

PERSONNEL/ADMINISTRATIVE AFFAIRS COMMITTEE

MAY 25, 2006

A meeting of the Personnel/Administrative Affairs Committee was held on Thursday, May 25, 2006 at 7:00 p.m. in the Aldermanic Chamber.

Chair James R. Tollner presided.

Members of the Committee present: Alderman Robert A. Dion, Vice Chair
Alderman Daniel Richardson
Alderman David MacLaughlin
Alderman Greg Williams

Members Not in Attendance:

Also in Attendance: Alderman-at-Large Steven A. Bolton
Alderman-at-Large Brian S. McCarthy
Alderman-at-Large Fred S. Teeboom

INTERVIEWS

Administrative Assistant to the Mayor

Kelly Dowling (New Appointment)

Term to Expire: Indefinite

Chairman Tollner

I think you did a great job in providing us all of the information. Everybody on the committee got the information; resume, background information, and some other things. Why don't you just introduce yourself to the committee, and let us know why you have interest in serving in that position in the Mayor's Office.

Kelly Dowling

Thank you very much Alderman Tollner. Good evening gentlemen. I am delighted to be here before you this evening for the appointment as Administrative Assistant to Mayor Streeeter. As you know this is a Charter position. I will be replacing Mark Sousa in this capacity. It is not a new position nor an addition to existing staff. I currently live in Massachusetts, and residency is not a requirement for this position by Charter. I come before you very excited about this opportunity.

I have been active with the City for many years in non-profit and volunteer capacities as the Director of the Nashua Youth Council, a spokesman and a member of the Board of Directors for the Greater Nashua United Way, a Nashua City Childcare Commissioner, and an alternate member of your Planning Board. I have worked for the City, and have lived here until recently. I have never belonged to any organization that politically advocates overthrowing the United States Government. I paid a one time \$100 violation fine in 1985 and have no criminal record.

This position is particularly challenging and a growth opportunity for me. I have directly supervised people, am a communications professional by trade, and have extensive media experience. I write very well, and have submitted some samples for your review in your package. I feel that my years of experience in these many areas makes me very qualified to hold this position. I have no personal agenda for policy issues. I come to support this Mayor and this City by gathering information, completing special projects, acting as Liaison to departments, committees, and state officials, writing materials, and other duties as assigned.

I hope that I will be confirmed so that I can begin to tackle some of the many pressing issues addressing the City following this hearing. Thank you for your time, and I look forward to working with all of you as I will be your liaison. I will answer any questions that you might have.

Chairman Tollner

The one thing I should have mentioned prior to you speaking with us is that I spoke with the Mayor today, and he is at the opening night kickoff for the Pride. He wanted to send his regrets. He wished he could be here, but that is where he is this evening, and he apologizes. Are there any questions from the committee members or other Aldermen?

Alderman MacLaughlin

Thank you Kelly for appearing tonight, and for submitting your name for consideration. I am familiar with some of your community work during my time here with the City, and I have always found it laudable and professional. I suspect that you will add a much-needed shot in the arm to this administration as it enters this next fiscal year with significant challenges as has been the previous years. Could you briefly describe, if you could, maybe 2 or 3 challenges you see facing this administration as it attempts to develop maybe a more policy focused approach to the next year?

Kelly Dowling

Thank you for that question. It is a very good one. Indeed we are facing challenges. As I have only been here for three weeks I am just now beginning to understand the magnitude of some of the challenges we are facing. Certainly budgetary constraints are of utmost, and working within our existing budget, and living within our means is a very high priority for the rest of this administration. I do look forward to looking at some of our policy areas of opportunity including our Internet capabilities. I know that we will have some technology issues that will need to be addressed. Having just come from the State, I hope to bring some of that experience back to the City, and to implement some of the ways they do business there to protect our infrastructure.

I also see as opportunities working with some of our committees to get the most out of the people who volunteer their time for the City so that we can get the maximum out of each committee, CTAB for example.

Alderman MacLaughlin

I would speculate that you are very familiar with the personalities and people involved here at City Hall. Is that not the case?

Kelly Dowling

That is true.

Alderman MacLaughlin

One thing that I believe you will be proactive at is in communicating to this Board, not just this committee certainly, but the Aldermen in general. I think you have demonstrated that by reaching out just during the nomination process. I think that is one of the hallmarks of your style. I am very interested in your experience in broadcasting, that area, in terms of having to boil down very large complex stories and issues into very finite almost paragraph level bulletins. Where did you learn how to do that, and how much of that are you thinking you will be doing in the year ahead?

Kelly Dowling

Well I do look forward to some of the challenges in that area. I do have a bit of a technical background. Having worked with the media and the major media in particular, part of my jobs in the past, most recently as the Press Secretary for the House of Representatives in New Hampshire, is just solving those types of problems – boiling very complex issues down into bite size important pieces of information that people can ingest and understand. Having just done that recently I feel fairly confident I can translate that particular skill. In terms of the technical skills, we are faced with some very interesting challenges; we have some equipment that we can utilize right away, other pieces of equipment that need to be brought up to speed, and then we have whole systems that need to be analyzed to ensure that they are supporting our infrastructure and not just for today's city but for growth in the city.

I look forward to working with our current departments to do that. For example, I have worked this week alone with our Administrative Services and our Street Departments to improve the quality of TV 16's channel image. If you have noticed, if you have looked at it recently, you will see that there is a fixed screen with Memorial Day information and it toggles back to the traffic camera, which is now working. It has only been by communicating with the departments, following up with them ensuring that the task is complete that we have been able to successfully create what you see up there today. If we had an emergency today TV 16 would be a much more effective communication tool than it has been in the past.

Alderman MacLaughlin

Do you envision the Mayor holding more press conferences during the final years of his administration than he has leading up until now? It seems to me that one of the prime opportunities to focus from a policy perspective and communicate your message to the taxpayers is to go directly to them, and I

don't think that this administration has been doing enough of that. Is that your view, and how would you propose to change that?

Kelly Dowling

I do believe that the Mayor would utilize my abilities in this area. It was definitely part of my interview process with him, and I do believe that is his intent.

Alderman MacLaughlin

On our term description here, usually there is a date given, a drop dead date as to when the term of appointment will end. Here it says indefinite. Are you aware of why that is the case?

Kelly Dowling

I believe it is in the Charter. Perhaps when the Charter Commission takes a look at that they can look at that term. Indefinite sounds like a long time to me.

Alderman MacLaughlin

Thank you.

Alderman Richardson

Ms. Dowling ethics is certainly an area of interest to everyone particularly the citizens that count on us to do a job without any favoritism. I wanted to ask you if you believe you have any conflicts of interest in any way with any facet of your potential employment.

Kelly Dowling

No. I don't believe at this time I do.

Alderman Richardson

Do you have any relatives working for the City by marriage or blood?

Kelly Dowling

No.

Alderman Richardson

Do you have any business dealings in the remotest of senses with the City?

Kelly Dowling

No.

Alderman Richardson

Thank you very much. I will be recusing myself as Ms Dowling has helped me financially in the past.

Chairman Tollner

With regard to your campaign?

Alderman Richardson

Yes.

Alderman McCarthy

Mr. Chairman Point of Order – when a member of the Board intends to recuse themselves they should do so prior to the discussion and not engage in the discussion not participate and then recuse themselves before the vote.

Chairman Tollner

I would agree.

Alderman Richardson

Thank you for the instruction.

Chairman Tollner

In the future, that is the way we usually work it. I didn't know you were going to recuse yourself at the end. Are there any further questions? Thank you very much. Are there any questions of us before you leave?

Kelly Dowling

No. I look forward to working with all of you. I think this Board has really started out their season in fitting style by approving the budget, and I look forward to working with all of you.

Alderman Teeboom

Simple question Kelly – I have known you for quite a while – you served on the Republican City Committee – do you feel that your position, if you get appointed, very responsible and visible position, do you feel that you can continue on the Republican City Committee or would you have to resign that?

Kelly Dowling

I resigned that position two years ago sir.

Alderman Teeboom

Okay.

Chairman Tollner

Thank you very much. The next position on our agenda, this individual has removed her name from consideration.

Ethnic Awareness Committee – **APPT WITHDRAWN BY THE MAYOR**

Angelica Weathersby (New Appointment)

Term to Expire: December 31, 2007

Mines Falls Park Advisory Committee

Sean P. Neary (New Appointment)

Term to Expire: December 31, 2008

Chairman Tollner

If you could just take a second, state your name and address for the record, and let the committee know why you have interest in serving on the Mine Falls Park Advisory Committee.

Sean Neary, 29 Perry Avenue

My interest in this committee is because I have utilized the park for many many years, and now I bring my children down there. I have an interest in keeping the park as an inviting place for us to continue to go, to keep it clean, to maintain the trails. I am a very civic-minded individual, and this would be my contribution to the City of Nashua outside of other contributions that I have made with organizations within the city.

Chairman Tollner

Have you had a chance to attend any of the meetings?

Sean Perry

Yes actually I have attended meetings for the past couple of months, and I have also participated in the park workdays that they have had scheduled since well the past couple of months.

Chairman Tollner

So you are familiar with the commitment; how often they meet, when they meet?

Sean Perry

Yes.

Chairman Tollner

Are there any questions from the Aldermen?

Alderman Richardson

I should like to ask the same questions that I asked Ms. Dowling regarding conflicts of interest. Do you have any relatives by blood or marriage on the city staff?

Sean Perry

No.

Alderman Richardson

Do you have any business dealings with the city in any manner?

Sean Perry

No.

Alderman Richardson

Those are my questions.

Chairman Tollner

Do you have any questions of us?

Sean Perry

Not concerning this committee no. Thank you.

Planning Board

Robert Canaway, II, Alternate (New Appointment)

Term to Expire: March 31, 2008

Chairman Tollner

Please state your name and address for the record, and let the committee know why you have interest in serving on the Planning Board. I know it is not a new interest.

Robert Canaway, 7 MacDonald Drive

I approached the Mayor. I spoke with a friend of mine who had served on the Planning Board before to understand what the Planning Board does and get a sense for that. I spoke to the Mayor and some of his staff, Planning staff, attended Planning Board meeting, watched it on Channel 16, read through a lot of the minutes, and tried to really understand what was going on especially right now in the City – it seems like the Planning Board gets a lot of publicity. I wanted to understand if it was something that

I wanted to go and do. After talking with them definitely I think it is an important role that is being played in the City right now to make sure that we listen to our neighbors, that we make sure that the city stays environmentally sound, and that we continue to keep Nashua so great.

I grew up in Nashua. Interestingly enough one of the nominations here was my Scout Master when I was a kid, Assistant Scout Master – I am very proud of growing up in Nashua.

Chairman Tollner

Are there questions from the Aldermen?

Alderman Dion

Mr. Canaway have you ever attended any of the Planning Board meetings or watched them on television?

Robert Canaway

Yes sir I have.

Alderman Dion

What is your opinion of some of the decisions you have seen by the Planning Board?

Robert Canaway

Maybe you could elaborate on the question.

Alderman Dion

Different issue – do you agree with all of the decisions they have made that you have seen on television or when you attended?

Chairman Tollner

Understanding that you are not privy to the reports and everything that the Planning Board members receive, and the pre-work that they do, Alderman Dion you are just ...

Alderman Dion

I just want to know what his opinion is of what he has seen for proceedings so far.

Robert Canaway

I think the best way to try to answer – this is a very tough question – a good question – I am not sure I want to go and second-guess decisions that were made with different information than I have had available to me. I will say that I look at some of the complaints that people have had, that maybe they didn't feel like they were being listened to by certain Planning Board members, maybe certain Planning Board members came into it – this is what I read in the newspaper and what I have heard

antidotally from people – I think Aldermen have stated some of these things – I am not going to come into it with this. I take a very pragmatic approach to things, look at all of the facts, and listen to all of the testimonies, and I will make a decision based on the city laws and based on right is the right decision to make if there is any room for interpretation.

Alderman Dion

I am glad you mentioned you listen to the complaints of the neighborhood/abutters. Too many times they don't. I hope that you will keep your work and do that.

Robert Canaway

Thank you.

Alderman Richardson

I would like to again ask the same questions of Mr. Canaway – do you have any relatives employed by the city in any way by blood or marriage?

Robert Canaway

I do not.

Alderman Richardson

Do you have any business arrangements at all that have dealings with the city?

Robert Canaway

I do not.

Alderman Richardson

Thank you very much.

Alderman Williams

Mr. Canaway, with the Planning and Zoning Boards having such an impact on the city, just want to for the record find out if you have any other issues that would conflict with you being able to attend these meetings and be present? I believe when an applicant comes forward they have the right to be in front of the entire board. Sometimes meetings get delayed because not everyone is present. Will you be able to fulfill that commitment?

Robert Canaway

Yes I understand the question, and I am able. I do travel for business, and I am able to manage my travel calendar based on commitments that I have here.

Alderman Williams

Thank you.

Alderman Bolton

Mr. Canaway I read in the newspaper where the Mayor apparently has these cocktail hours where some Planning Board members along with the Mayor and some developers all meet and socialize and discuss whatever comes up apparently. Have you been invited to any of these sessions?

Robert Canaway

No sir, and I don't belong to any social clubs.

Alderman Bolton

What is your opinion as to the propriety of these meetings?

Robert Canaway

I guess if two people were going to have a beer together that should be fine. If they are going to discuss city business then they need to do it in a public forum.

Alderman Bolton

If you made a practice of meeting and socializing with an individual who then came before the Planning Board would that present any difficulties in your mind?

Robert Canaway

Difficulties in what regard?

Alderman Bolton

Your ability to make decisions as to that application given that it is a person that you regularly socialize with?

Robert Canaway

It is a difficult question because I have no friends who develop real estate or who are involved in developing real estate.

Alderman Bolton

You may get some.

Robert Canaway

If I felt that it would be a conflict of interest then I would recuse myself from voting.

Alderman Bolton

But you don't feel that way at this point?

Robert Canaway

It is hard for me to imagine not having friends in this line of business or relatives or any other family members.

Alderman Bolton

Thank you.

Alderman Teeboom

I was going down Lake Street the other day. Someone told me go make a right hand turn on the road – I made a right hand turn on the road and found a curious structure – an old building, one story, stuck squat against a new building, which I was told later on was a prefab two stories high. I am told there is no lot left. That second building – I did some checking – used to be a garage attached to the first building. When I checked on the prices it turned out that these are considered condexes so two buildings attached to each other on what used to be a single-family residential lot – sold as two condexes for the price of two that was almost double the price of the first. Obviously someone is making a big profit. Someone on the Planning Board allowed this to happen. I am not familiar with all of the legalities or illegalities and all of the ins and outs, but just a personal opinion.

If this comes before you on the Planning Board and someone says I would like to take a knew prefabricated building and attach it to my old house, and I would like you to approve that – I think it is a Planning Board issue – what are your thoughts on that?

Robert Canaway

I guess I would have to ask what are the houses around in the neighborhood like? Does it meet with what the character of that neighborhood should be?

Alderman Teeboom

That is the issue because all of the other houses down that street are all single families, but when I made a left hand turn to the street next to it and another right there is another one, an old house stuck next to and attached next to a new house, and I saw a for sale sign on that second one. Yes they are springing up and people have come before this board to talk about that. As I described it you tell me what you think is that a character of the neighborhood issue? Is that an issue properly before the Planning Board or than can be properly denied or approved? What is your general approach to it?

Robert Canaway

It sounds like part of the issue requires, anybody can correct me her, but requires a zoning variance in order to go out to the end of the lot. That would be outside of the Planning Board's purview – that aspect of what you are describing. I think there are multiple issues here. I think that you have to look at the neighborhood – the neighborhood is single family homes on lots with yards certain sizes or average sizes then something like this may not fit within that neighborhood. I am not familiar with all of the aspects of this particular case, but I can only say that I would have to look at that and say are we trying to put something in the neighborhood that doesn't really fit there? On the other side of it what is the Master Plan for that neighborhood – is the master plan to do something as you are saying have the Aldermen weighed in on that policy to say we want to try to grow this area of Nashua or that area of Nashua. I think I would have to look at all of the issues here.

Alderman McCarthy

I actually like Mr. Canaway's answer to the question, but it is not an issue that goes to the Planning Board. These are duplexes in zones that allow duplexes. The only issues may be before the Zoning Board as was pointed out if there are dimensional variances required.

