

PERSONNEL/ADMINISTRATIVE AFFAIRS COMMITTEE

OCTOBER 14, 2004

A special meeting of the Personnel/Administrative Affairs Committee was held on Thursday, October 14, 2004 at 7:10 p.m. in the Aldermanic Chamber.

Chair James R. Tollner presided.

Members of the Committee present: Alderman-at-Large David Rootovich
 Alderman Richard D. LaRose
 Alderman Kevin E. Gage, Vice Chair

Members Not in Attendance: Alderman-at-Large Steven A. Bolton

Also in Attendance: Alderman-at-Large David W. Deane
 Alderman Robert A. Dion
 Alderman David D. Lozeau
 Alderman Marc W. Plamondon

INTERVIEWS

Conservation Commission

Dr. Melvin B. Meyer, Alternate (New Appointment) Term to Expire: December 31, 2006

Chairman Tollner

Dr. Meyer if you could come up – if you would state your name and address for the record. Maybe you could take a second and convey to the committee your interest in serving on the Conservation Commission. As Chairman I did get a letter from Mrs. Nelson who informed me that you have already attended some of their meetings in the past.

Melvin Meyer

I have I have been to a few meetings and a few site visits. Conservation is something I care about. I am free now I am retired and I think I would like to contribute something to the city. I thought this was a good choice.

Chairman Tollner

I know you have gone to a few meetings, but you are aware of how often they meet and the time commitment.

Melvin Meyer

I think I will be all right with that.

Chairman Tollner

Are there any questions from the committee members?

Alderman Rootovich

Dr. just curious – you have attended a few meetings – have you taken a look at the significant changes with respect to the zoning changes with the wetlands yet?

Melvin Meyer

No I am not familiar with that at all.

Alderman Rootovich

I would encourage you to look at that. There are some significant changes that could affect many of the areas in the City of Nashua.

Melvin Meyer

I assume they all are very much aware of that.

Chairman Tollner

Are there any other questions from committee members? Do you have any questions of us?

Melvin Meyer

No I don't think so.

Chairman Tollner

To tell you how the process works – what we will do is interview the number of people that are on the agenda tonight. We will vote as a committee on those individuals. That recommendation will be sent to the full Board of Aldermen. Our next meeting is just about two weeks from now. We meet the 2nd and 4th Tuesday of every month. At the full Board of Aldermen meeting we will vote on each candidate regarding their positions as they are appearing here tonight on the agenda. The Aldermanic Office will get in touch with you. Thank you.

Richard G. Tomasso (New Appointment)

Term to Expire: December 31, 2006

Chairman Tollner

We would ask you to state your name and address and why you have interest in serving on the Conservation Commission.

Richard Tomasso

My interest is mostly just an interest to serve. I have had an interest in getting involved in city government for a while. This position does appeal to me. I have an interest in conservation issues and preserving the quality of life socially and environmentally here in Nashua. I have interest in issues that would come before the board.

Chairman Tollner

You are familiar with how often they meet and the time commitment and responsibilities of being a member of the Conservation Commission?

Richard Tomasso

Yes.

Chairman Tollner

Questions from committee members and Aldermen?

Alderman Deane

Richard who approached you about this position?

Richard Tomasso

I believe Mike Lowe who is on the Planning Board first approached me about it saying there was an opening, and then went through the process and contacted the Mayor's office.

Alderman Deane

Your relationship with Mr. Lowe?

Richard Tomasso

We spoke at a Taxpayers' Association meeting.

Alderman Deane

Thank you.

Chairman Tollner

Are there any other questions? Do you have any questions of us?

Richard Tomasso

Does the Conservation Commission interact with the Board of Aldermen very often?

Chairman Tollner

Maybe once or twice they will come. I think their real attachment is to the Planning & Economic Development Committee if they are recommending some legislative changes. We will get memos from them from time to time as far as recommendations, thoughts, ideas.

Alderman Rootovich

Mr. Chairman I think they have more interaction with the Planning Board. They are basically a – the committee gives recommendations back with respect to certain site plans at times and changes with respect to any conservation easements, wetlands, and things of that nature.

Chairman Tollner

They have gone back and forth quite a bit on the proposed Wal-Mart site as an example that has gotten a lot of attention over the last year or so. Thank you for your willingness to serve.

Ethnic Awareness Committee

Dr. William J. Manseau (New Appointment)

Term to Expire: December 31, 2004

Chairman Tollner

Please state your name and address for the record. If you could let the committee know why you have interest in serving on the Ethnic Awareness Committee.

William Manseau

I am the immediate past president for the Nashua area Interfaith Council. I served for three years in that capacity and have been a member of the Nashua Council of Churches and now the Interfaith Council for about 15-16 years. I practice as a Pastoral Council here in Nashua for 20 years. I am on the Executive Committee of the Nashua Area Interfaith Council and this would be one way for us to have a close link with the City government. I would be representing both the Interfaith Council to the city and carrying back to the Interfaith Council any concerns, ideas, or issues that the City would have.

Because I have been involved as a clergyman for all these years I am interested and involved in a variety of faith communities – obviously we are very much interested in diversity in the community and the cultural contributions of the various groups within the city.

Chairman Tollner

You have a pretty extensive resume.

William Manseau

I am kind of old.

Chairman Tollner

Do you have any questions of us?

William Manseau

No I don't.

Chairman Tollner

You are familiar with the time commitment and how often they meet? I know they meet a lot during the day.

William Manseau

Actually I have attended the last 3-4 meetings. I didn't attend the one yesterday because we were observing our open house for our 20th anniversary as Pastoral Counseling Center, but I attended 3-4 before that. It is on Wednesdays at 4:30 in the afternoon.

Chairman Tollner

Are there any questions from my colleagues?

Alderman Lozeau

I am wondering – it says the term expires December 31, 2004 – is that possible?

Chairman Tollner

That is when this term ends. What will happen is he will be re-appointed. Thank you very much.

Zoning Board of Adjustment

Jeffrey P. Anderson, Alternate (New Appointment)

Term to Expire: September 11, 2007

COMMUNICATIONS

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

APPOINTMENTS BY THE MAYOR

Conservation Commission

Dr. Melvin B. Meyer, Alternate (New Appointment)

Term to Expire: December 31, 2006

40 Prestonfield Road
Nashua, NH 03064

Richard G. Tomasso (New Appointment)
2 Clocktower Place, #203
Nashua, NH 03060

Term to Expire: December 31, 2006

MOTION BY ALDERMAN ROOTOVICH TO RECOMMEND THE CONFIRMATION OF APPOINTMENT OF THE FOLLOWING INDIVIDUALS TO THE CONSERVATION COMMISSION FOR TERMS TO EXPIRE DECEMBER 31, 2006: DR. MELVIN B. MEYER AND RICHARD G. TOMASSO
MOTION CARRIED

Ethic Review Committee

Dr. Christopher G. Eliades (Re-Appointment)
5 Masefield Road
Nashua, NH 03062

Term to Expire: December 31, 2006

MOTION BY ALDERMAN GAGE TO RECOMMEND THE CONFIRMATION OF THE APPOINTMENT OF DR. CHRISTOPHER G. ELIADES TO THE ETHIC REVIEW COMMITTEE FOR A TERM TO EXPIRE DECEMBER 31, 2006
MOTION CARRIED

Ethnic Awareness Committee

Dr. William J. Manseau (New Appointment)
(*Interfaith Council Representative*)
154 Broad Street
Nashua, NH 03063

Term to Expire: December 31, 2004

MOTION BY ALDERMAN GAGE TO RECOMMEND THE CONFIRMATION OF THE APPOINTMENT OF DR. WILLIAM J. MANSEAU TO THE ETHNIC AWARENESS COMMITTEE FOR A TERM TO EXPIRE DECEMBER 31, 2004
MOTION CARRIED

Fire Prevention Code Appeals Board

Alvin B. Corzilius (Re-Appointment)
39 Stark Street
Nashua, NH 03064

Term to Expire: October 31, 2006

Daniel Gagnon (Re-Appointment)
13 Courtland Street
Nashua, NH 03064

Term to Expire: October 31, 2006

John Rudolph (Re-Appointment)

Term to Expire: October 31, 2006

6 Fowell Avenue
Nashua, NH 03060

MOTION BY ALDERMAN ROOTOVICH TO RECOMMEND THE CONFIRMATION OF THE APPOINTMENT OF THE FOLLOWING INDIVIDUALS TO THE FIRE PREVENTION CODE APPEALS BOARD FOR TERMS TO EXPIRE OCTOBER 31, 2006: ALVIN B. CORZILIUS, DANIEL GAGNON AND JOHN RUDOLPH
MOTION CARRIED

Zoning Board of Adjustment

Jeffrey P. Anderson, Alternate (New Appointment)
5 Mill Pond Drive
Nashua, NH 03062

Term to Expire: September 11, 2007

Donald Berthiaume (Re-Appointment)
(Moving from Alternate Member)
6 Bible Way
Nashua, NH 03063

Term to Expire: September 11, 2007

Thomas Jenkins (Re-Appointment)
2 Crestwood Lane
Nashua, NH 03062

Term to Expire: September 11, 2007

Richard Rondeau, Alternate (Re-Appointment)
5 Meade Street
Nashua, NH 03064

Term to Expire: September 11, 2007

MOTION BY ALDERMAN ROOTOVICH TO RECOMMEND THE CONFIRMATION OF THE APPOINTMENT OF THE FOLLOWING INDIVIDUALS TO THE ZONING BOARD OF ADJUSTMENT FOR TERMS TO EXPIRE SEPTEMBER 11, 2007: DONALD BERTHIAUME, THOMAS JENKINS AND RICHARD RONDEAU

ON THE QUESTION

Alderman Dion

Mr. Chairman if I remember the conversation I thought there was a question pertaining to Mr. Currier being passed over on this.

Chairman Tollner

Yeah over the last couple of weeks I did speak with the Mayor and Mr. Currier a couple of times as has Alderman McCarthy and I think Alderman Rootovich. The Mayor wanted to go forward with his appointment. Mr. Currier has had a couple of discussions with Mr. Jenkins and the Mayor and while he would like to be appointed a full time member he is comfortable with Mr. Berthiaume being appointed this time. He will be appointed next time. I had a conversation with Mr. Currier as recently as two days ago.

MOTION CARRIED

MOTION BY ALDERMAN ROOTOVICH TO HOLD IN COMMITTEE THE APPOINTMENT OF JEFFREY P. ANDERSON, ALTERNATE MEMBER, TO THE ZONING BOARD OF ADJUSTMENT
MOTION CARRIED

UNFINISHED BUSINESS – None

NEW BUSINESS – RESOLUTIONS

Chairman Tollner

I did speak with Alderman Johnson on a couple of her pieces of legislation. She was involved in three of them. I will take a second. I know there are other endorsers that are here on at least three of these pieces of legislation, but I will just speak to R-04-119, R-04-121, and R-04-126. I did meet with Corporation Council who advised me that if this Board was to act on these three pieces of legislation and we were to schedule a public hearing the clock would start where this Board would have to if the legislation passed, to call a special election right away because the best way to go would be roughly – I know it sounds strange, roughly about a year from now if we were interested in passing this legislation to put it before the voters, have these go on the ballot as ballot questions during the city elections.

Alderman Johnson did call me tonight and told me that she was not going to be able to attend. I did explain to her the conversation I had with Attorney Connell and she asked that this legislation – at least from her perspective – that this legislation be held in committee.

I just wanted to bring everybody up to date. One conversation happened Tuesday and the one with Alderman Johnson happened about 40 minutes ago.

Alderman LaRose

In fact I guess if we went forward with this and didn't want a special election and that it would be in the ballot for the next municipal election we would have to do this likely in August.

Chairman Tollner

About August or September.

Alderman LaRose

It is less than a year, but ...

Alderman Lozeau

Just a clarification – if this Charter amendment was approved by this committee, went on to the Board of Aldermen, scheduled a public hearing and so forth couldn't that be held until the next municipal election?

Chairman Tollner

No. According to the city attorney once you conduct that public hearing there are a certain number of days to call a special election.

Alderman LaRose

Do you have the ordinance with you?

Alderman Lozeau

No I don't.

