

PERSONNEL/ADMINISTRATIVE AFFAIRS COMMITTEE

JULY 3, 2023

A meeting of the Personnel/Administrative Affairs Committee was held Monday, July 3, 2023, at 7:00 p.m. in the Aldermanic Chamber.

The roll call was taken with 4 members of the Personnel/Administrative Affairs Committee present:

Chairwoman Shoshanna Kelly presided.

Members of the Committee present: Alderwoman-at-Large Shoshanna Kelly, Chairwoman
Alderman-at-Large Ben Clemons, Vice Chair
Alderman Tyler Gouveia
Alderman Derek Thibeault

Members not in Attendance: Alderman Thomas Lopez

Also in Attendance: Alderman John Sullivan
Alderwoman-at-Large Gloria Timmons
Alderman Patricia Klee
Steve Bolton, Corporation Counsel

ROLL CALL

PUBLIC COMMENT - None

COMMUNICATIONS - None

INTERVIEWS

Greeley Park Advisory Committee

Stephanie P. Ballentine (new appointment)
9 Bartlett Avenue
Nashua, NH 03064

Term to Expire: June 13, 2026

Chairwoman Kelly

Thank you. Miss Ballantine you can come and join us here in the horseshoe. I believe Alderman Klee is going to introduce you because the Mayor couldn't make it this evening.

Alderman Klee

Thank you, Madam Chairwoman. The Mayor asked for me to send his apologies for not being able to make it today. I am the Ward 3 Alderman and Mrs. Ballentine lives in my Ward. I've known her since I've been an Alderman. A little bit before that as well. She has lived in Nashua since 1987. She's lived on Bartlett which abuts the Greeley Park for 22 years if I'm not mistaken. She has been a very strong advocate for the Friends of Greeley which is just a community group. There's no funding or anything like that. They're not connected with the City for a number of years as well. Stephanie as well as her husband are strong advocates for Nashua. You can see them biking and walking through the various parts of the City, through the park, and so on. As I am not the Mayor, I am going to let the Mrs. Ballentine speak more for herself so thank you.

Chairwoman Kelly

Mrs. Ballentine.

Stephanie P. Ballentine

Hi. Well that was pretty much summed it up. I've been on Bartlett for 25 years. I'm originally from Georgia and the Carolinas.

Chairwoman Kelly

Can you just pause for one second? I don't think your microphone is working. You can move over one seat.

Alderman Klee

You have to talk into it so the transcriptionist has to hear you.

Stephanie P. Ballentine

I'm Stephanie Ballentine. Thanks for inviting me. I have lived in Nashua as Trish Klee said since 1987 when our daughter was two weeks old. I'm originally from Georgia and the Carolinas. I have a great appreciation for the woods and green spaces. I am currently a practicing Nurse Practitioner and Assistant Professor in the Graduate Nursing Program at Rivier University. I also work as a per diem on the mobile health clinic.

We have been probably one of my first experiences in Nashua that I can remember with a two week old baby was taking the stroller through Greeley Park and enjoying the peace, and the quiet, and the green space. We had bought a home when we moved here so we were very fortunate to have a yard. We still do but we have strived to protect the green spaces or to advocate for the green spaces in Nashua particularly Greeley Park because it's just, you know, if you look it up online, it's always described as one of the gems of Nashua. One of my favorite things to do is to drive down Concord Street and see the families, everyone out there, and just see the whole grounds with different families and groups involved in barbecues, and playing games, and whatnot, and the prom girls and guys when they come to have their photos done. There's just so, so many things that go on at Greeley Park that incorporate the nature and the natural beauty of the park.

I think also I was thinking earlier today you know with all the - fortunately we're building a lot of housing in Nashua but it's all straight up for lack of space. Its apartments and they don't really have that much green space. So I feel like a lot of these families need it even more. I'm all about preserving it and maintaining it for the purpose that Mr. Greeley left it for and donated it to the City for which is to relax and enjoy nature. I'm an officer on the Friends of Greeley Park which is Trish said sort of a loose organization that a lot of us develop, actually quite a lot of us. I was looking through the folder back in I believe it was 2000 late '17 or '18 and a friend Murphy was also very involved in that. A number of people around the City and people who lived in the north end. So I guess that's me.

Chairwoman Kelly

Thank you, Miss Ballentine. Other questions from the Committee? Alderman Clemons.

Alderman Clemons

Thank you. No questions just your reputation is stellar when it comes to Greeley Park. I've been on the Board of Aldermen for a very long time and you've always been an advocate for anything that comes before Greeley Park.

Stephanie P. Ballentine

Sometimes.

Alderman Clemons

So it goes without saying, in my opinion, that you were a natural person to put on this Committee. So thank you for your stewardship of the park, your appreciation of it, and I think you'll serve on that Committee well.

Stephanie P. Ballentine

Well, thank you.

Alderman Thibeault

Thank you, Madam Chairwoman. Yeah to echo Alderman Clemons' comments. I mean you're the perfect fit to be on this Committee. Greeley Park is one of the gems. It's keeping the green space in Nashua is super important. I mean we need that park. People come from all around to go to that park. So it's good to get people that really care

to be on there. It's good to find someone that really cares and wants to make sure that it stays there and maybe do other things to enhance it in a way that yeah.

Stephanie P. Ballentine

I have ideas.

Alderman Thibeault

Did we ever get the band shell completed yet?

Stephanie P. Ballentine

Yes. I have a lovely picture of one in South Carolina that would fit just right in.

Alderman Thibeault

But thank you so much for stepping up. It's hard to fill committee sometimes because people, you know, it's a volunteer thing so you're giving your time to it so thank you so much for doing that.

Stephanie P. Ballentine

Thank you.

Chairwoman Kelly

Miss Ballentine I actually you said you have ideas. I'd love to hear them because that was going to be one of my questions is I think that the park has such great opportunities for the City. There are some things that could use some attention so I'm interested in your ideas.