Alderman Dion

One more time Mr. Canaway – all I am asking for is for the neighborhood/abutters to get a fair shake – to be listened to. It seems as though a lot of the decisions I have seen in the last few years have been one sided. I want you to know that. That is my feeling. I hope that you will take that into consideration if you are on this board.

Chairman Tollner

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

Robert Canaway

No I don't. Thank you.

COMMUNICATIONS

From: Paul R Bergeron, City Clerk

Re: Resolution R-06-36, Relative to Proposing the Establishment of a Charter Commission

**MOTION BY ALDERMAN MACLAUGHLIN TO ACCEPT AND PLACE ON FILE
MOTION CARRIED**

APPLICATION TO LICENSE HAWKER'S, PEDDLER'S, ITINERANT VENDOR'S LICENSE - None

APPOINTMENTS BY THE MAYOR

Administrative Assistant to the Mayor

Kelly Dowling (New Appointment)

Term to Expire: Indefinite

2 Beech Road
Westford, MA 01886

MOTION BY ALDERMAN MACLAUGHLIN TO RECOMMEND THE CONFIRMATION OF THE APPOINTMENT OF KELLY DOWLING TO THE OFFICE OF ADMINISTRATIVE ASSISTANT TO THE MAYOR FOR AN INDEFINITE TERM

ON THE QUESTION

Alderman MacLaughlin

Is anyone on the committee specifically aware as to why – I understand that the nominee explained it was a Charter description of the term. Perhaps someone here within the room can answer that question for me more closely.

Alderman Bolton

This is actually common to describe this sort of a situation. It would exist for example when the Mayor appoints a Division Director as well. It is an office for which no definite term is established. It is not like there is a two-year or a five-year term or something like that. It is common to see indefinite. I believe the Charter says something like the Administrative Assistant will serve an indefinite term at the pleasure of the Mayor. I guess you would say its maximum is co terminus with that of the Mayor, but the Mayor could make a change earlier if he wished.

Alderman MacLaughlin

Thank you.

MOTION CARRIED

Ethnic Awareness Committee

Angelica Weathersby (New Appointment)

Term to Expire: December 31, 2007

APPOINTMENT TO ETHNIC AWARENESS COMMITTEE WITHDRAWN BY THE MAYOR

Mines Falls Park Advisory Committee

Sean P. Neary (New Appointment)
29 Perry Avenue
Nashua, NH 03060

Term to Expire: December 31, 2008

MOTION BY ALDERMAN WILLIAMS TO RECOMMEND THE CONFIRMATION OF THE APPOINTMENT OF SEAN P. NEARY TO THE MINES FALLS PARK ADVISORY COMMITTEE FOR A TERM TO EXPIRE DECEMBER 31, 2008
MOTION CARRIED

Planning Board

Robert Canaway, II, Alternate (New Appointment)
7 MacDonald Drive
Nashua, NH 03062

Term to Expire: March 31, 2008

MOTION BY ALDERMAN MACLAUGHLIN TO RECOMMEND THE CONFIRMATION OF THE APPOINTMENT OF ROBERT CANAWAY, II, AS AN ALTERNATE MEMBER TO THE PLANNING BOARD FOR A TERM TO EXPIRE MARCH 31, 2008

ON THE QUESTION

Alderman MacLaughlin

Thank you Mr. Chairman. I have every confidence in this particular nominee. I know him to be a forthright, upstanding individual. I know he has the energy and the interest in serving our community, and I believe that once he goes after an issue or a topic he has proven to master it in detail. I think that is very important as we look at who is serving on the Planning Board for now and in the years to come especially considering the fact that we are so well developed within the city limits at this point, and will ultimately be looking at re-development type issues. I am pleased to enter his name into nomination this evening before you, and I am hopeful he will pass unanimously.

MOTION CARRIED

UNFINISHED BUSINESS – None

NEW BUSINESS – RESOLUTIONS

R-06-36

Endorsers: Mayor Bernard A. Streeter
Alderman-at-Large David Rootovich

DETERMINING THAT REVISION OF THE CITY CHARTER IS NECESSARY AND PROPOSING THE ESTABLISHMENT OF A CHARTER COMMISSION

MOTION BY ALDERMAN TOLLNER TO HOLD IN COMMITTEE

ON THE QUESTION

Alderman Richardson

May I inquire why the Chairman intends to do that?

Chairman Tollner

Because the two endorsers of the legislation are not here this evening, and asked that we take it up at a later meeting.

Alderman Richardson

Thank you.

MOTION CARRIED

Chairman Tollner

Alderman Deane asked to take out of order R-06-54 because there are some individuals here this evening that have another engagement after this. Is that correct Alderman Teeboom?

Alderman Teeboom

Mr. Chairman there are several members here; one person from the School Department, puts in long hours in the school – I think there are several members of the public from what I can tell – maybe 2-3 I would like them to be able to speak briefly – perhaps you could set a time limit for them, and also Mr. Farrenkopf because he is also a member of the CTAB board.

MOTION BY ALDERMAN TOLLNER TO GO OUT OF THE REGULAR ORDER OF BUSINESS TO TAKE UP R-06-54

ON THE QUESTION

Alderman MacLaughlin

Thank you Mr. Chairman. Is it really necessary considering we have just one resolution prior to that on the agenda? Is it something where 06-54 is going to take substantially more time, and therefore requires us to move it ahead of the other item?

Chairman Tollner

I would think both of the resolutions may take some time this evening or at least we should prepare for that.

MOTION FAILED

R-06-49

Endorser: Alderman-at-Large Steven A. Bolton

RELATIVE TO SPECIAL EDUCATION

Chairman Tollner

Alderman Bolton would you like to speak to the legislation?

Alderman Bolton

I think it speaks for itself. Basically it is quite simple that we ought to have it be the policy of the city that none of our students be insulted by the use of demeaning terminology, and, therefore, I think we ought to state that the word dysfunctional should not be applied to our special education students.

Alderman Teeboom

I do, before I make extensive remarks, and ...

Chairman Tollner

Let me step back for one second. From a procedure perspective, what I would like to do is make a motion for passage of R-06-49, which is probably the first thing I should have done.

MOTION BY ALDERMAN WILLIAMS TO RECOMMEND FINAL PASSAGE

ON THE QUESTION

Alderman Teeboom

Before I address in detail because I feel that this is addressed at me personally, I will get to that in a minute – I would like to find out from the sponsor of this particular resolution, the sole sponsor, exactly what this particular officially it says – the resolution establishes that it is the official policy of the City of Nashua that special education students not be regarded as dysfunctional. Before we get into the merit, I would like to understand more clearly if this resolution should pass the full Board someone, I would like the sponsor of this resolution to explain exactly what this means. I will pose a couple of hypotheticals. Does this apply to everybody in the city or only to employees? If it applies to citizens how is it going to get enforced? If it applies only to employees how is that getting enforced? In particular how does it affect their right to free speech under the Constitution and their First Amendment Rights? I would like to know what kind of intimidation this applies to the employees if it applies to citizens, and what the exposure is if someone in the city would say – use this term – I think if someone in the city says employee or citizen – says I think we have dysfunctional coded students in school. I would like to know what exactly is the legal implication, what is enforcement, what is the regulatory implication – implication both ways – that is someone could sue the city in defending his/her first amendment rights.

This is going to take a while. Sorry for the audience that we didn't change it – this is going to, in my opinion, take a while.

Alderman Bolton

I am not sure I understand the question. It was somewhat disjointedly expressed, but as I understand it the questioner wants to know if there is any sanction built into this. Quite evidently there is not. It merely expresses the position of this Board as to what the policy of the city is in regard to using

insulting and demeaning language in regard to children. Presumably if a city employee speaking in his or her capacity as a city employee, were to engage in this rhetoric that would be a matter that would be between that employee and the supervisor, and presumably could lead to discipline. That would be true of any inappropriate language used by an employee in the capacity of employment. I don't think it provides for any sanction nor could it in regard to someone who is not a city employee.

Alderman Teeboom

Let's start with Exhibit #1 – I sought legal advice on this question not to surprise anyone – on this specific point – exactly what is a sanction, and what is directly the relationship between the employer and employee in this case and would there be unfair discipline because of first amendment issues, and in turn could there be repercussions back to the supervisor or the city on this policy. This is an opinion – I will pass it to the committee members, and will explain what it says. What this basically refers to is Pickering vs. Board of Education where discussion has come up in the past about restrictions on speech. What we are talking about is speech – protected with the first amendment – you have to apply a balancing test. The balancing test is a case-by-case test.

Chairman Tollner

Can you give us one minute to read the memo and then we will continue? Thank you.

Alderman Teeboom

You see it is a balancing test. Whether or not it violates free speech depends on a whole series of conditions as stated here. It is very unclear exactly what the city's position would be in case someone violated or didn't violate free speech. I want to enter this into the record because I want the city to clearly understand what happens, what could be the implication if or should we pass this resolution.

Chairman Tollner

What you are requesting is a motion from someone from the committee to accept this communication and place it on file?

Alderman Teeboom

Yeah. I am going to have several things to be placed on file Mr. Chairman, and this is the first one, this is Exhibit #1. I think I will go forward and you can decide...

Chairman Tollner

I will do them all at once.

Alderman Teeboom

The second one is a federal register dealing with special education. Really I did some research on this because in addition to my concern about special education I was also interested in exactly what is special education. I will pass out, and I won't ask you to read the details, there is actually a summary page that I compiled on the front that deals with the issues at hand. This came out of a discussion I had for about an hour with a consultant at the Department of Education in Concord to enlighten me on

a lot of details about special education, and finally when I asked them what exactly is the definition of special education, not what people think it is, but what it is under federal guidelines, and this is the document. I summarized on the first page, and I will read a couple of things, and then I refer to a paragraph, and I copied the paragraph that is 300.26 and 300.7 – 300.26 defines special education “As used in this part, the term *special education* means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability.” We are dealing with children here that have a disability.

Now we have a child with a disability it means that the child has been evaluated “as having mental retardation, hearing impairment including deafness, a speech or language impairment, a visual impairment including blindness, serious emotional disturbance (emotional disturbance), an orthopedic impairment, autism, traumatic brain injury, and other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.”

Each of these is further defined in more detail, but I would like to focus particular attention to the one called emotional disturbance is defined as “means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child’s educational performance: (A) An inability to learn that cannot be explained by intellectual, sensory, or health factors, (B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers, (C) Inappropriate types of behavior or feelings under normal circumstances, (D) A general pervasive mood of unhappiness or depression, (E) A tendency to develop physical symptoms or fears associated with personal or school problems.” “The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance.” Emotional disturbance is widely used to evaluate children and code them especially as having a disability and coding them as an IEP. I would like to put this in the record because these are serious problems.

I could not find out ... **tape flipped** ... of all of the kids that are coded how many of them are coded based on a serious emotional disturbance or how many are coded based on autism or blindness or deafness. This data just is not available to the public that I could find. I think you have to be kind of inside. I don’t know why it is not available because we are talking about percentages here, but that data is not available. The suspicion is, and I can only say suspicion in discussion and searching through various sites of serious emotional disturbance is the usual catchall category. I must also say I spent time with Superintendent Earl, had discussions ready; a series of questions to meet with the special education director of the School Department, and he refused to meet with me.

At that time, he was occupied. I made myself available any time thereafter, and never was contacted. I have not been able to meet the special education director to go over these points – in particular what percentage of kids fall in what categories. I would like to have that into the record.

My next Exhibit deals with percentages and details applying to Nashua. I would like to enter those into the record. The reason I am taking your time, I did not seek this resolution. I did seek a discussion of special education. It is a package of data – I obviously won’t spend huge amounts of time on this data, but I will mark up some highlights. The first one is a very interesting chart that came from a site, and I quote the site, it is U.S. Department of Education, office of Special Education and Rehabilitative Services. The page is not plotted, but I think the data summarizes and is not plotted. You can see some interesting results here. New Hampshire has 14.6% of their children coded, which as you can see is above the average. Rhode Island is the very highest at 20%. American Samoa is the very lowest with 5.1%. This is the states and districts of United States territories. Nashua is

14.8% - not on this chart – I computed that separately and will tell you in a minute where I came up with that number. These are high numbers. They are not unusual numbers, but 14.6% is high, is probably high considering New Hampshire does not have what I would say to be a very large minority population....

Chairman Tollner

Alderman Teeboom if I could just stop you for one second. If you just want to speak briefly to this that is fine. I am not sure how it relates to the legislation that we have here in front of us. If you can bring it back and let us know how it does that would be appreciated.

Alderman Teeboom

It obviously relates because if you read the legislation it talks about special education students not being regarded as dysfunctional. That is the simple point. We will get to that – exactly what is wrong with the word dysfunctional. The rest of the resolution deals with some opinions, which I think are totally open to interpretation. I am at this point – “factually incorrect and ethically reprehensible is insulting, demeaning, intellectually bankrupt, and has no rightful place” and I am trying to go over what exactly is special education, what percentage of the kids are coded, what it means, and how it got to this point, and whether these are reprehensible and all of these other terms that they use in this resolution.

I could finish up this and answer any questions. This next page shows you the number of students with IEPs in Nashua school district is 1,935. If you consider that we have about 13,090 students you calculate it out and the percentage of coded students in Nashua, not well established, but it is there, 14.8%. We are right up there with New Hampshire average in this city.

Alderman Williams

Just a point of information – Alderman Teeboom just stated that there was a figure of 1,900 students that have a ... what did you use?

Alderman Teeboom

Students with IEPs.

Alderman Williams

It is not in my copy. I would like to, for informational purposes, let Alderman Teeboom know that both of my children are in the REACH program, and they both have an IEP. That may be included in this.

Alderman Teeboom

There are IEP students in the REACH program, and

Alderman Williams

That is correct. So not all of the ...

Alderman Teeboom

And there are a few, and that is only a few.

Alderman Williams

Not all of these 1,900 are in a special education.

Alderman Teeboom

They all have to fit within the category I just read.

Alderman Williams

Okay.

Alderman Teeboom

They all must fit in the category of the regulation that I just entered. There is no other way that you can be special education coded.

Alderman Williams

My package doesn't include what you have.

Alderman Teeboom

I have a spare copy.

Alderman Williams

Just for informational purposes I thought you should know that.

Alderman Teeboom

There are a few REACH students, and that is true. I forgot what the actual number is.

Alderman Williams

Knowing that there are REACH students in there, there may be others as well.

Alderman MacLaughlin

Thank you Mr. Chairman. I am impressed, as always, with the data and charts and graphs and definitions, court orders and court descriptions, and court cases and court backgrounds that can be produced to substantiate one's position, and Alderman Teeboom has done a yeoman's job in providing that tonight, but the issue before us has less to do with some of these items that he is entering into the record, and more, I think, in how we address students with special needs. In that I think that the issue that prompted this resolution is the result of a derogatory term being employed to describe students with special needs, and that for me is the issue.

I think that in this case, we have before us a resolution that is saying in effect we do not condone addressing students designated as special needs in a derogatory manner so no matter how many there are or what this information is attempting to provide, the issue comes back to is it proper to describe students in this manner, and in my view to deliberately employ disrespectful terminology in describing segments of our student population, when they are all pretty special whether they have special needs or special talents, they are all very special, and I think that is what this legislation is trying to get at.

I don't think that I need to know in Samoa how many special needs students there are. I am really interested in how we address those with special needs right here in our city, and that to me is where I am very interested in going. Thank you.

Alderman McCarthy

I am looking at this data, and I don't understand the source, and looking at the key on the side the last time I checked we had more states than this. In fact, when I went to look at where a couple of the ones I would suspect were higher were to wit New Jersey, New York, California, Alabama, Mississippi, and Louisiana I didn't find any of those in the first six that I looked at in the list so I am really suspect that data may not help me much if it was relevant.

I have to say I am much on the same page with Alderman MacLaughlin on the basic issue, and in fact the first thing that we were given, which said "special education to meet the unique needs of a child with a disability" the fact that we can meet the unique needs presumes that the child is in fact functional and simply has some slightly different needs. If we did not provide instruction at all in any form most if not all of our students would fail and would therefore be in that same category of dysfunctional at the end of the year. The fact that there is a one size fits all education that makes most students successful is sort of an artifact of the way things work. There are other students who have difficult times. At the end of the day, if we can provide them with an education which causes them to be successful they are certainly not dysfunctional.