Alderman LaRose

Here is what it says – the procedure for Charter amendments is set forth in RSA:49-B:5 – The Board of Aldermen must hold an initial vote to determine if the amendment is necessary. If the amendment is determined to be necessary the Board of Aldermen must within 10 days order that notice be given for the public hearing on the amendment. Notice of the public hearing must be published in a newspaper of general circulation at least 7 days prior to the scheduled hearing. The notice must contain the text of the proposed amendment and a brief explanation. The hearing shall be conducted by the Board of Aldermen or a committee. Within 7 days after the public hearing the Board of Aldermen must vote to decide whether the amendment will be placed on the ballot at the next regular municipal election if it is held not less than 60 days after the vote or a special election held not less than 60 days after the vote. The Board of Aldermen must also order that copies of the proposed amendment in summary thereof be made available to the public in the Clerk's office at least two weeks prior to the election. Copies of the proposed amendment in the summary must also be posted in the same manner as proposed ordinances.

Alderman Rootovich

I understand the situation that you are trying to put forward to us, but I have reservations about holding this for several reasons. One we just went through a very contentious time during our budget season in the last three months of this year probably the most contentious I have ever seen since I have been on the Board for 11 years – I have heard nothing in dialogue from the Mayor's office, from division directors and everybody else that next year all indication is it will be much worse than it was this year. A special election my understanding is it would cost us about \$10,000.

Alderman LaRose

It would be \$13,000.

Alderman Rootovich

Thirteen thousand dollars, which is probably miniscule compared to what the taxpayers will be faced with next year when the budget is presented to the Board of Aldermen. I think this legislation is critical; R-04-119 is critical that we get that budget well before we did last year. I think we need the time to go through it. I think some decisions have to be made before April 1st comes. I think that is critical. I think R-04-121 based on what happened this year is also critical – ten members of the Board – my understanding is the original amendment that was made the Charter amendment requires 10 members of the Board of Aldermen to vote for that budget. Along the way that seems to have changed, but I still believe it is

interpreted that 10 members – that is your opinion Alderman LaRose I am just saying my opinion is different – my opinion is that it requires 10 members of the Board of Aldermen to vote for that budget whether there are 15 or 12 here it requires 10 members. For those two reasons alone I think that we should vote on those in the committee tonight and make a recommendation back to the full Board.

Alderman Dion

My comments are the same as Alderman Rootovich. I feel as though it is incumbent upon us to be able to work on that school budget before we hear the same old story that it is now April 1st, April 15th contracts have already been signed, and the people are hired. We have been hearing that for years. I would like to see us be able to make the necessary changes that must be made or leave it the way it is prior to April 1st. I think it is incumbent upon us to do that.

I feel as though 10 members of the Board – I interpret it the same way as Alderman Rootovich. This back door budget that we now have, and that is what I call it, is not appropriate. I feel as though it should take 10 votes no matter if there are only 11 people here it should take 10 votes to pass the budget. That is the way I interpret it. Two thirds – when they spoke about 2/3 we are talking about 15 members present, 2/3 would be 10 – now it is misinterpreted. I don't believe that is what the intent was when the legislation was filed.

Chairman Tollner

I will make one comment – I would like to let the Board know that I got a call from Alderman McCarthy tonight too. As the Mayor stated Tuesday night at the Board of Aldermen meeting he will move his submission of the budget up two months and what he wanted you to know was that was a direct result of the fact that different Board members here gave Alderman McCarthy and Alderman McCarthy provided to the Mayor.

Alderman Dion

When the Mayor under the Mayor's comments the other night at our Aldermanic meeting made some comment about this – nobody has told me in black and white what day we are talking about. Is it going to be February 1st, March 1st? Nobody said anything about that putting that date down.

Chairman Tollner

My conversation with Alderman McCarthy tonight February 1st was the date that was discussed.

Alderman Dion

But that is just word of mouth.

Chairman Tollner

I think if we want – I know it is in the minutes of the meeting, I will go ask the Mayor for – not that it will change a lot of people's minds, but we can ask the Mayor for a memo detailing to the Board when he will submit the budget.

Alderman LaRose

In the discussion of R-04-121 – changing the Charter to 10 Aldermen, it is stated here – this amendment shall be effective January 1, 2006. That is the way Alderman Johnson and Alderman Dion – I don't know if you are aware of that, but that is what is in here.

Alderman Rootovich

We can make a motion to amend that.

Alderman LaRose

We can change that. The other thing about how many people it takes to pass the budget – section 56:b changing budget items – it says here that the Board of Aldermen may reduce any item or items in the Mayor's budget by a vote of the majority of the Board, but an increase in or additions of any items therein shall become effective only upon an affirmative vote of 2/3 of the members. The way I interpret this is if the Board of Aldermen reduces the Mayor's budget a majority vote passes the budget, if the budget is increased then there is the 2/3 or the 10 votes. That is how I interpret Section 56.

Alderman Deane

While you are in section 56 we should talk about 56:D – a lot of different interpretations on that one as well.

Alderman LaRose

That is the one I am talking about I am sorry.

Alderman Deane

I too have concerns with 119. I do realize that the Mayor did make comments the other evening about giving us a budget a couple of months in advance, but I would just assume instead of asking for a memo I am in favor of moving this legislation forward as well. The 10 votes to pass the budget I think is – I am in full support of that. I think that should be done. My opinion is the game was played when the numbers worked in the other fashion and the threats that came from the Mayor about vetoing anything. I think that is a joke.

I wanted to get into 126 – proposing an amendment to the City Charter relative to filling vacancies and elected boards by appointment – the person who received the most votes for the office at the previous election without being elected –

Chairman Tollner

Alderman Deane can I stop you for one second? If we do want to talk about specific legislation in particular ..

Alderman Deane

We have been talking about all ...

Chairman Tollner

I understand that. I think that what we have been discussing now is whether new want to hold these pieces of legislation or pull them from committee. Why don't we take that discussion and if someone wants to take from the table a particular piece of legislation we can ...

Alderman Rootovich

Point of Order – first of all nothing is taken from the table because it is the first reading. Anybody in the committee can make a motion. There is nothing that has been tabled.

Chairman Tollner

I am sorry. We can pull it up as new legislation. Continue Alderman Deane.

Alderman Deane

Can I continue to speak?

Chairman Tollner

If you are going to speak briefly on the legislation...

Alderman Deane

You know you have allowed open dialogue on the other two pieces and I go to speak about this and you don't want to hear about it.

Chairman Tollner

I do want to hear about it.

Alderman Deane

No you don't.

Chairman Tollner

Alderman Deane go ahead talk about it. You have the forum to talk about it now go ahead. If you don't want to talk about it we will move to the next speaker. The choice is yours.

Alderman Deane

Yes I would like to speak about this.

Chairman Tollner

Go ahead.

Alderman Deane

I think if people go through the motions and get their petitions signed and get put on the ballot and they don't finish in a position that puts them in elected position and there is an opening on that board or commission or whatever it may be I think that the next runner up should be placed on that board or commission. I think they took the time, the effort, they received votes from the general public – it is not a personal thing with what has gone on in the past I just think that if you have people in the community that go out and make the effort I think they should be rewarded if there is an opening because they did receive votes from the public. Thank you Alderman Tollner.

Chairman Tollner

You are welcome Alderman Deane.

Alderman Deane

Can I continue for a minute Alderman Tollner?

Chairman Tollner

Sure thing.

Alderman Deane

It just bothers me when you allow open dialogue on two other pieces and I go to discuss something that has been brought up and you mentioned the resolution number and it seemed to me that you didn't want to hear about it.

Chairman Tollner

I thought you wanted to talk about it in great detail. That is where I was coming from. If that was not your intent I apologize and thank you for your comments.

R-04-119

Endorsers: Alderman-at-Large Paula I. Johnson
Alderman-at-Large David W. Deane
Alderman Kevin E. Gage
Alderman-at-Large David Rootovich
Alderman David D. Lozeau

PROPOSING AN AMENDMENT TO THE CITY CHARTER RELATIVE TO THE
DATES FOR SUBMISSION AND ADOPTION OF THE ANNUAL BUDGET

MOTION BY ALDERMAN GAGE TO RECOMMEND FINAL PASSAGE

ON THE QUESTION

Alderman Gage

I have been on the Board for 5 years and a majority of those 5 years we have had issues with the dates and times and contracts and everything else. It comes up every time when you have certain departments that say well sorry you guys are stuck there is nothing we can do about it. That just isn't right – the attitude isn't right so if we can adjust the city budget date so that we can bring everybody up on an even scale because to say things like that affects other departments that don't have that to hide behind if they want to hide behind it. Other departments get crucified for things that other departments can hide behind contracts. I just think this is the right thing to do to bring it up and have a situation handled in a timely fashion that the voters are aware of it, there is no backdoor anything that can occur. It is either here and now and I want to see a date when this comes up. I don't want a memo from the Mayor – no offense to the Mayor, but if we don't get it now then this Mayor may agree with that and do it in a certain fashion earlier and the next Mayor may not. I don't want to play that game. If it is down in writing then it will happen and that is what we are here to do. I certainly think that having a special election and spending \$13,000 seeing the amount of funds that we have spent every year \$13,000 is nothing compared to the money that we have spent for a lot of different things over the last 5 years I have been on the Board that I didn't think we should spend it on. I am certainly in favor of \$13,00 to give the voters a chance to walk in there and say this is what we want. Thank you.

Alderman Rootovich

This is a good piece of legislation. I guess my argument would be if you are opposed to this I would like to hear the reason why you would be opposed to it. To me getting the budget three months before we get it allows us the time to go through that budget with much more scrutiny, to ask the questions that I feel are necessary to make a sound decision when it comes to the taxpayers' money -- I believe that it will not cause the situation we had this year where one division in this city used extensive scare tactics by closing down kindergarten, busing, threatening to take away sports because they clearly knew there was a deadline, the pressure was placed on us. I think by having the budget well ahead of the normal time we get it would resolve many of those issues. Alderman Tollner you have sat on the Board as long as I have and I don't think there is one budget when we haven't heard the same dialogue every single year. You can almost know what the exact adjectives and adverbs will be for every division director in this city.

We hear the same thing year after year after year. I believe this is a good piece of legislation. I think this will allow the Board of Aldermen to do a much better job to scrutinize that budget and ask the questions that are necessary before we make a final vote that affects the thousands of citizens that pay taxes here in the City of Nashua. Again I am open minded – if there is somebody here that can give me an argument why this is not a good piece of legislation I would love to hear it.

Alderman LaRose

I am not going to say that this is not a good piece of legislation. The fact is that the Mayor has until June 1st to submit his budget to us. It is always way ahead of June 1st. When I was an Alderman in the '80s that law was in existence then. We always received the budget before June 1st way before June 1st. The annual adoption date is not supposed to go beyond August 1st. This new legislation says the Mayor has to submit the budget by February 1st and we have to pass the budget by April 1st. It is almost the same timeframe. I am not sure that what has happened in the past will not happen in the future. I am just putting that out that I am not sure that anything will be any different. What happens after April 1st I guess

we will be in the same quandary that we were this year.

Alderman Rootovich

It is my intention to amend that section as well. I did read that. I think the budget should be left at the same time period, June 30th, but allow us more time – it was my intention to amend that as well.

Chairman Tollner

I think this is a good piece of legislation. I totally support this particular piece of legislation. What I don't support is for the next year if we have the Mayor's commitment in writing that he will get us the budget by February 1st why would we go to the effort of having a special election for this? Basically what the intent of this legislation is asking for – I think the Mayor has committed to deliver the budget on February 1st. That is basically what the legislation states that this Board would like to see the Mayor's budget on February 1st. The Mayor stated the other night and I am sure he will follow up in writing that he will get us the budget on February 1st. Hence, I do not see the need to have a special citywide election to pass this when if the Mayor will deliver the budget on February 1st for FY '05-'06 we can put this item on the agenda for the voters to decide. I just don't see by passing this and scheduling a public hearing and having a city special election for this particular piece of legislation what more you will get than what the Mayor has already committed.

