

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

September 12, 2005

A meeting of the Planning and Economic Development Committee was held on Monday, September 12, 2005 at 7:00 p.m. in the Aldermanic Chamber.

Chairman David Rootovich presided.

Members of the Committee present: Alderman Richard LaRose, Vice Chair  
Alderman Kathryn D. Vitale  
Alderman Rob Shaw

Members Not in Attendance: Alderman David MacLaughlin

Also in Attendance: Alderman-at-Large David W. Deane  
Alderman-at-Large Paula I. Johnson  
Larry Hersh, Chairman, Cable Television Advisory Board  
Mark Sousa, Legislative Business Liaison  
Chief Roger Hatfield, Nashua Fire Rescue  
Katherine E. Hersh, Div. Director, Community Development  
Roger Houston, Manager/Planning Director, Planning Dept.  
Peter Epstein, Esq.  
Bill Jennings, Station Mgr., Bedford Public Station  
Bette Lasky, Chairman, Nashua City Planning Board  
Ms. Kerrie Diers, Asst. Dir., Nashua Reg. Planning Commission  
Mark Frucier, Frucier Planning

Chairman Rootovich

I would ask a member of the committee to be so kind as to make a motion to go out of the regular order of business.

MOTION BY ALDERMAN LAROSE TO GO OUT OF THE REGULAR ORDER OF BUSINESS TO TAKE UP UNFINISHED BUSINESS – RESOLUTIONS  
MOTION CARRIED

UNFINISHED BUSINESS – RESOLUTIONS

R-05-271

Endorser: Mayor Bernard A. Streeter

APPROVING A PROPOSED CABLE TELEVISION FRANCHISE AGREEMENT RENEWAL  
BETWEEN THE CITY OF NASHUA AND COMCAST

Chairman Rootovich

Mr. Hersh is here this evening as you all know to go over the updated version of the Comcast Franchise Agreement. He does have another commitment later on, a work commitment. I would ask that he join us at this time.

Larry Hersh

I would like to request that Attorney Epstein join us as well.

Chairman Rootovich

By all means. Does everyone have a copy of the redline agreement before you? It is on line and was sent to us via e-mail.

Alderman Johnson

I didn't get one via e-mail.

Chairman Rootovich

Do you have any other copies?

Larry Hersh

These are the only pages that are changing. Do you want the whole document or just then ones that have changes?

Alderman Vitale

Just the changes would be fine.

Alderman Deane

Can we get the numbers of the pages that you are going to have copied that have significant changes?

Larry Hersh

Yes it is page 6, page 9, page 23, pages 25 and 26.

Thank you Alderman Rootovich and the other Aldermen for your time this evening. I will try to be relatively brief, to the point, and try to address what I believe were the critical questions raised in last week's public hearing and subsequent to that. I would first like to request that people refrain from shooting the messenger. I wish to review the data gathering process, which has been accused by some as being closed to show how open and transparent it really was. I wish to clarify my role in this

and I wish to respond to the key questions raised regarding the public hearing.

First I wish to cover the process. In 2001, CTAB, under my leadership, began the data gathering process. We interviewed every city division through written questionnaires and/or interviews and the Board of Aldermen held an open public hearing. We then accumulated all of that data into a report, which was reviewed and discussed in detail during CTAB meetings, which are open to the public and posted, and the final report was presented to the Board of Aldermen followed by another public hearing.

Every member of CTAB received an advance copy of the report, and was able to add their comments and edits. Later we determined that a survey of citizens would be very helpful in our case. We used a copy of the one that Londonderry did in their last review as a basis, and we reviewed and discussed that and all of the changes in detail in open and posted CTAB meetings. I then worked with two advanced placement statistics classes at the High School to finish the questionnaire, determine the process, and select the randomly targeted citizens for the survey based upon budgetary constraints. We even posted the questionnaire on the city web site. The classes input all of the data and created an Excel spreadsheet, which was also made available to this Board and again posted on the web.

I worked with CTAB during open, posted meetings to prepare a presentation on the findings and I presented those findings in another public hearing initiated by this committee, PEDC. I have asked the Board of Aldermen on numerous occasions to comment on the findings and have always received concurrence that we were going in the correct direction. Once again this Fall I briefed the full Board on the status and what we were asking for in the negotiations. I also explained that based upon the input that I had gathered through that three year process, there was no demand for public access in the city – at least none stated. In fact the only negative comment at that time was Alderman Johnson's comment that she was against the additional 1% franchise fee.

Until the public hearing last month there has been very little demand for public access expressed in any of the public hearings or otherwise. Let me also state that I have no opposition to public access. I only presented and negotiated based upon the input that I received through that three-year process. I had and have no hidden agenda of any kind. As a volunteer I and CTAB have spent countless hours doing primary research, accumulating data, checkpoint each and every major step of the process with this Board and with the public.

I would also like to state that I heard no negative comments related to the construction of the questionnaire before the last couple of weeks even though it was posted on the city web site for an extensive period of time. Mr. Teeboom in particular has accused this of being a closed process. Well I ask where he was during this process. Why is all of this uproar coming at the end of the process instead of during the three years of public hearings that were used as input to the process? He has never to my knowledge come to a CTAB meeting. They are all open to the public and they are all posted. Mr. Miller for example has attended a number of CTAB meetings and has asked a number of thoughtful questions and passed some suggestions. I believe that he had most of his questions answered directly and honestly, which is my method.

As for my role I am Chairman of CTAB, and as such I lead this process. I volunteered my significant background and expertise to create an open process. A significant part of my job at Hewlett Packard

Company is to negotiate contracts with global consultants and system integrators such as Accenture and Cab Gemini. I am a business negotiator usually coupled with a legal counterpart. This is part of the expertise that I provided free to help negotiate this agreement. I could not begin to count the number of volunteer hours I have spent on this process.

Now I would like to move to the questions that have been raised. The first question was a lack of support for digital cable with the impending move by the Federal Communications Commissions, and no coverage in the contract. According to Attorney Epstein, our specialty council, he has stated that like many of these decisions it is the FCC's responsibility and that the city and Comcast need to abide by those decisions – we need to do nothing special in this contract. The other issue brought up was regarding the definition of basic. This issue that was brought up was kind of a mixture of apples and oranges. One definition being the FCC definition and the other being Comcast's implementation through specific channel selected. Regardless of their number on the spectrum they are still part of the basic channel, and there is absolutely nothing in this contract that would prohibit us from securing the franchise fees on any of those channels.

Alderman Deane

I have a question on that Mr. Chairman – through you to Mr. Hersh – It is my understanding that the three channels that they have slated would be channel 68 as one of them (that is shown in this channel lineup), channel 910 and channel 990. Is that correct?

Larry Hersh

I am not sure which specific channels are in the Comcast basic package.

Alderman Deane

These channels all have the same – on the 6<sup>th</sup> of August these three channels a blue screen appeared that said reserved leased access on these three channels, which wasn't there before. I received a phone call from an individual who is disabled and does an enormous amount of channel surfing and he has the premium, premium, Cadillac package that Comcast offers he has. My question is if in fact we do go to getting these three other channels or having a public access channel, will these channels be able to be put down into a standard basic service tier package in which the customer, which would be the citizens, would not have to pay an additional fee for in order to get these channels?