Alderman Teeboom

Can I go ahead with my presentation now? On the point of the chart, if you look at the chart you will find a bridge in between because the printout cannot color it when this gets translated from the spreadsheet it takes every other state. You can see that there are more bullets than there are states, but New Hampshire is listed. In fact the number of states listed is half the total number of states – that is because you can't squeeze them all into the chart.

To the point of the argument – I am not done with the argument yet I am just trying to come up with

the facts. Before we can start talking about the kind of language that this resolution claims I think you have to get into the facts. Alderman MacLaughlin may not care about the facts, but I care about the facts.

Alderman MacLaughlin

Mr. Chairman I object...

Alderman Teeboom

Well you may object, but I care about the facts. I spent a lot of time putting these facts together.

Alderman MacLaughlin

Mr. Chairman if I may – I don't think we need to call any question to my commitment or dedication to the pursuit of facts. The fact is that the reason this issue has come up is because someone on the Board of Aldermen actually employed the derogatory term, which initiated this discussion, and prompted the introduction of this legislation. I am aware of the facts, and I have just read through some wonderful information, which I complimented the introducer of I thought very clearly. I would rather not have my commitment to the pursuit of facts become the issue or even be cast in doubt. What I am interested in discussing is whether or not it is appropriate to describe our special needs students...

Alderman Teeboom

We will get to that ...

Alderman MacLaughlin

With a derogatory term...

Alderman Teeboom

We will get to that...

Alderman MacLaughlin

That is a fact.

Alderman Teeboom

I haven't got to that point yet.

Chairman Tollner

Alderman Teeboom you can take a few more minutes and be cognizant of the legislation itself and try and bring us back to ...

Alderman Teeboom

I am trying to come to closure on this if I don't have all of the interruptions.

Alderman Teeboom

1,935 is the number of coded students. The education funding we spend on special education students is over \$60 million (that is the next chart), which represents 19% of our operating education budget. The amount of money we spend on the REACH, which is the program for what they call the gifted and talented. I call them the best and brightest. We are spending a total of \$340,00 on that or .39% just to show you the balance of spending. There is one more chart in the back of that, which shows you the trends in coding students – it is now about 14.16% in New Hampshire. About 8 years ago it was 9.5%. The number has drastically increased. The question is are there that many more children that need special education, are learning disabled (that is the proper term), or with other reasons I never have gotten an answer, and there is a lot of debate on the internet about why that number seems to be increasing. Some people claim it is better diagnostics and others say it is just the way to get more money out of the federal government.

The next document I would like to introduce gets to the question of what do we talk about when we talk dysfunctional – is a memorandum, a correspondence I have had with a Nancy Charron. Nancy Charron is the President of the Learning Disabilities Association of New Hampshire – who had if not read my letter to the Editor certainly read everybody else's comments about the letter to the Editor and sent me a fairly – I would call it unpleasant note – how dare I write this article – she invited me to contact her, which I did, and here is the result of some of the discussion. I won't read the whole thing, but I did get into the question of what does dysfunctional mean relative to special education. The term dysfunctional means, and I looked it up in two different dictionaries, and they all read the same – this is just two of them – it means “disorder or impairment function of a bodily system or organ.” Or according to Webster's “impaired or abnormal functioning” or “abnormal or unhealthy interpersonal behavior or interaction within a group of people”. I just read you the federal definitions; serious emotional disorder, autism, inability to react within a chosen atmosphere, and all of these other definitions, and those definitions fall well within the dictionary definition of dysfunctional. I will read it to again – it means a disorder or impairment function of a bodily system or an abnormal or unhealthy interpersonal behavior or interaction within a group of people. That is not inconsistent at all. It is certainly in many ways a milder way of stating the child who has a serious emotional disorder. I would like that memorandum in the record.

The final document, I will skip the document written about the demise of education. The final document is a statement by me that I never published, but I did intend it for this committee to accept and place on file. Basically what I am saying is the following: “Every child has a talent. That should be researched and encouraged. Mainstreaming is not necessarily the correct approach. Forcing all children to pass the same tests does not help the children with special needs, nor does it help regular (non-coded) students from achievement that is necessary to prepare for their future. My remarks regarding Special Education were not only emotionally responded to and misunderstood, but biased. I was vilified and compared with Adolph Hitler for discarding the children with special needs. Nothing is further from the truth.”

If you read my original letter you will see there was no such statement ever made. “Nevertheless we need to understand better why 15% of our children are labeled learning disabled to the point of being coded, which means, per federal guidelines, suffering disorders like mental retardation, deafness, blindness, autism, and a serious emotional disturbance.” Fifteen percent of our children. “Does a child who has difficulty grasping some fundamentals need to be coded? I suggest that tutorial help after school or on Saturdays will help many children without the need for coding. This can be done by volunteers, such as high school students or retired teachers and degreed retired people with experience and qualifications.”

I should say here, and I did not put it in here, that all three of my children were asked to be coded – every one of them. My wife refused. One of them is a Vice President of George Washington University, one of them is a repair and mason mechanic of jet airplanes, and my daughter raises two wonderful grandchildren has a four-year degree and is going for her masters degree in psychology. She didn’t get them coded because she didn’t think they were seriously emotionally disturbed. “Do all children need to pass the same minimum standards? Do all children need to go through the same 12 grades? Why not guide them into a direction tailored to their abilities instead of fitting them into a “one shoe fits all” culture. Why are we spending over \$16 million on Special Education (19% of the proposed school operating budget)” I should say 20% of the approved operating budget “but less than \$400,000 from the REACH OUT program that help our best and brightest students. Resolution R-06-49 is at best special interest legislation, for are we to write a resolution of condemnation every time we hear a word or phrase that we do not like? It is at worst an attack on freedom of speech we hold dear in this country, what I particularly like about this country. I do not condemn this legislation, for it opens a dialogue we need about Special Education and its long-term negative implication if not harm to our children thus coded.”

I should also state that when children get coded a record goes into the school records – a mark to that effect goes in the school records. It is completely unclear to me, and this was in the discussion with the Superintendent, this was a discussion with Special Education consultant in Concord – when does that record get erased? There is nothing in the regulation that talks about the record being erased unless parents are notified and request it specifically be erased. It is unclear to me that parents are even notified that the records can be erased. I ask you when the government does clearance and background checks such as for the FBI or the CIA – top secret clearance like I had in the military contract, CI clearance, Q clearances – you work for the police they do those kind of background checks – can the government get access to these records the answer is yes. If they do the question you should ask is will the FBI hire a person with that record, will the CIA hire a person with that record, will the Police Department hire a person with that record? The answer is unclear and nobody will tell you. Are parents told this when they are told maybe they should code their kids and have them coded to give them a little extra education/a little extra help. Those answers are up in the air.

My final remark is Mr. Chairman, the definition of dysfunctional is completely consistent with the definition in the federal regulation, and we are doing a terrible disservice by coding kids, in my opinion in many instances from what I can find do not really need to be coded. Thank you.

Alderman McCarthy

I guess if 12 years ago someone had told me that I was going to get to spend an evening listening to a conversation whose intent was to prove that some of Nashua's children are dysfunctional I might not have run, but here we are. The last issue is brought up regarding background checks – well if in fact the students who are coded are dysfunctional wouldn't we want that information to be known to people who make those decisions? I suggest that the fact that is an issue is simply a symptom of the exact point that the resolution seeks to address – that being identified is not necessarily a sign of being dysfunctional. As for why our New Hampshire statistics on identified students or coded students as the previously used term was is so high, I submit the following – when a student is coded they get additional services from the department, and in fact, under federal law, if they have to use an advocate and engage in an adversarial proceeding to get the student coded we get to pay for that as well. Perhaps it is our inability to provide the basic level of education that is expected by a great number of the parents that causes them to seek the alternative remedy of having the children identified so that they will get additional services.

Maybe what we ought to spend the evening on is figuring out how to address those service issues in the framework of our limited budget rather than whether those students are dysfunctional or not.

Alderman Bolton

Whatever failings there are in the state and federal laws and regulations concerning special education, they provide no rational basis for why children ought to be insulted. If someone wants to contend this is special interest legislation fine. I am especially interested in children, and I am especially appalled when children are gratuitously insulted. The fact is that it is not an attack on free speech to stand up and say we disapprove of someone who insults children. The fact is this resolution doesn't say that. It mentions no individual by name, it condemns no individual, it sensors no individual, it provides no sanctions against any individual, but it does in fact say that the City of Nashua stands for the proposition that we should not insult our children.

Chairman Tollner

Are there any other comments?

Alderman Richardson

Thank you Mr. Chairman. I will not speak to the motivations of introducing this legislation. I believe it is even against ordinances to do so. However, let's talk about the affects of this legislation. It is clearly directed towards an incident using the very same work, which was thoroughly condemned in that incident – dysfunctional. Dysfunctional in itself is not a dirty word. It is a matter of condition. If you want to talk about insulting words I can come up with a bunch of words that will burn your sensibilities, but having this particular word and focusing on this single word has the affect of condemning one of the Aldermen of this Board. I have no interest in doing that. I don't believe that it is appropriate to do that. I clearly a, not in support of passing this. I am clearly not in support of condemning not only past performance, but also future performance of any Aldermen, in puning them in any way. Thank you.

Alderman Williams

Thank you Mr. Chairman. I too am not going to be able to support this as it stands. However, I do happen to agree with Alderman Bolton that insulting children is definitely not something I support, and if he or any other Alderman were to introduce a piece of legislation that said the official policy of the Board of Aldermen is not to use demeaning language towards the children of our city I think that might be something I would like to hear. This specific piece I find it difficult – I personally would not use the word dysfunctional when discussing a child, probably nor another adult. However, I do have reservations about limiting the speech of any one person. Thank you.

Chairman Tollner

I agree with the comments made earlier this evening from Alderman MacLaughlin. I agree with the comments made by Alderman Bolton and McCarthy. I would support legislation pretty much the way Alderman Williams had stated. We shouldn't degrade not just any student or child but any human being in our daily responsibilities in trying to manage the process of the city. I agree with the intent of the legislation. I am not sure the legislation is necessary. If people are upset with the comments that were made I think probably the appropriate avenue may have been to send a communication to that individual. Some may consider this a communication, but I don't think we should be voicing our displeasure on situations like this one. I would agree the comments that were made I didn't think those comments were appropriate and I would hopefully never make them myself even in a stressful situation. I just don't think legislation is necessary for it. I would support legislation and would be more than happy to draft it with you Alderman Williams to address that.

If the endorser of the resolution could have any amendments to this or we could pass it and send it along to the full Board I think we could entertain that and move it forward to the full Board. If he is not comfortable with that I would understand that as well.

Alderman Bolton

I think it is perfect the way it is worded now. It is obviously in the hands of the committee.

Alderman Dion

Parliamentary procedure – would you withdraw your motion so that we could make a motion to accept the five communications that Alderman Teeboom submitted to the committee?

MOTION WITHDRAWN

**MOTION BY ALDERMAN TOLLNER TO ACCEPT AND PLACE ON FILE THE FIVE DOCUMENTS PRESENTED BY ALDERMAN TEEBOOM
MOTION CARRIED**

**MOTION BY ALDERMAN WILLIAMS TO RECOMMEND FINAL PASSAGE OF R-06-49
MOTION FAILED**

**MOTION BY ALDERMAN RICHARDSON TO RECOMMEND INDEFINITE POSTPONEMENT
MOTION CARRIED**

Chairman Tollner

Before a motion is made, I would like to make sure – did everyone get a copy of Mr. Lecius' e-mail? I

will read it, and make sure that people get copies of it. Mr. Lecius sent me an e-mail earlier this afternoon - "This is to advise you of my support for the Policy & Procedures for CTAB coming before your committee on Thursday night. I also support the two amendments being proposed by Alderman Teeboom. On the whole this is a good starting, and I believe with the budget approval last night we can now move forward to get Nashua "On-the-Air". As we move forward, there may be a need to make additional amendments and language changes, but for now this will allow us to move ahead." He has two previous commitments that will keep him from attending the meeting tonight.

R-06-54

Endorser: Alderman-at-Large Fred S. Teeboom

APPROVING THE CABLE TELEVISION ADVISORY BOARD ("CTAB") POLICIES AND PROCEDURES MANUAL

MOTION BY ALDERMAN TOLLNER TO RECOMMEND FINAL PASSAGE

ON THE QUESTION

Alderman Teeboom

Could I ask the Chair that he acknowledge Mr. Farrenkopf in the audience? He is a member of CTAB. We have some other people who have been tracking this closely. Could the Chair entertain asking the committee to entertain **Tape inaudible...**

Chairman Tollner

Sure. If they would like to come up and take a seat. I will read you the e-mail because it did come via my Blackberry not on paper. He is just reconfirming that he will not be able to attend tonight's meeting. He has a commitment at Bridges and a presentation to the Boy Scouts. He again reiterates that he supports the two amendments. He also states that while he knows that the School Board and Dr. Earl have some concerns on the E Channel access person, he met with her yesterday, and he thinks that they have come up with a compromise that can be inserted into the job description or worst case added to the P&P down the road. "We are making progress albeit slowly, but rather moving slowly than to rush. I would appreciate your committee's approval of this measure tonight." I will forward that e-mail to the Board of Aldermen as well.

Rick Farrenkopf, Director of Technology, Nashua School District

I came tonight just to be available for any questions or anything that the Board might ask. As Chairman Lecius alluded to, I met with Dr. Earl and Chairman Lecius, and we discussed the current policies and procedures, and feel it is time to move forward. We might ask for some discussion further down the road, but we all want to get this moving, and feel fine with the way it is written currently.

Alderman Teeboom

Let me address an overview of some amendments that I would like to propose that came up and why they came up. If you can go to the chart, the color chart, it kind of explains the whole document in a nutshell. The Cable Television Advisory Board is a centerpiece, it is a board established obviously by ordinance by the Aldermen. CTAB, as Alderman McCarthy pointed out properly the last time we met at the full Board meeting, it reports directly to the Mayor and the Board of Aldermen as a board. The Mayor and the Board of Aldermen oversee its conduct, its contracts, its regulations, its spending, and everything else. CTAB and hopefully this can be accomplished as a committee recommend its report – Director of Administrative Services, Maureen Lemieux, has indicated to me that she will go forward with the RFP to hire that position called PEG Program Director. It is a key position as we have discussed in the past to get things going because we are dealing with fairly advanced, not state of the art, well not rocket science technology, but fairly complex technology if we do things right. Things are now in progress, wiring is being wired up in the high schools – we need someone that takes control of this whole operation, and that is the PEG Program Director. He is also the central operator/central managing focal point as these three channels develop.

The way this chart is laid out is sort of like the channels will develop. On the left is the education channel, the blue is the educational channel, the green is the government channel that we know today know as Channel 16, and the public access channel is on the left in yellow. We have funding -- because of the contract we have 1% funding set aside from the franchise fees that turns out to be about \$216,000 a year to pay for the operations of the government channel and the education channel. The public access channel is not funded through a set aside. It is supposed to come out of the remaining 3% of the franchise fees to about \$50,000, which in the '07 budget went into general revenues, and no money has been set aside for '07 at this point unless the Aldermen move later on as we move forward to introduce a resolution to fund it for the public access channel.

The intention now is to get the education channel moving, and get it going and get the government access channel fixed because it is not in terrific shape technologically. Anybody who watches the quality and the programming knows that a lot more can be done. That is the PEG Program Director. If we hire that person, hire him as soon as we can, we can get things moving. The PEG Program Director has direct report responsibility to CTAB. CTAB, as I mentioned, has direct report responsibility to the Mayor and the Board of Aldermen. I would expect the PEG Program Director and the Chairman of CTAB to make a presentation to this Board as things are put together exactly where we are going, and then make periodic presentations to this Board so the Board can feel comfortable that things are being done right.

The PEG Program Director has an administrative responsibility over what will be the second person hired to be the Education Channel Access Manager. We call him an access manager as opposed to an operations manager because the programming content of the education channel will either be dictated by we will call it an E Channel Committee. The E Channel Committee is made up of obviously the Nashua School District, in fact the Superintendent of the Nashua School District is the Chairperson of that committee, but the committee also consists of members outside of the Nashua School District because the Education Channel is not just public education; religious education, charter education, home school education – so the makeup of that committee has to be established, but the fact is the Superintendent of Schools and that committee will direct the Education Access Manager what to program. The access manager ... **tape inaudible**... makes things happen – he doesn't decide what is going to be programmed.

