



KEENE CITY COUNCIL
Council Chambers, Keene City Hall
January 7, 2021
7:00 PM

Roll Call
Pledge of Allegiance

MINUTES FROM PRECEDING MEETING

- 12/17/2020

A. HEARINGS / PRESENTATIONS / PROCLAMATIONS

B. ELECTIONS / NOMINATIONS / APPOINTMENTS / CONFIRMATIONS

1. Confirmations
Airport Development and Marketing Committee
Ashuelot River Park Advisory Board
Bicycle/Pedestrian Path Advisory Committee
Conservation Commission
Energy and Climate Committee
Historic District Commission
Housing Standards Board of Appeal
Partner City Committee
Planning Board
Trustees of Trust Funds and Cemetery Trustees
Zoning Board of Adjustment
2. Confirmations
Planning Board
Keene Housing Authority
Climate and Energy Committee
3. Nominations
Human Rights Committee
Ashuelot River Park Advisory Board

C. COMMUNICATIONS

1. Hanspeter Weber - Resignation - Historic District Commission
2. Councilor Clark - Relating to Small Wireless Facility Deployments in Public Rights-of-Way

D. REPORTS - COUNCIL COMMITTEES

1. Bulletproof Vest Partnership Grant Program- 2020

E. CITY MANAGER COMMENTS

F. REPORTS - CITY OFFICERS AND DEPARTMENTS

G. REPORTS - BOARDS AND COMMISSIONS

H. REPORTS - MORE TIME

I. ORDINANCES FOR FIRST READING

J. ORDINANCES FOR SECOND READING

K. RESOLUTIONS

1. Relating to Use of Fund Balance SCBA Masks
Resolution R-2021-01
2. Authorizing the Condemnation of Land for the Winchester Street Reconstruction Project
Resolution R-2020-36-A

L. OTHER BUSINESS

1. City Council Goals

Non Public Session
Adjournment

A regular meeting of the Keene City Council was held on Thursday, December 17, 2020. The Honorable Mayor George S. Hansel called the meeting to order at 7:00 PM. Mayor Hansel read into the record the Emergency Order #12, issued by the Governor of the State of New Hampshire pursuant to Executive Order #2020-04. He continued that the members of the City Council would be participating remotely. The Mayor asked that during the roll call for attendance, each Councilor identify their online presence and whether there are others with them in the room. Roll called: Stephen L. Hooper, Michael J. Remy, Janis O. Manwaring, Michael Giacomo, Randy L. Filiault, Robert C. Williams, Philip M. Jones, Gladys Johnsen, Terry M. Clark, Raleigh C. Ormerod, Bettina A. Chadbourne, Catherine I. Workman, Mitchell H. Greenwald, Kate M. Bosley, and Thomas F. Powers. A motion by Councilor Powers to accept the minutes from the November 19, 2020 regular meeting was duly seconded by Councilor Bosley and the motion passed on a roll call vote with 15 Councilors present and voting in favor. The Mayor led the Pledge of Allegiance.

ANNOUNCEMENTS

The Mayor announced that the Finance, Organization and Personnel Committee meeting was rescheduled to Tuesday, December 22, 2020 because of the Christmas Day Holiday.

PUBLIC HEARING – RELATIVE TO THE PUBLIC NECESSITY TO TAKE LAND FOR A PUBLIC PURPOSE – RECONSTRUCTION OF WINCHESTER STREET AND REPLACEMENT OF THE ISLAND STREET BRIDGE – RESOLUTION R-2020-36

The Mayor reopened this hearing that was continued on November 5, 2020 and requested comments from the City Engineer, Don Lussier, who shared a presentation on the Winchester Street reconstruction project and particularly, the petition to acquire property by Eminent Domain. Gene McCarthy, the project's design consultant from McFarland Johnson, would provide some more specifics of the project.

The City Engineer began with some history. He explained that the Winchester Street project under discussion at this meeting was a part of the greater Keene-Swanzey bypass project, with the Winchester Street work identified as a priority first in the 1999 Capital Improvement Program (CIP). The work prioritized since 1999 was to the Key Road intersection, the intersection of Winchester/Island/Pearl Streets, and to replace the Island Street Bridge. Unlike other Keene-Swanzey Bypass projects, this effort is funded 80% by Federal funds and 20% by local funds; particularly, it is administered daily by City Staff under the Local Public Agency Program. In November 2015, the City Council approved a contract with McFarland Johnson to start the design process and work began almost immediately thereafter to survey the project area, collect traffic data, and develop alternatives.