Attorney Epstein

I can answer that. The basic service is a defined term by federal law. Companies today because they have so many more channel often will have channels 1-10 on basic and then sometimes they will jump to channel 68 and then to 99 or 98. They are all part of basic. Access channels by law must be part of basic. The city as a franchise party cannot tell an operator exactly where to locate the channels, but by federal law those channels right now must be on basic. If people look they are getting those channels simply by paying the basic fee. There can be by law no extra fee to receive those channels whether they are on channel 3, 4 or 54 or 104. I think we often, try to get the channels

at a lower channel location simply because those are more desirable, but for the same reason I assume Comcast would like those channels itself. There is no extra charge wherever those access channels are located.

Alderman Deane

So the FCC rule basically as I understand it is public access and government access has to be provided to every cable subscriber and the educational channels as well.

Attorney Epstein

To the degree that the municipality negotiates access provisions, and again under what we really are dealing with is cable act provisions rather than the FCC – there is no requirement for a municipality to negotiate this, but if it does to the degree that you have access channels by federal law they must be on the basic tier.

Alderman Deane

They control the numbers that they apply to them as long as it is on the basic tier.

Attorney Epstein

Correct.

Alderman Deane

Currently we have channels on the basic tier that go from 2 to 23 and if we would add to that basic tier we would add channel 68, channel 910, and channel 990?

Attorney Epstein

As I understand it those three later channels I think you referred to as leased access. Again leased access is required by federal law – we don't have to do anything, and basically leased access is very different from public educational and government access. Leased access is channel capacity, which is reserved for basically commercial users. You may have a business in Nashua that says you know what we would like to put on a show and so we are going to go to Comcast and we are going to ask them if we can lease an hour of programming on one of its leased access channels. That is what those three channels are, and they really have nothing to do with PEG access. The municipality has no control over that. That is really a commercial venture. I think it is somewhat of a misnomer that it is called access. It is really commercial in nature; it is not non-profit in nature like your PEG access channels.

Alderman Deane

So those three channels aren't slated for use pertaining to this contract?

Attorney Epstein

We don't control the fact that the cable operators are required to make it available, and I think that is why you find that it is on such a high channel location. I think leased access, as a provision to open up the system to commercial users has not really worked. It is very rare that you see companies going in and using leased access and I would think particularly if they are on channel 900 – who is going to watch it? The terms are subject to really the operator telling these potential leased access users what they are going to charge. If they don't – theoretically if an operator wants to make it prohibitively expensive it can because I know of no statutory or regulatory requirement for what a leased access charge – let's say what an hour of programming would cost say a Nashua business or a New Hampshire business. There is some leased access, but it is pretty rare.

Larry Hersh

The public access or the PEG channels, the public education government access would all be part of that basic service and would not be related to those leased access ones.

Chairman Rootovich

Could I ask because of Mr. Hersh's schedule – I know he is leaving around quarter of – I would appreciate at least allowing him to get through the overview and then by all means we will stay as long as we have to get all of the questions answered. I am sure that Attorney Epstein can stay and answer those questions. I really would like to get him through because of the time constraints.

Larry Hersh

Thank you. Regarding the use of a PEG Channel for both government and public access, yes it is possible to use one channel as a public access for a portion of the time and government access a portion of the time as well. I have taken the step of providing both CTAB and this Board with a copy of an edited agreement that includes updates, which in short would allow a channel to be used either partly or wholly as a public access channel. This includes some new definitions and modifications of others, which we can go over in detail if you would like in a few minutes. I leave it to this Board to determine whether they would like that change or not. I have no specific recommendation and I believe that Comcast has no particular issue with either version.

Regarding comments by Mr. Glenday that the contract has significant penalty clauses, let me just say that I have read the contract from start to finish; this is the old contract or existing one. I have read it from start to finish numerous times and there is nothing of penalty clauses in that contract. If it is in some addendum to the contract it is not in the file and the Legal Department has no record of it. I would also state that if it was in the contract in an addendum I really would have liked to know about it in the summer of 2001 when the citizens of Nashua were experiencing hours of delays on hold and constant busy signals with Media One so that we could have held their feet to the fire instead of just sending letters saying that they were not in compliance. In fact Legal had to send a special request just to get Comcast or its predecessors to upgrade the requirements to the FCC standards, which were a higher level than what we had in the original contract.

Please be aware that there is also no funding allocated to public access. It is critical to set up the processes and infrastructure if we are to have a public access channel or a portion of a channel. The current CTAB budget, which is a little over \$27,000 would barely cover the cost of videographers to show the meetings such as this one. This is less than 5% of the dollars that the city receives from Comcast on an annual basis. This is down from \$45,000 a few years ago. CTAB has had little to no say in the amount of that budget. The additional funding in this new contract was the minimum needed to run Channel 16 and the educational channel because Chief Hatfield has said on numerous occasions he needs more additional funding to provide for the Emergency Preparedness Channel. I think some of that is through the government grants, etc.

Other cities and towns as we have already heard use all or most of their franchise fees for PEG programming. Nashua does not. Londonderry for example in the example I sent to you has a 5% franchise fee. They put 100% of that fee towards their PEG channels. They also have a full time equivalent of three staff people. We have a ¼ of 1 person. We also heard that Bedford has two full time people. Also many cities and towns set up a separate not for profit organization to run either the public access channel or all of their PEG channels. This eliminates the city from the liability concerning what is often associated with public access channels. Also if you do decide to provide public access I recommend that we wait at least until next fiscal year when a suitable budget can be allocated.

Finally, I wish to make the following recommendation: separate cleanly the enabling contract from the funding and implementation at this point. What I mean by that is that I recommend that you approve the contract either as it is or with a new version, which has the addition of allowing public access. We will then need to develop the rest of the legislation to determine the governance model or how decisions are made surrounding the money and the channels. Future funding and other issues such as that will determine the implementation of whatever form of contract you approve. To begin that process I have tentatively set up a special CTAB meeting for the fourth Friday morning in October at 8:30 p.m. in this Chamber to workshop the governance model and to bring recommendations back to this committee or the Board of Aldermen. That meeting as well as all CTAB meetings is open to the public and will be posted. I will also like to note that everyone in the audience at last Friday's CTAB meeting had a chance to express their views both on the contract and other issues in front of CTAB. We continue to have an open process and welcome all constructive comments. Thank you for your time. I apologize that my time this evening was limited due to a work commitment. I have given much time and effort to a contract that I believe is in the best interest of this city with or without public access. I hope that you will recommend one or the other this evening so that we can conclude the contract discussion and get onto the implementation planning. Thank you.

Chairman Rootovich

Is it your intention that you will continue to allow members of the public to speak at your CTAB meetings?

Larry Hersh

We have always done that.

Chairman Rootovich

Especially with the fact that we are going to set up a governance model that it might be important if they attend to be able to participate.

Larry Hersh

I don't believe that there has ever been a meeting that we have had where we didn't offer the people in the audience a chance to speak.

Chairman Rootovich

Great. Are there any questions from the Board?

Alderman LaRose

Thank you Mr. Chairman. Thank you Mr. Hersh for all of the work that you have done. When you set up the three channels it was determined that a public access wasn't warranted or not so much warranted, but not – people not asking for it, and so you set up two government channel and one education channel – why two government channels?