Now the document has quite a bit of data; the kind of programming that is going to be done on the education channel (I think that is Appendix B and C), and the one we are most familiar with at this point is Appendix A, Government Access Channel Programming. In particular there is some difficulty of obviously defining a public access channel, which is right now of lesser concern. It is not described in the definition because it has to meet free speech consideration of the United States Constitution. What we have under the public access channel (which is in yellow) is an independent contractor. That could be a contractor to be hired to execute that. It will be modeled after MCAM, which is the same mechanism used by Manchester. It is by some kind of legal separation that it will be operation of the public access channel and the City of Nashua. It pretty much explains all the rest of it – the videographers obviously report up the chain, and those are the people that run the cameras. That sort of lays out the organization. It is a governance or management structure, which has gone through a lot of reviews. We have had a series of CTAB meetings on this. We had a committee formed that Farrenkopf is on, and has been extremely helpful and cooperative trying to iron out some details of this document. This actually has been discussed in the Budget Committee because of the funding aspects, and we had to talk about the document.

The document itself contains funding mechanism. It is quite comprehensive really – purchasing doctrine and regulations, the management model I just described, the purchasing and funding and staffing as I just described it. It is a Policies & Procedures Manual by which CTAB, if this gets approved by the Board of Aldermen, has to conduct itself. With that Mr. Chairman if you don't mind I would like to now introduce a few amendments, but if you want me to hold – these amendments came about from discussion with Mrs. Lemieux. Some minor tweaks. They came from a comment from the School Department, and I can address these, and some issues that concern the Board of Aldermen's overall authority over this document, and also the requirement I think to ... **tape ended** ... CTAB Chairman to make some purchases under emergency conditions like when our camera went down during the flood and we wanted to have programming.

Chairman Tollner

Why don't we do this – stop right here for a second – does anybody have any questions regarding the discussion to this point before we go down the road of the amendments or would you like to hear the amendments and maybe they would respond to some questions you may have?

Alderman McCarthy

I have a good deal of comments and questions, but I would like to see the amendments first.

Alderman Dion

Before we go any further I have a question of Alderman Teeboom if I may through the Chair?

Chairman Tollner

Yes you may.

Alderman Dion

Alderman Teeboom we are talking three different channels here correct; educational, government, and public access channel. Now these three channels do they involve Channel 16 that we are on right now or are they separate?

Alderman Teeboom

Channel 16 is the government channel.

Alderman Dion

Thank you. That is all I wanted to know.

Alderman Teeboom

Education is a new one and public will be a new one.

Alderman Dion

So we will have 2 more channels?

Alderman Teeboom

Yes.

Alderman Dion

And of course it is too early to tell what the numbers would be?

Alderman Teeboom

Yes, and they can even change 16 in the lineup. Comcast is allowed to make changes as they see fit.

Alderman Dion

Thank you.

Chairman Tollner

Alderman Teeboom why don't you just give us an overview of the amendments.

Alderman Teeboom

I will go through each one of them in turn. They are fairly straightforward amendments. They came up and were discussed at CTAB. Basically were comments from city when the city got serious about reviewing this. The amendment #1 is really not very critical. It basically we have in this document the current membership under Paragraph 2.2, the current membership listed, and really it is my feeling we don't need to list current membership because the current membership changes. In Fact, Mr. Gordon

Jackson has just resigned because he is interested in applying for the PEG Program Director position, and that would put him in a conflict situation. The first amendment is just simply to remove Paragraph 2.2 in its entirety. The second amendment takes us to Paragraph 6.1. This is one of Maureen Lemieux's inputs. This has been extensively reviewed by the way by our Purchasing Manager and our Legal Department. Paragraph 6.1 we have a procedure in the city where purchases can be made against what they call open blanket order purchases. It is done in the city by people reporting to managers. She felt that she didn't want an open blanket purchase arrangement for the PEG Program Director and wanted me to take it out. Amendment #2 deletes the words "Purchases that exceed \$50 shall be made against existing blanket order that is open for the current fiscal year and are billed directly to the city upon purchase by a designated authorized buyer. Operating supplies are not to be included on expense reports." That is just a formality. Amendment #3 fixes that in the sense if you look at 6.2 that instead of stating that you can have purchases that can be \$200 and \$1,000 to be approved by CTAB, what Maureen proposed instead was to allow purchases up to \$1,000, which is no longer against a blanket purchase order – allow up to \$1,000 bypassing CTAB and going and getting approval from the Mayor or his designee. His designee in the case of CTAB is probably his administrative assistant. The purpose of that is to make purchases like supplies, things that fail that have to be fixed and you can't wait until CTAB meets to approve it because CTAB only meets regularly only once a month. If we have some camera things to fix that can be fixed for less than \$1,000 that could be done. If it takes more than \$1,000 then CTAB will have to approve it before the purchase can be made.

Chairman Tollner

As we go through these can I get some feedback that the School Department is comfortable with these changes as we go along? Okay. Thank you.

Rick Farrenkopf

The School Department is fine.

Chairman Tollner

I just want to make sure as we go through.

Alderman Teeboom

Amendment #4 deals with the subject of emergency purchases. I was talking with Maureen about it – the Mayor has emergency purchase powers, and basically if they had a major emergency in the city he can authorize a purchase without having to go before the Finance Committee to get approval. Now this Amendment #4 states that the PEG Program Director can make purchases without prior approval by CTAB subject to approval by the Mayor or his designee. All of these are obviously subject to purchase regulations that are described in this document, which follow the Nashua Revised Ordinances. By the way the purchase regulations in this document are more stringent in Section 6 than the purchase regulations of the City. The purpose of that is, and there is no limit on that, if a camera should fail or there is a major fault in the server then we should be able to make that fix without waiting for CTAB to meet. It has to be an emergency condition. The word emergency is not going to be defined, and will be up to the Mayor to decide in that case whether it is truly an emergency or not, but it has to go through the Mayor. I looked at that purchase of the last camera if it went through the Mayor – I don't think he was aware of it. Anyway that is the reason that is given what I

just mentioned; CTAB only meets once a month and it is just not frequently enough to take care of emergency situations.

Amendment #5 is on Paragraph 7.1, which is very minor one – the PEG Program Director, as I mentioned before, is the guy that makes the government channel happen. Maureen felt that by having him or her also worry about TV playing schedules, which takes a lot of time, would take away from his time and technical skills are not required so she wanted him or her to have a designee to take care of securing the scheduling of equipment operators – scheduling basically the videographers and the recording or playing. These people have to be scheduled, and that takes a lot of time apparently. She would like to have a designee be able to handle that in case the PEG Program Director feels he needs to be able to delegate that responsibility.

Chairman Tollner

Shouldn't that be Diane Sweeney?

Alderman Teeboom

That is Diane Sweeney at this point. Amendment #6 deals with the Board of Education. As you know there has been some discussion, and I think the e-mail you got from Chairman Lecius he met with the Superintendent who has concerns about who is in charge of what, but the E Channel belongs to everybody in the education community not just the Nashua School District. I think it has all been resolved. There is a paragraph here, which I was asked to delete by Rick Farrenkopf because the school has a video production facility that is quite extensive; they have three cameras, they have video editing equipment, etc. The committee's initial thought had been that we could use the facility for production of the E Channel, but the fellow that runs that, Jim Pfeiffer, points out that through the use for education he does not want to commit that facility to production of the E Channel. They could produce programs for E Channel, but he does want to be a production facility for E Channel. The wording takes out that implication. It is the last sub-paragraph I think that takes out the wording that I have here that says "The Access Manager will work with the Video Production and cablecasting staff of the Nashua Technology Center of the Nashua School District to consult and resolve technical and production issues for implementing and operating the Education Channel." Although Jim is available to consult and will help, he does not want to be committed to perform that function because his primary function is to educate students not to solve all of the technical problems of the E Channel.

There is one more and that applies to this Board. I added that as follows that when this document gets approved it is an official document by which CTAB conducts itself. Now it seems to me that the key paragraphs, Sections 2 and 4 through 7, should not be amended except by the Board of Aldermen. CTAB can obviously recommend, but should not unilaterally change these provisions, that is provisions in either section 2 or 4 through 7. These are the main sections. It should come back as a recommendation just as I am doing now and it would take a resolution of this Board to approve it. I think that is how this Board will get powers of control of what goes on. Without that I think there is a possibility that CTAB could decide to make changes and doesn't have to come back to the Board, and I don't think that is appropriate.

Those are the 7 amendments that I propose after talking to various people. If you agree with that then we have what I feel is a very solid document.

Chairman Tollner

Again, one more time, the School Department is comfortable with all of these amendments.

MOTION BY ALDERMAN TOLLNER TO APPROVE THE AMENDMENTS AS PRESENTED

ON THE QUESTION

Alderman Richardson

This is a motion to approve the amendments?

Chairman Tollner

Yes sir.

Alderman Richardson

Thank you.

Alderman MacLaughlin

Thank you Mr. Chairman. My question really evolves around Amendment #4, and I understand the rationale that the CTAB committee may not meet more frequently than it does, but what if in the hypothetical situation that the emergency expenditure for whatever reason was not approved by CTAB at its next regular or special meeting? What provision would there be then to hash out the matter of disagreement?

Alderman Teeboom

You could probably try to, if you can, instill a warranty on the return policy and return them. The camera is a good example. That is a \$5,000 camera. A good example - it had to be bought because the camera broke down -- I think it can be repaired, but there is nobody to make an assessment about the repair - \$5,000 camera— if CTAB should meet and say I don't know why you bought a camera we could have fixed the old one – nothing to prevent you from doing it – then presumably you can return it. That is the way I see it. That is why I put that language in approved by CTAB.

Chairman Tollner

Plus Amendment #3 stipulates that you can't make a purchase of more than \$1,000 without acquiring the approval of CTAB correct?

Alderman Teeboom

Except for the emergency purchases. The 6.5 that Alderman MacLaughlin is talking about is an emergency purchase. That covers Maureen's concern, and that is why I put in 6.5 – I had it originally under the Chairman. She wanted to make sure that was above and beyond the \$1,000.

Chairman Tollner

It does also state in there that it should be fully disclosed.

Alderman MacLaughlin

I don't want to dwell on this, but it seems like that on rare occasions sometimes a committee will come to a different conclusion than that of its Chairman, and in that case, or the person in this case who authorized the expenditure. I am just wondering if there has to be any additional language within this particular subparagraph or a separate line that addresses what might be done in the event there is disagreement.

Alderman McCarthy

I have actually some concerns about the purchasing section in general because I think we have a fairly comprehensive set of purchasing policies and regulations within the city, and what I would actually like to do in this document is restrict it to just those things that are different because of the existence of CTAB. In this particular case, I would actually think that simply deleting the words "and approved by" in front of CTAB will serve the purpose. I can't imagine that we would be unhappy with the Mayor making an emergency decision about our cable TV facilities when he has the power to make much more substantial decisions on his own about other facilities in the city.

Chairman Tollner

For the record, are you on Amendment #4?

Alderman McCarthy

Yes. I am just suggesting that striking those words and saying if we just do it and then disclose it to CTAB at the next meeting they can record their displeasure if they don't like it, but there really isn't much way to turn back the clock. Frankly I trust the Office of the Mayor to make decisions of that type on an emergency basis.

Alderman Teeboom

That is perfectly fine with me. Maybe that takes care of Alderman MacLaughlin's problem. The reason is we – I have struggled with this and tried to put an upper limit on it – if we have a let's say technical issue about a server and there is a major failure in the server – this is whether we have 1 server or 3 servers (has to be decided on) the server as we know can be a major purchase. I didn't

want to put a limit on here, and I have talked to Maureen about it. I should say Alderman McCarthy that these regulations go beyond the City's regulations. They were reviewed extensively by Janice Tremblay. I have quite a bit of e-mail back and forth with her. I didn't want to just list only changes because then it becomes contractually kind of unreasonable to read.

Alderman McCarthy

I noticed that when I was reading them. Let me sort of jump ahead to that issue. I look at stuff – there are things in here that say like city purchasing manager shall have general supervision of purchases of the city, which is beyond the scope of this document to begin with. Then there is a section about the PEG Manager and that part is appropriate and then there is a lot, which I think some of which is duplicative of the purchasing ordinances, but I guess my feeling on that is whatever there is that goes beyond the purchasing policies is probably applicable elsewhere other than in just CTAB and that should be proposed as amendments to the purchasing policies so that we don't – what I would hate to have is have purchasing policies in CTAB's Policy & Procedures Manual and then to have one in the Bylaws of the ZBA for buying the signs or something. I would like to have all of that stuff in one place.

I guess what I would ask and probably will ask is that Section 6 be reduced to a very small section that refers us to the purchasing policies and that we take what is in here and work through with Mrs. Tremblay to work it into the purchasing policies wherever is appropriate. I suspect some of these small purchase/medium purchase things have applicability to other departments and other places that have small amounts of money to spend on things that we ought to be taking into account.

Alderman Bolton

I guess I have a couple of questions that I don't particularly understand. This Amendment #4 talks about having a section 6.5 emergency purchases. The existing section 6.5 is professional services. Is it intended that the new one replace the old one, is there going to be a re-numbering? What is happening?

Alderman Teeboom

That is an appropriate comment Alderman Bolton. I should have mentioned that I was trying to find a place to put it so it just squeezes in there and the current 6.5 replaces 6.6 - I am sorry this should become 6.6. Alderman Bolton I appreciate that. This is 6.6 and the current 6.6 in the document becomes 6.7, and the 6.7 becomes 6.8. There is a re-numbering of 6.6 becoming 6.7 and 6.7 becoming 6.8.

Alderman Bolton

My next question – is this emergency provision – I understand it is meant to allow the Chairman of the advisory board to authorize expenditures without going to the full Cable Television Advisory Board. Is it meant or is it not meant also to bypass the Finance Committee?

Alderman Teeboom

Absolutely not. Hopefully it is clear. If you look at the Finance Committee approval, it still has to meet in all respects purchasing regulations. There is a monetary division. Anything over \$10,000 has to go through the Finance Committee. Now the Finance Committee meets more frequently than CTAB. If you want to clarify we can. My view is that if something is an emergency and requires more than \$10,000 it should not be bought until it has gone to Finance. We can discuss it because something could I guess fail that is worth more than \$10,000.

Alderman Bolton

So it is clear that this does not authorize emergency purchases of greater than \$10,000 without the requisite Finance Committee approval?

Alderman Teeboom

That was my thinking yes. If you would like to have that clarified I should say we can add “subject to all of the purchase regulations as defined in paragraph 6.” or we can say specifically “subject to Finance Committee approval for anything over \$10,000.” If you want to add that I would be perfectly happy with that as well. Which way does the committee wish to do it?

Alderman Richardson

I think what we need to do is make an amendment to the amendment.

Chairman Tollner

Did the amendment already pass?

Alderman Richardson

No we did not. We have a motion to accept the amendments, but we have not made any motions yet to amend the amendments.

Chairman Tollner

I have three of them highlighted right here. Why don't we make a motion to accept the changes of the amendments first and then we can go back and amend the changes. The motion on the floor right now is to accept the amendments presented by Alderman Teeboom tonight to the original document.

MOTION CARRIED

Chairman Tollner

To Alderman Richardson's point we will further amend.

MOTION BY ALDERMAN TOLLNER TO FURTHER AMEND IN STATED AMENDMENT #4 BY REPLACING 6.5 EMERGENCY PURCHASES WITH 6.6 EMERGENCY PURCHASES, AND IN THE EXISTING DOCUMENT BY REPLACING THE ORIGINAL 6.6 WITH 6.7 AND BY REPLACING THE ORIGINAL 6.7 WITH 6.8, AND BY REMOVING IN SECTION 6 WHERE THE WORDS “AND APPROVED BY”

ON THE QUESTION

Alderman Richardson

Where it says fully disclosed to and approved by?

Chairman Tollner

Right so what we are taking out is just “and approved by”.

Alderman Richardson

I believe there is discussion concerning approval of the Finance Committee, and I think that is not clearly conveyed in this paragraph. This appears to be unregulated taken as a section as to itself equivalent to every other major section under the purchasing heading. I would suggest that perhaps there would be some regulation clearly designated in this paragraph as to its control by the Board of Aldermen and the Mayor. Alderman Teeboom

I could suggest some language if you wish – just say subject to the Aldermanic Finance Committee approval for any purchase over \$10,000.

Chairman Tollner

Where would you insert that? Just a new sentence at the end of where it says special meeting?

Alderman Teeboom

Just make a new sentence.

