

**City of Keene**  
*New Hampshire*

**MUNICIPAL SERVICES, FACILITIES, AND INFRASTRUCTURE COMMITTEE**  
**MEETING MINUTES**

**Wednesday, December 9, 2015      6:00 pm      City Hall, 2<sup>nd</sup> Floor, Council  
Chambers**

**Members Present:**

James P. Duffy, Chair  
Janis O. Manwaring  
Robert J. O'Connor

**Members Absent:**

Sheryl A. Redfern  
Philip M. Jones, Vice Chair

**Staff Present:**

Acting City Manager Med Kopczynski  
City Attorney Thomas Mullins  
Planner Michele Chalice  
Parks, Recreation, & Cemeteries Director  
Andrew Bohannon

**Others Present:**

Councilor Randy L. Filiault  
Councilor Terry M. Clark

Chair Duffy called the meeting to order at 6:00 PM and explained the procedures of the meeting.

**1. MEMORANDUM & PRESENTATION – Planner - Safe Routes To School –  
Traffic Calming/Road Diet Design for Maple Acres Neighborhood**

Michael O'Donnel stated that he is a consulting Engineer from DuBois & King, working on behalf of the City. He continued that this Safe Routes To School (SRTS) project was awarded a Federal grant for traffic calming/road diet improvements in the Maple Acres neighborhood. It is 100% federally funded through the SRTS program, administered by the New Hampshire Department of Transportation (NHDOT), and managed by the City. There are steps that need to be followed, as published by NHDOT in their Local Public Agency manual. They are in the middle of that process. The first step is to prepare a travel plan. That started in 2009 with surveys to parents of students at the Jonathan Daniels School. The travel plan was finished in 2010 and the City used it to apply for grants. They did not receive the grant for Maple Avenue improvements, which they applied for in 2011. The City did improvements on their own dime and in 2013 applied for a second SRTS grant, which they were awarded. That is the project they are talking about tonight. Chair Duffy asked where that work "on the City's own dime" was done. Mr. O'Donnel indicated an area on the map on the easel, showing between Route 12 and the median in front of Keene Middle School (KMS). He continued that this project is across the street from KMS and the Jonathan Daniels School. The grant is for \$112,354 and covers the cost of study, design, and construction. In March 2015, DuBois & King went under contract with the City to begin the study phase of the project in order to identify the needs. They put together a purpose and needs statement, which the alternatives are measured against. Through this process they gathered public input, which pointed them in the direction of which data they needed in

order to come up with the alternatives. They presented alternatives to the public and received feedback, then decided to do one more alternative.

Mr. O'Donnell continued that they had meetings and surveys circulated during 2009-2010. With the award of this specific grant there was a Local Concerns Meeting for the project in April 2015, where they gathered initial feedback. In September 2015 they presented two alternatives to the public and heard public comment. Now they have a new, preferred alternative to present.

Chair Duffy asked if it is preferred by the people who attended the Local Concerns Meeting or if it was determined to be the preferred alternative based on the survey data. Mr. O'Donnell replied that they determined it is the preferred alternative by measuring it against the purpose and needs statement, hearing the public feedback, and coordinating with the staff. He continued that the project team is comprised of himself, Planner Michele Chalice, Planning Director Rhett Lamb, and Public Works Director Kurt Blomquist. This core group shared feedback, bounced this off of the Fire Department, and came up with this as the recommended alternative. They hope the public will agree. They incorporated some of the comments they heard from the public.

Mr. O'Donnell read the purpose and needs statement, stating that they think the recommended alternative meets this need:

“The Maple Acres neighborhood is in close proximity to the Jonathan Daniels Elementary School and many families live within walking distance of this school. However, family surveys conducted as part of the Safe Routes to School initiative found that a majority of parents drive their children to school, due to lack of sidewalks and concern for their children's safety. Safety concerns included the speed and volume of traffic on the residential streets. The purpose of the project is to address the need for facilities that will enable children in the Maple Acres neighborhood to walk or bicycle comfortably and safely to school. The need exists due to a combination of lack of delineated bike and pedestrian facilities and concerns involving the speed and volume of peak hour traffic on the local street network.”

Mr. O'Donnell continued that because of the high costs of sidewalks, painted pedestrian and bicycle facilities will be considered. The recommended alternative combines several treatments that have been widely used nationally and throughout NH and have been proven in studies to have a traffic calming effect while delineating specific portions of the road for use by pedestrians and bicyclists. However, in the context in which these treatments are being applied in a residential neighborhood makes the project the first of its kind in NH. As such, between parent surveys, public input, and speed data collected by the Southwest Regional Planning Commission (SWRPC), they have “before” data that we can use to compare against “after” data, to be collected in a year or more after the project is complete. This enables the City to use the 100% federally funded project as a pilot to evaluate the treatments.