Larry Hersh

Actually I think I would defer that to Chief Hatfield to discuss. It was his thought that went into that. He was really the driving force, and he can do a much better job of explaining the second government access channel. He is here tonight. He can do a much better job of explaining that than I can.

Roger Hatfield

The key thing is – let's go back a little bit in history in regards to our first government channel – the first government channel was actually driven and given to the fire department for public educational channel along with allowing the fire department to broadcast training sessions to each one of the fire houses. This was way before I actually started getting into the administration and just as I got into the administration as the Superintendent of Training it was determined that we should move that channel to a government channel as we see it today that you folks use to broadcast different Aldermen meetings and other sub-committee meetings. When I got involved with CTAB under Chief Buxton I was adamant that we should try to get that channel back. A lot of it deals around emergency management and trying to make sure that that public has the information so that they can be better prepared. Not meaning that we are going to put out and broadcast our emergency plans, but trying to get them the information so that they can prepare themselves to be safe. For example shelter in place is a great program that Red Cross has that we have the ability to broadcast. A lot of the things that you see right now that are health related in regards to the flu, the EEE virus and so on - we have a lot of positive proactive type educational programs that deal with emergency management and health issues and law enforcement issues that we know that we can keep that channel busy.

Along with continuing to do educational programs for all firefighters and first responders in the community the other point that we have brought up many times at the CTAB meetings is that we have

the ability to censor these type of programs. A lot of these are professionally done. There are a lot of Homeland Security funds being spent on educational broadcasting programs as we speak that we have the ability to utilize. The other key thing here is that I want to clear up one misinformation that was at the last meeting – I have the capability along with the Mayor, Ed Lecius, and Mark Sousa to actually activate the system at any time throughout the whole cable system. I think you folks were given the wrong information last time. Right now it is only through audio – I can actually go in and punch in my code and I can actually break into any one of the channels on cable and give emergency information out. This is a short-term notification system. If we were to have a situation that is long term, another ice storm where the city is crippled for four days or in the case of a hurricane, we can actually do long term broadcasting on this emergency channel that we are pushing for. We can continue to update people on information that will help them and benefit them.

I am really adamant that we have a great program in this city – we have had it since 1985 – we have had excellent folks working to make this city safe – the one area that we have probably been the weakest in is getting folks to feel comfortable and educating them on emergency preparedness type programs. After discussing this for the last 3-4 years with CTAB, everybody on the committee felt strong with that and that is why it came up so high in our discussions with this contract.

Alderman LaRose

Back to Mr. Hersh – can we negotiate a fourth channel?

Larry Hersh

To negotiate a fourth channel at this point would require re-opening the contract in its entirety. The changes that are proposed here are what I would call relatively minor changes, but to go and request another channel, which is a major issue, would require a total re-opening of the contract. I would say that it would not be a short-term process.

Chairman Rootovich

According to this morning's paper Comcast seemed pretty excited with just that...

Larry Hersh

Pardon?

Chairman Rootovich

According to today's article in the newspaper Comcast seemed pretty excited to do just that.

Larry Hersh

To add a fourth channel?

Chairman Rootovich

It didn't say a fourth channel, but they were excited that we would have an opportunity to have a public access channel.

Larry Hersh

Yes, but I don't think at their expense with a fourth channel.

Alderman LaRose

The one percent that – the new one percent that we are charging – what are those fees going to be used for?

Larry Hersh

The new 1% is targeted at the current channel 16 and the new educational channel for actually a lot of it is up to this Board to decide in future legislation, but it is targeted at having a full time technical support person to manage things like the video server, the crawling text machines, and to do more server work that we have not been able to get done due to lack of resources. It is also viewed as if you are going to be fully utilizing the channels, which we hope to do, that you probably need a part time coordinator for each of those channels. That would take up really the bulk of that. Other things would be acquisition, the videographers that are now currently part of the existing CTAB budget, which we will see probably going away in next year's budget.

Alderman Johnson

Thank you very much Mr. Chairman. First of all I would like to let everybody know that I am in the process of writing legislation to take hopefully another 1% out of the 3% of the cable fee to go to a public access channel with stipulations on it – basically Corporation Counsel is writing it that we would have to review it every 6 months up to 2 years to make sure the money that is going there would be appropriate for what they are looking for, they would have to come before the Budget Committee so if they need more money then they could take a look at appropriating more out of the 2% that would be left or if they have expended too much then they won't have to – next year they can adjust it, and whether or not it should go into the general fund at the end of the year – whatever is left. I think that is important because we are talking about funding for this.

Now, I have spoken to Representative Hinkle because I was with him on Friday writing legislation at the State House, and he said believe it little old Merrimack has a public access channel and wouldn't you believe it he has his own program that he interviews people – people from the State like Director Beacher who will appear on his program on Sunday. Merrimack does it. Nashua doesn't. We're a bigger city. I guess my concern is when we are talking about an education channel isn't what we're proposing to pass on health related issues, emergency management – wouldn't that come under education that you can share when nothing is coming out of the high school or anything right now? Yours is basically an educational program. Wouldn't you put that on the educational channel and then that third channel would be open for the public where you can kind of break in at any time because you have the authority – right now nothing is being done at the high school and since we have such a

wonderful facility up there – I think it cost about a half a million dollars – wouldn't that be the perfect place to start filming and maybe be able to use it and sit down and interview guests? The Board of Aldermen can be doing that interviewing and having someone bring members on there so they can meet and greet their elected officials next time or prior elected officials – past and present to be. With nothing like this we are really leaving the public out. When you see Londonderry, Merrimack, Manchester, Bedford and the only one that is bigger than us is Manchester have this shame on us for never having this in the contract, and now where the age is coming I think this is what we should have. I guess my question to Chief Hatfield is don't you think your programs are educational in content?

Roger Hatfield

Absolutely they are educational. I am not sure exactly what the programming that the schools are looking to actually produce and show, but yes absolutely the shows that we are talking about are educational. The only key component that I guess I want to look at on top of what is being asked of us can we share a channel I don't know the amount of programming they will show, I have a ballpark idea of how much programming and time that we will be utilizing – I am not saying that could not be done. The key component is that we had a channel many years ago and we got pushed off it. I don't want to see that happen again. I would hope that would never happen again. The other aspect that I would like to really speak out on is for all of these years that I have been on CTAB we have not had any funding as Larry Hersh has said to organize and oversee a public access channel. I like Larry don't have a problem with it, but the key component out there to everybody especially the Board of Aldermen is who will oversee it -- that will cost money, who will do the censorship – that will take time and that is also going to be a liability to all of us in the city. The third thing is who will contradict any wrong information that is being produced.

At least if you look at the meetings here when we are dealing with the Board of Aldermen and the public we have an opportunity to give both sides. I think the other thing is – I apologize for not being at that last meeting – some of the talk radios – I know Woody did that for years – I have been on plenty of his shows – at least the public and other officials had the ability to speak out and give both sides. I am concerned – I personally Roger Hatfield as a citizen of this city is concerned that if people are doing taped programs and they are using the public access channel and it is not censored who will be there to contradict if some wrong information is being passed out to the public?

Chairman Rootovich

Mr. Hersh what does 1% equate to in dollars?

Larry Hersh

I would say that we are looking at somewhere between \$150,000 and \$210,000.