Alderman Rootovich

Because it is the law. What if a division director decides that they don't have enough time to put the budget together and the Mayor doesn't get the budget from the division director – what will the Mayor say to this Board well I tried but I didn't get two budgets from two significant divisions I am sorry – all due respect to the Mayor who is a very close friend of mine, the Mayor has said a lot of things in the past including when he ran for Mayor the first time and he stood up in the auditorium upstairs and said and I quote "The Spending Cap is the law, is the law, and I will support that." We saw otherwise. It has come to a point in junction in my political career enough is enough – enough is enough. I believe -- I believe with all my heart that in the next 3-5 years this city will be in a crisis like we have never seen before when it comes to spending money. We have all been around long enough to see the pattern starting with the insurance costs, pension costs, labor costs, increased hiring every single year that I have been on the Board – hiring has gone up. It started out in the first year when we got elected with about 15 positions, now it is well to over 100 every single year. Last night before the Infrastructure Committee I watched it on TV I saw a \$21 million project before us. I am just saying Mr. Chairman that I believe that it is time that we as a Board take a stand and do the things that are correct and right to watch the taxpayers' money, and I think this is a step in the right direction.

Alderman Gage

I respectfully disagree with you on having a city election for this because you are not just talking about this piece of legislation there are two other pieces of legislation that will require that city election. If you are going to give them out for – if we pass one of these three pieces that we have sitting before us tonight then you are having a special election for one so I think we should give this all of them our full support and bring all three up to the people. Let them decide and we will sit back and say all right if this is how you want to do it this is what we will do.

Chairman Tollner

Is there any further discussion?

Alderman LaRose

I get the feel that most of the members want an election. I guess the question is when is the best time to have the election and I know that we can't wait until next August, but when is the best time between now and some specific date is the best time to hold the election? I think we have to take a look at the calendar. In my opinion I think it has to be done after the first of the year. I don't know if somebody else thinks that it is better to do it between Thanksgiving and Christmas and all, but if we are going to spend \$13,000 on a special election for 1 or 3 of these things or 2 I think that we want to have the most people that we can to go out and vote for these yes or no for these Charter changes. I would hate to see us have a very low turnout because of the time of year that we are doing it.

Chairman Tollner

I am going to check with City Clerk – not that it makes any difference, but I thought that the cost was \$23,000 for a special election. I can't imagine if we have 6-7 poll workers working in 9 wards – I will check with the City Clerk.

Alderman LaRose

I know I saw it in writing somewhere, but I don't know where.

Chairman Tollner

If this particular piece of legislation was taken up 9-10 months from now I would definitely vote for it. I just can't see holding a special election for this when the Mayor has already made a commitment to deliver on what this legislation is asking for.

MOTION BY ALDERMAN ROOTOVICH TO AMEND R-04-119 BY DELETING IN THE SECOND PARAGRAPH THE WORDS "AND THE LATEST DATE FOR ADOPTION OF AN ANNUAL BUDGET FROM AUGUST 1 TO APRIL 1."

MOTION CARRIED

Chairman Tollner

Any further amendments or comments?

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

R-04-121

Endorsers: Alderman-at-Large Paula I. Johnson
Alderman Robert A. Dion
Alderman-at-Large David Rootovich
Alderman-at-Large David W. Deane
Alderman David D. Lozeau

PROPOSING AN AMENDMENT TO THE CITY CHARTER RELATIVE TO
REQUIRING
THE VOTE OF AT LEAST TEN (10) ALDERMEN FOR THE ANNUAL BUDGET OR
ANY
OTHER APPROPRIATION

MOTION BY ALDERMAN ROOTOVICH TO AMEND R-04-121 BY REPLACING THE
WORDS AT THE BOTTOM OF THE LEGISLATION THAT READ “THIS AMENDMENT
SHALL BE EFFECTIVE JANUARY 1, 2006” WITH THE WORDS “THIS AMENDMENT
SHALL BE EFFECTIVE JANUARY 1, 2005.”

ON THE QUESTION

Alderman LaRose

I think if I remember right – on R-04-119 56-b says one thing and R-04-121 says something different. It seems to me that you want to put both of them saying the same thing. It is the same, but in the legislation it is different.

Alderman Rootovich

Can you explain where it is different? I don't read it that way.

Alderman LaRose

In one of them it says 2/3 and one of them says 10 ...

Chairman Tollner

It should say 10 not 2/3. That is where the loophole is.

Alderman Rootovich

I will make that change next. Mr. Chairman it is my intention to ask the Chairman's indulgence to reconsider R-04-119 before we leave this evening and make that change.

Chairman Tollner

If that is your motion you are on the prevailing side so you can make that motion. Is that your motion?

Alderman Rootovich

Right now the motion is to amend R-04-121 by changing January 1, 21006 to January 1, 2005 on R-04-121.

Chairman Tollner

You want to go back to the other one after that?

Alderman Rootovich

Yes.

Chairman Tollner

Okay everybody understand what the amendment is?

MOTION CARRIED

MOTION BY ALDERMAN ROOTOVICH TO RECOMMEND FINAL PASSAGE OF R-04-121 AS AMENDED

ON THE QUESTION

Alderman LaRose

I am not sure that we should require 10 Aldermen to have to vote for the budget no matter if it goes up or down. I think we are going to find ourselves at an impasse every year when we do the budget. I think that if the budget has been reduced as it is now you just need a simple majority of the Board.

Chairman Tollner

No if you reduce the budget and you have a majority of the Board and that budget exceeds the Cap you still need 10 votes or 2/3 I am sorry – 2/3 to approve that budget. That is what the issue is.

Alderman LaRose

Thank you.

Chairman Tollner

On this particular piece of legislation I do think that 10 Aldermen should vote on the budget. I do think that the intent of 2/3 when it was written having 15 members of the Board of Aldermen, 2/3 to anybody that would read it 2/3 of 15 is 10. Same as the last piece of legislation that this committee passed, I agree with the legislation, however, I do not agree that we should have a special election. If it comes up 9 months from now when the city elections are held and we are not holding a special city election I am all for it, but I do think that it should be 10 members of the Board of Aldermen not 2/3.

Alderman Deane

I just feel that this legislation would benefit the citizens one fiscal year ahead of time. Not to support this and this and put it on as a ballot question I think is a travesty. We have to start getting a handle on these budgets. I think this would kind of push the envelope a little bit and allow people to think a little longer before pushing out tax increases that have been pushed out in the last 5 years.

Chairman Tollner

So long as you have 6 or more Aldermen that feel one particular way about the budget I would agree with that.

Alderman Dion

I am glad you interpret the 10 votes the same way I do. I think it was intended because of the 15 Board members 2/3 meant 10 votes, but somebody played games with that 10 votes. This is to prevent this game from being played again next year. If we don't have a special election to pass it for next year then we will have another budget fiasco such as we had this year with the same program as far as 2/3. That is why I think we should have a special election and change this and put it back where it was intended to be. That is the way I feel.

Chairman Tollner

Is there any further discussion?

MOTION CARRIED

R-04-126

Endorsers: Alderman David D. Lozeau
Alderman-at-Large David W. Deane
Alderman-at-Large Paula I. Johnson
Alderman Robert A. Dion

PROPOSING AN AMENDMENT TO THE CITY CHARTER RELATIVE TO FILLING VACANCIES IN ELECTED BOARDS BY APPOINTMENT OF THE PERSON WHO RECEIVED THE MOST VOTES FOR THE OFFICE AT THE PREVIOUS ELECTION WITHOUT BEING ELECTED

MOTION BY ALDERMAN ROOTOVICH TO RECOMMEND FINAL PASSAGE

ON THE QUESTION

Alderman Lozeau

This piece of legislation doesn't ask you to make a decision tonight. This piece of legislation asks you to ask the voters to make a decision. I have heard pros and cons about this legislation. I will give you an example, what if a low life is the next person in line for that position and he is the only one and if somebody would like language to address that particular concern I would be happy to address some type of language to address that concern. Other than that that is the only negative thing I have heard on this legislation. I would ask you to consider it.

Alderman LaRose

The statement that my colleague from Ward 5 just made – who will determine that? You can't really determine that. If someone meets the qualification; is a registered voter, 18, and is a citizen of Nashua you can't determine his ability to serve. I don't like this legislation to tell you the truth. I think that the

system we have works adequately. Right now unfortunately the Charter just talks about a vacancy in the Mayor's office and a vacancy in the Board of Aldermen's office. If an Alderman decides to for whatever reason – that office gets vacated the Board of Aldermen has two options. Their option is to appoint somebody or hold a special election. They can do that. When it comes to the other boards I am not sure what the system is right now. I know that the Board of Education when there is a vacancy they elect their member. My recollection is that like the Fire Department if a vacancy occurs I believe the Board of Aldermen elects a new Fire Commissioner. I think it may work the same..

Chairman Tollner

The Commissioners do.

Alderman LaRose

Okay. In the legislation that is here when it says the Board, what board are they talking about? Are they talking about the Board of Aldermen or the board of the respective commission? At the end it says if the runner up does not want to take office then the Board shall elect a member – what Board are they talking about? Are we talking about this Board or the individual boards?

The other thing – I understand both sides of the argument, but I think that the system that we have works. Yes there are times when the runner up does not get elected, but there are times when the runner up gets elected. Whoever takes over that office has to run at the next election. Because you sign up to run for office doesn't mean that office is yours if it gets vacated because you are the runner up. I believe that we either have the system we have now or change the system where the citizens elect a new representative. Thank you.

Alderman Rootovich

My philosophy is I think it doesn't work right now. If you have a board that has a certain philosophy they are going to elect a member that has the same philosophy. That is a given. We have seen it happen time and time again. I have seen it happen on three different occasions in the last 3 years. This makes it fair. I agree with what Alderman Deane said if you have an individual citizen who is qualified, who has taken his time, energy, money, compassion to run for a city office – that individual might have come in 4th – he should have an opportunity to serve in office. I think it is the fair and equitable way and I think it takes all the political cronyism right out of the system. I think that is part of the problem right now. I think this is a great piece of legislation that does just that. I support it 100%.

Alderman Gage

My last re-election I had two opponents; Marylou Blasdell and Charlie Shagnon. If I stepped down tomorrow I would expect and I think almost half of the folks that went to the ballot that day would expect that Marylou Blasdell if she was interested and came up she certainly is qualified to run, she wanted the job, she made the effort to go around and talk to the public and find out what their issues were, and felt that she could make that commitment. I would expect under this piece of legislation that if I stepped down she would be the one to take that position. Now her and I have different issues, we are on different sides of several issues during that election, but that is what I would expect to happen because that appeared to be what a large percentage of the voters in my ward wanted. I happened to get a slightly larger percentage – 29 votes more, but these folks that come out and make the effort – we have some State

Reps. in the audience that have done their elections and we have all run in different elections at one time or another – there is a Public Works Commissioner sitting out there – now is an Alderman-at-Large. I think that is the way it should be done. I certainly applaud those folks that do make the effort to run and want to take the time to sit here a couple of nights a week or during the morning or whenever that board or commission happens to meet.

I do have a question. Where it says in the legislation “vacancies on elected boards” do we have to specifically put like the board and commission so that the Board of Public Works is counted and the Fire Commission is counted that way or does elected boards pretty much cover it?

Chairman Tollner

Elected boards cover it given the fact that the Board of Education, the Fire Commissioners, Board of Aldermen, tape flipped ...

Alderman Plamondon

I think on the surface this is at least a good foundation of good legislation. Why I say that is a few things – say like in Alderman Gage’s situation where there were 3 running what if #2 moves out of the Nashua area, passes away, doesn’t want it – does it then fall to #3? What if whoever is next in line garnered only 1% of the vote? There are no checks and balances. Bottom line this Board would be held accountable and responsible. This is where the heat would come. My suggestion would be some amendment that would include approval via this committee and a full Board vote. Ninety nine percent of the time that person would get – the way this is written 99% of the time that person would get in, however, there are individuals out there that have run for elected office – do they really represent their constituents – there are individuals out there that for example who we had international news about 4 years ago international news presence on an advocated cop killer. If that individual is the second in line without any checks and balances that individual automatically would assume the seat without a check and balance -- without any discussion, without any questions. I think this is good, but I think there are a couple of things that needed to be added on here.