Mr. O'Donnell showed the proposed painted treatments on the map. He stated that the top picture shows a buffered bike/walk lane, which they are proposing for the entire Pako Avenue loop. Feedback showed that there are many pedestrians walking on the whole loop, not just the portion near the school. Dale Drive, Melody Lane, and Kennedy Drive are shown in blue, and Sesame Street and American Avenue are shown in purple, and are proposed to get bike/walk shoulders,

shown in the bottom picture. The primary difference is that Pako Avenue is wide and has enough room for a diagonally striped buffer. Throughout the neighborhood there will be new crosswalks painted, in the piano key style, with a bunch of large white stripes.

Mr. O'Donnell continued that another matter that came up was the question of whether or not to do a speed table. A speed table is a 25-foot long rise in the pavement, flat on top, and it is much longer than a speed bump (3 feet) or speed hump (10 feet). This speed table will be similar to the one on North Lincoln Street.

Ms. Chalice replied that North Lincoln Street has a speed hump. She continued that the speed table is on Community Way near the Monadnock Food Co-op. Mr. O'Donnell replied that they are talking about a speed table similar to the one on Community Way.

Mr. O'Donnell continued that the highest speeds were recorded on Kennedy Drive and Pako Avenue. Members of the public, during the last meeting, pointed out that the speed data for Pako Avenue shows slow speeds and might not have been taken at the best spot. DuBois & King went back out to get more data. They found that Pako Avenue is similar to Kennedy Drive – both have speeds on the fast side.

Chair Duffy asked what the speed was there. Mr. O'Donnell replied that on all of the roads in the neighborhood, the posted speed is 25 mph. He continued that SWRPC measured the 85th percentile speed, which is the speed of a reasonable driver, and that is 32 mph on Pako Avenue. The 95th percentile speed was 35 mph. The data was the same for Kennedy Drive. If reasonable drivers are driving seven mph over the speed limit it indicates a need to slow people down. Striping provides some traffic calming benefit. They originally proposed a speed table for Kennedy Drive, but after hearing public input and gathering more data, they are now proposing a speed table on Pako Avenue between Colonial Lane and Laura Lane.

Mr. O'Donnell continued the cost for the construction phase is \$86,963. This will be bid in accordance with an estimate focused on not exceeding that number. It will be bid with one road as an alternate, meaning that if the bids are too high they will cut one road out of the project - either Liberty Drive, Sesame Street, or American Drive. They would like to do all of the roads, of course. Liberty Drive was taken out of this in favor of adding the northern portion of Kennedy Drive, due to a greater need as well as feedback from the public.

Mr. O'Donnell continued that during the public meetings, some people asked, why not do sidewalks? Sidewalks cost \$1 million per mile, which would be \$2.8 million dollars for this project. Instead they are proposing a project that costs \$86,000, which is significantly less. The City can study this and see how the striping and the speed table works in the residential neighborhood. The City can decide if they want to continue maintaining the stripes, let them fade away, or reduce them. They can decide to expand these improvements to other neighborhoods if they think it is working well. The stripes will be made of thermal plastic and they estimate that it will cost the City \$86,000 to restripe every seven years. Thermal plastic has approximately a 7-year lifespan but it depends on the amount of snowplowing and wear and tear.

Chair Duffy asked if committee members had questions or comments. Hearing none, he asked if any members of the public had questions or comments.

Conan Salada, of 132 Kennedy Drive, asked who performs the work, if the City receives the grant. Mr. O'Donnell replied that the City received the grant on December 31, 2014. He continued that the project must be competitively bid to contractors.

Mr. Salada asked if the City can be a contractor and do the work. Mr. O'Donnell replied no. Mr. Salada asked who can do the touch-ups that will be needed. Mr. O'Donnell replied that the City employees could do it, or the City could contract it out.

Mr. Salada asked for an explanation of the paint that they are proposing and why it is different from other paints. Mr. O'Donnell replied that mostly the difference is the reflectivity. He continued that it is tape-like with reflective glass beads throughout the entire thickness. Heat is used to melt it into the pavement so it sticks, which is more labor intensive than using paint from a truck, but it lasts longer. With a typical painted line, the beads protrude somewhat from the top of the paint after one season of plowing, and in the spring it is no longer reflective. Typical paint would have to be re-painted every year.

Mr. Salada asked if the City has the equipment to re-do the thermal plastic stripes, if the City decides after seven years to keep it. Chair Duffy directed the question to the Acting City Manager. The Acting City Manager replied that to his knowledge, they do not have the equipment. He continued that the City does striping, but outsources a lot of it to achieve the amount that they get done in the spring.