The City Engineer continued that one of the first aspects of the project was to establish the project steering committee (residents, businesses, College, Council, and more), through which there were four public meetings and a listening session in fall 2016. Through that steering Committee, the project's website and an email list were developed. The City Engineer said he mentioned the public outreach aspect particularly in response to recent communication from an impacted property owner expressing concern that they had not been made aware of the project

earlier in the design process. He continued stating it is true that the City did not send formal notices to property owners earlier in the design process when it was still unknown what properties would be impacted. The City still followed the normal procedures for noticing a public meeting. He said the steering committee used collective wisdom gained particularly at the listening session to guide the consultant and recommended unanimously the roundabout alternative, which was presented to Council on January 19, 2017. Then it was referred to the MSFI Committee beginning January 25, 2017 for detailed review and discussion with the consultant on things like pedestrian improvements. Also at that time, it was clear that impacts of the two alternatives that were under consideration would impact the same relative land area. Finally on February 2, 2017, the Council voted unanimously to proceed with the MSFI Committee's recommendation to approve the roundabout alternative as the City's proposed action.

Mr. McCarthy described in more detail the design process that led to the February 2017 Council decision. He began by reading the project purpose – developed following the public listening session – to: *provide a Complete Street that accommodates cars, trucks, buses, bicycles, and pedestrians while addressing daily congestion issues along the Winchester Street corridor and providing an aesthetically appealing gateway into the City of Keene. Maintaining the safety, integrity, and continuity of Island Street will be accomplished by addressing deficiencies in the bridge that carries Island Street over the Ashuelot River.* Mr. McCarthy continued explaining that the project need focused on traffic, and specifically: the high volume of turning traffic at the Key Road intersection, the high volume of traffic on Winchester Street that makes turning from Island/Pearl Streets difficult and causes delays, the poor geometry of the Winchester/Island/Pearl Streets intersection that creates safety concerns for all users, pedestrians crossing without crosswalks or signals, lack of bicycle facilities, poor aesthetics of the gateway into Keene, and the deteriorating conditions of the Island Street Bridge.

The consultants began with a one week-long video traffic counting evaluation in December 2015 that included the intersections of focus on Winchester Street as well as patterns at the RT-101/Winchester Street roundabout and four driveways and minor roads, to determine the morning, evening, and Saturday peak hour volumes. The consultants used that design data to project traffic conditions into the future design year 2038 to ensure that any solutions function long-term. Various engineering software was used to evaluate projections for signals and roundabouts in terms of average overall delay, meaning how much time a driver spends on average trying to get through these intersections at various peak hours. Intersections are graded on an industry accepted Level of Service from A-F (acceptable/no delay-unacceptable/serious delay). The traffic analysis provided an understanding that in 2015, drivers faced the highest average delay of one minute on Saturdays at the Key Road intersection; if no changes were made to the intersection, the delay was projected to increase another 30 seconds by 2038.

With the aforementioned understanding of existing traffic patterns in 2015, the consultants and steering committee proceeded exploring possible alternatives for the corridor, beginning with the signal concept, which would replace the existing signals at Key Road with new in a way to alleviate the existing delay. In order for a signalized Key Road intersection to function with

acceptable delays, multiple more lanes would be needed in every direction to accommodate turning traffic, which would require an additional 25'-30' of width on Winchester Street. The two impacted parcels under discussion at this meeting would be the Sandri property where the Sunoco station sits, and the Keene Retail property where Chipotle sits. Mr. McCarthy said that each of those parcels would be impacted to the same approximate degree in both the signal and roundabout alternatives. As a part of this signal concept, the existing driveways from Winchester Street to these two businesses would be eliminated, only allowing access to both from Key Road. Mr. McCarthy explained that the historic Daniel Goodnow house would also be impacted by this signal concept due to the widening of Winchester Street. If the signal concept were implemented, delays at the Key Road intersection would decrease by approximately 10 seconds.

The second alternative developed was the roundabout concept, which would establish multi-lane roundabouts both intersections under discussion. Similar to the signal concept, Winchester Street would have to be widened to accommodate the roundabouts, and so the Keene Retail and Sandri properties would be impacted still. However, he noted that the historic Goodnow house would not be impacted with this alternative. With the roundabout concept, traffic delays during peak Saturday hours at Key Road would be half the delay time in the signal concept, and delays at Island/Pearl/Winchester Streets would be four or five times less than with the signal concept, which Mr. McCarthy said is significant. Ultimately, with public input, the steering committee chose to recommend to City Council the roundabout concept as the preferred alternative for this project. Mr. McCarthy concluded by showing a more detailed image of how the properties in question would be impacted by the final roundabout design and configuration. He showed the land that would be acquired permanently as a part of the project as well as temporary easements that would be needed during construction. He recalled again that the driveways from Winchester Street into both Sunoco and Chipotle would be permanently closed as a result of this project.

