now we need to vote on that amendment, which is in essence voting on the same thing again.

Chair Tollner

Now we are going to vote on as amended.

Alderman Nickerson

Not necessarily.

Chair Tollner

Yes, because I amended Alderman Johnson's.

Alderman Nickerson

You made a motion to amend it. We actually approved that amendment and now we need to vote on that amendment again.

Chair Tollner

We're going to vote on the amendment again.

Alderman Johnson

Which amendment now?

Alderman Tollner

The same one – the motion before was to amend and now we are going to vote on the amendment. All of those in favor of the legislation as amended?

Alderman Nickerson

Actually it is amending the main ordinance/proposal.

MOTION CARRIED

Alderman Nickerson

Now there is a motion for final passage as amended

MOTION BY ALDERMAN NICKERSON TO RECOMMEND FINAL PASSAGE AS AMENDED  
MOTION CARRIED

O-03-154

Endorser: Alderman-at-Large David Rootovich  
AMENDING THE ORDINANCE REGARDING SPECIAL MEETINGS OF THE BOARD OF ALDERMEN TO PERMIT SPECIAL MEETINGS TO RECEIVE INFORMATION AND HOLD DISCUSSIONS BUT NOT TO TAKE ACTION

MOTION BY ALDERMAN TOLLNER TO HOLD O-03-154 IN COMMITTEE

ON THE QUESTION

Chair Tollner

Alderman Rootovich called me today at work, and asked me to hold this as he was unable to come to tonight's meeting because he hurt his leg. I hope his knee is a little better.

MOTION CARRIED

Alderman Deane

Mr. Chairman I have a comment about O-03-151 – you should take that off the table too because you have appointed people to that committee and now the Mine Falls Park Advisory Committee the

membership is not within standing of the ordinance I would imagine.

MOTION BY ALDERMAN NICKERSON TO TAKE FROM THE TABLE O-03-139  
MOTION CARRIED

O-03-139

Endorser: Mayor Bernard A. Streeter  
AMENDING THE PURPOSE AND COMPOSITION OF THE ETHNIC  
AWARENESS  
COMMITTEE

MOTION BY ALDERMAN TOLLNER TO RECOMMEND FINAL PASSAGE

ON THE QUESTION

Chair Tollner

I got a phone call today from Helen Baker and she said you were going to be coming. Please come forward.

David Haney,

I am here representing the committee constituency.

Chair Tollner

Would you like to provide some comment on the purpose of this legislation?

David Haney

I guess what I would do is point out to you that the committee itself has gone through a fairly extensive strategic planning process to try to resurrect the functioning of this committee and to try to change a number of pieces of the composition of the committee and the requirements for attendance so that it can operate a little more effectively going forward. It expands the membership of the committee. Again, we would like to encourage both the Mayor's office and the Aldermen to make sure that the city participates in the activities. We have slots designated for members of the management or the staff of city departments to be represented who by in large don't show up and never participate nor is the committee filled. Again there is a tremendous amount of frustration on behalf of those members of the community that volunteer their time and try to bring these kinds of things forward where they don't have the participation of the city even though it is a city sponsored if you will or motivated organization.

Chair Tollner

I understand your frustration and I have heard about this the last few months. What I will do is I will

speak with the Mayor and some of the department heads. I know there is representation from this particular Board or a designee if I am not mistaken.

David Haney

We've also subsequently made adjustments to underlying bylaws based on the presumption that we are going to make those changes under the authorities for the Board to operate so that we have greater flexibility in terms of meeting times and organizational structures and turning people over that don't show up and some of those kinds of things.

Chair Tollner

What time are your meetings scheduled?

David Haney

We normally meet once a month at 4:30 p.m. and that accommodates most of the members' schedules so that they can be there and obviously that is another issue. That was historically established by the bylaws, which we have now modified.

Alderman Nickerson

On the proposed ordinance the section B #10 deals with the number of members to the commission. As the ordinance stands there is a minimum of 7 and there actually is not a ceiling on the maximum number. The proposal is to actually have a maximum of 15 community members. What is the rationale for putting in a maximum number?

David Haney

Practical management for keeping track of the number of people who are participating and whether or not that would be representative of the community constituencies. If we begin to look at various ethnic compositions or other structural kinds of compositions – you will see language in there that talks about trying to balance with for instance health care or recreation or other issues that might be out there that are areas of activity within the city that may or may not be represented in the municipal participation – we have that flexibility of building that in. Again, the process remains the same – that being to try to find those people. We have also reached some agreement with the Mayor's office that we will try as a committee to fill those positions of community participation and make recommendations for those people to be assessed by you and recommended by the Mayor and if the Mayor's office will put forth the effort to make sure the city representation is in place.