Mr. Salada asked what the cost difference is between the typical paint and the thermal plastic. The Acting City Manager replied that he does not know and asked Mr. O'Donnell. Mr. O'Donnell stated that he has not researched the standard highway paint for this project; only thermal plastic was analyzed. He continued that he would guess that it is about 30 cents on the dollar for standard paint that would last one season.

Dwayne Gagnon stated that he has lived at 445 Pako Avenue for 23 years. He showed the area on the map, stating that Pako Avenue is shaped like the number 9, and his house is on the reverse leg. He continued that in 23 years, his mailbox has been knocked down 17 times by speeding drivers. The City does a great job plowing the street, but due to the hill, they tend to cut close to the curb. They come to his side of hill and are sometimes six feet away from the curb, which means he has to use his snowblower on that six feet of pavement. People walk on Pako Avenue all the time, and any buffer zones being proposed will be snow-covered.

Mr. Gagnon continued that people driving up Pako Avenue, going left, cut the corner short and come up the center of the street. People driving down the street often drive in excess of 35 mph and drive in the center of the street, not expecting anyone to be at the intersection. If they have to stop they often slide right across the street into his neighbor's yard. There was a fatality years ago - a young boy riding his bike in the middle of the street was hit by a car at that intersection. He sees many children riding their bicycles down the center, paying no attention to lanes.

Mr. Gagnon continued that it would be impossible to put a speed table or bump here because the plows have to back down and get a running start up the hill. Sometimes they lift their wing up and make one pass and come down the back side to take another pass. It is easier to go around on the flat than come down the hill. Sometimes people land in his front yard. They hit the ice and there is a telephone pole on the edge of his driveway and it nicks. If the plows have trouble getting up the hill on a flat surface, they will not make it on a rising surface (of a speed table).

Mr. Gagnon continued that people walk in this area frequently, many of them teachers at KMS. He does not have a problem with how the proposed alternative is laid out, but it takes thought because one of these lanes on Pako Avenue will be totally obscured by snow. On the back side of the hill it ices up almost the entire winter. Whatever is laid down on the road will be buried under ice. People have to drive to the other side of the road, knowing it is all ice. They have to speed up at the beginning of the road to get up that hill. The City salts, sands, and does what they can, but the street's layout makes it almost impossible. He and others tell people that if they have to drive on Pako Avenue, they should drive on the flat part.

Mr. O'Donnell stated that no speed tables are being considered for that area. He continued that he knows there are challenges in the winter. There will be challenges throughout.

Mr. Gagnon stated that it would be nice to have one or more signs saying "Children at play." He continued that he does not have a problem with the rest of the layout.

Chair Duffy asked the Acting City Manager what he thinks about Mr. Gagnon's request for signage. Acting City Manager replied that he thinks it is a reasonable request. He continued that it would also make sense to have a sign that talks about the icy road. Mr. Gagnon replied that such a sign would have to be on the bottom side. He continued that many of the drivers who end up in his front yard are teenagers who are driving in the snow for the first time, and do not know about the road's conditions. Doing something would be really appreciated.

Steve Simons, of 69 Pako Avenue, stated that he has lived on the corner of Pako Avenue and Dale Drive for about seven years. He continued that he "absolutely 100% loves this idea." He has two children and his daughter gets driven to school because he will not have his ten-year-old walk on those streets. He loves the idea of the speed table, but it is being proposed a little too far up Pako Avenue. Like Mr. Gagnon said, many people familiar with the neighborhood will cut down the other way. What happens due to the width of the roads is that drivers cut the corner without slowing down. If you are coming up Pako Avenue and someone is cutting up Colonial Drive to come home, the speed table would not slow them down. They would be missing half the drivers in the neighborhood by putting the speed table after Colonial Drive.

Mr. Simons continued that he watched the vehicles going by the speed sign that the City put up. It was in excess of 35 mph on the corner. People barely brake, go on Colonial Drive, and head home. He thinks having the speed table 25 or 35 feet this side of Colonial Drive will slow down the drivers coming in and out of Colonial Drive. He mostly agrees with the proposed alternative – anything to keep the neighborhood safe is absolutely a good idea. Why wait for someone to get hit to say they should have put a speed table in? The speed limit sign is right on the corner of

Maple Avenue, tilted so that it is almost facing up Maple Avenue, so people do not see it and fly right through. He is in favor of this proposal but recommends moving the speed table a little.

Councilor Terry Clark stated that for several years the City has been talking about speed bumps and tables being used as traffic slowing measures. He continued that that one of the biggest obstacles is that people think that they get in the way for snow removal. They have had speed tables on North Lincoln Street, Community Way, and another street. Tonight there is no one from the Public Works Department present. He would like this issue clarified – do speed tables hinder snow removal or not?