Stephanie P. Ballentine

Well first off, and I think it would be fairly inexpensive, in fact we had even talked about trying to raise funds for the Friends of Greeley and we just never did it is to get that blue tarp off the fountain in the winter. It's such a to me, it's just an unaesthetic thing in that beautiful park when it's covered in snow and right there against the bathhouse. Seems like there should be another way to cover it. So there's that. Then the band shell, you know, I think has been a source of a lot of angst, and argument, and everything. I love that. I mean I love hearing it. I'm a neighbor. I'm not a NIMBY. I am an abutter so I have been privileged with maybe having a greater awareness but yeah, the bandshell. Everything costs more than you expect it to I guess so. I don't know, it would be nice to fix that.

Also, the tennis courts are great down there and now that you've got pickleball lines there. Oh, it's just so nice to see people on them. They're just constantly in use. I'm still a tennis player but I like seeing the pickle ball.

I think to expand the gardens is that on the list? It seems like there's so much space down there. I'm not sure why there should ever be a waitlist for a garden space. Again the folks who are in the apartments would - one of the problems with living in an apartment is you just feel more like a temporary Nashua citizen. I think if you had a little piece of the garden that was yours at least for the summer, it's just another connection to the City and another involvement point for the citizens to have. So that I'd like to see the gardens expanded. Maybe get some of those trucks out.

Chairwoman Kelly

Thank you. Alderman Klee.

Alderman Klee

Thank you, Madam President. I just wanted to add something. When I was talking to Mrs. Ballentine prior to this meeting, I had told her that one of the current projects is the Stone House - the roof and so on. Her first immediate reaction were you know if they start working on those bathrooms, they have to make them ADA compliant. So she goes beyond just the thinking of the park itself. She looks at the whole picture. So I just kind of wanted to add that to it that was one of her thoughts and so on. I said right now I don't think we're working inside. We're only on the

outside. So I did reassure that but it did kind of hit me that she went beyond looking at the green space of the park and so on. She was looking at making sure that the City did it right, so.

Stephanie P. Ballentine

Well I'm in healthcare so I'm always thinking about the rules and regs. There are a lot of them.

Chairwoman Kelly

Anything else? Okay. Thank you Miss Ballentine. We'll pick up your appointment in about 30 seconds.

Stephanie P. Ballentine

How's your chickens Shoshanna?

Chairwoman Kelly

My chickens are good. Still got two of them.

Stephanie P. Ballentine

Me too.

Chairwoman Kelly

I'm going to make a homemade angel food cake tomorrow with my egg whites. Okay, I believe that is all we have for the interviews this evening.

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

APPOINTMENTS BY THE MAYOR

MOTION BY ALDERMAN THIBEAULT TO RECOMMEND THE FOLLOWING NEW APPOINTMENT TO THE GREELEY PARK ADVISORY COMMITTEE: STEPHANIE P. BALLENTINE WITH A TERM TO EXPIRE JUNE 13, 2026

MOTION CARRIED

UNFINISHED BUSINESS – None

NEW BUSINESS – RESOLUTIONS – None

NEW BUSINESS – ORDINANCES - None

TABLED IN COMMITTEE

O-22-031

- Endorsers: Alderman Derek Thibeault
- Alderman-at-Large Melbourne Moran, Jr.
- Alderman-at-Large Ben Clemons
- Alderman Alex Comeau
- Alderman Tyler Gouveia
- Alderman June M. Caron
- Alderman-at-Large Gloria Timmons
- Alderman-at-Large Shoshanna Kelly

INCREASING THE VETERANS' OPTIONAL AND ALL VETERANS' TAX CREDITS

- Re-tabled at 04/03/2022 meeting

MOTION BY ALDERMAN THIBEAULT TO TAKE OFF THE TABLE ORDINANCE O-23-054 RELATIVE TO PUBLIC COMMENT

MOTION CARRIED

O-23-054

Endorsers: Alderman Alex Comeau
Alderman John Sullivan
Alderman Tyler Gouveia
Alderman-at-Large Michael B. O'Brien, Sr.
Alderman Richard A. Dowd
Alderwoman-at-Large Gloria Timmons

RELATIVE TO PUBLIC COMMENT**MOTION BY ALDERMAN THIBEAULT TO RECOMMEND FINAL PASSAGE OF O-23-054**ON THE QUESTIONChairman Kelly

I know many of you are here to discuss that and I know that we also have Attorney Bolton here joining us because last time we had some questions around the legalities of this. So I'm gonna open up the floor for questions and discussion. Alderman Timmons.

Alderwoman Timmons

Thank you. I have to think about this public comment thing. I did endorse it but I endorsed it because I feel that people have a right to speak their mind. However, I just want to tell you a little bit about why I'm changing my mind on this particular subject of public comment and what you should and should not say in it. As you know, I'm a veteran. I went in the military when there was all volunteer females in one barracks, males in another barracks, we wasn't integrated, and then they integrated us, and I went into combat support, and I got a bonus. The only reason why I went into that particular field. So went into a male dominated field. So I went to my first duty station in Fort Bragg, North Carolina, and when I was there they said what are you doing here? I said this is my unit. They said no all men in this unit. I said well not anymore. He said wait a minute, I'll be right back. So he went out, came back with all these other first Sergeants in the Battalion. They said she's in our Battalion. I was like you're sure? Yeah I went to basic training in Fort McClellan, Alabama, with air defense artillery. So they said do you have orders? I know that they really thought it was funny. So I said okay yeah. Showed them my orders. They said we don't have any spot for you. Are you the only one? I said there's a whole bunch of us. I just came two weeks earlier because I had children and they needed to find a place to live. There are three kids with me. So I came two weeks earlier to this particular unit.