Chairman Rootovich

Thank you.

Larry Hersh

I have to go in a couple of minutes, and I did want to go over the contract or Attorney Epstein can as well, but I wanted to go over it quickly. I think in 2 or 3 minutes I can show you the basic changes so that you can understand what it is that has changed and how it has changed.

There really isn't any significant change on page 6. It is just the access channel comment. On page 9 it is really more definition. We have a new definition.

Chairman Rootovich

Also there were some changes on pages 7 and 8?

Larry Hersh

There weren't significant changes to 7 and 8.

Chairman Rootovich

I have the red copy and it is almost every line.

Larry Hersh

That is just the numbering. There weren't any – it was just as you add a paragraph it changes the numbering. There weren't any substantial changes there. I am trying to give the ones that are more meaningful to the Board. PEG is defined as Public Educational and Government so Public has been added back in. PEG access channel is defined. Public access channel is defined. These were things that were not in there and these were needed to add that extra legislation – the changes follow on the document. Those were just really definitions and didn't impact the document in any other way. On page 23, the basic change there was in a number of places we took out the term educational and government and put in PEG as defined so it covered public, educational, and government the way we just saw in the definition. That is really the bulk of the changes that are on page 23. Again more definitional but it allows the public access.

On page 25 under Censorship it is the same thing – educational and government. Also the title for Section VII (5) was changed from Educational Government Access Cablecast into PEG. You can see that, and again all of the changes are from educational government to PEG so that it will include public as well as educational and government. Those are really all of the changes on page 25. If you will all of the changes did was say that public is now an allowed on one of the channels as a part of full time and that is really the whole crux of the change of this is that if you decide to take this version versus the former version it will allow for public access. It doesn't designate how public access would be done, it does not designate how many hours would be allocated to public access, it does not designate any of those things – those would have to be done in what I was talking about relative to the governance model and the follow on legislation that would be required to go through this Board in order to determine the specifics of the implementation.

Chairman Rootovich

Mr. Hersh in your opinion would the \$150,000 to \$210,000 be enough for an entire year to have the public access channel work?

Larry Hersh

In my opinion, I do not believe that this year or first of all we only have a half a year's funding by the time we get the contract approved anyway for this year, but it is my belief that we have targeted the minimum necessary to support the two channels – to support a third channel I believe would require additional funding.

Chairman Rootovich

I understand that, but based on the numbers you gave her the \$150,000 and \$210,000 – would that be enough? Forget where the source comes from right now – would that be enough money for the public access channel to operate?

Larry Hersh

By itself without the other two channels?

Chairman Rootovich

In accordance with.

Larry Hersh

It is my belief that the \$150,000 + is needed to do the two channels and that extra funding – if it was at the high end of that if you did maybe \$220,000 or \$240,000 you would have some money to put towards it, but you have infrastructure costs to set up, there are a lot of expenses that are not included in this proposal.

Chairman Rootovich

Can we get a list from you or your committee to let us know what those infrastructure costs may be or what the costs of those are?

Larry Hersh

Yes we can certainly do that. I would recommend and request of this Board that those decisions be put off and that the contract decisions be made so that we can get on with this. That is part of the implementation that follows the contract.

Alderman Johnson

I just want to make a couple of comments. First of all public access never has censorship. That is the first thing. If people feel it is wrong you can always request to go on the program – you can do a counter point like they used to on television. I believe \$150,000 to \$200,000 is going to be more than enough for public access channel probably at this point in time. The first thing we need to do is go to the surrounding communities and see how they set up theirs. I am sure they would be more than happy to come in and help us to set it up and see what the cost factor is to set up a public access channel. Then you go from there. We start throwing out numbers here – I asked for an additional 1% so instead of 3% of the franchise fees coming to the city to dump into the general fund and drop our taxes, 1% would then go to the public access and then 2% would be applied to the general fund to offset the tax rate. That is where everything goes into the general fund so we can buy down our spending habits in the city.

I think once you really start talking about this – I am sure I have a person's name in Merrimack that we can contact, Londonderry, Manchester, Bedford – I believe there might even be some people here tonight from other communities. It is not a hard thing to do; it is not a hard thing to set up. There is a lot of equipment at the high school I am sure. That is taxpayers' equipment – it was bought through the taxpayers and bonding. It is just working with everybody to get this going. It will be shame on us if we don't do it. Thank you.

Alderman Deane

Thank you. The \$150,000 to \$210,000 that was mentioned to fund this venture I believe I was speaking to someone this afternoon looking at this number – that equates to 3/15 of 1% of the entire city budget this year. That is a small amount of money I think for a large return. The other thing as Alderman Johnson had started to allude to is there has got to be an existing governance model within the surrounding communities that we can look at and perhaps boiler plate...

Chairman Rootovich

I have one from Concord here.

Alderman Deane

The time involved with that other than maybe a little wordsmithing here and there it shouldn't be long. Larry my one question is why would we not want to try to get this up and running right off? I think you had mentioned that you didn't – you thought it would be appropriate just to approve the contract and not deal with the rest of it until after the fact – why would we not want to start implementing this and get it up and running?

Larry Hersh

The first thing is the channels won't be available until the spring time so to rush into doing something now where the channel wouldn't be available before March to begin with is one of the reasons to separate them – we could do a better job of planning, and I think that I agree – we do borrow quite a bit from other cities and towns when we are doing these things and that would be a good place to start, but on the other hand we have some unique requirements in the city, and I think we need to

make sure that we are doing our homework and doing the model that is right for us.

Alderman Deane

Why do we have a springtime channel activation?

Larry Hersh

That is what the contract calls for.

Alderman Deane

What is the significance of that?

Larry Hersh

The significance is to allow Comcast the time to prepare for the channel movement. They have to actually bounce other channels off to put the two access channels on.

Alderman Deane

Do we know which channels they are going to be?

Larry Hersh

Not at this point.

Alderman Deane

We're not going to get stuck in a scenario where we are going to need a cable box are we?

Larry Hersh

The basic service is specifically designed not to require a cable box and that is the government requirement.

Alderman Deane

Why wouldn't they let us know what channels we were going to get prior to ...

Larry Hersh

I think they have to do their planning. I don't know why they wouldn't. It is something that they said that they will work with us when the time came.

Alderman Deane

I would be most interested to have that information.

Larry Hersh

We will ask that, but I am not sure we will get a more complete answer than the last time we asked them.

Alderman Deane

You alluded to some infrastructure costs.

Larry Hersh

To use the equipment either the equipment that is used for this Chamber or for upstairs or the equipment at the high school for public access I believe could be a big mistake. The wear and tear on that from public access that other cities and towns have experienced would say that the equipment costs will go up. I think you need dedicated equipment for that purpose in order to be able to effectively run that. Part of that infrastructure that I am talking about is the responsibility that individuals have to take – what kind of security or surety you have that they will not abuse the equipment – there are a whole lot of things, but the things that we need to do to show the public meetings here and upstairs and record them or the things that the high school is doing with their studio, which they do plan on using that most of the time – I don't believe that unless you can work something out with the school system – I don't believe that is the place to get the equipment to use for the public access. I believe it should have its own infrastructure.

Alderman Deane

So with infrastructure you are talking about cameras.