As far as commissions there probably should be language in here that would exclude a Board of Police because that is chosen by the Governor.

Chairman Tollner

The reason why it is not in here is because we are not a part of that.

Alderman Rootovich

We can change that.

Alderman LaRose

It is State law.

Alderman Rootovich

We can change that locally. The Charter says we can change that.

Alderman Gage

Mr. Chairman ...

Alderman Plamondon

I guess I am done.

Chairman Tollner

Continue Alderman Plamondon.

Alderman Plamondon

That is basically it. I just think that there should be a check and balance. I think as a foundation this makes sense. It is fair, but I think the Board of Aldermen should be included. Thank you.

Alderman LaRose

My question is does anyone know of any state, city, town that or federal government that when someone leaves office for whatever the reason they have a vacated seat that the runner up gets that seat? Does that mean the President of the United States whoever ran against him becomes if we go that far let's take the State of New Hampshire – if a representative leaves office, moves away, dies in office – the seat is vacated – no one is – the runner up doesn't get that office there is an election. It is the same thing with the Governor. I believe a County Commissioner if there is a seat that is open the county delegation, the legislative delegation is the one who appoints a replacement and that replacement has to run at the next election. I don't understand why we wanted to change something that works simply because somebody ran for office and was a runner up. They don't – that office isn't theirs to hold. An election should be held or an appointment should be made. I just don't understand why we want to go to the runner up. Once that election is declared valid the election is over. If there is an opening we should either hold an election or do the same thing that we are doing now until the next general election.

If it is a four year term and the office gets vacated say 9 months after the election the person who gets appointed to that office has to run at the next election – like if it is the Board of Education it is a short term – that person chooses to either run, not run, or run for a 4 year term. I just think that it is not the right approach. What we are doing now works because the fact of the matter is each one of us has been elected. What happens is we as the representatives of the citizens of Nashua elect someone to take the vacated spot until the next election. I think that is the right way to go.

Alderman Rootovich

The example that you gave Alderman LaRose with respect to the President and the Governor are different. They are in leadership roles. The Constitution of the State of New Hampshire and the Constitution of the United States says whether the President were to pass away God forbid or have to leave office the Vice President will take his place. It is not another appointed position. The same with the Governor the Speaker of the House would become Governor until the next election. This is totally

different.

As far as your comments Alderman Plamondon about having individuals – checks and balances – what are we supposed to do when people file for papers should we have a questionnaire to find out their views and philosophies, what they do and do not believe in and then a Board determines whether they should go on the ballot or not? As long as – like Alderman LaRose said as long as they are a citizen of Nashua, they are in good standing, they are not a felon, and they are registered to vote they have the right to be on the ballot. I support that. Let the people determine otherwise.

Frankly I don't care what happens in the State. I don't mean that literally – I don't care what the State does or the national government does with respect to appointing their elected officials I care what happens in the City of Nashua. That is what my quality of life is affected by and the decisions that are made here affect my checkbook locally and I care what happens here.

Based on the history that I have seen specifically again in the last 3-4 years, I think this legislation is clearly needed. Like I said I support it. I think it is a step in the right direction and I think that it is fair and equitable.

Alderman Plamondon

Just to back up to my point. I don't question any individual's right to be on the ballot. However, being on the ballot and holding the office are two different things. They lost the election. They came in 2nd or 3rd or 4th – wherever they fell – again I may be speaking of that 1 out of 100 times, but we have already experienced that in our recent history. What kind of question that would be the questions that whatever the board wants to ask. If they got 20 votes do they have 20 relatives in that district? The point is are they going to be representative of the position? I just think that this Board ought to have an opportunity to meet the individual, vote them in, welcome them or say we have real issues we don't think that you are representative and we would encourage you to get on the ballot again and we are going to hold another election. I just think that the public might best be served with a check and balance.

Alderman Gage

I listen to Alderman LaRose and I understand where he is coming from. We had a discussion with the previous piece of legislation and all of these about having a city election and how much it costs. We can require that if a Fire Commissioner steps down for whatever reason like Commissioner Lecius did that it is required there is a city election for Fire Commissioner. Do we go that route; do we have another city election every single time somebody steps down? We had the President of the School Board – family moved to Hollis, somebody was appointed to replace her. We could go and say okay if anybody steps down, retired, dies, whatever there is an opening it will require a city election and that falls under the 60 days and everything – it is fine by me if we want to require that, but we just had a discussion about spending \$13,000 or \$23,000 in an almost \$200 million budget. I don't know how well that will work.

The other thing was mentioned by my colleague from Ward 4 regarding the Police Commission not being – the police commission is a separate entity appointed by the Governor and approved by the Governor's Council, but there is in that State Law there is a mechanism that is spelled out in there word for word how the city would be able to move to have those officials again elected by the citizens of the city. It is very easy to bring forward. It is spelled out in that piece of legislation just so everybody knows that. Thank you.

Alderman Plamondon

I am fully aware of the police commission and how they are set up. I only brought that up because it wasn't addressed because they are a separate entity and this legislation addresses the commissions and that is a commission. I just thought for clarity sake, but if our legal eagles upstairs think that is fine...

Alderman Lozeau

I would like to go back to Alderman Plamondon's reference to a person of shady character – I think he referred to him as a police killer. That person was elected to that position. He wasn't runner up. I feel strongly that somebody that puts themselves out to run for public office deserves consideration and doesn't deserve to be interviewed by people that he ran up against. If they want to be considered for that position that is exactly what it entails he will be interviewed by the people he actually ran against. This legislation prevents cronyism and anybody that can tell me there isn't or hasn't been doesn't live in this city. Thank you.

Alderman Dion

Alderman Lozeau used the terminology I was going to use. I will use it anyway. I have been around here longer than most of you have. I think cronyism has been played – I have seen it played for years and years and years, and don't tell me it isn't being played because it is. We just saw it recently on the School Board. It happens very very frequently. I believe in this legislation. I support Alderman Lozeau in this legislation. I think it is the fair thing to do. Like someone mentioned if someone took the time and effort to get his papers filed, put up signs, spent money to run for a position that he feels as though he is qualified for an loses that election, comes in second – if there is a vacancy on that job I think he should get it. I think it is the fair thing to do, the right thing to do, the moral thing to do. Thank you.

Chairman Tollner

I applaud the intent of the legislation. I do think the legislation needs a little bit of work because I do have concern if every election or campaign went down the road of how you just described it Alderman Dion I wouldn't have any problems. A number of us have been on this Board for a long time and there are some people that have run for office that put their name in that don't buy signs, that don't campaign – they just put their name on the ballot. Someone leaves that elected office that they have been elected by the voters to I do think that the person who is a runner up that really did put a good effort, truly put in a legitimate campaign, truly communicated the issues to the public, should be in a position to replace that person.

The election in Ward 3 is a perfect example. The stars were all lined up for that one if you want to approve this particular piece of legislation. There have been other people running for office where there were two individuals in a certain section of the city where if someone got 79% of the vote and the other person got 15% and the other 6% - the person that came in second means that 79% of the people didn't want that person, and that is the quandary I find myself in with this particular piece of legislation.

If we want to amend this legislation where it stipulates receiving – there are different levels that you can put – if the run up receives 45 or 40% of the votes that would make me feel more comfortable. If there is a campaign where there are a considerable number of Board members, and I understand the frustration of

the people who are endorsers of this legislation and are supporting this legislation – I agree with the comments that you made. I know where you are coming from – there is a lot of cronyism, but there is a lot of cronyism on all boards. I can remember right before I started I think on the Board of Aldermen – an Alderman-at-Large stepped down, a Ward Alderman popped into that seat, and there were a number of people that have contributed to the city for a number of years, and they didn't even have a shot because of the cronyism on the Board. It was a done deal and that is not fair because there are people that have run for Alderman a couple of times in that particular ward. With the Board of Education when you have a large number of people that are running for a certain number of positions, this legislation would fall right into that I think.

I have some concerns when where there are 2 or 3 individuals and the person that won the seat got 65% of the vote and the remaining 35% was split between the second and third place person. In that election polled those people in that ward for example that 65% of the people in that ward that voted did not want either of those candidates. If we can come up with some amendment to this legislation I would feel more comfortable in voting for it. The example of if someone moved out of the ward is a good one. Say in Ward 10 the vote was very close and the second place person moved and the third place person got 2% - that tells me that 98% of the people in that ward at the last election didn't want that person. We need to find a mechanism that has some checks and balances where we address the valid concerns of cronyism and people that are on the Board automatically picking someone that has the same vision or ideals that they do when there was another person that was out there that finished a very close 2nd or 6th whatever the example is. I can't support the legislation in the form that it is in right now as those are the concerns that I have.

Alderman Rootovich

One other scenario. There is no way I am insinuating that this happened, however, you form your own opinion in the last 10 years – you have candidate A, B, and C who requested from a particular board or commission to serve on that board or commission, they sent their resume, however that particular board looked at those three candidates and said no let's go and ask so and so who wasn't even interested in it. That is what it also stops. Think about that.

Chairman Tollner

I agree with you.

Alderman Deane

Although I appreciate your hypothetical situations you brought up with people that were elected and percentages they got, I don't think hypothetical situations really should figure in on this. You can say that you have somebody on a board or commission that is there for a year, he got 90% of the vote and the constituency that voted for him is absolutely disgusted with the job he is doing – now he got 90% of the vote and the other guy only got 10% so let's put the shoe on the other foot where they would like to remove him and then he goes away. Believe me that probably exists today as we speak.

The other thing, which has been brought up, by a number of people is the cronyism that goes on. I for one know appointments that were made by different boards and commissions as Alderman LaRose had gone into – the Board picks whom they want. I do understand your point Alderman LaRose the election is over and it has been validated and nobody is deserving of nothing after the fact – that person one, these

people lost, and it is over with, but I think that serious consideration should be given to people that took the opportunity to go out as Alderman Rootovich had described and went out and campaigned and spent money and talked to people and did mailings and things of that nature and quite frankly that isn't being done. I think it is not right. I would support this piece of legislation. Like I said earlier you can go through hypothetical situations with a lot of different percentages and numbers and I can take that as I did a few minutes ago and twist it in another direction. That is just the way it is.

Alderman Rootovich

I guess you want some specific language – I think it is pretty specific in what it says. It says if that person does not accept the appointment within 10 days via a written notification to the City Clerk the vacancy shall be filled by the election of some qualified person by recorded votes of at least the majority of all members of the Board of Aldermen so there is an alternative if that individual doesn't decide to take that position.

Alderman Plamondon

I think it is gray. What is a qualified person? Who determines a qualified person? By getting their petitions signed and putting the papers in that is all qualified is looking at – if they live in Nashua or in the ward. It doesn't look at between the election and this timeframe did this person – I don't want to go hypothetical, but this is what we are here for – what if they committed a felony? What if anything happened that the general public would say this person isn't qualified? Perceptions change. Qualified person in that language I think you are only looking at the three basic things. If they are not representative of their constituents, if they only got 1 or a small percentage of the vote – again I think we are not talking about the majority of times. I think the majority of times anybody that falls within the current written form of this legislation it will fly either with a percentage as Alderman Tollner recommended or a review by the Board of Aldermen, which I hope would take away cronyism if it is not a member of this Board, but I just would like to see some kind of check and balance. That is how I feel. Thank you.

Chairman Tollner

I guess that I keep getting stuck on the fact that – part of me definitely wants this legislation to pass just to alleviate the cronyism piece. The other part though wants some checks and balances. If in a campaign would you be willing to consider an amendment where that individual would have to have whatever the number is – maybe 30% of the votes that are cast. I am thinking if it is a two-person race it is tough not to get 30% if you were a legitimate candidate. If someone got 15% of the vote or 20% of the vote, and we are talking about crazy scenarios that is pretty clear that the people in that ward didn't want that person for some reason or another. I am more or less thinking of Board of Education or even Alderman-at-Large where you may have 6-9 candidates running. Citywide or ward is irrelevant from the perspective of the percentage of votes versus the number of people that are running for that office. I am just saying is that something that the endorsers are open to?