So to make a long story short, the first day of going into the unit and doing PT - physical training - we were in - the females were all incorporated into the battalion in the formation with our little shirts and our little shorts on and we was beginning to do our running. As we started running, the men start saying really horrible things, nasty, talking about women, and getting them pregnant, and having them barefoot. We're talking about I noticed before you guys was born but I was insulted - totally insulted about it. So what I did stopped running. I'm not running for somebody who is talking about women using all kinds of profanity. I said until you guys change, I'm not running. I don't care what you say. I will not run to that type of language and it was horrible. So I said well you can't do that and I said well I'm not running. So I got all the girls, all the women, young ladies, in the battalion not to run. Then I started the EEOC for the military that you cannot use that type of language around other people because it gives them a feeling of not belonging, it's derogatory, it's insulting, and on, and on, and on. I could really show you all the information about it.

So I feel like a hypocrite if I approve any type of language here when I fought so hard against it when I was in the military. So we never support any type of language that use any type of derogatory words. You can't screen a bomb in the airport. You can't do certain things because it stops all kinds of panics. You just can't do it. You should be able to come in here and say whatever you want to say and don't think we're not offended by it because we are offended by it. So I think it should be some decorum in our meetings. We have children that's watching these programs and when you come here and start screaming at us, and start calling us names it's just not right. So I would never support anything about the public comment that you can say whatever you want to say in a meeting and do not think it's gonna have repercussions. So I will never support a public comment where you are just free to say - well it's a slippery slope and I just can't support it.

Chairwoman Kelly

Alderman Gouveia.

Alderman Gouveia

Thank you, Madam Chair. I totally agree with my colleague to my right has to say. I think this should be a place where we can exchange ideas and do it with a level of decorum, and professionalism, and I think we do that very well inside the horseshoe here.

With that being said, the original ordinance came from being threatened with a lawsuit from the ACLU. In looking over the ordinance today, I was reading what is .11 which would be .10 if this was to be approved saying "the presiding officer has the authority to terminate the remarks of any speaker when such remarks do not adhere to this ordinance or other applicable laws". That to me, and I believe I said it when we first because I supported the language when we added it in the first time, that right there supports that we can terminate public comment for any of the reasons listed above including breaking decorum rules that we follow in this chamber through the set of rules that we adopted.

So I feel that this is kind of redundant language and it was language that I did approve the first time here because I felt it was right. I still do think it is right. I think we shouldn't be using this type of language or anything profane in the chamber. But at the same time when you have an organization that's threatening suit, I think it's time to look at it and is this the fight we want to pick. I think it was Alderman Clemons brought it up at the at the last meeting was I don't think anybody here wants it to happen. I think it's how risk averse are you. Do you want to keep it in there and maybe go down a path that involves a lawsuit or do we take it out knowing that you still have the full protections under the rules that we adopted? Do we have to have it in ordinance? Personally and in my beliefs, I don't think we do to be able to still hold us to the same level of decorum as we all expect here. My risk adversity on this like we talked about was rather low. I don't feel like this is where we should be digging our heels in the sand because it's already there. We can already terminate that public comment should something happen and hopefully it doesn't.

I don't think any of us want to see it happen but that's kind of where I stand on it now and why at least to my mind the ordinance came through and why I signed onto it as a co-writer with Alderman Sullivan and Alderman Comeau was because the threat of that lawsuit and it was to try to be a little proactive for the City. Obviously, we've talked about possibly some amended language which I would be interested in hearing but at the end of the day, I still think that .11 as it is right now would be sufficient to do the level and quality of business that we want to do in the chamber.

Alderwoman Timmons

Can I have a follow up please?

Chairwoman Kelly

If you don't mind actually was going to ask Attorney Bolton to clarify some of things. I was going to pivot to him for a second because I think that's the whole reason we put it on the table. So Attorney Bolton so when we met previously, especially number 10 where we talk about crude, vulgar, profane and obscene remarks, was something that the Committee was concerned about the legality of. So can you speak to that specific portion of it or just your general counsel on this ordinance?

Steve Bolton, Corporation Counsel

It's unsettled as far as what the law allows or doesn't allow in terms of the language, the words that I believe that provision is designed to prohibit. I think it's probably somewhere from three to six out of the millions of words in the English language. That being the case, there are plenty of alternatives that would allow someone to make their point if their vocabulary was sufficient. So alternative means of communication is one of the things that courts look at when there's a restriction on speech in any situation. Often said that reasonable time, place, and manner restrictions are permissible. So this would be a restriction on the manner of someone making their point.

The New Hampshire Chapter of the American Civil Liberties Union apparently someone there read a case from Massachusetts which prohibited discourteous or slanderous speech. The Massachusetts Supreme Judicial Court said well that doesn't pass muster. It's vague. It provides too much discretion. They looked at the way it was applied in a particular case. The speaker was criticizing the members of the town's select board and it was clear that it was that criticism of the board that they considered to be discourteous, and she was first ordered to leave, and then was suggested that the police would remove her if she did not cease. The Massachusetts Supreme Judicial Court, basically throughout their whole prohibition which concerned as I said discourteous slanderous

speech.

I think your ordinance is nothing like a Massachusetts ordinance that was at issue in that case. So I don't think that's precedential in any way. There's an old case from California where someone was in the courthouse wearing a jacket that on the back indicated that he was not in favor of the draft using one of the crudest words in the English language to express that disapproval. Cohen versus California. That went all the way to the United States Supreme Court and they held in the context that that word was displayed, that that was within the free speech rights of the wearer, and prohibited the sanctions for which he was arrested. So that case, might be precedential.