Larry Hersh

I am talking about cameras, you might want editing equipment (not that it has to be there right away), you will need someone to manage that channel so you need staff.

Alderman Deane

Doesn't the school system own all of these cameras and editing equipment?

Larry Hersh

They have a studio in the South High School.

Alderman Deane

If we went over and put a table and chairs in there and set the cameras up and people went in there

and they could start talking and that would be – we wouldn't really need anything else, nobody would be touching anything except moving the camera perhaps, but the rest of what would be needed to have a program is already in place.

Larry Hersh

I would ask the School Department to comment on that before ...

Alderman Deane

What do they know that we don't?

Larry Hersh

Their plans for using that channel are quite extensive first of all and so that would naturally utilize quite a bit of their studio I believe. I had some preliminary discussions with the old Superintendent about using that perhaps in the evening and other times for other purposes, but the discussions had not gotten too far. I have asked for a meeting with the new Superintendent and hope to have that. It is certainly something that is a discussion we can have, but again I think there was a concern about the wear and tear of the equipment and that it would be much better if there were separate equipment allocated for this specific channel.

Chairman Rootovich

I might point out that tonight we are voting on the fact that the language has been changed in the franchise agreement. All of those things Alderman Deane that you are talking about are critically important, but those things are to be worked out with policies and procedures and agreements of understanding with mutual cooperation on the different departments in the city and then finally the governance document, which Mr. Hersh is working on, but I think the first step is I think the public is pretty much getting what they want. I think the most of us here if not all of us support that public channel and the matter is before the committee. Once this gets passed then it is a matter of putting the rest of the structure together and finally to make it happen.

Alderman Deane

Let me understand this what I heard was there would be a combined use of one channel between government and public.

Larry Hersh

There could be.

Chairman Rootovich

That is what would have to be worked out among I would assume members of CTAB, the Mayor's Office, members of the Board of Aldermen, people of the public, and other divisions when this is put together. They are not saying tonight that it will be part of a channel or all dedicated public channel,

but those are things that will be worked out in detail.

Larry Hersh

The contract allows us. It takes other legislation to create it. That is kind of the way I would separate the discussion of that. I apologize I do need to go. I would like to ask Mr. Sousa if he would like to come up if you don't mind because he also was in on and between him and Mr. Epstein they should be able to answer most of your questions.

Chairman Rootovich

Mr. Hersh thank you very much. I would encourage everybody to attend his next meeting. What date is that again Mr. Hersh?

Larry Hersh

It will be the fourth Friday of October at 8:30 a.m. in this Chamber.

Roger Hatfield

I just wanted to bring up some background in regards to the infrastructure. I want to say it was between 10 and 15 years ago when we first got that first batch of cameras, editing equipment and all of that. Basically it was kept at the library. We all had to go to I want to say it was an 8 night training session – anybody that was going to utilize that equipment – so that we wouldn't break it and we would use it appropriately. It went well, but then after the training was all done people started to use it freely and it didn't take very long before the stuff was destroyed or broken. I recall when I had to go get the cameras for a fire training session I ended up having to take a broken camera and had to go out and get another one under the fire department's budget. I think that is the reason why we were looking at that infrastructure to be really managed appropriately because if you don't have trained professionals using it you run that risk of very expensive equipment being broken.

Alderman Johnson

Anybody who is going to use this equipment whether it is the schools or the city or anything to start off with I hope that we would ensure that they are insured to cover the cost of anything happening because it would be foolish on us not to make sure that they are insured because I wouldn't expect any taxpayer to have to pay to buy another camera. I am sure that this is within the other towns that have the public access, and I see a gentleman shaking his head in the back that you would have to be covered with insurance. You would have to be covered for where you are going to be if someone slipped and fell. There would have to be some type of liability insurance. That is something you work out later on, but I would almost guarantee that you would have to make sure that they have an insurance binder with them in case something happens. Thank you.

Alderman Vitale

I think the contract as presented I would approve of with the knowledge that we do have the ability to

further investigate and possibly implement the public access portion of the 1 channel. Just listening to everybody speak tonight and bring up different issues, it sounds like there could be considerable costs involved in that. I think it is only fair to our constituents that we look into all of those costs and what they would mean to the budget, to the individuals that would be using the channel, the people that would receive the channels, and I believe we have the ability to look those items over and make the decision in the proper format and with the proper amount of time. I think it is worth looking into, and doing our due diligence regarding that.

### Alderman Deane

What I heard this evening is I heard not one really set in stone version of definitive costs associated with the equipment. What we were told was the school department didn't want us using their equipment because they had other purposes for it and they didn't want the public borrowing it. That is how I understood it. Once this is implemented they wanted to focus on what they were going to do with their educational channel, which is one thing. The other costs \$150,000 - \$210,000 still hasn't been definitively laid out to let us know what those costs would be. As you had stated before Alderman Rootovich you have a copy of a governance model. The split of a public access/government channel I think would turn into political chaos and be controlled by the administration of whomever. I think that would be a problem that would exist no matter who was here or who was in office.

The other issue I want to look at is although CTAB has spent a lot of time on this contract, we purchased a city server and signed a contract in June of 2004 to have that server installed in 60 days. Today is the 12<sup>th</sup> of September and that server still does not operate. I have grave concerns over the fact that if we are going to get into this line of business we really need somebody to lead this effort that is educated and has a background in this area. Currently we don't. We spent a significant amount of money on the server and it is still sitting downstairs with the cables and wires and everything else run and it doesn't work. When this gets looked into we have to really make sure that we have the proper people in place to set up and facilitate and operate these channels so that we get the best value for our franchise fee dollar. Thank you.

### Alderman Vitale

Alderman Deane indicated that what he was hearing is that the high school would not be willing. I did not hear that. What I heard is that we should speak to the high school and not assume that we couldn't use their equipment not that they were saying that it was not available.

### Alderman LaRose

I think that each entity should have their own equipment. That way we don't get into fighting of he broke my equipment. I think that the high school, the educational channel for the high school should stay at the high school level and stay there by itself, be on its own and not integrated with either public or government channel. It should stay with the school system and for the school system only as far as I am concerned. That doesn't stop people from viewing what the schools are doing. I think that there are many many things that our school system can put through their channel. Again I reiterate that I believe that each entity, the government is going to have a two government channel and 1 whole

government channel and a government and a public access channel – I think each entity should have their own equipment. Then we know who is using the equipment and there are no thoughts on someone else broke my equipment.

Alderman Shaw

I think there are a lot of great things being raised tonight, and I think we are actually venturing very far into the funding and everything else, and I think we need to work through many of those issues. It is clear there are many different possibilities out there and there will be a lot of work that has to be done. I am very much in favor of going forward with the contract in this form because it allows us the flexibility of ultimately going to a full public access channel or a shared access channel, but it definitely provides us I think with the opportunity that we have requested. I think there are many things to work out as we go forward. I do think one of the issues as far as the use of the – I think some things are also getting mixed. You have the educational channel, which was also meant to broadcast Board of Education meetings and also content from the schools as well as from the library, but then we also talked about the studio at the high school and part of that is also built around a program of study. I think we have to be very careful about anything that is done in terms of sharing those resources when we are talking about students and their projects and if they come in and find all the equipment not functioning it can basically put a class behind by days or longer.