Alderman Lozeau

I would be very amicable to some type of legislation that addresses your concerns like I would even be willing to amend the legislation by saying that the next voter must be within 10% of the previous voter meaning that they have only lost the election by 10%. Sometimes it is all about money too. If somebody spends a whole bunch of money on an election they can get elected no matter who they are. It shouldn't

be about money.

Alderman LaRose

Don't you think when the city fathers – when we went from a town to a city and the city fathers set up our Charter that they didn't know what they were doing? Don't you think that the system they set up was a good system because listen to what we are saying – we are coming up with all kinds of different scenarios – what if I this, how about 30% of the vote, how about 10%, how about this, how about that - we are worried about cronyism and we should be, but I think that the city fathers when they set up the Charter they understood this and what they were saying was okay we're going to appoint somebody to fill that vacancy, but that person either has to stand up at the next election or not and that the general public will make their decision on if they want to keep that person in office. That is what we should be doing. We shouldn't be trying to change – changing the Charter should be something that we really really think about that we just don't come in and start changing the Charter. I know that the Alderman has given it a lot of thought so it is not a well I want to change the Charter type thing, but the Charter is something that we should honor and that we should be really really concerned before we start making a Charter change. It seems to me that the founding fathers of the City of Nashua had it right on how they decided that we would fill in vacancies. Thank you.

Chairman Tollner

Can I just clarify one thing? I think the intent of the legislation is if someone is running say for the Board of Aldermen or Board of Education and it was a four year term, I think what this legislation is stating is that the next closest vote getter would move into that position until the next general election. What the endorser's concerns are is that if it is a four year term, again Board of Education is a safe – that individual who won that seat leaves after 6 months right now there has been shown to have been a lot of cronyism in picking a replacement until the next general election. What this legislation is asking us to do is to consider the next closest vote getter as a replacement for that vacated person until the next general election. It still addresses what is written in the City Charter, however, it is the replacement on a temporary basis until the next general election that this legislation is addressing. Am I correct?

Alderman Lozeau

Yes you are.

Alderman LaRose

What makes you think that the next person in line doesn't have the same ideas of the people that are already on the board?

Chairman Tollner

I think the concerns that have been brought up tonight and I don't want to speak for a number of people, but I think if you look at the last three years that absolutely has not been the case.

Alderman LaRose

I don't agree.

Alderman Deane

My response to that is oh well. Their point of views on different issues is they are what they are. I thank you Alderman Tollner for clarifying the next general election so it is a temporary fix – if it is a four year seat and 6 months into the term and it is vacated then that next election, municipal election, which is every two years, a four year seat and there is somebody in it for 6 months and they step down or whatever and they are replaced using this process then they would have to run at the next municipal election, which I think is fair. I started getting a little concerned when people starting going into percentages. I think that is a recipe for disaster. I think this piece of legislation fits well.

Alderman Lozeau

I didn't realize this was going to be such a controversial piece of legislation. I would just like to comment on Alderman LaRose – Charter amendments are changed all the time. This isn't the Constitution. If our founding fathers had any idea of what the future would bring they probably wouldn't have written the Constitution. However, things change, times change. This is the City Charter it is not the Constitution.

Alderman LaRose

Our constitution for the city though.

Alderman Gage

Similar point – the Constitution of the United States, the State Constitution, and the City Charter all have the ability for those folks to change that. It is a changing document, it is a live document, it is not dead. It is not set in stone. We all have the ability to do that. It doesn't happen very often. I certainly think if we were going to – we as a Board are just looking at some ideas that other members of the Board have come up with to bring to the people. Let them decide. Bring it out, let them decide. If 4,000 people vote in this city or 2,000 people vote or 40,000 people vote everybody has to stay with that. You see it in the paper every Sunday about only 10% of the people who were eligible to vote voted and that is what they decided and now the city is going after us. That is just hogwash. People have the obligation to come out and vote. They have the obligation to come out and vote this coming November. If they don't then they sit home and have to deal with what happens.

Alderman Rootovich

I was going to comment on the same thing. Is there a problem with letting the people decide which way they want to go? Are you afraid for them to make a decision? I am not. I am still a little puzzled if somebody here could give me a definition of check and balance so I can understand exactly what you are talking about when you say check and balance to determine whether a candidate is qualified to serve. I would like to hear what that is.

Chairman Tollner

The one concern that I have as far as checks and balances are it is not whether the candidate is okay to serve it is the intent of those people voting on that particular position. The example I used while it might be an extreme one; three people running and one person getting 70-80% of the vote and the runner up

getting 18% and the other person getting 3% and in that example, if this legislation passes, and the person that came in second is gone, then the person that got 1% or 2% or 5% or 10% is moving into that seat. Under that scenario, I think it is safe to say that 75-80% of the voters in that particular ward aren't going to be happy with that. I need something ...

Alderman Rootovich

I guess my final comment is I guess you take that scenario when Don Davidson ran I think the vote was like 70/30% and yet two years later we had a recall so the people changed their minds too.

Chairman Tollner

That is the voters signing a recall petition that is not a rubber stamp.

Alderman Rootovich

Let them make the decision on this as well.

Chairman Tollner

That is not a rubber stamp that if someone leaves that they automatically get a position. How does the committee feel about entertaining some public comment?

What I would like to do is to entertain some public comment. I would like people to be respectful and as brief as they possibly can. I am not going to cut anybody off, but we don't want a 20-minute dissertation from each individual.

Fred Teeboom, 24 Cheyenne Drive

I have some personal experience on this issue and am very fascinated about this discussion. I ran for the School Board and at that time before the polls closed it was a situation where it was effectively an uncontested situation – there were just enough candidates who ran to fill all the positions. I was running and I remember Paula was running. I know for a fact – I can remember and I won't mention names, but I know for a fact that the School Board convinced somebody to run who was already on the Board that didn't want to run again. They convinced that person to run because they were terrified of the fact I think, and that is my opinion, that I would take this uncontested position. They convinced that person to run, the person won, Paula won, I came in first loser. I came within 100 votes of Paula. I had a lot of votes. Within a few months – this happened in 2000 thereabouts – within 6-7 months there was a vacancy, and I came up and said hey I would like to get this seat because I got a lot of votes, Paula beat me, and not only that there being a precedence – the precedence was and Vince Capasso used earlier had come in second and he got appointed – I said well you kind of set a precedence – you take the next highest vote getter and appoint him. I now should on the same basis also be appointed. Of course that didn't fly at all. Somebody came in and was already set up to say – in fact they wouldn't even debate the issue.

I had a very personal feeling – it was not a question of was I qualified or only had 1% of the votes or anything like that. The problem with this is if you get a Board like the Board of Education it tends to become incestuous – the whole idea of democracy in an election is you have representatives, you get a cross track of philosophy. You may get a guy on the board that you may not like but it brings new blood and new thinking and ideas. That is the whole point – the whole brilliance of democracy. It gets

destroyed by the cronyism. Cronyism is real, it exists, and it happened to me. Thank you.

Alderman LaRose

Can I ask you a question? After that happened why didn't you run again for the Board of Education or did you?

Fred Teeboom

I ran for the Board of Education – I am not even sure if I ran again for the Board of Education. I think I ran for the Board of Aldermen. That is what happened. I licked my wounds and ran for the Board of Alderman.

Chairman Tollner

Fred weren't you a runner up in that one as well?

Fred Teeboom

Yeah I was the runner up. I should say one other thing. When I resigned as Alderman-at-Large I had to because if I didn't I was going to lose my house. I was in a bad financial situation at the time. I am not sure anybody knew. I was an Alderman-at-Large. There was cronyism on the board. This board has a right by Charter to elect its own representatives/replacements. There was cronyism on this Board. A Ward Aldermen jockeyed to become Alderman-at-Large and somebody else who had not run for Ward 7 – in fact that person had run for Alderman-at-Large that time, became Alderman of Ward 7. I don't think it was fair to Ward 7. That was definite cronyism.

Chairman Tollner

Could you flip your political buttons around?

Alderman Dion

We allowed Debra Pignatelli to make a pitch.

Chairman Tollner

I understand I am just trying to ...

Sandra Zeeman, 147 Chestnut Street

I don't mind. Thank you for the opportunity to speak. I just have one quick comment. It seems that your basic argument is that the worst thing that can happen and I always try to take worst case scenarios so according to the arguments that I hear coming the worst case scenario is that we could get somebody in there who was not representative of the people, that they got such a marginal vote that they might not be representative, and I guess I have to lay that beside what is happening now and ask myself which is the worst case. If you have a board of say 15 people how much damage can one person do? Let's say you got an Al Luciers who obviously was crazy, you get him, but he is on a board of 15. He only has 1 vote

and so you have still made some efforts to put somebody in there who is representative of what the people wanted and who brings a different view to this Board. I guess my thing is that you compare worst case to worst case and I still see our worst case with this bill as being better than total cronyism and total stagnation. I don't think those people do it intentionally. They sincerely believe they are right as I believe tonight that I am right. That is out way. I am not intending to be critical of him I am just saying that the worst case scenario that you bring up I still don't see it as being a life threatening situation because I don't think 1 person can do that much damage. That having been said I do thank you all for listening.

Chairman Tollner

Is there anybody else that would like to provide some comment?

Rich Tomasso, Clocktower Place

I am not familiar with all the personality politics that people seem to keep bringing up and the cronyism. I think this legislation is good simply from the principal that we are a representative government and having a governing body elect its own members to decide what will happen in the city immediately strikes me as wrong that if someone is running for office they have obviously put forth the effort and they do have the support of the people at least a portion of the people. They are the next most logical choice. As far as percentages or a vote count you could win an election in the city by getting only 1 vote if only 1 person voted so I think putting some percentage requirements on it or some sort of raw number requirement I think that would put a burden on them that the person who won the election didn't have to face with our polarity system. If someone who came to the board who didn't "represent their district or the people" there is a recall procedure and there are other disciplinary procedures that if someone was truly not representing their constituents their constituents could speak up. Even for such a short term as I understand it would be less than 2 years or possibly even shorter for any of these replacement – I don't see how anyone could possibly do – if they were clearly causing a problem I think the people would step up and ask that they leave. I do think this is a good piece of legislation, and from what I have heard would solve some of the problems perceived and real that are happening in city government.

Frank Henry, 9 Greenwood Drive

It is interesting that you brought up the President. Over the last 30-50 years how many second runner-ups got into office and the real winner didn't get into office. That is just an interesting aside with our electoral system for the President. A lot of times the President did not get the majority vote he got the minority vote. Theoretically our democratic system here in the United States is based on the majority rule. In practice, that is not true when you really look at the practice to pick the President as a for instance. When you come down to our particular local area where we are talking about a system where we have elections for School Board members for instance and we elect them and it is time to replace a vacancy you have a choice of keeping the present system where the Board of Education who have been elected officials themselves choose by their system, which maybe is a cronyism system, but the other alternative is to accept the next runner up who was whether elected or not a loser. He was one of the many losers. I was one of them. I lost I lost when I ran for the School Board. That is because there were a few others in there who were a lot more favorable to the electorate and they picked those people. They did not pick me and Teeboom and a few others for good reason. They had their reasons. The alternative to really come up with the more to use the word fair system is if you want to go through an election process to replace that vacancy that is the fair unless there is only 6 months left of the term or something to that affect – maybe have a short term appointment, but if you still have 4 more years and someone left

within 6 months of his four year term then yeah go ahead and have a special election like our state representatives go through. Just like that. Thank you.

Chairman Tollner

Is there anybody else that wishes to comment?

Tim Glenday, 7 Lucier Street

I want to comment on two things. I want to know why public comment is being accepted this time. I know there are several other committee chairmen and vice-chairs here tonight. Why can't you tell people you are going to have a public hearing on a piece of legislation if that is what you are really going to have? I think it is one thing for a person to come up from the citizen seats and speak when they are directly affected by a piece of legislation. For example Alderman Lozeau had questions at another committee very recently about land and whether it was going to go back on the tax rolls so if the husband and wife are here and can tell you why that has all been worked out with some city department, but here we are with a piece of legislation tonight that I am used to looking at these agendas and when there is going to be a public hearing on it, it says it whether it is at the full Board or any one of these committees. Apparently tonight we can have a discussion on this piece of legislation meaning we just average Joe citizens. In fact I guess you would accept testimony from someone from Londonderry or Concord or whoever happened to show up tonight rather than watching it on TV. I am a little curious as to why we here at 9:00 p.m. talking about this in public with average Joe citizens.