Alderman Deane

It seems like you are extremely frustrated and this committee has probably lapsed away. I am a representative and Chairman of the Board of Public Works Trustees retirement system. We meet once a month on Friday at 11:30 a.m. and at one point we had the Aldermanic representation prior to when I was on the board – Board of Public Works Commissioner and for 2 years we had no

representation from this Board. I think that when the President of the Board gives out the assignments I think that these committee memberships should be looked at and then people should participate. If they can't participate the Board President should be told of that. I think it is important – I realize some people have work commitments they can't get out of, but I think it is important to the committees to know that the representation from this Board is there and that it is a voice for their committee. To have some of these committee just go by the wayside because people aren't showing up – as the world turns we're not turning with it. You seem extremely frustrated with the process. I can feel for you. I think it would be really important if President of the Board does double check with people and make sure if they are going to participate that they can and they will. There are other people that are involved in these committees that are taking time out of their lives to serve as well. Everybody is trying to shoot for the same goals and objectives, but if there is not adequate participation everybody's time is being wasted.

Alderman Dion

Sire I would like to ask you a couple of questions pertaining to the Ethnic Awareness Committee. You say there are 7 members presently on the committee?

David Haney

The way the current ordinance is structured there is a minimum of 7 community members that are designated and no maximum identified. What we have is a suggestion that we create a minimum and a maximum so that it is manageable. That is in addition to the participation of the private sector, which we are taking from 1-3 and the various city departments that we would like to see represented.

Alderman Dion

You want to change it from 7 to 14 is that correct?

David Haney

It goes beyond that. The maximum potential number would be ...

...

Alderman Nickerson

Eighteen to twenty three – currently it is a minimum of 15 – it will end up being between 18-23 members.

Alderman Dion

The reason for this is it because of the absentees?

David Haney

What we're trying to do is get more representative presence in the actual activities of the committee, and if we do indeed pursue some of the problematic activities that have been suggested we will have more volunteer energy to be able to execute some of those things.

Alderman Dion

Thank you.

MOTION CARRIED

Alderman Dion

I received a phone call along with a few other phone calls, but one of them in particular was last evening pertaining to O-02-96. I discussed it with some people here this evening, and I want the gentleman to know that called me last night that we are going to have a public hearing. There will be motions made on this to have a public hearing and have a vote on it and bring it before the full Board for a final vote, which should be May 15<sup>th</sup> I believe.

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

ON THE QUESTION

Chair Tollner

Before I forget I have a correspondence for everybody from Mr. Fredette. He has done a comparison of Nashua versus Merrimack, Portsmouth, Concord, and if I am not mistaken Manchester so it is a very informative packet. If I have it with me I will make a copy for everybody before I leave.

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 SCHEDULE A PUBLIC HEARING ON O-02-96 ON MAY 5, 2003 AT 7:00 PM IN THE ALDERMANIC CHAMBERS

ON THE QUESTIONAlderman Nickerson

I had a discussion with Alderman McCarthy about this piece of legislation, and just so that he wouldn't have to come here tonight we had the discussion that this actually requires another public hearing because of the changes to the legislation. I believe he was in communication with either Sue or yourself Alderman Tollner about this. Just prior to the meeting Alderman Tollner, myself, and Alderman Dion had been conferring about a date for a public hearing. This will allow us by having this public hearing at that time will actually allow us to get this acted upon in committee and then referred to the full Board for our May 13<sup>th</sup> meeting as Alderman Dion had stated. We need to have this public hearing in order to get that moving. Noted on the agenda as it is stated as when it is held it says this requires a public hearing with at least 7 days prior notice, which the May 5<sup>th</sup> date will give us, and it has to be at least 15 but not more than 30 days before the question is to be voted on.

Alderman Dion

Are we in the ballpark there Alderman Nickerson

Alderman Nickerson

I believe the public hearing has to be at least 15 days. It may be not our May 13<sup>th</sup>, but our May 27<sup>th</sup> meeting where this would actually have final action. Our final action needs to be between 15 and 30 days of the public hearing so the final action would most likely be on the May 27<sup>th</sup> Board of Aldermen meeting. We can certainly act on it in committee that night, but the final action would need to be on the 27<sup>th</sup> date.

Chair Tollner

If I could also add for the general public's information, we have until August 1<sup>st</sup> to set and vote and take care of this particular legislation. Another comment for the public who might be listening tonight would be this would not go into effect until the next tax bill that they would get so it would not have any effect on any tax bills that they would get between now and the end of the year.