I am sure that there might be ways to work that out especially if it is use of studio with separate equipment or whatever. Again those are the things that have to be negotiated. I think the key thing is it is clear that the contract – we do have to try to keep moving forward so we don't lose ground with Comcast and even this March 1<sup>st</sup> date doesn't push out on us, which might have been at risk before from what we heard. I think this gives us the opportunity to pursue the public access channel and work out all of the details.

Alderman Johnson

My concern is basically so we have three channels; 1 is for education and will be tied up with the school and nobody can go in and use the school equipment...

Chairman Rootovich

Alderman Johnson we are not saying that at this time. That will be worked out.

Alderman Johnson

I am just kind of summarizing – and then we have two other government channels one basically for this and one for probably the fire department taking it for training and everything else, but that means where do you squeeze in the public access? Does that become a part time channel or no channel because I have a feeling what will happen now is the scheduling is not going to be able to work around people being able to use the channel. Do we have three channels or maybe do we need that fourth channel? I think that is the question that is on the table right now is three channels going to be enough or do you actually need that one channel just to be designated for the public access because it sounds good today, but once you sign that contract you are done, you are done for ten years. If the

question is going to be on the table do we actually need that other channel – we are better off negotiating it now than signing and then for 10 years we are stuck because it is a ten-year contract and you can't do anything in 10 years. I am sure if you try to open up the contract there will be a cost factor and the lawyers again and then what is it going to cost to try to get that channel that we will have to maybe give up – I see the attorney shaking his head as I am speaking here. I think that is really the question right now is it 3 or 4 channels. That is what the committee and the full Board is going to have to decide. I would not like to negotiate and come out with three channels and then all of a sudden the people have no voice here to even do anything – that is wrong.

... tape flipped ...

Mark Sousa

... during our negotiations, and I think Attorney Epstein could help me with this, but during our negotiations it was evident, and we are very confident that three channels is more than enough time for the part time public access/full time public access and two other channels. We felt that if you looked at what you need for content on those channels and what we were actually getting from Comcast those three channels were more than sufficient enough to handle what we were looking at doing – again that is during negotiations how we got to that.

Chairman Rootovich

If there is no objection I did ask someone to be here this evening – I did ask Mr. Bill Jennings here this evening to give us a brief, brief overview of the public station to respect to his town, Bedford – maybe just comment on the governance factor – it would be appreciated.

Bill Jennings, Station Manager, Bedford Community Television/Board Director, NH Coalition of Community Media

Peter also did the dealings with Comcast for Bedford. Did a great job and got us everything we wanted. My purpose for being down here is to tell you how Bedford runs the operation. I have my personal opinion based on some things that I heard that is not my position to tell you what to do. I will tell you how we do it right now. As I mentioned the last time that I was here we are a community of approximately 20,000 people. We currently have two channels. We share both public and education together and a dedicated government channel. We have a third channel in our contract, which when our high school is built and with justification because I want the educational folks to pick up some of the work, we will be broadcasting across that channel.

I commend you for the three channels that you currently do have in your contract and whatever way you use them is entirely up to you. I will tell you that we work very closely with the fire department. I know you know a lot of the guys up there. If you know Chief Wiggin and Dave Bailey you know they are not shy so they are on camera a lot with their particular programs, which we run on public access. In our contract, which is a ten-year contract, which was renewed in December of 2003, it goes obviously for ten years. We have 4% just like yourself. We get every single dime from the town. Our budget is now \$205,000. It is managed by two people myself and the Assistant Station Manager. I have about a half a dozen, actually 7 part time government tapers. We got from Comcast with a

\$250,000 grant, which was spread out over a ten year period, \$130,000 was given to us right up front, we asked for about \$50,000 for the ability to put what we call remote drops so that we can broadcast from live assembly areas/general assembly areas, and we had that done right away. We now can broadcast directly from our SAU. We have a middle school, which is our general assembly area at the time; our largest until the high school goes on line in 2000 where we also broadcast live not only out of the gym but also out of the cafetorium where there are plays, etc. We put an additional \$12,000 for another drop so that when the high school comes in we will run a line up there.

Of that \$250,000 we spread it out so the impact wouldn't be too hard on the cable subscribed because it is a pass through whether you realize it or not – you are not getting any money for free. But at the same time the community also recognized the advantages of community access. What will happen in the year 2007 we will get \$50,000, which will be going to the school. I deal with the school on that. The one thing that I see as an advantage, and again we're only a community of 20,000 and you are certainly a lot bigger, is that you have one person managing it and that is me, but I am managing with a lot of other people. We are a department in the Town of Bedford. We are not a non-profit. We are considered a department. I report directly as well as my assistant to the Town Manager. The policies we are governed by a Board of Overseers, which is responsible for establishing our policies and procedures. They don't hire, they don't dismiss, they do protect me, but at the same time when it comes to personnel actions it is taken care of by the Town Manager.

Because of our community I can as I say manage the long five-year strategic plan that we have in place. I would strongly suggest that before you make any decisions on how you are going to manage this that you do visit the communities. I took our Town Councilors to Londonderry. Some of us visited Merrimack. Certainly I know the folks over in Manchester – they have 6 full time employees over there. Dr. Greg Sullivan is the Supervisor. Their local public access just broke off. There are so many different ways of doing this. Concord has their studio in the high school. Their students use the facility managed by again the Cable Access Department. Merrimack it is in their school. I understand what you want to do with regard to keeping this – there is some merit to keeping it separately, however, a community is a community is a community. I kind of got the impression listening everybody is very well supervised. We go through expensive training programs starting with if the student is 15 he can become involved with community access in Bedford. However, his parent has to sign a permission slip because that person is not fiscally responsible obviously until they become of age, 18. When that student comes down, that person that is under 18, the parent comes with them. We go over the equipment; we go over it in detail. These things you will learn on a tour, and I don't want to take up your time here. They do sign sheets again indicating that they would be responsible.

I am going to be passing out how we educate people on community access. Everybody gets one of these when they come in. We're fortunate because our town reading room is collated, and I forgot to tell you that part of our grant – one of the things that we did unlike one cameraperson sitting over there right now, and I know that City Clerk would like to be – what are you?

### Chairman Rootovich

During our committee meetings the Chairman and the Clerk sit in these two chairs.

### Bill Jennings

We put in a four camera, three chip robotic system that is just absolutely phenomenal so you might as well start treating yourself as well because believe it or not that government channel in Bedford is watched. If you know Bedford you will understand why. At the same time and I am trying to rush through this because I am very conscious of time, but I want you to understand that it was a well thought out process. We have an excellent relationship with Comcast maybe because we take everything that they give to us franchise fee wise and we use it – every dime goes into community access. They have told us that, Liz Graham, Brian Christianson who you know, and Brian and I have a great relationship – they are willing to help in any way. When we wanted out extra channels on line just like that – we didn't have to wait 6 months we got it. It is all part of the negotiations. You just say I want it and it is as simple as that. We have it on channel 16, 22, and 23 is waiting for us. That is on the lower tier. People are use to that.