Chairman Tollner

Let me answer that for you. Each one of these pieces of legislation if it is approved by the full Board is required to have a full public hearing so we are going to have a public hearing on this legislation. I have been chairing this committee for a while and I think we should always have public comment on any topic if the people have taken time to come down and they want to speak to the legislation whether formally or informally. It is up to the committee, but I am totally in favor of allowing anybody from the public and I think this committee has done that for years. On any piece of legislation if someone comes and says I am here tonight and I want to speak to legislation. Tonight it is informal. As Chairman I am open to that, but if your concern is well I think the public should be notified that you were going to take public testimony or comment we will do that and we have to do that by law and we will do that when these pieces of legislation in whatever way, shape, or form are going to be submitted back to the full Board of Aldermen and at the full Board of Aldermen meeting a motion will be made to schedule a formal public hearing and then at that time that public hearing will be posted for the general public to come and provide comment.

Tim Glenday

Well both as Chairman of this committee and as Vice President of the Board I do trust you to follow those rules. I just think it is very arbitrary that any particular resolution or ordinance that just happens to be at a committee meeting suddenly is being allowed to have public testimony rather than on that appropriate night that you are talking about that if someone had gone to a bulletin board at the library or City Hall whatever and had looked at your committee's thing it would have said somewhere up there oh we are having a public hearing tonight and they would have come up and we would have let them have this chair as you comfortably offer or we would have had the microphone.

Then the comment on the actual piece of legislation itself since you are accepting testimony on it – the reason I am not troubled when people start throwing percentages around and hypotheticals around as Alderman Deane said he didn't like hypotheticals although I would hope no piece of legislation is ever based on specifically getting back at somebody or some board – I hope it is always that legislation is hypothetical – you don't have a specific person or place in mind when you pass it – I think a reason for thinking of 75/25 and 90/10 or the way I am hearing an amendment being shaped I like Alderman Lozeau's or something where you have to finish near the person that you might now be replacing – I think it is just common to remember that we are all when we go to the voting booth I know it is against our better nature, but we are often voting against someone as opposed to voting for someone. It is the same thing when we give a campaign contribution. There will be people this November 2nd who will vote for one of I don't know the actual number of names on the New Hampshire ballot for President, but because they really can't stand somebody else. They would have gone anyone but and I am not as you know picking one party here or the other to say this. It is the same thing with a campaign contribution they would raise money for candidate X for Alderman-at-Large because they heard that candidate Y is running.

You are looking for as a voter someone of at least similar philosophy to the person that has had to step down whether that person has become ill, moved out of town whatever reason they had to leave office early. You are hoping whether it is through a special election or an internal election that someone like the person that stepped down will replace them because you went one day to the polls and someone told me they were for the Cap and someone told me they weren't for the Cap so I voted for the person let's say hypothetically who said they were for the Cap – you mean now I must take someone who is against the Cap and give them the job? It is a black and white thing and yet instead of saying a group sitting down and trying to find or solicit applications of people to replace that person for the remainder of that term you are saying the person who was the polar opposite gets the job. I do think in elections that are closer is at least the feeling that there are hundreds if not a couple thousand people in each ward who do support the person who didn't win, but when it is 75/15 or 10 when it is 82/18 I just can't see where you want to tell those people who not only voted that 82 for candidate X and definitely voted against the other candidate – they couldn't stand the other candidate that is why they voted the way they did well now the other candidate gets the job.

Mr. Chairman thanks for letting me both talk on the legislation, but also question why we are even letting a windbag like me up here tonight as opposed to the night that there is a public hearing. Thanks.

Chairman Tollner

Seeing that there is no further public comment, motion on the floor is for a recommendation for final passage of R-04-126. Is there any further discussion?

MOTION FAILED

MOTION BY ALDERMAN TOLLNER TO HOLD IN COMMITTEE R-04-126

ON THE QUESTION

Chairman Tollner

I personally will have some conversations with the endorsers to see if we can – or at least I will recommend some amendments at a later date.

Alderman Deane

I just have a question on the timeframe and your discussions at a further time. I look at it like this – you can do what you want to do or we can work to garner 8 votes and take this out of committee and do that as well. Quite frankly I am looking around the room and I think you have 8 votes to take it out of committee, but that is just my opinion.

Chairman Tollner

That could happen with any legislation.

Alderman Deane

I think sitting on it and procrastinating and you have two pieces that have passed now that still have to be passed by the full Board and there is a timeframe associated with it.

Alderman LaRose

If we are going to hold this in committee I think that we should go back and hold the other two. If we are going to have an election let's have one election.

Alderman Gage

I disagree with that because these go from this committee, nothing happens until the full Board decides what they are going to do with it correct? The clock doesn't start until the full Board votes on it.

Chairman Tollner

Right.

Alderman Gage

If this is held here or sent forward or pulled from committee or whatever happens we shouldn't go back and play with these other things. Just leave them the way they are, bring them to the full Board. If we hold them there we hold them there to wait until this one..

Chairman Tollner

There are a number of different scenarios. The Board as a Board can decide to hold all of them at the full Board level or whatever. We just have to deal with where they are in committee. Alderman Deane is correct if ... tape ended ...

Alderman Rootovich

I agree with Alderman LaRose 100%. We should only have one election. Let's pass this and get all three on the ballot.

Chairman Tollner

The motion is to hold in committee.

MOTION FAILED

Alderman Dion

Thank you Mr. Chairman. Not being on the committee I couldn't vote on this, but I would like to ask you Mr. Chairman maybe on this legislation that you just held maybe you can get together with Alderman Lozeau and work out an amendment that could satisfy you and him and then take it out of committee at the next Board meeting and pass it.

Chairman Tollner

If we can come up with that agreement I would be more than happy to do that.

Alderman Deane

I need a clarification on R-04-126 – that will be send forward to the full Board with no recommendation from this committee?

Chairman Tollner

No, it stays in committee.

Alderman Deane

It is not being held.

Chairman Tollner

It is – if you have a tie vote it is held in committee.

Alderman Deane

The motion failed.

Chairman Tollner

I was just trying to make it formal. If that vote fails and ..

Alderman Deane

It was taken off the table...

Chairman Tollner

It stays in committee.

Alderman Deane

The motion failed.

Chairman Tollner

You are right and even though the motion failed it still is staying in committee. I was just doing it as a formality. It will not go to the full Board if there is a 2/2 vote. It stays in committee. It has always been that way.

Alderman Rootovich

I don't think that is correct. I think that legislation is still in committee. You have to make some recommendation. You can hold it or indefinitely postpone, make a favorable recommendation or unfavorable recommendation, but the legislation is still ...

Chairman Tollner

It is still in committee. It will not be on the agenda for the next Board of Aldermen meeting. I am telling you for a fact. That is a fact.

Alderman Dion

I agree with that.

Alderman Lozeau

It will be on your agenda.

Chairman Tollner

It will be on Personnel's agenda. It will not be on the agenda at the next Board of Aldermen meeting.

Alderman Rootovich

Can I ask the Chairman

Chairman Tollner

It will be on my agenda because we will have conversations right Alderman Lozeau.

Alderman Lozeau

I hope so.

Alderman Rootovich

Can I ask the Chairman what part of parliamentary under Mason's Rules that falls under?

Chairman Tollner

I don't know particular, but I have been a Chairman of this committee and any committee that if there is a tie vote 2/2 it is definitely not forwarded to the Board of Aldermen it stays in that committee.

Alderman Rootovich

My understanding is the motion fails period. That doesn't mean that one of us or another one of us cannot make an additional motion.

Chairman Tollner

You can make any motion you want.

MOTION BY ALDERMAN ROOTOVICH TO RECOMMEND FINAL PASSAGE OF R-04-126

ON THE QUESTION

Chairman Tollner

If the motion passes it will go to the full Board. If the motion fails it stays in committee.

Alderman Dion

Wouldn't you have to make a motion to hold?

Chairman Tollner

No you do not. You absolutely do not. I have been the Chairman of this committee for 8 years. If there is a 2/2 vote that particular piece of legislation stays in committee. What is the reason for it to go to the full Board?

Alderman Deane

What is the reason to take it from the table?

Chairman Tollner

It is still on the committee agenda Alderman Deane if nothing happens to it..

Alderman Deane

You have taken it off the table.

Chairman Tollner

Then it stays on the table in committee.

Alderman LaRose

If we table this, which we did because ..

Alderman Rootovich

We didn't table it the motion failed.

Alderman LaRose

Okay – you are right.

Chairman Tollner

That was housekeeping. If the motion wasn't made same situation applies it stays in committee.

Alderman Deane

Wouldn't the appropriate motion be to table because none of the motions have passed?

Chairman Tollner

You can do that. I think if someone would like to make a motion to table..

Alderman LaRose

Isn't to hold the same thing as to table?

Chairman Tollner

It is.

Alderman LaRose

Well we just went through that exercise.

Alderman Gage

Moving on to new business if we are ...

Alderman Rootovich

Point of Order – there is a motion on the floor.

Chairman Tollner

I will take care of it. There is a motion on the floor right now. Alderman Rootovich just made another motion for final passage.

MOTION FAILED

NEW BUSINESS – ORDINANCES

O-04-41

Endorsers: Alderman-at-Large Paula I. Johnson
Alderman Kevin E. Gage
Alderman Kathryn D. Vitale
Alderman Robert A. Dion
Alderman David D. Lozeau
Alderman Rob Shaw

EXTENDING THE TIME BEFORE CONSTRUCTION/DEMOLITION MAY BEGIN IN RESIDENTIAL AREAS FROM 6:00 A.M. TO 7:00 A.M., SUNDAY THROUGH FRIDAY

MOTION BY ALDERMAN GAGE TO RECOMMEND FINAL PASSAGE

ON THE QUESTION

Alderman Deane

Could I have a definition of what construction and demolition are? Is emptying a dumpster demolition?

Chairman Tollner

I will read the legislation for you.

Alderman Deane

I understand the concerns. I know there is an ordinance in place now.

Chairman Tollner

No construction or demolition on any residential zone within 600 feet of any dwelling other than deemed emergency work from the Director of the Code Enforcement Department between the hours of ..

Alderman Deane

If I am working on a subdivision up on a hill out in the woods..

Chairman Tollner

Within 600 feet...

Alderman Deane

Unoccupied? I can't work until after 7:00 a.m.?

Alderman Gage

Six hundred feet.

Chairman Tollner

Six hundred of any dwelling. I would categorize legally I think if it is vacant there is no one living in there, there is no CO then it is not a dwelling.

Alderman Deane

What prompted this legislation?

Chairman Tollner

A couple of people live within a neighborhood where there were a couple of situations where they were demolishing a house or building or something like that.

Alderman Deane

Was it a one instance situation that ...

Chairman Tollner

I don't know if it was one or more.

Alderman Gage

I can say about 2-3 years ago some of the construction in my ward, Ward 3, I received several calls early in the morning regarding some construction issues that were going on, some paving issues that were going on, and that was not the city that was actually doing – there was some construction and paving being done by a contractor. All that stuff started pretty early too. Just brought all that back. It was not much that we did at the time, but I did receive a few phone calls regarding that at one time.

Chairman Tollner

Alderman Deane I think to – if there was a new development up in the hills where there were no other houses around it I do not think that this legislation would apply so long as that construction did not lay within 600 feet of any existing occupied dwelling.

Alderman Deane

I guess the city is also going to have to comply with this as well.

Chairman Tollner

Unless it is an emergency.

Alderman Deane

When these guys are out grinding streets and paving all night long within 600 feet of a dwelling that is construction and grinding is demolition night paving is officially over, night striping is officially over.

Chairman Tollner

We can hold the legislation in committee if we want to get some more definition on that. It is up to the committee.