On the other hand, this is not - your meetings are not as discreet as a courthouse where typically you would only find adults, only find people who somehow got themselves involved in a situation where they were in that courthouse. Your meetings are televised over the local cable system. We often have children who attend in-person our meetings particularly when there are recognition proceedings to honor children who may have had some achievement whether academically, or athletically, or otherwise and they would be subjected to inappropriate language that their parents would not desire them to hear. Same is true if they were watching at home over the local cable system. Their parents may be reluctant to allow them to watch our meetings. I believe I've heard that in occasional classes in our elementary and secondary schools that teachers will in fact assign classes to watch a meeting or two meetings in order to learn what they can about government, and civics in our country, and in our City. If they would be exposed to things their parents do not wish them to be exposed to in terms of language, I think we lose that value of the educational experience. There's also its true there is an interest in government showing itself to be dignified, and reasoned, and behave in a way that demonstrates a manner of decorum so that decisions are made deliberately, logically, and for good reason. Not as a result of who is most offensive and most vocal.

So all of those considerations would come up if there were litigation over this. I think and it's my opinion that we would prevail in a lawsuit if the crew, vulgar, profane, and obscene language prohibition remained enacted. I could be wrong. This is not black letter law. It's not open and shut. It's the kind of issue that could go to the US Supreme Court and you'd get a divided court issuing opinions - 6 to 3, 7 to 2, 5 to 4. Then if you asked 100 lawyers, you might get 98 different opinions as to how it would turn out. So I can't provide you any guarantees.

If there will litigation if we lost, there may be a cost involved. If we win, unlikely to be much cost but I do not think that eliminating the language prohibiting eliminating the words of the ordinance that prohibit vulgar and crude language and just relying on the presiding officer has authority to terminate the remarks of any speaker when such remarks do not adhere to this ordinance. Well if you take this language out, the presiding officer will have lost the right to terminate someone's remarks for the use of the sort of foul language that this ordinance is addressed to. I think if you eliminate this, the odds are you are going to get more crude language at the public comment period. If you're willing to have that, no one's going to die as a result but I think the Board as a whole, city government as a whole will not be as respected. As I say, I think you lose some of the opportunity for children to grow up with knowledge of how local government works. So it's not up to me. It's up to all of you.

Chairwoman Kelly

Thank you, Attorney Bolton. Alderman Thibeault.

Alderman Thibeault

Thank you, Madam Chairperson. I got one question and then a comment or two. If I can ask the question through you to Alderman Gouveia.

Chairwoman Kelly

Sure.

Alderman Thibeault

Easy question. Do you believe in free speech?

Alderman Gouveia

Absolutely.

Alderman Thibeault

Okay, thank you.

Follow up. So I think we're all in the same agreement. I think we all believe in free speech but yet you've just said that you agree with the sentiment of not putting it in here but you agree that people should not be doing what we put in there. So I would not go around to anyone that has done that and say he's against free speech just because you believe the same thing at the end of the day that I do just how to get there may be a little different, right.

Alderman Gouveia

Totally.

Alderman Thibeault

So, you know, I heard even today oh Alderman Thibeault you're gonna suppress free speech again, and you're gonna make your peers not talk, and stuff like that. I'm like I didn't create this or anything. But we do limit free speech all the time whether we want to or not. Like I've said before, three minute limit. That limits it, right. People can come in here with signs. Anytime people holding up signs, the President or Chairperson tells him to put the signs down, right. Signs are a way of free speech right. You have something on a sign, you know, or if the person can't speak, right, you got a sign right.

Obviously slander - I mean when we get down to this, we created this because one citizen said some bad words in here, right., and then at some point one of us said something that that person didn't like which is his right to free speech and now she's suing him. So we do have limits out there what people can say, right. You can't slander somebody or think you slandered somebody because you can get brought to court.

The other thing, I don't know why we're so afraid of the ACLU when we have 13 or 14 other suits and we haven't tried to put in any ordinances to try to fix the Right-to-Know or do anything in the City to maybe make it easier for that to occur. So we don't have to have those 13 or 14 other suits, right. So why worry so much about this one as part of that. I mean, I'm again, I'm 100% for free speech. I just want like the founding fathers would say, right, civil discourse. Attorney Bolton said it exactly. There's a billion words you can say instead of a word that somebody used. Even to be going over this to me seems kind of dumb because I think we all believe the same thing.

Alderman Clemons and maybe he'll speak to it but he had suggested an amended type version maybe to look at where we take out a couple of these words but yet we still have some language in there that kind of protects us to be able to do something about it if it happens. I was more amended to going that way if that's what he's going to do, then so kind of meet in the middle a little bit about this. I think that's the better way to go but, again, I'll reiterate everybody here is for free speech. We all want people to be able to come in here. They can yell at us, they can call us names. I get it online all the time, I get it in emails. We get it here. We got it at the budget meeting where we were called "shameful". I think the Mayor was disgrace like, right? We can say those. Everybody can say that stuff but there's a couple things that maybe we shouldn't say, you know, that's just not the right thing to do if we want to a civil discourse so thank you.

Chairwoman Kelly

Alderman Clemons and Alderman Klee.

Alderman Clemons

Thank you. So the previous speakers mentioned the fact that I was thinking about changing some or maybe doing an amendment to keep some of the language in here. Before I did that, I wanted to ask a question through the Chair to Attorney Bolton. The question would be that instead of - what if we just eliminated the words "crude and vulgar" and kept into the ordinance "profane and obscene remarks are prohibited"? My concern - and let me preface my question by saying that my concern is that a court might say that crude language could be interpreted as being language that maybe somebody who doesn't have a strong English vocabulary could be crude could be interpreted that that way or as was brought up at the last meeting, vulgar was things that were vulgar 100 years ago are no longer vulgar today. So my question is if we took those two words out and left the profane and obscene remarks do you think that the ordinance would still be as strong as it is today or?

Chairwoman Kelly

Attorney Bolton.

Attorney Bolton

I don't think that makes much difference.

Alderman Clemons

Can you can you elaborate? It's the reason why?

Attorney Bolton

As used, their synonyms. I think you're still left with the same thing. I have no problem particularly. I think the case would look identical whether crude and vulgar remained or crude and vulgar were left out so.

Alderman Clemons

Okay. So can I continue?