Chair Duffy asked the Acting City Manager. The Acting City Manager replied that there has long been discussion and debate on the efficacy on speed bumps and tables. He continued that some studies show they speed traffic up instead of calming it down. They have to be careful with design, placement, and pacing. To his knowledge the speed tables and bumps do not hinder snow removal operations. The concern that has been raised repeatedly is that they will tend to slow down emergency services sometimes. They have to be careful from that standpoint. If an emergency vehicle is slowed down too much it is a public safety problem.

Councilor Clark stated that for people saying speed tables hinder snowplows, they have to see what percentage of the year they are talking about. He continued that regarding things that hinder emergency vehicles, they have to average everything out. Everything they do has risks and benefits. He believes in speed bumps and traffic calming measures. He has seen them work tremendously well. When they are talking about questions about whether or not to use them and how, they need to talk about the real ramifications and real facts.

Chair Duffy stated that those are good points and he would be interested to hear about this specifically as it relates to the agenda item.

Ms. Chalice stated that one of the challenges regarding speed tables is that no one seems to be sure whether or not they really work. She continued that one advantage of this project, and a specific aspect of the pilot, is the ability to assess that. They were fortunate to be able to use the services of SWRPC to gather pre-project speed data. That is not something they anticipated. But they had money and time to gather this speed data this past spring, specifically throughout the project area. They have the opportunity, without spending City money, to install a speed table in this area and see how it works. They could leave it there for a couple years and take the speed data again. They can look at those numbers and decide once and for all whether or not the speed table works for Keene and have something to base decisions upon when there are repeated discussions about whether or not to have speed tables.

Chair Duffy replied that Ms. Chalice made a great point that this is their first opportunity to quantify it and the City does not have to pay for it.

Darryl Masterson, of 44 Willow Street, stated that on Community Way, the speed table is in the middle of the road with parking off to one side. He continued that quite a few people actually swerve around the speed table, into the parking area, and go around it. His suggestion is to have the table on the entire width of the road.

Mr. O'Donnell replied that the intent is to have the speed table all the way across. He continued that there might be a gap of about one foot to let storm water flow, but other than that, it would be curb to curb.

Barbara Page, of 54 American Avenue, asked if the street will be widened and if it will impact her yard. She continued that she knows American Avenue is not as wide as what is shown in the picture on the easel. Mr. O'Donnell replied no, American Avenue would not be widened. He continued that the proposal is to have 18 feet for the travel lane, like on the purple coded streets, with 5-foot bike/walk shoulders, for a total of 28 feet, which is the current width of American Avenue.

Ms. Page asked if Kennedy Drive would be widened. She lives on the corner. Mr. O'Donnell replied that Kennedy Drive varies from 30 feet to 34 feet, and he thinks they are looking at a 32-foot width near her house. He continued that the proposal is for 20 feet for the vehicle lanes and 6-foot bike/walk shoulders. The road would not be widened.

Ms. Page stated that for the record, it is too bad that these improvements did not happen ten years ago. She continued that the Jonathan Daniels School is closing, so children will not be walking to that elementary school.

Karen Rent, from 162 Kennedy Drive, stated that she is really happy this is happening. She continued that she has two young children and they walk all the time. She is happy that the northern part of Kennedy Drive was put back in the plan. When she got the letter in the mail it was not listed.

Mr. Bohannon stated that in addition to the SRTS initiative, there is an initiative called Safe Routes to Play. He continued that in this neighborhood there are several places that could combine with that initiative. This project supports Safe Routes to Play as well as Healthy Monadnock 2020, the goal of which is for Keene to be the healthiest community in the nation by 2020. There is a park on Kennedy Drive, a ballfield and playground at the Jonathan Daniels School, and the environmental learning lab behind KMS. He sees lots of children walking and riding bicycles, and people walking dogs. This project will help people get out more for walking and bicycling. There will be a perception that the area is safer. This is a good thing to see.

Mr. Salada asked if the MSFI Committee will vote on this. Chair Duffy replied that there is a recommended motion prepared by staff, but it is up to the MSFI Committee to decide, based on feedback, what to do.