Alderman Dion

I support this legislation. Of course I would want you to check on what Alderman Deane just said, but I remember when the new fire station on Lake Street was built – the neighbors complained to me about the noise level. There were bulldozers, backhoes at 5:30 a.m. and 6:00 a.m. I spoke to the Fire Chief and straightened that problem out. He was very cooperative and he told the people you will start at 7:00 a.m. or 8:00 a.m., but not at an early hour like that where you knocked everybody out of bed. It worked for me without legislation, but I support this legislation because I know how bad it can be for some people in their homes. I have experienced it. Thank you.

Chairman Tollner

The motion is for passage. I support the legislation too. We could do one of two things; we could hold it in committee while we investigate the construction night paving or we can pass it and find out about the construction paving before it goes to the full Board.

MOTION BY ALDERMAN LAROSE TO HOLD IN COMMITTEE

ON THE QUESTION

Alderman LaRose

I think that is an important question.

Alderman Gage

I won't support a motion to hold. I think we should send it to the full Board, and by that time I certainly think that question could be answered.

Alderman Dion

Mr. Chairman I have been thinking about what Alderman Deane just said, and if we are talking about paving streets at night that is a Board of Public Works endeavor – they hire people to do it, but I think it would come under emergency because you can't pave and stripe during the daytime, during traffic hours. It is impossible. I would call that an emergency.

Alderman LaRose

I think what Alderman Dion said makes a lot of sense. I think what we should do is amend the thing to say except city street paving and striping. It is one of those things that what are you talking about it is very ambiguous. I think Alderman Deane is right. Somebody can tell you well you can pave during the day and you can stripe during the day you just will have a traffic mess. The reason that we pave at nighttime is because of that very problem. Years ago they paved in the daytime.

Chairman Tollner

It is a lot cheaper at night. If you hire private contractors it is cheaper at night.

Alderman LaRose

I guess it says here by any person what is deemed emergency work by the Director the Code Department.

Alderman Dion

I don't understand the code department involved at all.

Alderman LaRose

Maybe that covers it, but I still don't think that is emergency work. I think that after other than what is deemed emergency work by the Director of Code Enforcement, I think somehow we should insert there except for street paving and street striping ...

MOTION BY ALDERMAN LAROSE TO AMEND O-04-41 BY ADDING THE WORDS "EXCEPT STREET PAVING OR STREET STRIPING" AFTER THE WORDS "OTHER THAN WHAT IS DEEMED EMERGENCY WORK BY THE DIRECTOR OF THE CODE DEPARTMENT"

ON THE QUESTION

Alderman Plamondon

Might I suggest Director of Code and/or Director of Public Works? For example striping and paving came into the conversation, what about CSO work? CSO work under federal mandate to do 5 miles a year that rips up the road – if you can get the equipment in before rush hour and seal the road before rush hour – I think the emergency situation could be determined by either Director.

Alderman Deane

That is not an emergency though.

Chairman Tollner

Director of Public Works could categorize the paving.

Alderman Deane

It should be street paving process.

Alderman LaRose

I guess we have a choice of after code department and the director of public works or what I said before.

Alderman Gage

If Alderman LaRose would put in along with the code enforcement or the director of public works and then instead of street paving and striping just put Alderman Deane's suggestion, which is street paving process, which covers that whole process from start to finish.

Alderman Deane

Quit frankly I think I would run this by the Director of Public Works. There are other things...

Alderman LaRose

Maybe we should hold it in committee.

Alderman Plamondon

Why is the Director of Code determining that?

Chairman Tollner

Or emergency – so it is director of code and then the legislation does not apply to emergency situations.

Alderman Deane

Put Director of codes and/or authorized work by the Director of Public Works.

MOTION WITHDRAWN

MOTION BY ALDERMAN LAROSE TO AMEND O-04-41 BY ADDING THE WORDS “AND WORK AUTHORIZED BY THE DIRECTOR OF PUBLIC WORKS” AFTER THE WORDS “OTHER THAN WHAT IS DEEMED EMERGENCY WORK BY THE DIRECTOR OF THE CODE DEPARTMENT”

MOTION CARRIED

MOTION BY ALDERMAN GAGE TO RECOMMEND FINAL PASSAGE OF O-04-41 AS AMENDED

MOTION CARRIED

O-04-42

Endorsers: Mayor Bernard A. Streeter

Alderman-at-Large Paula I. Johnson

CHANGING THE NAME OF THE “INDUSTRIAL DEVELOPMENT AUTHORITY”
TO THE “BUSINESS AND INDUSTRIAL DEVELOPMENT AUTHORITY”

MOTION BY ALDERMAN GAGE TO RECOMMEND FINAL PASSAGE

ON THE QUESTION

Alderman Deane

I am interested in what significant value this piece of legislation has if any at all.

Alderman LaRose

It coincides with something that the State of New Hampshire has done. It is just bookkeeping or whatever you want to call it measure.

Alderman Deane

Thank you.

Chairman Tollner

Any further discussion?

MOTION CARRIED

O-04-43

Endorser: Alderman Marc W. Plamondon

AUTHORIZING ALDERMANIC PARKING STICKERS OR PLACARDS TO ALLOW
FREE PARKING AT METERS WHILE ON CITY BUSINESS

MOTION BY ALDERMAN GAGE TO RECOMMEND FINAL PASSAGE

ON THE QUESTION

Chairman Tollner

This is a new one to me. I thought this was already in place.

Alderman Gage

My understanding from discussions with Alderman Plamondon was that he discovered that the current practice, which this is, is not in writing. This just clarifies what current has occurred. Thank you.

Alderman Plamondon

Housecleaning – not on the books. When we are first elected and inaugurated onto this Board we are given parking stickers and we are told if you are on city business you can park at a meter and it is waived as long as you are on city business. Myself I usually will take the extra step and I will put one of the business cards on the wiper to reinforce the fact that I am not out here having lunch or whatever.

MOTION CARRIED_

O-04-45

Endorser: Alderman Marc W. Plamondon

REQUIRING THE PARKS AND RECREATION DEPARTMENT TO CHARGE A FEE TO NON-RESIDENTS FOR RESERVATION OF CITY-OWNED PARKS AND SPORT FIELDS

MOTION BY ALDERMAN TOLLNER TO RECOMMEND FINAL PASSAGE

ON THE QUESTION

Alderman Rootovich

Was this the piece of legislation that was sent to many, many committees?

Chairman Tollner

Yes I think that was the recommendation of somebody.

Alderman Rootovich

I would hope that before we make a final decision that we get something back in writing from all the various boards, commissions, and institutions that it went to.

Chairman Tollner

I think you are in receipt of feedback from the Park & Recreation Advisory Committee, the Finance Committee has pretty much held it because this is the primary committee, and I do not know what the Budget Committee has done. We should get some input from the Board of Public Works. For all intense purposes the Finance Committee is not doing anything with it.

Alderman Deane

It was explained why.

Alderman Plamondon

I did go to Finance Committee. I have spoken to some of the people that had some concerns with the language even though when I spoke to Legal I wanted to ensure that non-profit entities that are located in the City of Nashua were excluded from this there were those that didn't think it was clear enough so like I said when I went to Finance there is an amended version that Legal drew up that clearly outlines this section shall not apply to non-profit corporations or entities located in Nashua. That clarifies that point. If I could I would like to pass this out to the committee for your review and consideration for that clarification

for Nashua's non-profits. I would also like to address some of the points that were brought out with the Park & Recreation Advisory Committee.

One point this amendment obviously takes care of because it clearly delineates non-profits located within this city would be exempt. Legal also had an issue that they wanted to make sure the non-profits would be located in the city and not just have a post office box. Another item of concern is specifically verbiage regarding Greeley and Mine Falls stating that they were for the usage of all. I have a concern with that and Tuesday I asked Legal for a definition of all. I will go into that point in more detail later.

The third point was Park & Rec was concerned with managing and monitoring – I am sorry I think that is pretty lame. We charge and monitor for other venues within the city – 14 Court Street, Holman, Keefe Auditoriums, Stellos – all that is monitored. The point is we all know budgetary wise the constraints within the city. We as Nashuans cannot afford to give handouts for our facilities to other municipalities. Again I am addressing second point – available to all. You, I, every person on the other side of that TV camera cannot use Nashua's facilities for free. We all pay through our taxes. We just invested millions into our fields. We pay to use those fields. How and why can we justify outside corporate entities that are outside of the boundaries of the City of Nashua to utilize our fields for no cost structure at all? Zip – in fact it costs Nashuans money for outside entities to use our fields.

I was at Park & Rec again today speaking to more individuals there who are wholly supportive of this and they have been making these recommendations for years and nothing has been done. They have to go out and pick up trash after these events on like the baseball diamonds, the bases are left out and city equipment is left out, they are vandalized or stolen, these events consumption of alcohol – there is no sense of ownership for these outside entities because there is no ownership.

They are Nashua facilities and should be held for Nashuans be it an individual Nashuan who wants to have a picnic or he wants to invite his co-workers say they are from out of town, but a Nashuan is hosting that event. Same thing with leagues – Nashua team is on the league that is fine it is part of a league and Nashua is represented. We're playing on their fields too. This legislation specifically looks at the abuse of outside corporate entities using our fields for no fee. When I was at Park & Rec today adult leagues were brought up – adult leagues that have no representation of Nashuans that use our fields. Other towns either outright don't allow these adult leagues or they charge or they work out a field maintenance in lieu of a fee. These adult leagues are welcome in some of these towns – I think Windham was one example given – adult leagues can play there, but they stripe, they maintain the bases, they help the Park & Rec – it is a partnership. That works, but it just does not make sense that Nashuans out of our tax base should be subsidizing outside corporate entities, for-profit entities.

Should this pass my next plan is to create a special revenue account so any fees garnered for the use of our fields by outside entities would then go back into Park & Rec for the maintenance of the fields. To me it is good legislation, it makes sense – if you are going to have people utilizing our fields from all over New Hampshire, Massachusetts or even states further away there should be a nominal fee - \$500 is what was thrown out, but certainly that is subject to amendment to what the committee feels. That is a flexible number, but if it is reasonable considering – I think it is reasonable considering the money we have put into these fields. You have to ask yourself – there is a reason why these for-profit entities are not playing on fields in the municipality to which they pay their property taxes. Why are they coming here? Look at the money we have put into our fields. They are gorgeous. That is all I have to say for right now. Thank you.

Alderman Deane

I have a couple of questions. Perhaps through you Mr. Chairman to Alderman Plamondon – I would like to understand when Nashua's recreational athletic fields – when the inundation of for-profit businesses took over these facilities. When did this happen? I don't understand this. If I remember correctly people have outings at Greeley Park for instance. They might have a company outing there and if they are all over the facility using the horseshoe pits at one side and the charcoal grills at the other side, how do you charge them? I am just – it says per each athletic field – what is an athletic field? You can take an athletic field especially at Greeley Park where there is a combination of a softball field, which turns into two soccer fields, which is over near the tennis courts – I am just trying to understand – could you explain to me when these city athletic fields were taken over by for-profit corporations? When did this happen?

Alderman Plamondon

I am aware of one large corporation now for three years in a row utilizing, and it is a growing event, utilizing the fields for their summer outing with basically circus tents and hot dog ...

Alderman Deane

Who is that?

Alderman Plamondon

I am not going to mention the name of the company. It is one I am aware of. I have heard that there are other smaller corporations that utilize it as well. Again if that is done there should be a nominal fee and there should be a bond or something that they would need to cover to utilize the fields. If their employees get injured when utilizing our fields it seems like there is a liability issue.

Alderman Deane

It is like anything else though Marc when you go and use a facility you are using it at your own risk. It is like driving down a street you drive at your own risk – you hit a pot hole go over to Risk Management and tell them you hit a pot hole – you drive at your own risk.

Chairman Tollner

I think where Alderman Plamondon is coming from is not the risk of something happening when a company utilizes the fields it is companies using that are not from the area using our facilities. I don't think this legislation is to protect the city from someone suing us by breaking a leg turning third base at Greeley Park. You want to charge people, companies, money that are not from Nashua that use our fields.

Alderman Plamondon

Correct. As I said Nashuans pay to use the fields.

Alderman Deane

They are not using fields though. You are talking about people setting up circus tents and everything else. It sounds to me like the area in question is Greeley Park. It has nothing to do with any of the other athletic facilities in the area but Greeley Park. Greeley Park has the softball fields and the tennis courts and the horseshoe pits and that soccer field in the back and then the picnic area. I am trying to understand this that is all.