Chairwoman Kelly

Alderman Clemons.

Alderman Clemons

So thank you. So I mean with that being said, I mean if we could get a unanimous vote out of it by taking out those first two words, or we could get - if we thought that we could come to some agreement to do that, I'd be willing to entertain that. I'd like to hear what the two authors of the legislation think of that before I make the motion. But again, I think it's how risk averse are you. To me, I think that we need some kind of prohibition in there because we don't want to allow that language and we all know what language we're talking about here. So we don't want the public to come up here and be able to say that. If you think that that is a limitation of your free speech, again, I feel sorry for someone who thinks that because if you have to throw an F bomb to get your point across, then you don't have a very good grasp of the English language and I feel sorry for people like that. I would encourage them to go to the library or look at the source. We can't allow that behavior, we can't allow that language here. It's just it's not right. There's children that do come in here as the Attorney told us that watch on TV. We have to have community standards and the buck has to stop somewhere. To me, I think we need some kind of prohibition to those kinds of remarks.

Chairwoman Kelly

Thank you, Alderman Clemons. Alderman Klee then Alderman Sullivan.

Alderman Klee

Thank you, Madam Chairwoman. The threat of us being attacked or that we don't believe in free speech if we don't strike number 10 to me is not accurate in any way, shape, or form. I don't think there's anyone among this horseshoe who doesn't believe in free speech and would fight to the death for it.

I am glad that Attorney Bolton made the comment about that if we strike number 10, the new number 10 or what number 11 is, is ineffective. I've watched that here in this horseshoe when a Chairperson or the President has said we will not accept that kind of language or we will not accept this kind of thing and then people pout, and yell, and walk out, and we just take more wrath. We take it on social media. We take it on this. They're stopping my free speech. That is actually more stopping your free speech because you're in the middle of speaking when you had to do that and there's no bite behind that. That is not acceptable in here. To say that to someone, they're gonna say well what is acceptable? Let me see your regulations. We get that all the time. Let me see the ordinance that guides this. So this one comment doesn't mean anything.

When I was growing up, I lived outside of Westover Air Force Base so you have a lot of salty airmen, and Navy, and Marines. We had everybody there. I remember one time being in church and one of the military said something quite foul and vulgar. My mother looked at me and she said I don't ever want to hear those words coming out of your mouth because her favorite thing to say was that swearing or such language was a sign of ignorance. I got

upset with her because I thought she was trying to say that these people are unintelligent and that's not what she meant. She just meant that they grabbed the low hanging fruit. They grabbed the easy words to describe.

As Attorney Bolton has said, those 3, 6, 10 words that we would all say just don't belong in this room. There are other words that can describe that person's feeling. The F bomb yeah that's a really easy one to say and it does make your point but at the same time, we don't want to hear our children saying it. There's been more than one person that has used something in this chamber that shouldn't have been said. It was on Zoom. It's been here in this very room. I had a parent that called me and said that her child was watching live and had to explain to that child why that was a bad thing and so on. That child was not a fourth grader, something a little older than fourth grade but that child did have an assignment to watch a government proceeding. So she had them watch it on a show.

I know I had talked to Alderman Clemons that if this does pass and we get rid of these words that I'm going to suggest that we don't go live anymore because we can't ask the CTV people to do a 5 minute delay, or 15 second delay, or something so they can bleep out those words. I would not put that on them. So that means it's got to be edited and then it can go the next day. That to me would hurt our public. We are transparent here. We want them to see it live so that when I walk out this room if they don't like what I said, they're gonna call me or they're gonna send me an email right there. There's no hiding behind anything.

I truly do not believe that the current item number 11 is redundant under anything and I don't think that we should buckle down to the threat of a suit. Do I think ACLU will come after us? Oh absolutely I do because that's what they do. That is what they do. I hope that we win it. If we don't, maybe this is gonna go to the Supreme Court. Who knows but I don't think that we should just buckle down because we don't like it. It isn't the same case as Massachusetts. I don't think it's the same case as the courtroom where somebody put it on their jacket. This is live. Children are here, children are watching on TV. We can't do that 15 second delay. I just I find that I respect the ACLU on so many levels but they're also very single-minded in that they want to uphold all of the laws as they see that. That's nothing against them. I think they're doing a phenomenal job. I know the lawyer that had contacted the City through the letter I know him to be an extraordinary lawyer and so on.

Personally I just find that to get rid of this and whether we get rid of crude or vulgar because I look at crude, vulgar, profane and obscene as all the same. I do understand what you're saying relative to the vulgar meaning that it could be accrued how someone describes something. So I could live without those two words. I think that would probably be more redundant than anything else like that. I don't think voting against this means that you're against free speech because people come out here and say anything they want. I have stood here, I sat there in the budget meeting when I was referenced twice of having said something. I did not correct them because it was their right to say it. Did they say it proper and in the right context? No but I didn't correct them because they have the right to say that. I will correct it in another time and another date. I did not interrupt them. I did not ask to speak afterwards. I'm not even saying here what it was or what it wasn't because I do believe everybody has the right to say it. Do I like being yelled at? No. Do I like being told shame, shame on you? No. Does it get under my skin at times? Yes but hey that's the way life is. As Attorney Bolton has explained to me probably more than once, I'm an elected official, and I asked to be in the seat, and part of that is taking that kind of criticism. So I've got to toughen up my skin and deal with it but I don't think anybody has the right to use that kind of language. Even not just children. There are men and women that find it so offensive they might not come to here and that would bother me equally. So thank you for letting me speak.

Chairwoman Kelly

Alderman Sullivan.

Alderman Sullivan

Thank you very much. I think that - I thought about this a lot over the weekend and when I plan on coming here, you know, I think we all want the same outcome which is interesting. We all want nice, decent meetings. I think it's just a question how we get there. I think that people have the right to say whatever they want. They also have the right to say it however they want too. That's the cost of living in a free country. It may be inappropriate but it's free speech. To me, I'm an absolutist when it comes to free speech. You can say what you want. You can say however you want to say it.