Mr. Salada asked if someone can speak about accidents in the Maple Acres neighborhood. Chair Duffy asked the Acting City Manager. The Acting City Manager replied that he does not have that information. Mr. O'Donnell stated that crash data gets reported to the State via local police departments. He continued that they can look at NHDOT as a clearing house for crash data for all communities. The 2004 to 2014 data for Maple Acres shows that crash locations are dispersed through the neighborhood, which tells them that there is no specific problem in one location. The causes of accidents vary, with the most common causes being driver inattention

and distraction, unsafe speeds, fixed object collisions, and backing up problems. Two accidents occurred near the abrupt horizontal curb on Liberty Lane. Additional warning signs could improve safety but that is not within the realm of tonight's discussion. Several accidents occurred near the Melody Lane/Maple Avenue intersection, one of the primary entrances to the neighborhood. No trend was identified with that; that is outside the scope of this project. There was an accident involving a car and a pedestrian at the Maple Avenue/Pako Avenue intersection across from KMS, with limited information provided. There were two accidents there involving bicyclists, and one accident with a bicyclist near Jonathan Daniels School. There were minor injuries. The one on Melody Lane involved a child riding a bicycle without a helmet. The DuBois & King report shows crash locations. With reference to this project, slowing speeds would be helpful. Narrowing the road visually with striping helps people pay attention, reducing the crashes due to inattention. He concluded that he hopes and hypothesizes that this project would help reduce crashes. There is not a significant problem today.

Mr. Salada asked if he has data about how these crashes relate to ones elsewhere in Keene. Mr. O'Donnell replied no. Mr. Salada replied that Mr. O'Donnell is saying that the majority of accidents are in front of the school, and nothing is being done at the two locations that have the most crashes. He lives on Kennedy Drive, near Apollo Avenue, and both are through roads that people use as shortcuts. He has lived in the busiest part of Maple Acres for over three years. He did not know there was a problem. This is all new to him. Lately he has been more attentive, looking for drivers speeding or veering one way or the other. He does not see that. He sees people exercising and walking dogs. He does not know where all these fast drivers are coming from. Kennedy Drive is a main route for cross country runners and they do not go on one side or the other - they just move when cars come. He does not think people will use the crosswalks or striped areas - they will continue to walk in the middle. He predicts that if the City goes ahead with this project, in a year or two or whenever they check the speed statistics again, the speeds will be the same, not diminished. This city already has too many signs and crosswalks and people ignore them and/or do not even see them.

Chair Duffy asked if it is safe to say that Mr. Salada is not in favor of this project. Mr. Salada replied that he thinks it is a waste of money and manpower. He continued that he does not believe that adding more information will be a good thing. It will be more of a distraction. It could potentially cause accidents in the future. He is totally against this.

Curt Barrett of 27 American Avenue asked if this project will involve any change in the locations of the curbs. Mr. O'Donnell replied no. Mr. Barrett asked if this project will cause parking restrictions. Mr. O'Donnell replied no.

Mr. Salada asked the MSFI Committee members to drive through the neighborhood to see what it is like. He continued that they will see that the street sizes are wonderful and people know how to navigate them. The streets are not tight. Adding stripes will take away from what the neighborhood has. They do not have the accident numbers, because of the wide streets.

Mr. Simons stated that he is 100% for this project and recommends not waiting for an accident to happen. He continued that one accident is too many, especially if there is a child involved.

North Lincoln Street got a speed table after someone was hit. Let's not wait until someone gets hit in Maple Acres to make the neighborhood safer, especially for the children.

Councilor O'Connor stated that Ms. Page mentioned that the Jonathan Daniels School is closing and thus will no longer have children walking to and from that location, but as Mr. O'Donnel mentioned, KMS is there for a long time. He continued that children in grades 6 to 8 ride their bicycles and walk to and from KMS. As Mr. Bohannon says, too, there are other activities nearby, like the environmental learning lab behind KMS. It is important to recognize that as the Jonathan Daniels School closes, KMS is open and active. Chair Duffy added that he thinks there are plans to put a preschool in the existing Jonathan Daniels School building.

Councilor O'Connor stated that the only accidents that can be reported to the State are ones that involve property damage in excess of \$1,000 or a fatality. He continued that it has been a long time since he patrolled this neighborhood but in the past he has responded to minor incidents there, like Mr. Gagnon's mailbox getting knocked over and cars driving off the road. Those may not be important incidents to the State, but they have happened.

Chair Duffy asked Councilor Manwaring if she had any comments at this time. She replied no.

Chair Duffy asked for a motion. He continued that there are a lot of questions going forward that could be answered and he is grateful for baseline data.

Councilor Manwaring made the following motion, which was seconded by Councilor O'Connor.

On a vote of 3 – 0, the Municipal Services, Facilities, and Infrastructure Committee recommends the Acting City Manager be authorized to move forward and do all things necessary with the recommended Traffic Calming/Road Diet Preferred Alternative as presented.

Chair Duffy asked for public comment on the motion. Hearing none, he asked for a vote. The motion passed unanimously.

## **2. COMMUNICATION – Vicky Morton – Extension of Victoria Street and Removal of Sidewalk on South Side of Water Street**

Vicky Morton, of 275 Water Street, stated that last April she wrote a letter to the City to ask for a couple items be considered for the CIP process. She continued that Public Works Director Kurt Blomquist wrote back and asked her to do research, talk to her neighbors, and return. She did that, sent a second letter, and got invited to tonight's meeting. There are some issues pertaining to her neighborhood that she would like considered for the CIP and given priority in the CIP process.

