

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

JUNE 29, 2020

A meeting of the Planning and Economic Development Committee was held Tuesday, June 29, 2020, at 7:15 p.m. via teleconference.

Chairman Tencza

As Chairman of the Planning and Economic Development Committee, I find that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04, this public body is authorized to meet electronically.

Please note that there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, I am confirming that we are:

a) Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means:

To access Zoom, please refer to the agenda or the City's website for the meeting link.

To join by phone: 1-929-205-6099 Meeting ID: 882 7208 6878

b) Providing public notice of the necessary information for accessing the meeting:

We previously gave notice to the public of the necessary information for accessing the meeting, through public postings. Instructions have also been provided on the City of Nashua's website at www.nashuanh.gov and publicly noticed at City Hall and Public Health Department.

c) Providing a mechanism for the public to alert the public body during the meeting if there are problems with access:

If anybody has a problem accessing the meeting via phone or Channel 16, please call 603-821-2049 and they will help you connect.

d) Adjourning the meeting if the public is unable to access the meeting:

In the event the public is unable to access the meeting via the methods mentioned above, the meeting will be adjourned and rescheduled. Please note that **all votes** that are taken during this meeting shall be done by **roll call vote**.

Let's start the meeting by taking a roll call attendance. **When each member states their presence, please also state whether there is anyone in the room with you during this meeting, which is required under the Right-To-Know Law.**

Alderman Laws called the roll and asked them to state the reason he or she could not attend, confirmed that they could hear the proceedings, and stated who was present with him or her.

The roll call was taken with 4 members of the Planning and Economic Development Committee present:

Alderman-at-Large David C. Tencza
Alderman Jan Schmidt
Alderman-at-Large Ben Clemons
Alderman-at-Large Brandon Laws

Members not in Attendance: Alderman Thomas Lopez

Also in Attendance: Alderman Richard C. Dowd
Alderman Linda Harriott-Gathright
Alderman-at-Large Michael O'Brien, Sr.
Alderman Patricia Klee
Alderman Skip Cleaver

Chairman Tencza

I am present, I am alone, I can hear everybody.

Alderman Schmidt

I am present as well and alone and can hear everyone.

Alderman Clemons

I am here, I can hear everyone, and I am home per the Governor's Order.

Alderman Laws

Alderman-at-Large Brandon Laws is here, I can everyone, and I am at home per the Governor's Order as well and I am alone, if I didn't already say that. Chairman, we have four members present.

Chairman Tencza

Thank you. Also in attendance are Alderman Dowd, Alderman Harriott-Gathright, Alderman O'Brien, Alderman Klee, and Alderman Cleaver. Did I miss anybody, I don't think so. Anyone who would like to speak, like I said, speak up and we will call on you.

PUBLIC COMMENT - None

COMMUNICATIONS

From: Linda McGhee, Deputy Planning Manager

Re: Referral from the Board of Aldermen on proposed O-20-023, Amended, Relative to Advertising Signage on Umbrellas, Awnings, and Canopies in Connection with Outdoor Dining

There being no objection, Chairman Tencza accepted the communication and placed it on file.

UNFINISHED BUSINESS – None

NEW BUSINESS – RESOLUTIONS - None

NEW BUSINESS – ORDINANCES

O-20-023, Amended

Endorsers: Alderman Ben Clemons
Alderman Patricia Klee
Alderman Michael B. O'Brien, Sr.
Alderman-at-Large Brandon Michael Laws
Alderman Richard A. Dowd
Alderman Thomas Lopez
Alderman Jan Schmidt
Alderman-at-Large David C. Tencza
Alderman Skip Cleaver
Alderman-at-Large Shoshanna Kelly
Alderman Patricia Klee

RELATIVE TO ADVERTISING SIGNAGE ON UMBRELLAS, AWNINGS, AND CANOPIES IN CONNECTION WITH OUTDOOR DINING**MOTION BY ALDERMAN LAWS TO RECOMMEND FINAL PASSAGE, BY ROLL CALL**ON THE QUESTIONChairman Tencza

Thank you. The Motion is to adopt O-20-023 by roll call. Any discussion on that motion?