Chairman Tollner

Subject to the approval of the Aldermanic Finance Committee.

Alderman Teeboom

Subject to the approval of the Aldermanic Finance Committee for any purchase over \$10,00

Alderman McCarthy

Could I suggest that instead we word that as subject to requirements of the Nashua Revised Ordinances regarding the Finance Committee? If we change the \$10,000 limit we would want that to be reflected rather than have to go chase it down in numerous places.

Chairman Tollner

Great point.

AMENDED MOTION BY ALDERMAN TOLLNER TO FURTHER AMEND IN STATED AMENDMENT #4 BY REPLACING 6.5 EMERGENCY PURCHASES WITH 6.6 EMERGENCY PURCHASES, IN THE EXISTING DOCUMENT BY REPLACING THE ORIGINAL 6.6 WITH 6.7, BY REPLACING THE ORIGINAL 6.7 WITH 6.8, BY REMOVING THE WORDS “AND APPROVED BY”, AND BY ADDING A SENTENCE AT THE END OF SECTION 6 THAT READS “SUBJECT TO THE REQUIREMENTS OF THE NASHUA REVISED ORDINANCES FOR APPROVAL BY THE FINANCE COMMITTEE”.

ON THE QUESTION

Alderman Richardson

I believe that this emergency purchases should not be paragraph 6.6 I believe it should be 6.5 as it would then follow directly after the other purchases headings, which would be expense report, purchases, small purchases, medium purchases, and major purchases and then have emergency purchases instead of following after professional services, which would then be an interruption in the flow of the document.

Chairman Tollner

You would like this what now?

Alderman Richardson

I would like this to be 6.5 and then the professional services paragraph, which was 6.5 to become 6.6 and all other paragraphs bumped thereafter.

AMENDED MOTION BY ALDERMAN TOLLNER TO AMEND THE EXISTING DOCUMENT BY RE-NUMBERING SECTION 6 AS APPROPRIATE FOLLOWING AMENDMENT #4 WHICH INSERTED SECTION 6.5, BY REMOVING THE WORDS “AND APPROVED BY”, AND BY ADDING A SENTENCE AT THE END OF SECTION 6 THAT READS “SUBJECT TO THE REQUIREMENTS OF THE NASHUA REVISED ORDINANCES FOR APPROVAL BY THE FINANCE COMMITTEE”.
MOTION CARRIED

Chairman Tollner

Let me just go back – everybody is fine with Amendment #2 right? Everybody is fine with Amendment #3 correct? I am assuming that is why we started at Amendment #4. Okay Amendment #5 – comfortable with Amendment #5. Amendment #6? Comfortable with Amendment #6. Amendment #7?

Alderman Bolton

I don't understand why any part of this ought to be subject to amendment by anyone other than the Board of Aldermen passing a resolution approving.

Alderman Teeboom

I think I can address that. If you look at the other paragraphs Alderman Bolton the background is background. They are just definitional stuff. The only possible exception is a bridge to override emergency management. I doubt you would ever really question that. Then on the 2 is really the NRO that established CTAB. This is a verbatim NRO of 2-108. Then 2 to 3 is terms of office. Then 3 is the Bylaws. It mirrors the Aldermanic bylaws. I don't feel strong about it I just felt there ought to be a few things CTAB can change without having to go back to the Board. If you feel that the entire document any change should go back to the Board – it just makes it a little more difficult.

Alderman Bolton

If we wanted to say that the Cable Television Advisory Board can adopt rules for the conduct of its meetings I suppose we could say that and then they could adopt those rules and change those rules any time they want, but substantive things I don't know how we can not – how the Board of Aldermen can allow some other agency to go ahead and pass things that have the force of law. The stuff about the staffing and the rules for the use of the PEG channels and emergency override and emergency management – how can you say that we can allow an advisory board – it certainly becomes no longer advisory at that point if you are saying that this organization can make changes in these areas. To say one thing excludes other things. It just seems to me it is obvious that it is the Board of Aldermen that adopts this and the Board of Aldermen that can amend it.

Alderman Teeboom

Do you have recommended language Alderman Bolton?

Alderman McCarthy

I actually – this is one of the issues that I had stumbled upon. As it is restricting it to 2, 4, and 7 allows the purchasing regulations to be amended by CTAB, which I don't think is what we had in mind. It sort of seems to me like the only thing that ought to be amendable is the functional bylaws in section 3 for how the meetings are conducted. I guess I would suggest that the right way to do that rather than put it in the introduction, Section 3.13, which is amendments should reflect that only section 3 of the policies and procedures can be amended by CTAB.

Chairman Tollner

Are you okay with that Alderman Teeboom?

Alderman Teeboom

Yeah.

Chairman Tollner

I love this cooperation. This is great.

Alderman McCarthy

Actually I would suggest that we re-word that paragraph to just be that. There are also requirements there for the Right to Know Law, etc., which are essentially duplicative of the Right to Know Law itself, which this is clearly bound to. I would amend 3.13 to say these bylaws section 3 only may be amended by affirmative vote of 2/3 of the members entitled to vote.

MOTION BY ALDERMAN TOLLNER TO AMEND BY REPLACING THE EXISTING SECTION 3.13 WITH THE FOLLOWING “THESE BYLAWS, SECTION 3 ONLY, MAY BE AMENDED BY AFFIRMATIVE VOTE OF TWO THIRDS OF THE MEMBERS ENTITLED TO VOTE.” AND BY REMOVING THE AMENDMENT TO THE INTRODUCTION THAT WAS ADDED BY AMENDMENT #7

ON THE QUESTION

Alderman Teeboom

Which paragraph are you modifying?

Alderman McCarthy

It is 3.13.

Alderman Teeboom

3.13 is going to say these bylaws, section 3 only, - that still doesn't give you an affirmative statement somewhere that says anything else can only be done by the Board of Aldermen. That is why I put it in the introduction. I wanted to emphasize that point because just saying that only the bylaws can be changed – issue can come up later on that we can change anything else.

Alderman McCarthy

I don't think in background is the right place to put it either.

Alderman Teeboom

It is in the introduction.

Alderman McCarthy

We could also make it section – whatever the last section of the document is and word it a little differently. Perhaps we could do that. Want me to give you some wording for that?

AMENDED MOTION BY ALDERMAN TOLLNER TO AMEND BY DELETING SECTION 3.13 AND BY INSERTING A NEW SECTION 10 WHERE IT SAYS AMENDMENTS, WHICH WOULD SAY “THE BYLAWS IN SECTION 3 MAY BE AMENDED BY AN AFFIRMATIVE VOTE OF TWO THIRDS OF THE MEMBERS ENTITLED TO VOTE. ALL OTHER SECTIONS ARE BINDING UNTIL MODIFIED BY ACTION OF THE BOARD OF ALDERMEN.”

ON THE QUESTION

Alderman Bolton

In order to make it clear what members we are talking about, I would suggest that it say 2/3 of the CTAB members.

AMENDED MOTION BY ALDERMAN TOLLNER TO AMEND BY DELETING SECTION 3.13 AND BY INSERTING A NEW SECTION 10 WHERE IT SAYS AMENDMENTS, WHICH WOULD SAY “THE BYLAWS IN SECTION 3 MAY BE AMENDED BY AN AFFIRMATIVE VOTE OF TWO THIRDS OF THE MEMBERS OF THE CABLE TELEVISION ADVISORY BOARD ENTITLED TO VOTE. ALL OTHER SECTIONS ARE BINDING UNTIL MODIFIED BY ACTION OF THE BOARD OF ALDERMEN.” AND BY DELETING THE AMENDMENT TO THE INTRODUCTION THAT WAS ADDED BY AMENDMENT #7

ON THE QUESTION

Alderman Richardson

Is this an added section?

Chairman Tollner

It would be Section 10.

Alderman Richardson

So that should become part of the amendment?

Chairman Tollner

Yes. That was stated in the very beginning.

Alderman Richardson

Also was part of the amendment to delete the introduced Amendment #7, which we had just previously approved? Are we going to delete that?

Chairman Tollner

This would take the place for clarification.

Alderman McCarthy

Delete that and Section 3.13.

Chairman Tollner

So Amendment #7 and Section 3.13 would be deleted. Are there any further questions? The School Department is okay with this right?

Rick Farrenkopf

Yes.

MOTION CARRIED

Alderman Teeboom

Point of Information – do I just go ahead and make the changes or do I wait until we see the Clerk's transcription?

Chairman Tollner

It will be noted in the record. When it goes to the full Board those changes will be made. What you may want to do between now and the next Board of Aldermen meeting is to make sure that they match. This will be an amended version when it comes to, if we pass it tonight, when it goes to the full Board – golden rod copy.

Alderman Teeboom

What I will do is I will type these up, and I will send them to Alderman MacLaughlin to check them to make sure we have one to one wording, and then we will make the changes on this and that will be the document...

Chairman Tollner

Forward that over to Sue or Dawn. Then we will vote on it, if it goes to the full Board, as amended.

Alderman Teeboom

The amendment as a sheet of paper gets attached to the resolution? What gets attached to the resolution?

Chairman Tollner

The amendments will be incorporated into the amended document.

Alderman Teeboom

You want a clean document from me?

Chairman Tollner

Yes.

Alderman Teeboom

With the changes marked in yellow and blue if I have it?

Chairman Tollner

That would be great. Can you do that?

Alderman Teeboom

Yes.

Chairman Tollner

Great. Is there any further discussion on this piece of legislation?

Alderman McCarthy

I actually would like to run through a number of mostly technical comments. First is Section 2.1. I actually would not include the wording of the ordinance. Section 2.1 is just a verbatim recitation of Section 2-108 of the ordinances. If we modify the ordinances then this becomes obsolete so I would ask that we not include that. It is a little more cumbersome to have to go look it up in the ordinances, but I think it is better.

MOTION BY ALDERMAN TOLLNER TO AMEND BY DELETING SECTION 2.1

ON THE QUESTION

Alderman Richardson

Is that to remove Section 2.1 in its entirety, which includes sub-sections a through e?

Alderman McCarthy

Yes.

Alderman Teeboom

The only comment I would make is once this gets approved it gets posted on the web so the public can see it. I have no problem with removing it, but the problem is it is more difficult to understand the document. I tried to make the document so it is quite understandable. This applies to other things

that tie back to the city as well like the purchase regulations. If anybody ever makes a change it reflects back in here as well. I don't have a problem with it I am just saying it is less readable as a document.

Alderman McCarthy

I understand that, and my suggestion would be deleting Section 2.1 and moving it to be Appendix F, and then note that those are the ordinances at the time of approval

**AMENDED MOTION BY ALDERMAN TOLLNER TO AMEND BY DELETING SECTION 2.1 AND MOVING THE INFORMATION CONTAINED THEREIN TO APPENDIX F AND NOTING THAT THOSE ARE THE ORDINANCES AT THE TIME OF APPROVAL
MOTION CARRIED**

Alderman McCarthy

The next one is in Section 2.3, Terms of Office. I would suggest deleting the first two sentences "All members not appointed by the Mayor shall serve at the pleasure of the director of the department each represents. The five members appointed by the Mayor and approved by the Board of Aldermen shall serve for a period of three years, following which they may be re-appointed by the Mayor subject to approval by the Board of Aldermen." That is again duplicative of what is in the ordinance that establishes CTAB, and in fact the first "All members not appointed by the Mayor" is in fact articulated in that every one of them says or his/her designee.

MOTION BY ALDERMAN TOLLNER TO AMEND BY DELETING THE FIRST TWO SENTENCES OF SECTION 2.3, TERMS OF OFFICE, WHICH READ "ALL MEMBERS NOT APPOINTED BY THE MAYOR SHALL SERVE AT THE PLEASURE OF THE DIRECTOR OF THE DEPARTMENT EACH REPRESENTS. THE FIVE MEMBERS APPOINTED BY THE MAYOR AND APPROVED BY THE BOARD OF ALDERMEN SHALL SERVE FOR A PERIOD OF THREE YEARS, FOLLOWING WHICH THEY MAY BE RE-APPOINTED BY THE MAYOR SUBJECT TO APPROVAL BY THE BOARD OF ALDERMEN."

ON THE QUESTION

Alderman Teeboom

Where is the three years in the ordinances?

Alderman McCarthy

The five members appointed by the Mayor shall serve for three-year terms. The members are as follows.

Alderman Teeboom

He can re-appoint the members?

Alderman McCarthy

I believe that he can, and I don't believe it is within the purview of CTAB to restrict that beyond the ordinance anyway.

Alderman Teeboom

I don't have a problem with that.

MOTION CARRIED

Alderman McCarthy

In the same paragraph, the last sentence, "In addition to the fourteen voting members the Mayor's Administrative Assistant Mark A. Sousa shall serve as the Mayor's non-voting representative." I don't like putting language like that in because it becomes obsolete and I believe it is in fact obsolete already. If there is a necessity to articulate that the Mayor can have a representative to the committee, I would suggest that be made as an amendment to Section 2-108 of the ordinances and not put in the CTAB manual. I would suggest we delete that sentence as well.

MOTION BY ALDERMAN TOLLNER TO AMEND BY DELETING THE LAST SENTENCE OF SECTION 2.3 THAT READS "IN ADDITION TO THE FOURTEEN VOTING MEMBERS THE MAYOR'S ADMINISTRATIVE ASSISTANT MARK A. SOUSA SHALL SERVE AS THE MAYOR'S NON-VOTING REPRESENTATIVE."

ON THE QUESTION

Alderman Teeboom

The entire sentence?

Alderman McCarthy

The one that says in addition to the fourteen voting members.

Alderman Teeboom

Doesn't the Mayor have a designated representative who is a non-voting member?

Alderman McCarthy

I don't think I saw one.

Alderman Teeboom

That is an issue. The Mayor does not – I haven't paid much attention to this ordinance quite frankly because it is just –it is a non-voting position so what I had thought you meant to say is take out the word Mark Sousa because effectively we appointed Kelly Dowling – the way this is structured, the PEG Program Director administratively reports to her for timesheets and stuff and she has expressed interest in replacing Mark. I would like to keep if we can the Mayor's involvement, and just take the

words Mark Sousa out.

Alderman McCarthy

What I am saying is I think that is more appropriate in the ordinance that establishes CTAB, and I would be more than happy to submit an ordinance to amend that to add a non-voting Mayor's representative to the committee. We essentially, while it is the Board of Aldermen doing both things, we shouldn't, by resolution, do something that supercedes what is in the ordinance book. It seems to me like the cleaner way to do that is to amend that section. If we delete this I will submit a piece of legislation that adds the same terminology to 2-108.

Alderman Teeboom

Doesn't this really have affect on the same resolution – this is a resolution. We established positions that don't exist in the ordinance at this point. There is no PEG Program Director in the ordinance.

Chairman Tollner

What you are putting in here is going to be not correct when you look at the ordinances.

Alderman Teeboom

It doesn't mention the position.

Chairman Teeboom

I think it is semantics. We will fix it here and put legislation in to correct it.

Alderman Teeboom

I will sponsor a resolution for that purpose.

MOTION CARRIED

Alderman McCarthy

The next one is on 2.4.1. "A chairman cannot succeed himself, but may be elected again in subsequent years." While we probably have the ability to do that, I don't like such provisions. I think if someone is doing a good job and the membership of the committee would like them to be re-elected they ought to be able to do that. I would strike that sentence.

Chairman Tollner

I agree with that.

**MOTION BY ALDERMAN TOLLNER TO AMEND BY DELETING IN SECTION 2.4.1 THE SENTENCE THAT READS "A CHAIRMAN CANNOT SUCCEED HIMSELF, BUT MAY BE ELECTED AGAIN IN SUBSEQUENT YEARS."
MOTION CARRIED**

Alderman McCarthy

The next one is two paragraphs down – I would suggest that we strike “insure Board compliance with the RSA 91-A Right to Know Law”. That is already implicit.

MOTION BY ALDERMAN TOLLNER TO AMEND BY DELETING THE WORDS “INSURE BOARD COMPLIANCE WITH RSA 91-A RIGHT TO KNOW LAW”

ON THE QUESTION

Alderman Teeboom

Who insures compliance with that? Is it just every member has that duty?

Alderman Bolton

No one is allowed to break the law.

Alderman McCarthy

If we could – in the same vein delete section 3.2, which is section that is entirely devoted to the Right to Know Law.