I think that Alderman Gouveia talking about the lawsuit if we win, if we don't want to win. For me, I don't want to go into court at all. Period. Never mind handicap whether or not we're going to win it against the ACLU and their team of lawyers. It said in that letter quite clearly and I never thought when I signed up to be an Alderman that I would be

sitting here advocating for the First Amendment of the United States of America in the Constitution. The First Amendment that they thought was so important that they put it first - the right to expression, the right to free speech. I never thought that I would be arguing that.

I think that when I voted against this the first time, Alderwoman Timmons brought it up earlier about the slippery slope. I was concerned because I saw a pattern - Zoom, the packets, the communication of the packets. I just saw a trend line and it got me concerned. Then when I saw this, I thought we're slowly moving the goalpost in the opposite direction. I think one of the biggest problems that that we have in this chamber is what you see out there. There's nobody here. Nobody comes hardly to speak in public. There's maybe a group that I could count on less than two hands that consistently come and show up. I think that the ordinance before was an ordinance looking for a problem. I think it happened in a finance meeting. Since I've been an Alderman, granted my history is not as long and distinguished as some of my colleagues, but I have yet to hear inappropriate language of any type in this chamber in any committee meeting or in any general meeting that we've had. I haven't heard it since January of 2022 and there have been some pretty heated debates here: masks, barriers, taxes, and I haven't heard it. I did hear the one instance that we're talking about because someone told me about it, and I watched it, and I thought that that language was inappropriate. I wouldn't have used it but anybody that says it they have the right to say it. They do. It's free speech. It's expression. They can say whatever they want and however they want to say it. The Constitution protects us for that specific reason. That's all I have to say.

Chairwoman Kelly

Alderman Timmons and then Alderman Clemons.

Alderwoman Timmons

I have to disagree with you my colleague from Ward 9. You cannot say anything you want to say, any way you want to say it, any way you want to say. Free speech does not mean that. If you even read or I would say because we stopped doing that, the Star-Spangled Banner has been altered. It's been altered for a reason. Go back and read the whole Star-Spangled Banner. You'll realize that they took it out of that because of that because of what it was saying. That would have been free speech but they don't do that anymore. You cannot say and do whatever you want to say and do without repercussions. It just does not happen. Doesn't happen in the United States of America, doesn't happen in the military at all. You cannot do that. You do have a right for free speech with the assumption that it does not impede on other people's rights. You cannot come in here and just saying anything you want. There is the repercussion of what you say. So if it was free speech, you should be able to say whatever you want to say regardless of nothing happening to you.

I'm going to tell you right now, right here in this building, I was attacked down to City Hall. We're in court because of her free speech because I'm suing. So you cannot say, and do whatever you want to do, whenever you want to do, and I do believe in free speech but there is exception to every single thing and you go look it up. The Star-Spangled Banner is not what we sing, okay. Look at all the lyrics in the Star-Spangled Banner. You'll be sick because I am. That's why I don't like that song because you don't hear it all. You need to go and read the whole Star-Spangled Banner then you'll know what I'm talking about. Okay. You only hear what they sing but if you read the whole lyrics on the whole entire Star-Spangled Banner, you will see that is very, very bad, very derogatory. It's against people like me.

So you cannot say, and you cannot do whatever you want to do, any way you want to do it, and I do believe in free speech because I was in the military. We actually talked about that all the time. Free speech. You have a right to say what you wanted to say, however, you're going to reap the repercussions of what you say. It doesn't mean that you can go in there. You can do it. You can't call there's a bomb on the plane. That's free speech. You can't do it. So it's not true that you can say and do whatever you want to do just simply not true.

Chairwoman Kelly

Alderman Clemons and Alderman Thibeault.

Alderman Clemons

Yeah I just want to respond to something that was said. Free speech you have the right to free speech out in the world, on your own, in your own house, on your own property, on the street. You have the right to say whatever you want to say but that gets limited depending on where you are and what the context is about what you're discussing.

As was mentioned, you can't yell fire in a crowded theater. You can't yell if there's a bomb on a plane and make threats. You can't disrupt the courtroom. You can't just go into the middle of a proceeding and just start chanting. The judge has the right to tell you no and you get out. That's a government entity. There's decorum in places that and that matters and to simply put it as somebody can come in and say whatever they want, whenever they want it, and we have to just accept it, no we don't. No we don't and when we do that we are basically saying to the public come to our free for all and say whatever you want because we're not going to do anything about it. You have three minutes go. That to me is just wrong. To me, I was raised to believe in free speech. I was raised to fight for free speech. I fought for free speech here in this chamber. There is some Aldermen who wanted to take away public comment altogether while I've been on the Board. There are some Aldermen in the past that wanted to limit it to only residents of Nashua, only taxpayers of Nashua. There are some Aldermen here in the past that have wanted to limit it to only things that are on the agenda and do away with the second comment period. I fought against every single one of those things because I believe that it's important that we hear from the public. They have the right to come in and tell us how they feel and they can do it without being vulgar. They can do it without being profane and they can do it without being obscene. You do not need to say those words to get your point across. There is a time and a place for everything. I am probably one of the most inappropriate people once you get a few drinks in me out somewhere but I do that in the privacy of my own company. I would never behave that way in a setting like this. It's wrong. It's just wrong and I was raised to uphold those values. To uphold those values here in this chamber in this City that I so respect. Like I said, I'm willing to compromise and take out the first two words if we think that we can get some support for that but eliminating this altogether, I can't do it.

Chairwoman Kelly

Alderman Thibeault.