Alderman Harriott-Gathright

I just have a question. I would like to be one of the sponsors on there because I didn't see my name on there so do I just let you know?

Chairman Tencza

Yeah if you let me know, we will note it for the record and we will ask Ms. Graham to make that correction on the final piece of Legislation.

Alderman Harriott-Gathright

And I have one other question. So now that you have taken the November date off, that means that the awnings and everything can be up all year long. Is that true?

Chairman Tencza

I will refer to Alderman Clemons. Would you like to answer that?

Alderman Clemons

Yes, what this does is it just allows, I mean I don't think people are going to be sitting outside in December. But what it does is it allows, in other words, it doesn't end in November it just carries on as a regular part of our Ordinances. If we ever wanted to change it, we would have to bring in Legislation to do that.

Alderman Harriott-Gathright

I think the only thing that I am thinking about, I'm thinking about the types of storms and things that we have here in let's say December through January/February that period. I think that would be dangerous to have them out there to be honest with you.

Alderman Clemons

Yes and I don't disagree but the original, if you are referring the way that it was originally drafted, that had nothing to do with why it ended at that point in time. It ended there because then it was going to put a sunset on the Ordinance altogether where we wouldn't be able to – where the only way we could have, for example, somebody put up an umbrella in the seasonable weather, next April let's say or May, would be that we would have to go through this entire process again. So it wasn't so much that it was ending the ability to put up the umbrella for the winter or whatever, it was just going to end the entire program altogether.

Alderman Harriott-Gathright

I am ok with it. I just would like to believe and hope that people will have enough sense to put things away at a certain time of the year literally. I can't imagine this stuff with our winds and what we really get here, having them out in December and January, those really bad months. Particularly January and February I think is our worst months.

Alderman Clemons

I agree and actually the way that our Ordinances are now, our other Ordinances, we don't allow outside dining and things like that in those times of the year, with the exception of the stroll. We will have limited dining other than that.

Alderman Harriott-Gathright

I didn't realize we didn't allow outdoor dining. I didn't realize that. Ok thank you.

Chairman Tencza

So Alderman Clemons, if you had other comments, I'll allow you to make them and then Alderman O'Brien and then Alderman Laws.

Alderman Clemons

I did have one other thing. So we got a communication from Corporation Counsel on the Legislation and I don't know if you saw that e-mail, Mr. Chairman, I believe it came last week. But essentially, I don't think, I wasn't sure if we needed to amend this further, but it essentially takes out the last piece where we are codifying this, which I think inadvertently was left in. Did we all receive that? Did anybody receive that e-mail?

Chairman Tencza

Sound vaguely familiar to me.

Alderman Cleaver

I received it.

Alderman Clemons

I don't think we need to change anything because I think that was the original intent and I don't think it would require a new Public Hearing or anything like that either. But we may want to make a motion just to make sure that we are all on the same page with that.

Alderman Dowd

I had a conversation with the Corporation Counsel on Friday and when you struck that last date, it's going to be an on-going Ordinance. So that paragraph does not need to be there and probably shouldn't be there.

Alderman Clemons

Correct. My question is, "do we need to amend it".

Alderman Dowd

Cleaner.

MOTION BY ALDERMAN DOWD TO AMEND TO STRIKE THE LAST PARAGRAPH DESCRIBING WHERE THIS WOULD BE CODIFIED AS A TEMPORARY, COVID-19 ORDINANCE PER CORPORATION COUNSEL STEVE BOLTON'S E-MAIL, BY ROLL CALL

ON THE QUESTIONAlderman Schmidt

I'll second that, or does it need seconding. But I agree with you.

Chairman Tencza

So the motion is to strike the language in the Ordinance so that it is not reflected as a temporary Ordinance but a more permanent change to the City Policy.