Ms. Morton continued that the first issue is the intersection between Victoria Street and Water Street where there are several businesses that receive shipments via 53-foot tractor trailer trucks. If the driver is inexperienced coming up Water Street, they do not make the corner, or not well. Over the summer, a truck driver hit a cistern (she indicated a photo) in the corner of Victoria Street and Water Street, in the middle of the night, and it woke up a lot of the neighbors. City

staff replaced the cistern, even though it was on private property. That is typical of what happens at that corner. There are about 36 tractor trailer trucks there per week, seven days a week, 24 hours a day. It is an obstruction to the neighborhood. There is property damage on the corner of Water Street and Valley Street where trucks have to go onto the sidewalk in order to make the corner. They hit the fence repeatedly and there is damage.

Ms. Morton continued that at one time in the CIP there was a plan to extend Victoria Street to Marlboro Street via Laurel Street. She understands that there is an expense to go through the bike path. She asks that this be reconsidered, so there is a way to get the tractor trailer trucks out of the neighborhood. They do not belong here. More and more, they are coming via Eastern Avenue, which is a posted street on which they do not belong. She wishes the Police would take note. It is as difficult for the trucks to make that corner as it is to come up Water Street.

Councilor O'Connor stated that he used to work in the truck unit. He continued that by law, trucks can make a delivery on any street. If a street is posted that they are not supposed to use, they are not supposed to use that to get to their destination, but they can deliver to any destination. Sometimes you might see a truck parked in the middle of the road on Main Street to make a delivery. Regarding the cistern, it might look like it is on private property but be owned by the City. Ms. Morton replied that when it was replaced, it was moved a little. She showed a photo, explaining that it was initially further to the west of the fence and now is more adjacent to the fence. Chair Duffy replied that they can get back to Ms. Morton about that issue. Ms. Morton replied that it does not matter so much.

Chair Duffy stated that he is pretty sure Victoria Street is still in the CIP, but with these projects there are certain times and places. He continued that all he can say for certain is that the project *has* been in the CIP. As far as he knows, it was in last year and will certainly be considered this year. They can follow up for certain and get back to her on that.

Chair Duffy asked, for clarification purposes, if she is saying that if Victoria Street is not in the CIP she wants it put in. Ms. Morton replied that she is asking for Victoria Street to receive priority in the CIP. Chair Duffy asked if she means she wants it put into the operating budget for the next fiscal year. He continued that the CIP is a five-year plan. Ms. Morton replied that she believes that not all items in the CIP have equal bidding or priority. Chair Duffy asked for her to give a foundation for that opinion. Ms. Morton replied that Victoria Street was initially in the CIP for one of the years that included 2012; she does not know which five-year bracket that was. She continued that it was then completely taken off and reintroduced at another point. So the fact that things move around tells her that they do not all have the same priority. She is asking that it not slip further and further behind, which is detrimental to trying to recover the neighborhood. Part of the neighborhood is part of the overlay that is related to the revitalization of Marlboro Street. If they are going to that extent, there are other little pieces that could connect, revitalize, and improve the neighborhood. This is one of those pieces, from her perspective.

Ms. Morton stated that the second part of her request is the abandonment of the sidewalk on the southern side of Water Street from Victoria Street to Hancock Street. She continued that they have a fragmented network of sidewalks. She showed a diagram that she created, in which the color green represents a strip of grass or median. She continued that the north side has

grass/medians but it is fragmented on the south side. There is sidewalk on Grove Street around which goes around the corner to the driveway of ABC Supply Company. Then there is not a sidewalk until near the bridge on Beaver Street, and there is no room for a sidewalk there. There is a dirt path from ABC Supply to Bentley Commons, which has an internal sidewalk to their property but it stops at the end of their driveway and goes back to being a dirt path, until you get to Victoria Street. Then there is an asphalt composite, which is broken up and in poor shape, and it does not have any granite siding like in other parts of town. She continued that when residents mow their lawns they end up mowing the sidewalk. Then there is a crosswalk at the intersection of South Lincoln Street and Eastern Avenue.

Ms. Morton continued that she proposes that since there is not a sidewalk from ABC Supply to Victoria Street, the City abandon the sidewalk from Victoria Street up to Fairfield, up to Hancock, and start over again right across from South Lincoln Street where there is a crosswalk. This sidewalk is poorly maintained and rarely used and there are construction issues with it. There is a telephone pole at the end of her driveway where the median ends and it is often struck by the sidewalk snowplow. The pole was just replaced by whichever utility company owns it. It is just a few inches closer than it was previously. A nearby property had granite curbing that was removed by a snowplow and is now lying on the sidewalk. In the winter they have a pile of snow and it is a mess. She requests that the MSFI Committee seriously consider recommending the abandonment of this section of sidewalk that is just shy of 700 feet. They could put topsoil down and turn it over to the abutting landowners and let them maintain it.