Now can they at any time move us to another level – they certainly can, but you know if you are using those channels then they keep you there. As I have told them and they agree, you can use community access television as a marketing competitive advantage – they can because guess what Direct TV you can't get it. We use it for general public announcements – obviously you have a bulletin board, but I have over 100 trained volunteers that come in off the streets. How do they find out about it – they watched the public access station. We do a lot of things with West High School because our students go to West, but the students end up back at our ranch as I call the station, and they will work on their editing projects and they will run it on community access obviously on the public and educational channel.

You said something to the Chief, which is absolutely correct – I try not to separate the channels too much because there is such a similarity. The Fire Department does a lot of training. We have done ice safety training; wood stove safety training – that is all run on public access. It is not only training for the office – we did one on emergency management over at the airport, and I am sure Nashua must have participated on the disaster recovery. We just put a camera and we just followed the Chief around and we got an award for it. We ran it on public access. There are a lot of similarities. You would be in my mind the first town that ever had a dedicated emergency channel, but at that time in '85 you probably needed it. Now it is television that everybody is looking at.

I have here some brochures from the New Hampshire Coalition of Community Media – the brochures that we pass out to our potential volunteers. I have a copy for City Clerk on our policies and procedures. I would tell you one of the things you could start out doing is depending on whether you want to be a non-profit or you want to be part of the city organization is to go on line and check the web sites. We all have web sites so you can take a look at the policies and procedures and how they are organized. Concord is non-profit. Now Manchester is non-profit. Londonderry is part of the town department and on and on. I also have here that you can keep one nice thing is we like to recognize people in the Town of Bedford in the Northeast Alliance for Community Media has video festivals as well as at the national level. People like to take pride in their work and it is really great when you have an 80 year old and an 82 year old, and we have had that, getting awards for the work that they have done.

When you hear for those that are wondering how you can use access I have 34 separate narratives on the different shows that just went into awards to give you some ideas. You guys have the

Telegraph here. We have the Bedford Journal, we have the Bedford Bulletin – these are the write-ups. I will leave you with one thought – you need one person at the top to keep this together. You can't really have three separate managers. You have a manager of the education side of the house, you have a manager of the government, and you have a manager in public it will be a disaster. You have to have somebody that is accountable to you. You don't have to, in my mind, hire a full time dedicated technical guy. As I said my background is to be out there marketing and selling this and I have enough of the technical background, which I picked up along the way to put in a yellow, white, and red wire to get audio and an SVHS cord a Y/C cord to get video. It is pretty simple and I am the epitome of the end user.

What I do use is independent technical consultants out there that will save you a lot of money. You will learn more about that. Get a group of guys together – Chief I would ask you to come on down and take a look and talk to Scott and Kevin Murray and some of the guys down there to see how they use it, to the police department to see how our police department uses it. Peter as I said helped us through the whole process. I bounced around a little bit, but I am trying to touch on a lot of point that hopefully catches your interest to say maybe it is worthwhile taking a trip to Londonderry or Merrimack. I see a lot of similarities here between you and Concord. You may want to take a look at that because you do have a beautiful studio in that high school, but I don't know what the process is here so I am going to stay away from that. Are there any questions of me?

Chairman Rootovich

Briefly if there are questions. We have other individuals here tonight.

Roger Hatfield

I actually think that everything that the gentleman is mentioning is positive. I think those are things that we need to focus on after we sign a contract.

Chairman Rootovich

I agree. Mr. Jennings thank you very much. Are there any further comments with respect to the contract? At this time I will entertain a motion for R-05-271.

MOTION BY ALDERMAN LAROSE TO AMEND R-05-271 BY REPLACING IT IN ITS ENTIRELY WITH THE COPY DATED AUGUST 31, 2005  
MOTION CARRIED

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

Mark Sousa

I will take this amended version that the committee has and I will make sure it is available on line as soon as possible. I will get it to I.T. – I will send it up tonight. It will be up when they get it up, but I will send the amended version.

Chairman Rootovich

For all of the members in the audience and at home that have asked me, with respect to this agreement, as Mr. Sousa said it will be on line in the next 2-3 days.

Mark Sousa

As soon as I can get it to them. They will have to ...

Chairman Rootovich

I would encourage anybody in the audience who wishes to give feedback on how the governance will be setup to attend the next meeting of CTAB, which again is the fourth Friday in October at 8:30 a.m. in these Aldermanic Chambers.

Alderman Shaw

It is October 28<sup>th</sup>.

Alderman LaRose

In line with that if there are people that can't attend I am sure they would take written testimony.

Chairman Rootovich

Absolutely.

MOTION BY ALDERMAN LAROSE TO RETURN TO THE REGULAR ORDER OF BUSINESS  
MOTION CARRIED

DISCUSSION

An update on the Land Use Ordinance was given. A copy of the tape recording is on file in the Legislative Offices.

COMMUNICATIONS - None

UNFINISHED BUSINESS – ORDINANCES – None

NEW BUSINESS - None

HELD IN COMMITTEE

Resolutions

R-05-270

Endorser: Alderman-at-Large Brian S. McCarthy  
Alderman Kevin E. Gage  
Alderman David D. Lozeau  
Alderman-at-Large James R. Tollner

Authorizing CLarification and CONVEYANCE OF A conservation easement upon certain lands owned by the city of nashua to An appropriate agency; AND AUTHORIZING THE SALE OR LONG-TERM LEASE OF AN APPROXIMATELY FOUR-ACRE PARCEL OF SAID LAND TO THE NATURE OF THINGS, LLC D/B/A SECOND NATURE ACADEMY, SUBJECT TO THE CONSERVATION EASEMENT, In keeping with the provisions for an educational use within the conservation easement, FOR USE AS A PRIVATE ELEMENTARY SCHOOL, PRE-SCHOOL, DAYCARE, AND SUMMER CAMP, ALL WITH AN EMPHASIS ON THE ENVIRONMENT

Alderman LaRose

I should mention that the Planning Board gave an unfavorable recommendation for R-05-270.

Alderman Shaw

Can I ask Alderman LaRose to maybe explain the rationale?

Alderman LaRose

I am glad that the Chairman of the Planning Board is here to help me out on this. I guess the consensus was more that the city should not be selling land that they bought for conservation areas or leasing land that is dedicated to our conservation areas. That is pretty near the feeling of the committee that what we are trying to do is conserve land and have open space. There was also some concern that if this gets developed with some sort of building and the business goes out of business the city is stuck with that building. The feeling was that if we are going to purchase land with the taxpayers' money for conservation that is what we should keep it as.

Bette Lasky

Thank you Alderman LaRose. I think that was the way the discussion primarily went. I think there was also one other thing brought up was the precedent it might set. As we understood it I have to say that some of us felt that we wanted more information, but it was not forthcoming and not to anybody's negligence there just wasn't anyone there to give us any other information other than what we had, what we read in the newspaper, and what other board members could bring up. If we aired on anything it was just due to lack of information, but as we read it and as it was discussed that was certainly the tenor of the discussion.

Alderman LaRose

I would also like to add that we think the idea of the type of school that they want – we have no objection, we think it is a good idea, but we also believe that they should find a piece of property that they can purchase to implement their vision.

Chairman Rootovich

What bothers me in this is that my understanding if the facts are as I was told, and I sat in the Mayor's office, is that they had a piece of property or two, we as a city went to them and said we have a piece of property you may be interested in.

Bette Lasky

We were not given any information ...