Alderman Clemons

Correct. And the body of the Legislation reflects that anyway. So really it is just the instruction where to codify it that we are eliminating at the end of the Ordinance.

Chairman Tencza

Ok, I am pulling up the language.

Alderman Laws

I've got it in front of me, if you'd like me to read it to you, Chairman.

Chairman Tencza

Well I think Alderman Clemons' motion is sufficient, striking the language. Alderman Klee.

Alderman Klee

My only question is does this create the need for another public hearing? Because you are changing it from being a temporary fix to a permanent fix. When it went out there, it said that would not be codified, which means it is a temporary and now that you are turning it ... I'm just asking, I don't know whether or not that's going to make a difference or not. But I do remember Attorney Bolton's e-mail but I don't remember whether he said that it had to be done prior to a public hearing. That's just my question.

Alderman Clemons

If I could, Mr. Chairman. So I don't 100% know the answer to be honest. But what I do know is that my original intent and I think the original intent of the Board was to make sure that it was not a temporary Ordinance. And I think that the way that the Legislation went over in the body of the Legislation reflects that. As it says, "This Legislation shall take affect following its passage". And it doesn't have any language about the temporary nature of it except for where it is going to be codified within the Ordinances.

So what I would suggest is that we make the amendment and if we needed to do another public hearing, if it needs to go back to the Planning Board – they unanimously recommended it. My opinion is I think it's OK, I think we are just cleaning it up. But if it needs another go through, then it needs another go through. But we might as well do it now and then let the Attorney figure that out.

Chairman Tencza

Alderman Laws, did you have and Alderman O'Brien did you have anything you wanted to say on this?

Alderman Laws

I was just going to – for Alderwoman Gathright – I was going to say that the reason why November 1st was originally in it is because November 1st is when the City makes people take down their outside seating. So just to make you feel better about the winter months and the weather. Thank you, Mr. Chairman.

Alderman Schmidt

Thank you, Mr. Chairman. I went to the Planning Board Meeting during this and the Planning board, the Planning Manager actually said that this was continuous that there was no break off date. So the Board did agree, at that point, that this is fine for them, no problem whatsoever.

Alderman O'Brien

Thank you, Mr. Chairman. Originally, I was going to speak it was in relationship to Alderman Harriott-Gathright but I think that was well explained. Basically this Ordinance goes hand-in-glove, there's no tables as they take them in in the winter, then one would assume no umbrellas to go with it. But also in my research with this, I think the Clemons' Amendment, I don't anticipate any problem. From what I understand through my research, we are the only City in the State that has this type of restriction. And this was a just local control at the time and I think unfortunately now with the COVID-19, our businesses have suffered. They were closed for a quite a while. The purchasing of umbrellas for the enjoyment of their dining customers is an added expense or burden upon the proprietor.

So if he can get assistance in through anyway that he can, and such as from some of the distributors to provide these types of umbrellas, that there's nothing with State Law, nothing with the Liquor Commission or any of that. Again it was just a local choice at the time. This will enhance the proprietor and also provide comfort to many of our people who benefit and enjoy the downtown or even anywhere in the City experience. And it seems like originally this Ordinance was more meant just for downtown and not really the outlying areas too. So this kind of makes it universal across the City equally as well. So I don't anticipate any problems with the Clemons' Amendment. Thank you, Mr. Chairman.

Chairman Tencza

Any other questions or comments on the amendment? I'll say my only concern is that I know in speaking with staff, there is some urgency in getting this through and passing this. My only concern would be, I mean if we kept the Ordinance as it is right now and passed it, we would have essentially until next year in order to amend it and make it and clarify the language. If Corporation Counsel tomorrow tells us that the amendment requires another public hearing, well that requires us to then publish notice in the Sunday Telegraph. I believe the Notice has to be 10 days out. That will just further delay this process. So out of

an abundance of caution my opinion is we should keep it as it is and clean it up later. But obviously the Committee will do as the consensus decides. Alderman Klee.