Ms. Morton continued that she spoke to some other residents. Chair Duffy asked who. Ms. Morton replied that one does not want her name on record, while another two said it was okay to use their names, and there are two more people she has not spoken with. The people she has spoken with told her this is a "great idea." None were willing to write a letter as requested by Mr. Blomquist. They think it is great that she is here talking with the MSFI Committee but they are not willing or able themselves. One of the people is in Florida right now.

Chair Duffy stated that Ms. Morton's timing is good because the CIP program for the next fiscal year is coming out in January. He thanked her for being here at this time. He asked if committee members had questions or comments.

Councilor O'Connor referred to Ms. Morton's diagram and asked for clarification – is there a sidewalk on the north side of Water Street between Valley Street and South Lincoln Street? Ms. Morton replied yes, and a grass median. She continued that she had previously asked for the grass median to be extended for the block, so the whole block either has it or does not have it, but that was denied by the Public Works Department so here she is again. She had asked if they could finish the median for that half block when they were resurfacing the street.

Darryl Masterson of 44 Willow Street stated that he agrees with everything Ms. Morton has said, as a member of the Marlboro Street Rezoning Committee. He continued that extending Victoria Street to Marlboro Street was a big component of that discussion. He does not know how the CIP process works, but it does seem like things fluctuate. He, too, wants this to be a priority. It would be good for the neighborhood. He walks the loop of Eastern Avenue, Water Street, and Marlboro Street, and he never uses that sidewalk. The northern side has a continual sidewalk so

it is easier. Having a sidewalk on the southern side makes no difference to him. Abandoning it would save the hassle of plowing it and he does not think abandoning it would impact much.

The City Attorney stated that he does not have a particular position on this sidewalk. He continued that he wants to remind everyone that a sidewalk is a public right-of-way. This would have to go through the statutory process to be discontinued. That could occur but it requires the City Council giving notice to abutters. His understanding is that the request was for this to be placed on more time. No one is here tonight from the Public Works Department. Mr. Blomquist was not able to attend tonight, but he wants to be here to speak to these issues.

Chair Duffy thanked the City Attorney. He continued that he was thinking of what a motion could be. Ms. Morton's and Mr. Masterson's comments are on the record and if this topic gets placed on more time it will not be forgotten.

Ms. Morton asked what happens if this is placed on more time. Chair Duffy replied that it could remain on more time for a certain period of time but it depends on when staff and others are ready to come back to specifically address everything Ms. Morton has raised tonight. He continued that he will get confirmation from the Acting City Manager or the City Attorney.

The Acting City Manager replied that to bring this topic off of more time they would put it back on the agenda and notify interested parties. Chair Duffy agreed and stated that they would not talk about the topic without Ms. Morton being here. Ms. Morton replied that time is of the essence and she hopes this can move into the CIP process in time. Chair Duffy replied that he understands. He continued that members of the public can come and speak at the CIP meetings as well. He assures Ms. Morton that this will be addressed. Tonight, for reasons beyond the MSFI Committee's control, there are not specific staff members who can address her specific concerns tonight.

Councilor Manwaring stated that she thinks part of where the Laurel Street extension got lost was from the floods. She continued that she, too, was on the Marlboro Street Rezoning project. Councilor Richards formally asked that that be included in the CIP. The Victoria Street extension would be part of that. Ms. Morton replied that the communication from Mr. Blomquist included the whole thing about the acquisition of property, and now that the Kingsbury property has changed hands she understands that it might be a quagmire and difficult, and expensive to go through the bike path, but she still thinks it is an improvement that would make a big difference.

Chair Duffy asked if any members of the public had questions or comments. Hearing none, he asked if committee members had questions or comments. Hearing none, he asked for a motion. He thinks placing it on more time would cover everything because they have background notes.

Councilor O'Connor made the following motion, which was seconded by Councilor Manwaring.

On a vote of 3 – 0, the Municipal Services, Facilities, and Infrastructure Committee recommends the communication from Vicky Morton referencing the extension of Victoria Street and the removal of sidewalk on the south side of Water Street be placed on more time.

Chair Duffy asked if any members of the public had questions or comments. Hearing none, he called for a vote. The motion passed unanimously.