Alderman Thibeault

Thank you, Madam Chair. So I mean I don't think people not being here is the result of not being able to say what they can or can't say. I mean I think generally people are apathetic towards government and I don't think that's based on whether they can come in here and yell at us or not. I mean the people that want to yell us do come in and yell at us. Someone said at the budget meeting at North they turned around and said see this is why, you know, you guys don't get anybody to come to these meetings. My first thought was yeah because most people think as legislators we're doing a good job. The 10 or 15 people that didn't, they're the ones that showed up and yelled at us.

I'm not offended by these words personally. I've been called everything for a long time. As you guys know, my temper gets hot sometimes and so people have called me many things. So the words don't bother me but I think what if there's a kid in the front row and the kid is say black and somebody comes up there and starts to use racist, awful terms? I'm not hurt. Well I am. I am offended by that for the person that's hearing that and that's to me, again, that's a hypothetical it's never happened and I hope it doesn't ever happen, but it happened to Gloria when she walked in. Nobody knew who she was Alderwoman Timmons rather. Nobody knew that she was an Alderwoman when that person attacked her with verbal abuse and so it can happen. She was with one of her grandchildren.

Alderwoman Timmons

Two of them.

Alderman Thibeault

Two of them who obviously heard the language. Again that wasn't in here but it was in the building or right outside the building. That stuff could happen. I think that to me is offensive to people. If we're an absolutist why don't we allow signs? Why don't we just let unlimited speech instead of three minutes? We should just allow slander. I mean when you think about it the founding fathers if we're an absolutist, we would have slaves and women wouldn't have the right to say what they won't either. So you can't go by that and say well I'm going by it. Somebody 300 years ago said it and we can't have any, any even little bit of limits on it but they had lots of limits then because a lot of people couldn't speak. I don't even think poor white men could speak.

So there are limits in this world. I can't go into work and start yelling crazy things. They'll fire me on the spot. If you go into a bar and start yelling crazy things, you might get some leeway but eventually they're going to kick you out. So why is this any different than a space where we should have decorum? I don't understand that but that's it. Thanks.

Chairwoman Kelly

So I'm going to weigh in here for a minute. It's been interesting hearing everyone's speaking and this is - I am one who has gotten sort of caught up in crude versus vulgar and profane versus obscene. I'm a writer, that's what I do for a living so I think about the nuance of language and how it's changed. I do still have some concern with what does crude mean to the person who's sitting on this side deciding. However, I also think that we have the right to have decorum in this room just like they expect that same thing from us. So if you think about if we flip it. If you walk into the Supreme Court and spoke the way that some of these pieces that we've seen in the last three or four years, you would be kicked out because there's decorum because there are things that you can and cannot do in those chambers.

I actually did some research. I defined every one of those words so your definitions come up correct even though there are nuances to those definitions. I was on ACLU's website and they have a whole section on this. One of the things it says is government can limit some protected speech by imposing time, place, and manner. That's all we're doing. All we're doing is saying that in this chamber, you are allowed to express whatever it is that you would like to express but you have to do it within the decorum of this chamber so that we can continue the work of the City.

Alderman Klee

Thank you, Madam Chairwoman. Since this came up again, one of the things is that social media has had its run rampant. There's attacks on those who are against this. I think it was even said here that you know if that we're not supporting the First Amendment if we don't do that, and I don't know whether that's how it was mentioned or anything, but I kind of find it ironic one of the posts that I read went on and on about how horrible we were and that we were stopping their freedom of speech. It went on in detail and with some vulgarity and so on. The last statement was now let's talk about getting rid of some of those books in the library. I was like whoa. I don't know if the person actually understood what they were saying. When people say free speech, it's like I want to be able to say whatever I want but I don't want you to be able to read whatever you want. Free speech if you want to go that far is free speech. To get rid of a book out of a library is taking away that author's free speech and my right to be able to get free access to that particular book.

I'm only saying this because we tend sometimes to use this First Amendment, Second Amendment when it when it suits the particular case that we have. There has been more than one case when words that shouldn't have been used have been used both while I've been on the Board and prior to that. So I do think it's only a small handful of people that are doing this but I can tell you after watching the Zoom and a gentleman who was not happy with us because we had masks, and we were doing Zoom, who walked on completely naked, and then grabbed a baby, and put the baby in the key place, and sat down, and thought that was funny because he could, and because he got away with it. We are going to get people that are going to come in here the minute we say this is done and we're going or to be listening to George Carlin's seven words that should never have been said on public television or something to that effect.

I do think we're going to get that handful, and it's a small number yes, but if we don't put up rules and we are a society of rules, it doesn't mean that you can't say what you want to say. It's just you have to choose the words that you use appropriately. Fine my definition appropriately may be different than Alderman Sullivan's or Alderman Clemons' words of appropriate but I think we have done this and I do think we all know which language we're speaking of. So I'm not on this Committee. I won't get to vote today but I do hope that you do not support this legislation. Thank you.

Chairwoman Kelly

I have questions for Attorney Bolton but go ahead. You go first.

Alderman Gouveia

No you go first, please.

Chairwoman Kelly

So I wanted to ask you about the idea of decorum and how shaky that is because something that occurred to me was it could say "did not adhere to the decorum of this chamber". Is that too vague?

Steve Bolton, Corporation Counsel

Yes, it's too vague. It will encapsulate too much and it will leave too much discretion up to whoever's the presiding officer to apply it. It could be applied in some cases too strictly in other cases too leniently. You pretty much in this area have to try and set clear guidance as to what is prohibited. Without actually providing a list of words, I think this is about as best as can be done.

Chairwoman Kelly

Thank you. My follow-on question is this is actually fairly new language. I remember Alderman Dowd brought it in maybe in my first term. Previous to this language would I as Chair not be able to cut off somebody's comments?

Steve Bolton, Corporation Counsel

You would not unless there's a prohibition. You've opened this up to be a public forum. You've got to tell people what they can't do. If you're going to apply standards to them, so no. If you cut this out and you say well anyone we think is out of control or not adhering to general expectations of decorum that's going to pass muster. Doesn't mean you'll get sued every time but if you do get sued, you'll probably lose.