AMENDED MOTION BY ALDERMAN TOLLNER TO AMEND BY DELETING THEN WORDS “INSURE BOARD COMPLIANCE WITH RSA 91-A RIGHT TO KNOW LAW” AND BY DELETING SECTION 3.2

ON THE QUESTION

Alderman Teeboom

What is wrong with having that section there? It says the Board and its committees are subject to the Right to Know Law. What is wrong with having it there as a reminder?

Chairman Tollner

I think that is inherent in everything we do.

Alderman McCarthy

I don't like to have unnecessary wording that duplicates – we don't say the meeting has to be held in a room that meets the fire code. We don't articulate any of the hundreds of regulations that apply every time that we meet.

Alderman Bolton

They are not allowed to get their funding by robbing gas stations.

MOTION CARRIED

Alderman McCarthy

The next one is simple. In 3.5 where it refers to Mason's Manual of Legislative Procedure, I would replace 1989 with current.

MOTION BY ALDERMAN TOLLNER TO AMEND BY REPLACING "1989" WITH THE WORD "CURRENT" IN SECTION 3.5 WHERE IT REFERS TO MASON'S MANUAL OF LEGISLATIVE PROCEDURE

ON THE QUESTION

Alderman Teeboom

The Board of Aldermen go by 1989. I am not sure there is a more current one.

Alderman McCarthy

There are certainly at least two that we have. We did in fact amend the NROs some years ago to update to the – some still have the 1979 version, and in fact until about 1995 the ordinances called for us to use the 1979 version even though none of us had that book anymore. The current makes that all go away.

MOTION CARRIED

Alderman Bolton

Assuming we are going in order, we skipped over the Section 2.4.2 regarding the Vice Chairman and the sentence that says "A vice-chairman may succeed himself." I would propose that sentence be deleted to make it clear that what we provided previously is effective so if you say it about one and don't say it about the other the assumption is going to be that the Chairman cannot. I think you may want to delete that sentence.

MOTION BY ALDERMAN BOLTON TO AMEND BY DELETING THE WORDS "A VICE-CHAIRMAN MAY SUCCEED HIMSELF" IN SECTION 2.4.2

MOTION CARRIED

Alderman McCarthy

Skipping way ahead to 4.1, the second paragraph says "The G channel will be under direct management of the Program Manager, who directs its daily operations (see paragraph 7.1)". We currently have an ordinance that in part directs the daily operations of the G Channel by specifying what order meetings need to be covered in. I think we need some change to that.

Alderman Teeboom

You referring to the fact that the Aldermanic Chambers have priority and then Planning and then Zoning?

Alderman McCarthy

Yes.

Alderman Teeboom

So we can just say subject to existing ordinances because you may decide to have an ordinance passed later on.

MOTION BY ALDERMAN TEEBOOM TO AMEND BY ADDING THE WORDS “SUBJECT TO EXISTING ORDINANCES” AFTER THE WORDS “THE G CHANNEL WILL BE UNDER DIRECT MANAGEMENT OF THE PROGRAM MANAGER, WHO DIRECTS ITS DAILY OPERATIONS” IN SECTION 4.1

ON THE QUESTION

Alderman Richardson

How is that incorporated in?

Chairman Tollner

Section 4.1, Paragraph 2 the change will be add the words “subject to existing ordinances”.

Alderman Bolton

Do you need the word “existing”?

AMENDED MOTION BY ALDERMAN TEEBOOM TO AMEND BY ADDING THE WORDS “SUBJECT TO THE NASHUA REVISED ORDINANCES” AFTER THE WORDS “THE G CHANNEL WILL BE UNDER DIRECT MANAGEMENT OF THE PROGRAM MANAGER, WHO DIRECTS ITS DAILY OPERATIONS” IN SECTION 4.1

ON THE QUESTION

Alderman Richardson

Is that clause leading or at the end of the declarative statement?

Alderman McCarthy

It would be immediately before the left parenthesis.

Alderman Richardson

Okay.

MOTION CARRIED

Alderman McCarthy

Section 5 in general – regarding funding is – I think there is some necessity to have a section here, but two things – one there are numerous references to specific accounts, which we attempt not to do anywhere because the accounting system can change from year to year and most of this is out of the purview of CTAB or the PEG Program Manager. Basically the responsibility is to use the funds that are set-aside in the accounting system by the Board of Aldermen by appropriation. I am not sure that we – Section 5.1 is already in effect because the Board of Aldermen passed legislation to do that. I believe 5.2 is as well. I think 5.3 is just a general provision that is the way that ... **tape flipped** ... same thing – that is the purview of the Board of Aldermen to appropriate or not funds into an account to pay for the public access channel.

Sections 5.5 and 5.6 ought to be kept. I guess I would suggest deleting sections 5.1 through 5.4.

MOTION BY ALDERMAN TOLLNER TO AMEND BY DELETING SECTIONS 5.1 THROUGH 5.4 AND BY RENUMBERING THE REMAINING SECTIONS AS APPROPRIATE

ON THE QUESTION

Alderman Teeboom

I had lengthy discussion on this with Cindy Bielawski. There is quite a bit of money involved here. I am not perfectly happy the way it is being reported to CTAB – how the financial reporting is done. I tried to set up a better structure. The account numbers are assigned and are pretty much set. Admittedly they could change, but they are not likely to. I was just trying to set up a structure by which you clearly know what accounts to look at and report back to CTAB on a monthly basis to see how much money has come in, how much money has been spent, and how much money is left even on the general fund, which is the 3% fund. That was the purpose of doing this. She suggested these account numbers. I personally don't see...

Alderman McCarthy

That is looking at it specifically from a financial standpoint not from the standpoint of analyzing the statutes that we work with. I guess what I would suggest is more general language that says "The CFO will provide CTAB with a monthly accounting of the accounts available to it for expenditure." should be inserted in Section 2-108 when we make the other change for the Mayor's designee.

Alderman Bolton

I think I have a more fundamental problem or maybe I just don't understand what the current process that is in place is. This seems to me to suggest that as money flows in from these fee payments paid by Comcast that money then is available to be spent subject to if it is over \$10,000 you get Finance Committee approval. That is not my understanding. My understanding is the Board of Aldermen still must appropriate those funds and would presumably do so in accordance with approving a budget for the operation of all of this, and then if it is not in the budget it can't be spent, and if there are going to

be amendments to that budget you have to come back to the Board of Aldermen. If someone wants to increase or change the purpose of an expenditure that has to be done. This doesn't say any of that. As I say this seems to me to assume that as that money flows in spend it on whatever you want.

Alderman Teeboom

We can fix that. That is true as I have become painfully aware of in the last couple of months. We can add some words in here that the money cannot be spent – the money has to be spent subject to appropriation by the Board of Aldermen. I just simply tried to with Cindy set up an accounting structure, which makes it very clear where the accounts are and all of that. If you feel it is unnecessary – just in general language say the CFO makes that available. To me it is less precise, but I don't have a problem with it the other way.

Chairman Tollner

So adding a piece in here subject to the approval?

Alderman Teeboom

I think Alderman Bolton is absolutely correct. The words should say under 6 "All funding is subject to appropriation by the Board of Aldermen." That should be in there. There is no question in my mind. The rest to me is really clarity and helpful in getting good accounting. If Alderman McCarthy feels we don't need it ...

Chairman Tollner

All funding is subject to the ...

Alderman Teeboom

All funding is subject to appropriation by the Board of Aldermen. It would be an introductory sentence.

Alderman McCarthy

Might I suggest once again then that sections 5.1 through 5.4 be moved to Appendix G?

Alderman Teeboom

That is fine.

AMENDED MOTION BY ALDERMAN TOLLNER TO AMEND BY MOVING SECTIONS 5.1 THROUGH 5.4 TO AN APPENDIX G, BY RENUMBERING THE REMAINING SECTIONS AS APPROPRIATE, AND BY ADDING AN INTRODUCTORY SENTENCE THAT READS "ALL FUNDING IS SUBJECT TO APPROPRIATION BY THE BOARD OF ALDERMEN."

ON THE QUESTION

Alderman Richardson

I am more in tune to completely deleting 5.1 through 5.4. As they presently stand they contain numerous “shalls” which could only get us into more trouble later on. I would definitely not want to make this an appendix or even retain it in the document at all.

Alderman Teeboom

The “shalls” are there because it is contractual. We cannot do anything but “shalls”. The money has to go into accounts. We establish these accounts, but the money cannot be cross-spent. We cannot take the \$201,000 and spend it on anything but the education and government channels. That is my whole point about some of this clarity. We cannot spend the 305-6013 account on anything but the education and government channels. The “shalls” are appropriate. The Appendix becomes informative. That is like the program – right now the appendix has the program contents, but it is informative not regulatory. The appendix has the organizational structure. Nobody is going to sit there and say you have dashed line instead of a solid line – it is informational not regulatory. I think I like Alderman McCarthy’s approach to put it in the Appendix. I don’t condone deleting it because this is a Policies & Procedures Manual. It is not just policy only there are also procedures to be followed and not very many pages that set up the entire structure for how we operate CTAB. I tried to strike a balance between clarity and being too

Chairman Tollner

Right now the motion is going to be to make it Appendix G. Alderman Richardson would prefer to leave it out period.

Alderman Richardson

Yes sir. I don’t see how it contributes really anything that isn’t already known.

Chairman Tollner

Just to be clear for everybody, the motion is to move it to Appendix G as we are voting.

MOTION CARRIED

Alderman Richardson

Perhaps if someone could give me orientation as to the import of this policy and procedures manual. I am at a loss as to its affect of law. Where would this be called out as being a legal document, and what is its legal import?

Alderman McCarthy

We are passing a resolution, which adopts this set of policies manual, which is going to allow for the acquisition of certain staff in the form of contractors and allows them, through a set of regulations, to expend monies on behalf of our cable television system. It doesn’t appropriate the money, but it does set forth a policy by which an individual we don’t yet have on board comes on board and can spend those revenues that are appropriated for those purposes to the cable television system.

Alderman Teeboom

Let me add to that Alderman Richardson. There is a current policy & procedure listed on the web site. I don't know if the Board of Aldermen actually ever approved that or not. The discussion came up that this was initially a policy and procedure manual of CTAB – I didn't even think about bringing it before the Board of Aldermen. We have an attorney, Attorney Clarke, who is among the members, and she very strongly suggested that it be submitted to the Board of Aldermen for precisely the point of making it a local law. That is the reason it is a resolution and has to be signed off by the Mayor and approved by the Board of Aldermen makes it local law like anything else we do local law subject to state law. This is going to become a much stronger document than anything CTAB has done to this point. In fact it would be the law as far as the conduct of CTAB goes in the City of Nashua.

Alderman Richardson

This would have to be called out in the ordinances would it not? The CTAB organization is called out correct? Would not this policy and procedure need to be called out to give it any sort of effective law?

Alderman McCarthy

No. It has the effect of law when we pass the resolution. It might not be a bad idea to put a reference to it in the ordinances as well. Bear in mind the ordinances are actually establishing the board and not governing its operation. The ordinances are not there to appropriate the funds. That is done by resolution. The adoption of the rules can be done either way. It might be more consistent to have a reference in the ordinance that says the policies and procedures manual governs operation.

Alderman Teeboom

I will add to that. If you look at the advisory board functions in 2.1 that is now going to be in the appendix, it tells you what the purpose is. It is for CTAB to develop municipal channels and future Nashua access channel policies. It describes that. Oversees the performance of the city's franchise agreements. This does that. It is consistent with the language of the ordinances. That is in fact what guided me is I noticed that the current policy and procedure manual on the web doesn't do any of this. There is some descriptive stuff that doesn't say much. It follows this ordinance that establishes – this is further by resolution locks it to me as solid as we can lock things locally. In fact it says it cannot be changed – the change we just made – you can't make a change to this document except the bylaws unless you go back to the Board of Aldermen. It makes it pretty tight.

Alderman McCarthy

Moving on to Section 6, the following suggestions. In the second paragraph strike the first sentence which says "The city purchasing manager shall have general supervision of the purchases of the city."

Alderman Teeboom

I have a problem with that. This language comes straight out of the NROs.

Alderman McCarthy

Then why put it in here?

Alderman Teeboom

There is quite a bit of language. That is the discussion we had earlier. We have language here that is certainly in some cases stronger than was in the purchasing, but it is not lesser. It is true the city purchasing manager has general supervision. If you want to take out any of the generalized language I don't have a problem with that it just makes it really easier.

Chairman Tollner

Alderman Teeboom I think Alderman McCarthy is going – before I let him tell you where he is going with it – is these already exist so why would we duplicate and put it in there when that is the policy as it is today?

Alderman McCarthy

I actually have a substantial number of deletions to Section 6. I think there is some language, which is over and above or along the side of what is in the ordinances, but I think a lot of it is duplication, and in some cases there is at least mention or subset of what is in the ordinances.

Chairman Tollner

Want to just read the whole section?

Alderman McCarthy

Yeah. You want me to just give you the whole set of changes?

Chairman Tollner

Yes.

Alderman McCarthy

I would delete that sentence in the second paragraph. I would delete the third paragraph in its entirety because it simply recites the responsibilities of the purchasing manager in the normal purchasing process. I would leave Section 6.1. In Section 6.2 I would delete everything after “where the total price of a purchase is less than \$1,000” because that is the normal responsibility of the purchasing manager. I would delete Section 6.3 because that is duplicative of the general ordinances. I would also delete 6.4. It is a subset of ordinance 2-242. Section 6.5 I would strike the first sentence “Competitive bidding shall not be required for the purchase of professional services such as independent professional accounting, technical and management consultants, in accordance

with NRO Section 2-248.” because that is a function of the way our ordinances read, and I would also strike the “after considering the following” and the list because that already appears in Section 2-48 and the term after that.

I would point out if we leave it in numbers 11 and 12 should be 10 and 11 and we would have to fix that. I would have that section read “The Purchasing Manager with recommendation by the PEG Program Director and with approval from CTAB and the Mayor or his designee and with advise by the E Channel Committee in hiring the Educational Channel Access Manager, shall award any contract for professional services in conformance with R-02-248.” Then I would delete sections 6.6 and 6.7 because they duplicate text that is already in the ordinance.

Alderman Richardson

We have already adopted Amendments changing these paragraphs, and we might want to re-clarify by identifying the paragraphs to be deleted/to be changed by their headings.

Alderman McCarthy

It may be easier to just go through what is left at the end. Let me tell you how Section 6 would read after the amendments “6.0 would say “All purchasing shall follow the guidelines and regulations of the Nashua Revised Ordinances Sections 2-237 through 2-256. All purchases (except expense report purchases) shall be recommended by the PEG Program Director, approved by CTAB, approved by the Mayor or his designee and then submitted to the Purchasing Manager.”

Alderman Richardson

The first sentence you started off with, as reading it, is different than how it is stated.

Alderman McCarthy

It wasn't supposed to be.

Alderman Richardson

All purchasing shall follow the guidelines and regulations...

Alderman McCarthy

I thought I read that the way it was on the ...

Alderman Bolton

Nothing in our ordinances are guidelines. It is the law. This should say all purchasing shall follow Nashua Revised Ordinances sections they are not suggestions.

Alderman McCarthy

Section 6.0 would read “All purchasing shall follow the Nashua Revised Ordinances Sections 2-237 through 2-256. All purchases (except expense report purchases) shall be recommended by the PEG Program Director, approved by CTAB, approved by the Mayor or his designee, and then submitted to the Purchasing Manager.” Section 6.1 would remain as it is in the draft. Section 6.2 would say “Requirements for purchases between two hundred (\$200) and one thousand (\$1,000) shall be initiated and justified by the Program Manager, then submitted to CTAB and the Mayor or his designee for approval.”

Alderman Bolton

You had previously approved amendments to 6.1 deleting the last two sentences and to 6.2 changing the between \$200 and \$1,000 so it would read requirements for purchases up to \$1,000. I gather that those changes you want to keep rather than revert back.

Alderman McCarthy

Yes. I would leave 6.1 however we had it and leave 6.2 except for deleting the “Where the total price of a purchase is less than one thousand dollars (\$1,000.00) it shall be the responsibility of the purchasing manager, after adequate inquiry, to make the purchase on the basis of price and quality.” Section 6.3 would be deleted. Section 6.4 would be deleted. Section 6.5 would become 6.3, and would read “The Purchasing Manager with recommendation by the PEG Program Director, and with approval from CTAB and the Mayor or his designee and with the advice by the E Channel Committee in hiring the Education Channel Access Manager shall award any contract for professional services in accordance with NRO Section 2-248.