Alderman Klee

Is it possible to not do the amendment here in the meeting and when it comes to the Board of Aldermen, when we get clarification from the Corporate Counsel to make the amendment there, that it would need a public hearing? Would that work better?

Chairman Tencza

I think so that way we can take it up, either way we can take it up on the July 14th Board of Aldermen Meeting.

Alderman Clemons

Ok I have ... I'm sorry, may I speak?

Chairman Tencza

Absolutely

Alderman Clemons

Alright, I think that makes sense, I'll withdraw my motion to amend and hopefully we will get clarification on this tomorrow and then we'll know. But you are absolutely right for expediency reasons. Although I think as Alderman Schmidt said, the Planning Board was under the impression that it was a permanent change. So hopefully that's how it will be interpreted moving forward.

ALDERMAN BEN CLEMONS WITHDREW THE MOTION TO AMEND

Chairman Tencza

Ok thank you and we will get clarification from Corporation Counsel and be ready for the next Full Board of Aldermen Meeting. So the Motion is still on the table for final passage of O-20-023. Any further discussion on that?

Alderman Dowd

Yeah, I think that's the safest way to go. But again, not going to speak for Attorney Bolton, but having talked to him, when you took the date off and it's the intent to keep this in place for future summers, that last paragraph doesn't make any sense because it will become part of permanent ordinance. But I think you are safe waiting for the Board of Aldermen Meeting to do it.

Chairman Tencza

Any further discussion?

A viva voce roll call was taken which resulted as follows:

Yea: Alderman Tencza, Alderman Schmidt,
Alderman Clemons, Alderman Laws

4

Nay:

0

MOTION CARRIED

Chairman Tencza

I'm having trouble with my outline here.

Alderman Laws

If the Chairman is OK with it, I'll take over the meeting from here, if that's alright. Yeah? No? Yes, alright. Thank you, Chairman. So that motion carried.

TABLED IN COMMITTEE - None

GENERAL DISCUSSIONAlderman Tencza

Welcome back Chairman. Keeping going? Ok.

Alderman Clemons

So we were supposed to get or the Board of Aldermen really but seeing how we are the Planning & Economic Development Committee, we were supposed to get an update about the New Market Tax Credits on the Performing Arts Center. Do we know where that's at?

Alderman Laws

I don't know. I don't know if Alderman Tencza does?

Chairman Tencza

Right now, no we don't. I know we have another Planning & Economic Development Committee meeting scheduled for early July. I believe that's in conjunction with Infrastructure Committee. So we can ask that that be on the Agenda if there is anything for them to tell us at that point. Alderwoman Klee has her hand raised?

Alderman Klee

If I'm not mistaken, I don't believe that the decisions were going to be made until the end of June. So they probably couldn't give us an answer at this point. So your July meeting would probably be the better venue for that discussion. And then I would assume that Director Cummings can come and give you the information and update on it.

Chairman Tencza

So I will make sure to reach out to Director Cummings after this meeting tonight, I'll send him an e-mail and let him know that we want to hear about what is going on. I know Alderman Laws and Alderman Klee have been involved with the Performing Arts Center Steering Committee. The information that Alderman Klee gave us was basically the information that they had got. So there's not much to report back right now.

Alderman Clemons

OK, thank you.

Chairman Tencza

Any other topics for General Discussion? The next is Public Comment, although I don't see anyone else here in the Zoom Conference, other than the folks that are part of the meeting. So if there's nothing else,

Alderman Laws, I'll ask you for a motion.

PUBLIC COMMENT - None

REMARKS BY THE ALDERMEN - None

POSSIBLE NON-PUBLIC SESSION - None

ADJOURNMENT

MOTION BY ALDERMAN LAWS TO ADJOURN BY ROLL CALL

A viva voce roll call was taken which resulted as follows:

Yea: Alderman Tencza, Alderman Schmidt,
Alderman Clemons, Alderman Laws 4

Nay: 0

MOTION CARRIED

The meeting was declared closed at 7:41 p.m.

Alderman-at-Large Brandon Michael Laws
Committee Clerk