Chairman Tollner

The conditions at Greeley Park is it is open to anybody, any place, anywhere, etc.

Alderman Gage

One of the other deed restrictions of Greeley Park is you cannot charge – you cannot sell things, you cannot charge to use Greeley Park. That is in the – when June Caron has an event down there anybody that is selling anything for money has to be on the street they can't be in the park. Hot dog sellers, sausage people, whatever they cannot enter the park and ask for money, therefore, the city under that Deed I don't believe can ask for money to use the park.

My other question is you have thrown out 2-3 companies that are doing this – I don't recall seeing large "circus type tents" at Greeley Park. Can you at least tell us where these companies are coming from that you are telling me – there is a company that has been using it for 3 years in a row. It is not anything slanderous to tell us who the company is if they are not doing anything illegal to use the park, but at least can you let us know what community they come from?

Alderman Plamondon

I had the floor and I lost it. I was also trying to first let me finish Alderman Deane's question – athletic fields is just that and the point where they are not using the fields as I mentioned circus tents – that is in fact small tents like an arcade with various games set up and inflatable bouncy thing with clowns and so on and so forth. As far as not selling within the grounds of the park they utilize a ticket system so it is pre-paid. They are not exchanging money they are exchanging tickets. Where they are coming from was another question from Alderman Gage – Dover, Keene, Merrimack, Massachusetts, Ohio.

Chairman Tollner

So they had to get some approval from Park & Rec to drop their equipment there correct?

Alderman Plamondon

In the past, this particular company for the past two years gave a donation.

Alderman Deane

So they paid to use the park.

Alderman Plamondon

They gave a donation of \$500. To my understanding nothing was given this year and it has grown so it incorporates the whole back – all three fields and further. Again I don't want to isolate – I am just talking about the issue. This is not the only company. I am not picking on any one company. I don't; want to get away from the intent and the goal. Nashuans cannot use these fields for free. Outside entities are welcome in, but there should be a fee structure that like Nashuans. If that is the case, and I have asked Legal for an opinion what is the definition of all for ...

Chairman Tollner

So this year the same company used it, did not make a donation to the city they just used it.

Alderman Plamondon

That is my understanding. Afterwards I spoke to several of the employees from summer help to middle management and they said it was a considerable amount of labor on their part to clean up. That is all coming out of taxpayer money.

Chairman Tollner

So they didn't pay us any money, they didn't make a donation, and they didn't clean up after themselves?

Alderman Plamondon

Correct.

Chairman Tollner

I would think that they would not be allowed back in again then correct?

Alderman Plamondon

I would say that is not correct. I would say that the current philosophy is that it is open to all.

Chairman Tollner

Down at Udicky Farm there is a baseball league down there that we have had problems with. They don't pay to play, but they were not allowed back again because they left the place a mess and the next year when they wanted to get a permit it was denied. I am a little concerned that what you are saying is a large company came in, didn't pay anything, and left a slop that pretty extensive work needed to be done by the Parks Department to clean it up.

Alderman Gage

Let me ask this question and maybe the former Public Works Director can answer regarding Greeley Park – the Deed says the City cannot charge to use that correct?

Alderman Deane

Correct.

Alderman Gage

So if the City says to Mr. Plamondon who runs company ABC who comes to us and says yeah we would like to have something over there and what do we need to do – well you need to normally in this case you need to give us a donation and then we will let you use the park – isn't that the same thing as accepting money to use Greeley Park, which is not according to the Deed that breaks the Deed, that breaks the rules, and they shouldn't be doing that. That is something we need to point out to the Board of Public Works that policy must be discontinued. That bothers me to no end right now.

Chairman Tollner

But if they make a mess there has to be payment for the cleanup. We can charge them for the cleanup and we should.

Alderman Gage

We can charge for the cleanup, but for the use of the park the Deed says in Greeley's will it is open to everybody. My other question is there is a company that is using this, and I asked you this already three years in a row – what community is this particular company from?

Alderman Plamondon

Merrimack.

Alderman Gage

Thank you.

Alderman Plamondon

Actually all the areas I mentioned to you.

Alderman Deane

What do they have little spin-off departments, companies that come from different towns to go to this?

Alderman Plamondon

Yes.

Alderman Gage

But the main company is out of Merrimack?

Alderman Plamondon

Main yes. Equal size from those other communities come as well. To address some of the things that

Alderman Gage had mentioned – the issue about cannot charge to use I have asked Legal for an opinion on that because if we go by the verbatim definition then no Nashua taxpayer dollars should go into that area either and it should be privatized. Right now money is going in there and should be, but it is from our tax base. People are being – Nashuans are charged to use it no matter how you look at it.

Alderman Rootovich

Just one comment, and I guess some clarification – when I read this it says here athletic field or other park areas – I assume that include basketball courts, swimming pools – I can tell you in my ward down by 9 by New Searles School there are two basketball courts that are lighted where the teams from Dunstable come down there almost every night and play. I know for sure if they come from Pepperell, MA they use our pools. How do you control or how do you address those same concerns if that is the concern we have other individuals who do not pay property taxes here in Nashua using our facilities?

Alderman Plamondon

Well the intent is first to go after the big fish. Individuals outside of the community coming in and utilizing the field at least you have a structure in place where say there are complaints from residents, the police go and find out they are all from Lowell, do you realize that this is a Nashua facility and you are welcome here, but there is a fee structure or whatever. The goal isn't to go after small people it is the big fish out there that are for-profit entities. Currently for all of our camps – basketball and baseball – the Nashua kids there is a fee structure for that. There is also a fee structure for kids outside of Nashua that pay more. Again that is in line with what I am looking to do with our fields – same thought process.

Alderman Rootovich

Is there a limit of people so an outside corporation comes in with 5 people do they pay \$500 or is it 50 people they pay 500 – what if they come with just 3 people? Are there limits or restrictions placed on the amount of people or space they are going to use or how long they are going to use it? I respect Alderman Plamondon's passion to put this together, but I am just a little confused on what you are trying to accomplish in terms of setting a fee and exactly what you are looking for in terms of an outside entity coming in. An outside entity can be 5 people. They just want to use it to use the grill in the afternoon but they are not Nashua taxpayers does that mean that they get away with no payment or is there a certain amount – I don't know what you are trying to get at.

Alderman Plamondon

That is why I am glad I went to this committee and got the diligent review by my esteemed colleagues here especially Alderman Rootovich. Of course this is a work in progress and amendments I would certainly welcome. This is fairly new ground. I think that is a good point. Maybe we need to put in outside entities of greater than X amount 10, 20, 25 whatever seems fair so we don't want to run into the family picnic things or whatever or small Mom and Pop shop with 6 employees. We don't want to be the unfriendly cold city, but we do have to look at the expense for the city that the city has incurred in upgrading our parks and all of our facilities. Like I said we charge for other facilities now and we do it for a reason.

Chairman Tollner

Would you like a little more time to go back and play around with this legislation?

Alderman Deane

What do they charge? I am confused by that. They charge nothing.

Alderman Plamondon

Who?

Alderman Deane

We charge the Pride for Holman.

Alderman Plamondon

We charge O'Keefe Auditorium..

Alderman Deane

When you use a facility you are not charged. When you participate in a camp that is set up by the Park & Rec Department then you charge a nominal fee such as basketball or any of the summer camps that they have, but the other facilities they used to give them out by permit and they still require leagues that have used facilities over the years to have priority on the fields, but then when the leagues are done then the fields are open to the public as well as the basketball courts even though the Boys Club has a summer program that they play out on Ledge Street those courts are open to the kids. They don't pay to play there. Same with the Babe Ruth fields, the skateboard parks – people don't pay to play. It is open space.

Stellos is locked and Holman is locked.

Alderman Plamondon

With Park & Rec's approval and Board of Education Stellos can be used. The point is we do charge for some venues.

Chairman Tollner

Marc would you like to take this back and do a little tinkering with it?

Alderman Plamondon

I would like to know what the committee feels.

Chairman Tollner

How about this – if members of the committee – if you would like to provide comment to Alderman Plamondon on this legislation between now and our next meeting call him up.

Alderman Plamondon

Point of Clarification – Chairman is working with Alderman Lozeau on his legislation Chairman doesn't want to work with Alderman Plamondon?

Chairman Tollner

I will definitely give you some ideas on this legislation. I just can't speak for the committee my friend.

Alderman Deane

I think you should and bring that back to the committee in full report.

Alderman Gage

I would first off like to make a motion to hold this piece of legislation here in committee to give Alderman Plamondon time to work his magic and come back to us.

Second of all I would like to ask my esteemed colleague from Ward 4 he mentioned the police showing up and checking this. Is there an enforcement mechanism going to be written into this where the police who are right now an average call response from the Nashua police department is almost 1 hour for a non-emergency call? Are you going to be adding this onto that process on a Saturday, Sunday, Friday afternoon whenever this is – I just think they have way too much to do besides doing this. I would ask the Committee Chairman to put a request to the Nashua Police Chief and ask him what his opinion is of his officers' ability to enforce this issue. Thank you.

Alderman Plamondon

I will try to wrap this up and I look forward to working with you Chairman Tollner. I wasn't really looking at a police presence. The only thing I can think of though is again a number say over 200 for a company outing type thing or in this case I think over 500 people. Maybe in events where there are that many people in there it should include paying for an officer to be on duty.

Alderman Gage

That could go in the request Mr. Chairman.

MOTION BY ALDERMAN GAGE TO HOLD IN COMMITTEE
MOTION CARRIED

MOTION BY ALDERMAN ROOTOVICH TO RECONSIDER R-04-119
MOTION CARRIED

R-04-119

Endorsers: Alderman-at-Large Paula I. Johnson
Alderman-at-Large David W. Deane
Alderman Kevin E. Gage
Alderman-at-Large David Rootovich
Alderman David D. Lozeau

PROPOSING AN AMENDMENT TO THE CITY CHARTER RELATIVE TO THE DATES FOR SUBMISSION AND ADOPTION OF THE ANNUAL BUDGET

MOTION BY ALDERMAN ROOTOVICH TO AMEND R-04-119 BY CHANGING THE EFFECTIVE DATE OF THE AMENDMENT FROM “JANUARY 1, 2006” TO “JANUARY 1, 2005” AND BY CHANGING THE WORDS “TWO THIRDS OF THE MEMBERS” IN PARAGRAPH 56-B TO “10 VOTES”

ON THE QUESTION

Chairman Tollner

An affirmative vote of 10 members of the Board of Aldermen and removing 2/3 of ...

Alderman Rootovich

Correct.

Alderman LaRose

Why don't you just make it to coincide with 56-b that is on R-04-121?

Alderman Rootovich

I would like to be a little more specific and put the 10 in there.

Alderman LaRose

That is what is in R-04-121.

Chairman Tollner

Just so you know R-04-121 says the Board of Aldermen may amend the Mayor's budget and shall ...

Alderman Rootovich

At least 10 Aldermen.

Chairman Tollner

Right it says shall become effective only upon the affirmative vote of at least 10.

Alderman Rootovich

I am just curious what are you saying is different?

Chairman Tollner

Nothing. He is just saying instead of your motion to change the words have it read exactly the way it does in R-04-121, which is the same. You are talking about the same thing.

Alderman LaRose

You are right.
MOTION CARRIED

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

DISCUSSION

Alderman Deane

What about that other piece of legislation that is sitting in limbo right now that is not held, tabled or anything?

Chairman Tollner

Which one is that?

Alderman Deane

The one that ...

Chairman Tollner

It stays in committee.

Alderman Gage

Stays in committee.

Alderman Deane

What is its current status?

Chairman Tollner

It's current status is it lays in committee on the piece of paper.

Alderman Rootovich

There may be some very healthy discussion that evening at the full Board about that.

Chairman Tollner

There might be and I welcome that discussion wholeheartedly.

ADJOURNMENT

MOTION BY ALDERMAN GAGE TO ADJOURN
MOTION CARRIED

The meeting was declared closed at 10:05 p.m.

Alderman Richard D. LaRose
Committee Clerk