Chairman Rootovich

I understand that, and I know that Mrs. Hersh is working diligently with the Audubon Society to come down and also have an office located on that facility as well, which is something that would be very positive for the city. The proprietors of that building would not charge them any money, rent or fees as well. I know you weren't given the information I realize that.

Bette Lasky

Again in looking at it strictly from what we had on that resolution and as a land use issue. I don't think Alderman LaRose could have explained it any better the way the discussion went. It was concern for the conservation. Now if that were to remain protected and if this turned out certainly to be a use that the citizens of the city would benefit from that has always concerned us.

Alderman Shaw

Has the letter from the Nature of Things that we had received been passed on to the Planning Board?

Bette Lasky

No.

Alderman Shaw

I know one of the things that is stated in there, and I don't know if it is an absolute fact or not maybe Alderman Rootovich you can confirm it, but it does discuss that the land was not set aside for conservation but was originally set aside for the fire department for the station that was proposed as Station 7 or 8 in the Southwest quadrant.

Chairman Rootovich

That is true.

### Alderman LaRose

It kind of depends on who you talk to and how they perceive what happened. This land was bought and apparently they asked the fire department if they could use it or not and the fire department decided they didn't want to go there. I am not sure that it was exactly bought for the fire department perse. I don't know.

### Alderman Shaw

I understand that there is a lot of history with the various pieces of land and things that changed hands as part of the various development in the Southwest quadrant to try to set aside various conservation land and whatnot, and I don't profess to have the best insight into that, but I do know that there were a lot of different things that happened there so I can understand how especially it can get confusing or it could even be interpreted differently by different people as to what was really intended to be. I can appreciate that.

I guess part of the discussion I know had been between either sale or leasing and some argument was made as far as the leasing that would be something to help ensure that the city ultimately – the land remained in our hands. Different discussion points were thought about – the construction of the school could be such that it would be potentially useful if it did become unused by the private entity – it could still perhaps be useful as a school facility as part of the Nashua school district – there are many things that would have to be worked out. I could guess one of the things that I am struggling with and I think we continue to have a very difficult if not maybe poor track record right now citywide it seems in terms of how we are able to engage in any sort of public/private partnership. This seems like another one where different things happened – it certainly blew up in the media and became a controversial issue. I don't know that it ever needed to be but it did become one. It has been difficult for everybody to interpret.

When I first heard about it I had many doubts. I have actually come around to think that it might actually be a pretty reasonable usage. I think the hard thing is in this case maybe is getting a really good grasp of exactly how things would work. I can understand the concerns as maybe the information that has been presented or not.

### Alderman Vitale

I don't know exactly when it was, but we had Mrs. Lemieux look up all of those parcels of land that the city owns, and I don't know exactly where that stands. I know we have had a few updates. It might be good for us to look at those parcels and see if there are any of those parcels that could be used in this manner up front before we start talking to people – we kind of put them in different categories, categories that could be absorbed into the parks, absorbed into the neighbors, that could be used for different development purposes that the city could option to sell, and those ones that are valuable to us as a city to keep for conservation purposes and for open space purposes. Maybe because this topic has come up it might be a good time for us to get another update on those parcels and where

they stand.

Bette Lasky

With the little that I have heard tonight is more than we had heard. Perhaps we did look at it in a vacuum and in a simplistic way, but unfortunately that is what we had. Perhaps in the future things shouldn't be sent to us if it is premature. If we need information that is certainly relevant and again I am hearing that it may indeed be advantageous to the city and not just one particular entity – the outcome might have been very different. The discussion might have been very different.

Chairman Rootovich

You had nobody from ...

Bette Lasky

I recall Alderman LaRose, but I don't know whether he was privy to ...

Chairman Rootovich

I apologize I should have been there. I forgot all about it to be honest with you and I probably should have provided information especially since I met with the Gleesons and the Mayor and Alderman Lozeau and Mrs. Hersh. I sincerely apologize.

Bette Lasky

I am not looking to – you all certainly everyone has a busy plate, but again I think to alleviate something like this from happening again – we are happy to table it. Most things we do table, but in the face of this it seemed as if from the papers that we all take with a grain of salt, but at any rate on the face of it with what was said – we have all read enough legislation to know that it is not always on the face that things are written. At any rate that is how it came about and that was the discussion that took place and right now I guess it means a difference in your vote. If it truly is something that is good for the city I am assuming you will get a good vote.

Chairman Rootovich

I would ask that it be held in committee. I will see if the Gleesons are still interested, and if they are maybe we can put as Alderman Shaw said some easements or restrictions on it, but I don't want to do anything until the Gleesons have made up their mind to say I am or am not interested, and then we will take it from there – allow them to make a decision first prior to us taking any action on it I think is fair.

Bette Lasky

Can it be re-submitted to us in a different manner – if the legislation was changed in any way?

Chairman Rootovich

I don't see why not. One of us could make a motion at the full Board – it has been done in the past – it has been past practice where we have referred things to the Planning Board before.

Bette Lasky

If it is changed and there is further information ...

Alderman LaRose

I think that it would have to be changed quite a bit for it to come back to the Planning Board.

Bette Lasky

I don't know, but you might look into ...

Alderman LaRose

The Planning Board – there is a recommendation and that is it. It is not a 2/3 vote it is just a majority vote of the Board of Aldermen to pass...

Chairman Rootovich

Not on this. This will require a 2/3 vote. An unfavorable recommendation requires a 2/3 vote.

Alderman LaRose

Not on every piece of legislation. If it is a zoning change or something like that it is a 2/3 vote. I think this type of legislation is just a majority vote.

Chairman Rootovich

I will encourage everybody to take a ride down there this weekend. You will not believe your eyes what you see down there that land is being used for. I went down the following morning after I got out of the Mayor's Office. It is probably one of the premier places in Nashua where teenagers hang out. It is filthy. There are hundreds of beer bottles, tents – you name it down there. It is unbelievable what that is being used for right now. It is disgusting. I would encourage you to look at it.

Alderman LaRose

I was just going to ask if my impression is right that the people that want to do this their land abuts this piece of land – am I right or wrong?

Chairman Rootovich

No not at all.

-  
Alderman LaRose

I am wrong?

Chairman Rootovich

You are wrong.

Alderman LaRose

Thank you.

Alderman Vitale

Because of what you just said of how the property currently looks and is being used I think it is important that we look at those pieces of land that the city does currently own and decide if we should put further conservation easements on it or that type of thing – more restrictions like the northwest conservation land how it would be best used by the city and what we could do with some of these properties.

Chairman Rootovich

Is there any further comment? Again Mrs. Lasky I apologize. I take responsibility. I should have been there that night, but it just left my mind.

Bette Lasky

It certainly turned out maybe different because of the way we were looking at it versus the way you people were looking at it.

Chairman Rootovich

Is there any further discussion?

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Ordinances

o-04-19

Endorser: Alderman-at-Large Brian S. McCarthy  
AMENDING THE PLANNING AND ZONING ORDINANCES OF THE  
CITY OF NASHUA IN THEIR ENTIRETY

DISCUSSION

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ADJOURNMENT

MOTION BY ALDERMAN LAROSE TO ADJOURN  
MOTION CARRIED

The meeting was declared adjourned at 8:56 p.m.

Alderman Kathryn D. Vitale  
Committee Clerk