Chairman Tollner

Just for my sanity – we removed the first sentence right – in the original 6.5 you wanted the first sentence removed about competitive bidding right?

Alderman McCarthy

Yes.

Alderman Bolton

We have a new 6.5 about emergency purchases so.

Alderman McCarthy

That would actually become 6.4 after this 6.3.

Chairman Tollner

Are you following us Alderman Teeboom?

Alderman Teeboom

There are a couple of places here where the PEG Program Director does something like he writes specifications. What are we trying to do? I am still not sure I understand the point of making these changes. This follows the guidelines and maybe it is duplicative – so what.

Chairman Tollner

We are trying to clean it up so a year from now it is still a living workable document without us having to go back and amend it. Why don't we take where we are right now – I will go to Alderman Richardson before we vote on the amendment and then ...

Alderman Richardson

I have clarified it myself thank you.

Chairman Tollner

Alderman McCarthy you have that written down and can give it to the esteemed Clerk of the Personnel Committee?

Alderman McCarthy

Yes. Actually what I can do is e-mail it to the committee and the Legislative Assistant, which might be easier.

Chairman Tollner

Okay. So we understand the things in Section 6?

Alderman Teeboom

Where does that word that the PEG Program Director prepares specifications?

Alderman McCarthy

Where is it now?

Alderman Teeboom

In Section 6.3. Remember when you start going into \$1,000 or more up to \$10,000 you have to have specifications, etc.

Alderman McCarthy

That is covered in the general purchasing ordinances where it says you submit specifications to the purchasing director.

Alderman Teeboom

All I want to do is make sure the PEG Program Director prepares the specifications, which is right now not specified anywhere.

Alderman Bolton

Add that to his duties in the duties section.

Alderman McCarthy

We could also just in Section 6.0 at the top say “The PEG Program Director shall prepare any specifications or requests for quotation required in the process.”

Alderman Teeboom

That is all I wanted to do is make sure we preserve that duty.

Chairman Tollner

Is there any discussion on those items?

Alderman Richardson

I just want to clarify that last statement – PEG Program Director shall ...

Alderman McCarthy

Shall prepare any specifications or requests for qualifications required in the process.

Alderman Teeboom

Just for clarification – everything is maintained, nothing is changed, you just took out any redundant language.

Alderman McCarthy

Yes.

Alderman Richardson

Just to clarify for myself the motion on the floor would include the deletion of the 12 innumeration items under the old 6.5 professional services including the last paragraph at the end of that page?

Alderman McCarthy

Yes.

Alderman Teeboom

Is that standard language now?

Alderman McCarthy

It is language we have in virtually all of our contracts. There is a separate issue there that we need to take up outside of this because we don't have prototype contracts for issues surrounding the cable system. That feature is normal to for example if you use any of the AIA documents for construction that is in the standard language so what we ought to do is prepare or have the Legal Department prepare standards for what the contracts look like that we are likely to engage in in the professional services particularly.

Alderman Teeboom

That is much more difficult to construct because it is far less regulated.

**MOTION BY ALDERMAN TOLLNER TO AMEND BY ADDING AT THE BEGINNING OF SECTION 6 THE WORDS "THE PEG PROGRAM DIRECTOR SHALL PREPARE ANY SPECIFICATIONS OR REQUESTS FOR QUALIFICATIONS REQUIRED IN THE PROCESS.", BY DELETING IN SECTION 6 THE WORDS "GUIDELINES AND" IN THE FIRST SENTENCE, BY DELETING THE WORDS "THE CITY PURCHASING MANAGER SHALL HAVE GENERAL SUPERVISION OF THE PURCHASES OF THE CITY", BY DELETING THE THIRD PARAGRAPH IN ITS ENTIRETY, BY DELETING THE WORDS "WHERE THE TOTAL PRICE OF A PURCHASE IS LESS THAN ONE THOUSAND DOLLARS (\$1,000) IT SHALL BE THE RESPONSIBILITY OF THE PURCHASING MANAGER, AFTER ADEQUATE INQUIRY, TO MAKE THE PURCHASE ON THE BASIS OF PRICE AND QUALITY." AT THE END OF PARAGRAPH 6.1, BY DELETING SECTION 6.3, BY DELETING SECTION 6.4, BY RE-NUMBERING THE SECTIONS AS APPROPRIATE, BY DELETING THE WORDS "COMPETITIVE BIDDING SHALL NOT BE REQUIRED FOR THE PURCHASE OF PROFESSIONAL SERVICES SUCH AS INDEPENDENT PROFESSIONAL ACCOUNTING, TECHNICAL AND MANAGEMENT CONSULTANTS, IN ACCORDANCE WITH NRO SECTION 2-248." FROM SECTION 6.5, BY DELETING THE WORDS "AFTER CONSIDERING THE FOLLOWING" AND THE LIST THAT FOLLOWS IN SECTION 6.4 AND INSERTING THE WORDS "THE PURCHASING MANAGER WITH RECOMMENDATION BY THE PEG PROGRAM DIRECTOR AND WITH APPROVAL FROM CTAB AND THE MAYOR OR HIS DESIGNEE AND WITH ADVISE BY THE E CHANNEL COMMITTEE IN HIRING THE EDUCATIONAL CHANNEL ACCESS MANAGER, SHALL AWARD ANY CONTRACT FOR PROFESSIONAL SERVICES IN CONFORMANCE WITH NRO SECTION 2-248.", AND BY DELETING SECTIONS 6.6 AND 6.7
MOTION CARRIED**

Alderman Richardson

We have not addressed the old section 6.6 and 6.7 yet.

Alderman McCarthy

I had removed those.

Alderman Richardson

That was not part of the last motion.

Chairman Tollner

I have it written down – 6.6 and 6.7 out right?

Alderman McCarthy

Yes.

Alderman Richardson

That was not stated.

Chairman Tollner

It was but I tell you what I will make another motion.

**MOTION BY ALDERMAN TOLLNER TO AMEND BY DELETING SECTIONS 6.6 AND 6.7
MOTION CARRIED**

Alderman Teeboom

Is Alderman McCarthy going to type up all of this stuff and send it to the committee and send it to me hopefully and to Can you send it to Ed Lecius as well?

Alderman McCarthy

The next one I had was a question. It is on 7.2 on the paragraph at the bottom of the page.

Alderman Bolton

In 7.0 and in 7.1 there are references to paragraph 6.5, which I believe has now been changed. You want to get the correct references if it is still appropriate to reference at all.

Alderman McCarthy

I would suggest changes the references to Paragraph 6. anything and Paragraph 5, anything to Section 6 and Section 5.

Alderman Richardson

I would suggest just striking the subordinated clause altogether.

MOTION BY ALDERMAN RICHARDSON TO AMEND SECTIONS 7.0 AND 7.1 BY DELETING THE WORDS “PURSUANT TO PARAGRAPH 6.5”

ON THE QUESTION

Alderman McCarthy

Is that just the one for Paragraph 6.5?

Alderman Richardson

Striking “Pursuant to Paragraph 6.5”

Alderman McCarthy

The current wording says “prepared and approved in accordance with Paragraph 6.5.

Alderman Richardson

This is the second paragraph under Staffing?

Alderman McCarthy

There is one in 7.1 as well.

Chairman Tollner

I think Alderman Bolton said 7.1 and 7.0.

Alderman Teeboom

I could just suggest make a general statement that all paragraph references become consistent with the new numbers.

Alderman McCarthy

Is that the intent of the motion or is it to strike the reference?

**AMENDED MOTION BY ALDERMAN RICHARDSON TO AMEND SECTION 7.0 BY DELETING THE WORDS “PURSUANT TO PARAGRAPH 6.5” AND SECTION 7.1 BY DELETING THE WORDS “REFERENCE PARAGRAPH 5.2” AND “REFERENCE PARAGRAPH 5.4” AND THE WORDS “PREPARED AND APPROVED IN ACCORDANCE WITH PARAGRAPH 6.5”
MOTION CARRIED**

Alderman McCarthy

On 7.1 PEG Program Director, in the last paragraph on that page “shall coordinate and assign the TV taping and playing schedule” that has the same issue with the ordinances prescribing taping schedules. If assign means assign the videographers then I don’t think there is a conflict in this

paragraph.

Alderman Teeboom

It reads what it reads so if you want to make sure you have to add something to the existing ordinances.

**MOTION BY ALDERMAN TOLLNER TO AMEND BY ADDING THE WORDS “SUBJECT TO THE PROVISIONS OF THE NASHUA REVISED ORDINANCES” AT THE END OF THE SENTENCE IN SECTION 7.1 THAT READS “SHALL COORDINATE AND ASSIGN THE TV TAPING AND PLAYING SCHEDULE”
MOTION CARRIED**

Alderman McCarthy

The next one was a question on 7.2 on the bottom of the page “Nashua School District and from other private educational institutions” what is the definition of educational institution that we are using?

Alderman Teeboom

And other private educational institutions – religious schools, charter schools...

Alderman McCarthy

What makes an educational institution an educational instruction? If I am home schooling one child can I declare myself an educational institution and demand to participate in the government of the ...

Alderman Teeboom

They would see that if somebody in home school is teaching their kids and wants to have a program on the education channel about how she teaches her kids it is up to the E Committee to decide whether that is proper or not. That is an E Committee function. They decide the programming.

Alderman McCarthy

Again, but the combined – this committee will be made up of interested parties from within the Nashua school district and from other private educational institutions. I don't understand how the committee is formed from that group.

Alderman Teeboom

I am tired and I will give Rick a try because he came up with this stuff. If I am a home schooler I am entitled to be on that committee. If I am a charter school operation I am entitled to be on that committee. If there are 15 home schoolers all asking to be on that committee someone has to make the decision who is going to be on there or not or maybe they would have to form a home school organization of some kind.

Alderman McCarthy

How are the votes divided up?

Alderman Teeboom

This is all outside of this document. The E Committee has got to decide that. That is not part of this document.

Alderman McCarthy

Okay. I at least want to make that clear. This is very similar to the makeup of the Regional Water District where you have the school district, which is the 800 pound gorilla based on the number of constituents it represents and other much smaller constituents. I am concerned about the mechanics of voting on what will be presented on the E Channel.

Alderman Teeboom

I don't think that is up to us to decide. Let's let the E Channel – you can ask Rick. That is the way I look at it let the E Channel go figure that one out.

Alderman Richardson

Perhaps it would be good to create a definition and refer it back to state law, which defines educational institutions in their various forms.

Alderman Teeboom

What state law? I am just telling you – he just said the water district. You don't want to get into that makeup. Just let the E Channel fool with it.

Alderman McCarthy

If we believe that this document does not define how that committee is constituted then I am happy.

Alderman Teeboom

It does not. That is a whole – we have in the school department ranging from total control by the Superintendent to hiring a director. You can ask Rick what his opinion is. Maybe we should through the Chair ask Rick for his opinion.

Rick Farrenkopf

All I would add to offer to the discussion is that the intent of the committee would be to work cooperatively with any non-public school as we do today with a variety of other endeavors in that we see that the programming would be built over time and we would welcome other content. Our intent is not to be exclusive, but the intent would be welcoming content that was of educational value. It is true it is not clear how that will work. I don't know how much interest there would be to be on the committee from other parts of the community.

Alderman Teeboom

Let me just say we had three members in the audience who left because they got bored with the details, but they have an interest, a very vested interest in seeing at least the school is represented, and if you didn't do that they would be up in arms. I remember they came before CTAB as well and were very vocal about this. I was able to come up with State and Federal law on the public channel in appendixes. Ultimately maybe we can amend this and have an Appendix on the E Committee. At this point, I didn't want to touch it. I don't want to get into that area.

Chairman Tollner

That addresses Alderman McCarthy's concern.

Alderman Teeboom

If that is his concern indeed I share that.

Alderman McCarthy

The next one is in 7.3, and it is just above 7.4, the paragraph that begins with "The Independent Contractor shall draft and enforce procedures to provide legal protection" I actually am sympathetic to that issue. I in fact have some language I was going to propose at some point for the disclaimer that we need to get from anyone who is putting programming on. The last sentence however bother me "Such checks shall be without consultation with the CTAB legal representative to ensure the wholly independent operation of the P channel." The problem I have with that is that the signature at the bottom of the cable franchise is the Mayor's on behalf of the Mayor and Board of Aldermen and the City. The P Channel cannot exist without an agreement that involves the government of the city, and therefore, ultimately we own the liability for what happens on it, and not allowing our own counsel to have a say in how that is administered I think is probably not a great idea.

I guess I would ask to strike that sentence and just be silent on that issue. While I understand the intent of making the decisions independent, they can't be wholly independent because the operation of the channel is in fact our responsibility.

Alderman Teeboom

I agree. If you look at Appendix C it gets into some of these protective things; conditions and documents have to be signed by program content providers... there are already the beginnings of the structure. The reason the structure is there isn't because I was so clever to come up with that, but because I stole the language from HAMCAN faced a legal suit because at that time, earlier times, you didn't have an independent organization, they ran it out of the city. They got sued by someone who said you liabled us. I guess the suit was successful. That is when they went to HAMCAN and created this independent organization. This is exactly what is described in this document. I think I may have copied that language so I have no problem taking it out. If you look at Appendix C there is quite a bit of information about how the public channel will be protected. This is fine.

Alderman Richardson

I do need to go back to make some motions, but after this one.

MOTION BY ALDERMAN TOLLNER TO AMEND BY DELETING THE SENTENCE "SUCH

**CHECKS SHALL BE WITHOUT CONSULTATION WITH THE CTAB LEGAL REPRESENTATIVE TO ENSURE THE WHOLLY INDEPENDENT OPERATION OF THE P CHANNEL.” AT THE END OF SECTION 7.3
MOTION CARRIED**

Alderman McCarthy

I actually just had one sort of general question on Appendix C. I can either do that now or go back to Alderman Richardson’s amendments and then talk about it.

Chairman Tollner

Why don’t we go ahead and finish up with you.

Alderman McCarthy

I just have a general concern about how the ban on content based restrictions works with regard to a couple of subjects; one is all of these channels are “non-commercial” and I guess I am not entirely sure where that line gets drawn. For example it looks to me from this section like we can’t accept money to advertise a political campaign on the public access channel, we can however put the exact same advertisements on without fee as programming on the public access channel, which seems to me to simply defeat the revenue side of the equation not the requirement of equality. That just seems like a problem. I don’t understand how we make sure that this is non-commercial. If we have non-content based guidelines that allow me to put a show on there that I taped at home what is the difference between a show that says here is how I go fly fishing, one that says Vote for Bob in the next election, and one that says you really know how to go out and buy a George Foreman grill. There is a thing line there that I think we need to figure out how to navigate in order to avoid those kinds of entanglements. Like I said the fact that the regulation says you can’t accept money for putting it on just simply complicates it because it doesn’t affect the purpose that you want.

The other problems I had with it – the discussion about trademark and copyright violations and it says “producers can furnish written authorization” we won’t know that there is a copyright violation that has to be waved until after the fact. Instead of producing a waiver I would just produce a piece of paper that says there is no copyrighted material in it, it just looks like a National Geographic special.

I guess the last thing is a question, which is what is the phrase the equal time rule and personal attack rule do not apply to the public access channel mean?

Alderman Teeboom

Let’s take one thing at a time. It says clearly here the public access channel shall not cablecast political advertising so we cannot say vote for me. That is pretty clear, you can’t say vote for me.

You could have an interview between a couple of candidates with Mr. Joe and Mr. Frank and present their views and that is perfectly fine, but you cannot say vote for Mr. X. No political advertising.

The second part of the copyright trade laws. There is a dual protection. First of all there is this independent operator that is supposed to protect the city legally because they have a duty to make sure that things happen, and then they in turn get the providers to sign this document saying I am not violating copyright, I am not doing this, I am going to do that so they in turn can sue the individual content provider in case he or she violates something. That is double protection.

I can tell you that P channels have been operating for quite a while now. I don't think P channels – if this was the origination of a P channel with this Board it would never pass. It is operating all over New Hampshire in many communities and most particularly Manchester. I made the correction that they made with that independent thing – it is operating very nicely. Some of what you have to do is trust someone on having documents signed by content providers.

The final point was ...

Alderman McCarthy

The final question was what does the equal time rule and the personal attack rule do not apply.

Alderman Teeboom

This came verbatim out of HANCAM. I will try to defend it. It sounds to me like if somebody makes a personal attack on someone else subject to being slander, being malicious and slander, it is permitted.