**3. RESOLUTION – R-2015-42 – Relating to the Absolute Discontinuance of a Portion of Summit Road**

Chair Duffy stated that the petitioner is not here. He asked the City Attorney to speak. The City Attorney stated that he requests that this be placed on more time. He continued that it is primarily a timing problem. The statute requires that prior to a discontinuance the abutters be given at least 14 days' notice before the vote of the legislative body. If this was acted on tonight the City Council would have to act on it so rather than take that chance they ask for more time to properly notify everyone. Then the petitioner and Mr. Blomquist can come before the MSFI Committee. This has been waiting for 3 or 4 years, not due to City staff, so a couple more weeks cannot hurt.

Councilor Manwaring made the following motion, which was seconded by Councilor O'Connor.

By a vote of 3 to 0, the Municipal Services, Facilities, and Infrastructure Committee recommends Resolution R-2015-42 – Relating to the Absolute Discontinuance of a Portion of Summit Road be placed on more time.

**4. REPORT OUT – Panhandling**

The City Attorney stated that approximately in April or May, there were requests to have the City consider enacting a panhandling ordinance. He continued that this occurred as a result of increased activity downtown and at intersections. At that point he advised the City Council that the matter should not be considered until the Supreme Court acted on a couple cases. The primary one was Thayer v. the City of Worcester. The City of Worcester had enacted a panhandling ordinance that had been upheld by the First Circuit Court of Appeals in an appeal drafted by former Supreme Court Justice Souter. Former Supreme Court Justice Souter denied a motion to dismiss that ordinance and concluded that the ordinance met constitutional standards. It was appealed to the Supreme Court.

The City Attorney continued that then, out of left field came a case that got very little attention in the press but has profound ramifications for the First Amendment. The Supreme Court decided the case of Reed v. Town of Gilbert. The Town of Gilbert enacted a sign ordinance that on its face was fairly draconian and he is surprised that the Town took this all the way to the Supreme Court. It was complex. The underlying issue was that there was a church that had to move around to different places in the community because it did not have a set location and wanted to put out directional and time signs for the public. The Town's sign code had different classifications of signs and this was one of those. The requirements for those kinds of signs were different than the requirements for other kinds of signs. The Supreme Court said that in situations like that a municipality cannot make distinctions based on the content of the sign. Even subject matter distinctions are inappropriate, so technically you cannot make distinctions between political signs, directional signs, and commercial signs, etc. The second thing that the Court said was that it does not matter what the motive or intent was, or that you did not intend to

discriminate amongst different people or topics. The Supreme Court struck down the sign ordinance as unconstitutional.

The City Attorney continued that the panhandling statute, like Keene's sign code, made distinctions among topic areas – in this case, saying you can kind of panhandle here, but not there. It carves out panhandling as a kind of speech. The Court said that because you are having to make a determination based on the speech, even though you are not specifically relating it to the content of the speech, that is a content-based statute and requires strict scrutiny to survive, and almost cannot survive. It did not matter that the City did not intend to discriminate between speech and was focused on public safety and health. As a result of this case, the Thayer case they were hoping would get adopted by the Court got remanded for further action, that case being dismissed because of the Reed v. Gilbert case. There was a panhandling ordinance in Lowell, MA that was also found to be unconstitutional as a result of Reed v. Gilbert.

The City Attorney continued that regarding the Reed v. Gilbert case, even very well respected attorneys who practice constitutional law say they do not think the court knew what it were doing when they did this. It was a 9 to 0 decision. When you look at the decision it raises all kinds of questions, like whether the government can tell credit card companies what they should and should not tell you on your credit card statements, what to do about warning labels, and so on and so forth. There is a whole panoply of possible ramifications. The immediate ramification for Keene is that a panhandling ordinance would not survive.

Chair Duffy asked if committee members had questions or comments. Hearing none, he asked if any members of the public had questions or comments.

Chair Duffy asked if the recommendation is for the MSFI Committee to report this out. The City Attorney replied yes. Chair Duffy thanked the City Attorney for paying attention to this issue.

Chair Duffy made the following motion, which was seconded by Councilor O'Connor.

On a vote of 3 – 0, the Municipal Services, Facilities, and Infrastructure Committee recommends the issue of panhandling be reported out.

Councilor O'Connor asked if the committee is meeting on December 23. Chair Duffy replied that he thinks that was canceled. Councilor O'Connor replied that in that case, this is Chair Duffy's last meeting. He thanked Chair Duffy for his long years of service and his good work on the MSFI Committee and others. Councilor Manwaring thanked him, too. Chair Duffy stated that it has been an interesting ten years, with lots of whispers, shouts, and voices of reason. He thanked Councilor O'Connor and Councilor Manwaring.

## **5. Adjournment**

Hearing no further business, Chair Duffy adjourned the meeting at 7:38 PM.

Respectfully submitted by  
Britta Reida, Minute-taker