Chairwoman Kelly

Interesting. Alderman Gouveia I had you next.

Alderman Thibeault

Can I just - it's nothing about what we're talking about here. So the red light went off on this thing and I can't get it back on. So I don't know what's going on with the recording. The red lights not going on, so I don't know if it's recording. It's not recording because look like it is but it was because I had it started.

Chairwoman Kelly

So I think that in the absence if that's messed up, they still have the CTVs feed that they can use.

Alderman Thibeault

Okay good. Thank you.

Chairwoman Kelly

Correct me if I'm wrong in the booth. Yeah, okay good.

Alderman Thibeault

I haven't seen anybody from the booth.

Chairwoman Kelly

But I think that has been in the past has been a backup if we can't if that goes down. But thank you for that. Alderman Gouveia, go ahead.

**MOTION BY ALDERMAN GOUVEIA TO PLACE O-23-054 ON THE TABLE
MOTION FAILED**

Chairwoman Kelly

We are still back at recommending final passage. Alderman Timmons?

Alderwoman Timmons

I really don't want to labor on this but my colleague said that the reason you know look at the Chamber and no one's here. But from what I hear, and I'm in the community all the time, is that they don't want to hear the language. They don't want to hear people coming in yelling, screaming. The same people they know exactly who comes in so they already know that in advance. Why would you come? So they watch this on TV and they said the same old same

old. The same people come here saying the same old thing always angry. I'm talking about people from the public that comes to here to speak. Very few people come here to say positive things. They do it with their vote.

**MOTION BY ALDERMAN THIBEAULT TO RECOMMEND FINAL PASSAGE
MOTION FAILED**

Chairwoman Kelly

The motion does not carry. We need an additional motion.

Alderman Thibeault

To put it to what?

Chairwoman Kelly

So we have to - I feel like we always get this wrong. Alderman Clemons knows.

Alderman Clemons

Well Madam Chair I'm going to ask you a question. How do you feel about the first two words?

Chairwoman Kelly

Crude and vulgar?

Alderman Clemons

Yes.

Chairwoman Kelly

I could take them or leave them. I think they're the most interpretive, squishy.

Alderman Clemons

I'm going to make a Motion to amend.

Chairwoman Kelly

Okay.

Alderman Clemons

So my amendment would take out the words "crude and vulgar" in #10. It would start with the word "profane and/or obscene remarks are prohibited; and" it would continue. So essentially it would read #10 "Profane and/or obscene remarks are prohibited; and 11. "The presiding officer..."

MOTION BY ALDERMAN CLEMONS TO AMEND BY TAKING OUT THE WORDS "CRUDE" AND "VULGAR" IN #10 AND IT WOULD START WITH THE WORD "PROFANE AND/OR OBSCENE REMARKS ARE PROHIBITED; AND"

ON THE QUESTION

Alderman Gouveia

Thank you, Madam Chair. I applaud my colleague for bringing forward the Amendment. I'm not going to support it because I do believe that still leaves us open to a potential lawsuit. I don't think this fixes the problem that was originally outlined. So I won't be supporting it but I do applaud you for putting it forward. I wish we could have tabled it and looked at some other language but it is what it is.

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

PUBLIC COMMENT - None

GENERAL DISCUSSION

Alderman Timmons

It has nothing to with that. I just want to let everyone know that the fireworks has been postponed until Wednesday, including everything except the ball game. The ball game is still 10 o'clock tomorrow. Hopefully it doesn't rain but have a good Fourth of July everyone.

REMARKS BY THE ALDERMEN

Alderman Thibeault

Thank you, Madam Chairwoman. Just two things. One - I got to attend the Frederick Douglass reading on Saturday by the NAACP which was a great event at the library. First time I had done that and it was great to read some of the words that he spoke. So I thought that was a something good for the City. It was a good attendance.

Alderman Timmons

What is the title?

Chairwoman Kelly

What is the Fourth of July?

Alderman Timmons

Sorry.

Alderman Thibeault

The other thing which is just I just found out about today which is really good news for the City, so Eversource is dropping their rate to 12.5 cents in August which is lower than what we have for Nashua Community Power. I heard today that Nashua Community Power is going to go to 10.5 cents. So that's a huge win for the City and that's even lower than Eversource was before they raised their rates. So we'll hear more about this as we lead up to August but if you're on Nashua Community Power just stay there. If you're on a supplier that doesn't give you lower than 10.5 cents, I would move yourself to Nashua Community Power. If you're on Eversource, I'd move there as well. So that's great news and the work of Doria Brown and her department, Matt Sullivan, and all those guys working to get us. I was really nervous when I saw Eversource was going to be lower. I'm like, that's kind of going to backfire on us after we got a lower rate while they were higher but luckily they did some work and that came out today. So I'm sure we'll have more on that.

Chairwoman Kelly

Thank you. Anyone else? Alderman Timmons.

Alderman Timmons

One other thing. The speech that was held all over the country and all over the State on July 1st is "What is the Fourth of July to Your Slaves?"

Alderman Kelly

So I was actually going to comment on that. So I actually was able to participate in the Amherst reading. It's such a powerful speech when you say, and you hear, and you think about just the title of it. It's just so profound and I had a

really interesting passage that was pretty damning in terms of how can you talk about freedom when there's so many people here who still aren't free. So I have a hard time not getting very emotional when I'm listening to it.

Happy Fourth of July everyone. I think that's an incredible thing that the NAACP and the Black Heritage Trail has put together over the last couple of years and something to just keep in mind as we roll into Independence Day.

Alderman Gouveia

Yeah I was gonna say Happy Fourth of July to everybody. Stay safe.

ADJOURNMENT

**MOTION BY ALDERMAN CLEMONS TO ADJOURN
MOTION CARRIED**

The meeting was declared closed at 8:14 p.m.

Alderman Derek Thibeault
Committee Clerk