Alderman McCarthy

That is what it sounded like to me too.

Alderman Teeboom

Equal time rule means you spoke for 10 minutes and I can speak for 10 minutes doesn't apply either. As far as I know this is pretty well established from public access channel operations. If you are uncomfortable with it strike that out. I don't get hung up on all of the intricacies of the E Channel. I know people go crazy on this thing, and if you look at the web you will find countless blogs on this thing. Basically this is just copying what Manchester has done.

Alderman McCarthy

I am okay with it for the moment because it is in the informative and not the definitive text, but there is an issue there that at some point I think we are going to have to resolve and put a section in the definitive text that solves it. I read the part that says public access channel shall not cablecast political advertising. Just above that it says is permitted to cablecast political interviews and present political parties or candidates for public office advocating or promoting their candidacy for elected or appointed political office and promote or oppose ballot issues by supporting lobbying organizations. That to me reads as there can be political advertising it just can't be paid for.

Alderman Teeboom

You may be right. The way I would approach it by the way when we get to it – there is no funding right now for the P channel so we don't have to worry about it. When we get around, if we approve this, the approach is to get an independent contractor. We have to go out for bids, have to write an RFP, has to come back. I would presume that the Board of Aldermen may have an interest in who they hire other than the Finance Committee like the IT Manager may put together a selection team just like we do with the IT Manager now – we have a selection team and you and I are on it. That is how it would operate. Then we can go through every one of these and say how are we going to enforce this/what are you going to do about this? That is how I see it. I am not trying to solve every problem in the world in 27 pages and be able to answer to every single phrase in here on this Appendix. It is quite a complicated issue, and there are huge amounts of legal cases behind it, law, decisions, and more decisions, and more decisions – Superior Court, Supreme Court, state, and federal. I am not going to even try to ...

Alderman Bolton

This equal time rule and personal attack rule, I don't know if there are such rules that would apply to this kind of public access channel, but if there are what makes us think we can say they don't apply? If there is federal law out there that applies it applies. If it doesn't apply I guess it doesn't apply, but I mean it is like my putting a sign on my car saying speed limit doesn't apply. I am not sure that would do me much good when I got a ticket. I think we ought to find out what these things are and if they apply or don't apply.

Alderman McCarthy

I am pretty sure this time we have exactly the opposite of the affect we were looking for.

Alderman Bolton

You just can't exempt yourself from the law just by saying you do.

Alderman Richardson

I wanted to go back. We kind of skipped over a section when we came to it, but 7.1 PEG Program Director. There is a word in there that kind of was one of the words that to me is kind of worming us into a direction we might not want to go. It is in the very first sentence. It says "The PEG Program Director shall initially be employed under a professional services contract." I don't want this position to become a city position where we have to pay for all of the benefits. I do want this to be a professional services contract. To me this is a caveat that should not be there.

MOTION BY ALDERMAN RICHARDSON TO AMEND BY DELETING THE WORD "INITIALLY" IN THE FIRST SENTENCE OF SECTION 7.1

ON THE QUESTIONAlderman Teeboom

That word was put in there at the request of Maureen Lemieux. We want to make this a contractor for any number of reasons including cost obviously. There is an issue, and I think I explained that when we went over this some time ago – last time we met, the Board of Aldermen. The issue is how does this person function. If he gets direction on a daily basis he cannot be a professional services contractor because it is defined in 1099 IRS rules. The IRS has been clamping down on this. She was concerned. Legally she checked with our legal staff. The legal staff, because she was concerned, said can we make it an independent contractor, and the legal staff told Maureen in a meeting she had that yes you can, let's see how it works out, and Maureen asked to put the word initially in. I would rather not take it out even though I know it is a weasel word or caveat or whatever you want to call it because it does define the length of time. I would like to see how this thing works out, and I would like to keep it in for that purpose.

Alderman McCarthy

I guess I tend to agree with Alderman Richardson, but for a different reason, which is in the review of whether or not it is a contractor position, putting the word initially in suggests that it could be an employee. Either you have a person who – if all of the job stuff that is in here can be done either through an employee that we direct or contractor that we don't direct, that would suggest that the responsibilities are those of an employee and not a contractor. I don't think that is the case, but I would rather not have it subject to second guess. I would rather, if we need to make it an employee, come back and amend the policies and procedures at the time.

**AMENDED MOTION BY ALDERMAN RICHARDSON TO AMEND BY DELETING THE WORD
“INITIALLY” IN SECTION 7.1 AND SECTION 7.2
MOTION CARRIED**

Alderman Richardson

I have a problem with Appendix C. Moving over to the section where it talks about “Program producers maintain ownership of rights to all original material and are liable for all the content.” It gets down to the paragraph “Controversial or adult programming with violent material, offensive language, graphic depiction of medical procedures, or sexually explicit material, but protected under the First Amendment as determined by the Independent Contractor, will be scheduled only for cablecast between 11 PM and 6 AM.” I think there are a lot of things wrong with this. First of all I am not sure if the city should be in the business of transmitting this kind of material. I don't see any virtue in it at all. Be that as it may, even if that were the case, “as determined by the independent contractor”? Don't we have legal oversight? And what is magic about this time of day? Isn't it someone's right to see this kind of pornography any time of day? There are several things wrong with this.

Alderman Teeboom

Let me give this a shot. It is pretty straightforward. First of all – in my younger years I once was a member of the First Amendment Legal Defense Team. I used to fight these kind of things on the ... **tape inaudible...** the law is that it is protected and sexual explicit material as a figure of speech not being pornography in the sense of child molestation and this type of thing, is protected and has to be

shown. You have to give some time available. You can regulate the time. I have forgotten the exact legal working at this point, but you have to regulate the time. You cannot put it in two minutes between the hours of 3:00 p.m. and 9:00 p.m. It has to be a reasonable time. Now you can make the 11:00 p.m. or probably midnight, but you have to give it reasonable time. It doesn't say it has to be convenient time. It doesn't say you have to make it available at 3:00 p.m. Under the federal rules and federal laws on this, and I am quite familiar with that, it has to be given its space and its time just like sex shops have to be given their space. That is why we have zoning in the city called set aside zoning even though nobody is using it. You can't legislate this out of existence. That is number one about the time. You can change the time.

As far as who determines what it is that is exactly the legal separation you want. You don't want the attorneys in the city making a determination because if you get sued for not showing what the producer is legally entitled to show, he will sue the city instead of suing an independent contractor. Our legal staff wants legal separation, and believe me this whole area, this whole document has been reviewed by our legal staff.

Alderman Bolton

Not to mention we don't want to pay them to watch this stuff.

Alderman Williams

How do other ... **tape ended** ...

Alderman Teeboom

What happened is they had the legal counsel doing exactly what Alderman ...

Alderman Williams

Excuse me Alderman Teeboom, my question was how do other communities in New Hampshire deal with allowing pornography on their public access channel?

Alderman Teeboom

The same way they ...

Alderman Williams

They allow it?

Alderman Teeboom

Yes. It is allowed.

Alderman McCarthy

I was going to comment that basically absent violations of federal law you don't get much choice about what you do and don't put on. You do get choices on the times, and in fact I suspect that this clause actually comes out of the provisions of the Communications Decency Act, which said that if you were going to broadcast on channels which do not have parental lockouts you have to do it at night. Since our channel currently is in the clear on cable ready televisions that would apply to us since we are not encrypted. I don't know whether 11:00 p.m. to 6:00 a.m. was the exact interval that was proposed in that law, I believe it may have been.

Alderman Williams

I have a problem with the 6:00 a.m. because my teenage daughter is up at 5:00 a.m. on the computer. I don't think that is appropriate to have pornography on television at 5:00 a.m.

Chairman Tollner

Any time for that matter.

Alderman Williams

Or anytime, but if we are going to have to legally allow it I think that is too wide a range.

Alderman Teeboom

My opinion from what I have seen is you can change 11:00 to noon and the 6:00 a.m. to 5:00 a.m., but you cannot make it unreasonable like 3:00 a.m. to 3:30 a.m. If you want to make a change in the restriction on this I don't see a problem.

Chairman Tollner

I don't like any of it, but I would probably change it to like 1:00 a.m. to 5:00 a.m.

Alderman Teeboom

The law says that you have to give a reasonable space in time.

Chairman Tollner

I think 1:00 a.m. to 5:00 a.m. is reasonable. It is four hours.

Alderman Teeboom

All of the people with insomnia will watch this.

**MOTION BY ALDERMAN RICHARDSON TO AMEND BY CHANGING THE TIME LISTED IN APPENDIX C UNDER CONTROVERSIAL OR ADULT PROGRAMMING FROM 11:00 PM TO 6:00 AM TO 1:00 AM AND 5:00 AM
MOTION CARRIED**

Alderman Richardson

I hate to ask, but going all the way back to 2.3, I just circled this – I think you struck everything but one sentence in 2.3, and I am not sure that perhaps terms of office is the right title. I think the only thing you left was the “The CATV Program Manager is functionally accountable to CTAB and can be removed by the Board for cause following a hearing.” I am just not sure terms of office is necessarily the right title for that.

Alderman Teeboom

We can delete that whole thing and just pull that into the PEG Program Director position, which is 7.1

MOTION BY ALDERMAN RICHARDSON TO AMEND BY DELETING IN PARAGRAPH 2.3 THE SENTENCE THAT READS “THE CATV PROGRAM MANAGER IS FUNCTIONALLY ACCOUNTABLE TO CTAB, BUT CAN BE TERMINATED BY THE MAYOR ACCORDING TO THE TERMS OF HIS EMPLOYMENT AGREEMENT”, BY ADDING THE SAME SENTENCE TO SECTION 7.1 AS AN ADDENDUM TO THE FIRST PARAGRAPH, BY STRIKING THE ENTIRETY OF SECTION 2.3 (TERMS OF OFFICE), AND BY RE-NUMBERING THE DOCUMENT WHERE APPROPRIATE

ON THE QUESTION

Alderman McCarthy

Now that we move it there we have two statements that appear to conflict. The sentence we moved, which is the CATV PEG Program Director is functionally accountable to CTAB and in 7.1, the existing language is the PEG Program Director reports administratively to the Mayor’s Administrative Assistant.

Alderman Teeboom

Administratively. That is not inconsistent. If you look at the diagram, we are talking here about CTAB – the PEG Program Director you see there is a dashed line and a solid line – functionally meaning what is it that you do, what tasks do you perform, what do you propose – all comes to CTAB. The administrative functions, which is the timesheets that get time, expense reports get signed, which CTAB has no function for it is just individuals, that gets signed out by the Administrative Assistant. It is consistent. In fact it is consistent in most engineering organizations where you have a functional reporting staff to an administrator. There is a difference; you have administrative reporting is your home for reviews and functional reporting is wherever you go to work in the morning. It is not inconsistent. It is consistent.

Alderman McCarthy

I would like to suggest some alternative language then. Since the ability of the Mayor to terminate the contract is implicit in the contract, we must not need to carry that either, so it might be appropriate to delete Section 2.3 and in Section 7.1 where it says reports administratively to the Mayor’s Administrative Assistant, change that to read “reports to the Mayor’s Administrative Assistant and CTAB.”

Alderman Teeboom

I wanted to make it clear that it reflects the intent of the diagram meaning functionally to CTAB – Maureen Lemieux wanted to make sure that we had administrative function that reports to people that work for the city so administratively to the Administrative Assistant and functionally to CTAB. CTAB does not review timesheets, CTAB does not review expense reports.

Alderman McCarthy

I would submit having worked in matrix-managed companies for many years that functionally you report to whoever continues your salary. If the Mayor has the right to terminate the contract the Mayor can trump whatever CTAB asks for functionally so I am not sure it matters whether we spell that out or not.

Alderman Teeboom

It does matter. Now the termination is a different issue. Termination is spelled out that the Mayor can terminate. The Mayor is the only one that can terminate these positions.

Alderman McCarthy

And if I am the independent contractor and the Mayor and CTAB give me diametrically opposed instructions it is perfectly clear to me what I will do.

Alderman Teeboom

It is not true. The Mayor can terminate the contract whether CTAB agrees with it or not. The Mayor has the sole responsibility. ... **tape inaudible** ... the Mayor is the sole point for hiring and firing.

Alderman McCarthy

My point is that if CTAB asks that person to do something and the Mayor's Administrative Assistant is at the same time giving him conflicting direction, it will naturally be the tendency of the contractor to side with the side of the conflict where his contract is either kept in place or terminated.

Alderman Teeboom

The Mayor's assistant does not give direction. She signs timesheets and audits expense reports. She does not give direction.

Alderman McCarthy

I understand that is how it is supposed to work.

Alderman Teeboom

That is how it works.

Chairman Tollner

Is there a motion on the floor right now?

Alderman Richardson

There is a motion on the floor – it was stated to take the remaining sentence in Section 2.3 and add it to the end of the first paragraph under 7.1 PEG Program Director and it has content, which I think is valuable there and then also to strike that same sentence and the entire content of Section 2.3, Terms of Office. That is the motion that I had placed on the floor. I do want to discuss it though because one of the things that occurred to me – in this material I didn't see where we actually discussed a term for the contractor – what the time length specified for the contract.

Alderman Teeboom

That is not specified on purpose. If the contract is written – the contractors that the city likes, the independent contractors, we define a term. If we don't define a term – we signed one not very long ago. We signed one for the NRPC contractor to work with the NRPC. It is an undetermined contract – basically just like the request that came up earlier of the administrative assistant. It is an undetermined time. If it doesn't work out they are gone. It doesn't even say you have to have a two weeks notice unless that is in the contract. This doesn't define any severance pay in the contract. It doesn't define any of those conditions. If we decided on a contract or amend it for a certain time like a year that can be done or four or five years. That is not defined in this document. I think that goes into contract language. It doesn't belong in here. The reporting structure, the fact that he functionally reports to CTAB for what he does and is accountable for technical stuff and administratively reports to the Administrative Assistant for his care and feeding in terms of reporting of timesheets and other administrative stuff. He has a problem with someone, he doesn't like Fred Teeboom because Fred Teeboom uses nasty language, he doesn't necessarily go to CTAB he can go down to the Administrative Assistant and complain to the Mayor and the Mayor says look you don't cut this out you are fired. The Administrative Assistant doesn't do it the Mayor would have to come in and take him to the woodshed. To me it is perfectly .. I worked in another kind of department for years and years and it worked out very well.

Alderman Richardson

The motion is on the floor.

Chairman Tollner

Is there any further discussion on that?

MOTION CARRIED

Chairman Tollner

Are there any further motions on this outstanding document?

**MOTION BY ALDERMAN TOLLNER TO RECOMMEND FINAL PASSAGE AS AMENDED
MOTION CARRIED**

Chairman Tollner

Alderman Richardson do you have a copy of O-06-09 with you this evening? Can I take a look at it? I think this is a good piece of legislation. Basically now for the committee members – this ordinance was established – The Nashua Green Team whose purpose is to recommend measures to reduce greenhouse gas emissions, increase energy efficiency, decrease air pollution, and reduce energy expenditures. All three good things.

NEW BUSINESS – ORDINANCES

O-06-09

Endorsers: Mayor Bernard A. Streeter
Alderman-at-Large Brian S. McCarthy
Alderman-at-Large David Rootovich
Alderman Marc W. Plamondon

ESTABLISHING THE NASHUA GREEN TEAM

MOTION BY ALDERMAN TOLLNER TO RECOMMEND FINAL PASSAGE

ON THE QUESTION

Alderman Richardson

Is this on the agenda for tonight Mr. Chairman?

Chairman Tollner

Under new business ordinances.

Alderman Richardson

I don't remember having any particular problem with this. It seems quite in accordance with the meetings that have been taking place with all of the staff and bringing in speakers. I am fine with it.

MOTION CARRIED

Chairman Tollner

We still have items held in committee. There is an appointee for the Ethnic Awareness Committee. She will not be back in town for about another month and a half.

HELD IN COMMITTEE

Appointments by the Mayor

Ethnic Awareness Committee

Luci De Biagio (New Appointment)
22 Squire Drive
Nashua, NH 03063

Term to Expire: December 31, 2006

PUBLIC COMMENT

DISCUSSION

ADJOURNMENT

**MOTION BY ALDERMAN DION TO ADJOURN
MOTION CARRIED**

The meeting was declared closed at 10:50 p.m.

Alderman David MacLaughlin
Committee Clerk