Alderman Dion

I just thought I would bring up the fact that the deadline that was discussed prior to this meeting – at the last meeting – there were 2 dates given out and they were both wrong. One of them was I believe September or something – this gentleman that called me up last night went to the Assessor's

office and discussed it with those people, and he definitely told me that it was August 1<sup>st</sup>. In fact, David Fredette gave him a date, which was wrong also. August 1<sup>st</sup> is the date. We have to have this passed before August 1<sup>st</sup>.

Chair Tollner

Dave Fredette gave me the date of August 1<sup>st</sup> a couple of weeks ago so I don't know why – it is August 1<sup>st</sup>. I don't want to confuse anybody else out there.

Alderman Johnson

In actuality if this exemption passes it will be the November tax bill after the new tax rates goes in effect of the increases. That is when they will get their abatement?

Chair Tollner

Yes, correct.

Alderman Johnson

That is all I want to clarify.

*A Viva Voce Roll Call was requested, which resulted as follows:*

Yea: Alderman Tollner, Alderman Liamos, Alderman Johnson, Alderman Nickerson,  
Alderman Dion

5

Nay: 0

MOTION CARRIED

MOTION BY ALDERMAN NICKERSON TO HOLD O-02-96 IN COMMITTEE PENDING  
A PUBLIC HEARING SCHEDULED FOR MAY 5, 2003 AT 7:00 PM IN THE  
ALDERMANIC CHAMBER

MOTION CARRIED

-  
MOTION BY ALDERMAN NICKERSON TO TAKE FROM THE TABLE O-03-138  
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 NICKERSON TO RECOMMEND INDEFINITE

## POSTPONEMENT OF O-03-138

### ON THE QUESTION

#### Alderman Nickerson

Earlier tonight we had made a recommendation to the full Board for final passage of O-03-153 in an amended form that would deal with the Mayor's salary. I think by having a conflicting piece of legislation in committee – I think it may cause some confusion by having this conflicting piece of legislation. I think it is important that we clear up our docket and deal with the pieces that are in contradiction to the items that we have passed.

#### Alderman Johnson

I'm not going to support this for the simple reason that – just remember the workers at City Hall never get compensated the way the legislation that was just passed and the way some of the top administrators do in this building. Thank you.

MOTION CARRIED

#### Alderman Tollner

Before we take O-03-151 out of committee there was a similar piece of legislation that we sent to the full Board I think it was last week to indefinitely postpone. This is to amend the composition of Mine Falls Advisory Committee. I want to be clear. Is the one that we sent to the full Board last week that was indefinitely postponed was the makeup allowing a city employee to serve on it. That one was indefinitely postponed correct?

#### Unidentified Speaker

Correct.

MOTION BY ALDERMAN NICKERSON TO TAKE FROM THE TABLE O-03-151  
MOTION CARRIED

O-03-151

Endorser: Mayor Bernard A. Streeter

AMENDING THE COMPOSITION OF THE MINE FALLS PARK ADVISORY  
COMMITTEE

MOTION BY ALDERMAN TOLLNER TO RECOMMEND FINAL PASSAGE OF O-03-151

### ON THE QUESTION

#### Alderman Dion

Mr. Chairman if I may I wasn't at the last meeting due to illness. Could you tell me what the

amended version of the composition is?

Alderman Deane

I just had a comment to Alderman Dion – it increases the amount of people on the committee and

Alderman Dion

Seven members?

Alderman Deane

Yes it does. It is unlimited amount. That is the major change in it. Right now I believe there have been a number of people that have been appointed to that committee that came to this committee for the interview process and were approved by the full Board. Three of them I believe were sworn in at the last Board meeting. It is nice to have participation on that committee.

Chair Tollner

Alderman Deane do you know how many people are participating right now?

Alderman Deane

I am not quite sure. I know some of them their terms have finished. They were having a meeting last week and it looked like there were around 15 people of so in the room.

Alderman Dion

They are staggered terms if I read that correctly.

MOTION CARRIED

MOTION BY ALDERMAN NICKERSON TO HOLD IN COMMITTEE THE APPOINTMENT OF LINDA S. SPRAGUE AS THE COMMUNITY SERVICES REPRESENTATIVE TO THE ETHNIC AWARENESS COMMITTEE FOR A TERM TO EXPIRE DECEMBER 31, 2005

MOTION CARRIED

HELD IN COMMITTEE

Resolutions

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

DISCUSSION

ADJOURNMENT

MOTION BY ALDERMAN DION TO ADJOURN  
MOTION CARRIED

The meeting was declared closed at 8:57 p.m.

Alderman Timothy B. Nickerson  
Committee Clerk