The City Engineer continued the presentation by describing the process for right-of-way (ROW) acquisitions. In total, the project would impact 12 parcels, which he depicted on aerial maps; of those 12 parcels, seven had been acquired already or were in process of finalizing and three were the subject of conversation at this meeting. He added that there is a parcel in the Riverside Plaza parking lot that would be impacted and although the owners support this project, for legal reasons, they preferred the City to use the Eminent Domain process to acquire that property. He first described the seven parcels acquired:

- A small parcel owned previously by Peoples United Bank.
- The largest parcel acquired for this project belonged previously to Keene State College, though their actual use of the land and parking lot would be impacted minimally.
- A small amount of land was also acquired from Eversource to construct sidewalks and an accessible ramps into that College parking lot.
- A small permanent acquisition north of the Island Street bridge.
- Temporary construction easements north of the Island Street bridge.
- Temporary construction easement on the McDonalds property.
- Temporary construction easement on the Wendy's property.

The City Engineer continued describing the three parcels under discussion at this meeting: Keene Retail/Chipotle, Sandri/Sunoco, and Sandri/Vacant lot. The City Engineer explained that before the Council was a petition requesting that the City Council exercise its authority to use Eminent Domain to acquire property. Per the Eminent Domain Procedures Act (RSE 498-A), the City Council – the governing body with authority to act – must have the parcel appraised by an impartial appraiser (conducted by the City's consultant team in early 2020), provide a copy of the appraisal to the property owner (completed July 2020), consider independent appraisals by the owner, and make reasonable efforts to negotiate purchase before exercising this authority. The City Engineer said that the property owners were aware of the project since early design phases. He continued that April 2019 is when the extent and type of impacts emerged and the property owners were first contacted notifying them officially that the City would be negotiating to acquire portions of their properties. Communications continued until appraisals were completed and reviewed by the NH Department of Transportation (DOT) in July 2020. The McFarland Johnson consulting team is charged with negotiating these acquisitions on behalf of the City and since July, both that team and the City Engineer's office had contacted the owners on many occasions trying to arrive at an amicable and mutually beneficial agreement. At one point these communications included an offer from the City to construct a new driveway from Old Key Road to the Sandri parcel to mitigate impacts and he said unfortunately the owner did not pursue that option. Presently, the City Engineer said it was clear to the City Manager that negotiation opportunities were exhausted, and hence this petition was before the City Council requesting that it exercise its Eminent Domain authority.

The City Engineer continued explaining that before the Council could authorize Eminent Domain, certain elements were required by law: the property would be put to public use, acquisition would result in a net public benefit, and the governmental entity (City Council) must vote to acquire the property. City Staff believed that acquiring these properties for public use as a roadway would have a net public benefit based on the studies that led Council to select the roundabout alternative; City Engineer thought that the Council would not choose to move forward on a project that did not have the highest net public benefit.

Following the public hearing at this meeting that was required by law, the next steps in the process would follow:

- FOP meeting – December 22, 2020
- Vote on Resolution by City Council – January 7, 2020
- Formal "Notice of Offer" to property owners very soon after Council vote; a repeat of the original offer
- Owner would have 30 days to consider the offer
- If the owner chooses to not accept the offer, the City would file a "Declaration of Taking" with and submit the compensation offered to the State Board of Tax and Land Appeals (BTLA), which would be recorded with the County Registry of Deeds

The City Engineer said that once the Declaration of Taking is filed, the City would have taken possession of land and could move forward accordingly. Those property owners would still have

an opportunity to object to the proceedings and challenge the amount of compensation that was offered, which would go through a series of court and BTLA discussions and would be eventually adjudicated by the courts.

The Mayor entertained questions from the Council.

Councilor Remy asked if there would be anything preventing a vehicle from exiting RT-101 onto Winchester Street, passing through the entire roundabout, and reentering RT-101. The City Engineer said no.

Councilor Workman asked whether pedestrian flow and use was considered in the early design phases along with vehicle traffic. Mr. McCarthy replied that pedestrians and cyclists were included in the original traffic counts and analysis. The results reflected the pedestrian activity crossing Winchester Street from the Ivy Drive area south into the Riverside Plaza, which is why the crosswalk is proposed on the northern portion of the circle. In the final design, the sidewalks along the roundabout perimeter would be wider than normal to allow multiple modes of transportation so that if cyclists do not feel safe proceeding through the circle with vehicular traffic, they can pass safely on and off the sidewalk using ramps without interrupting pedestrian flow on foot. Councilor Workman stated that she works at the Health and Human Service building on Key Road and on a good day she enters/exits key road five times; she sees how much the Key Road intersection is used by pedestrians and cited two housing complexes, one housing senior and disabled adults and the other housing families. As such, she would like a lit crosswalk incorporated into the final design.

Councilor Giacomo referenced a slide in Mr. McCarthy's presentation on traffic delays at the Key Road intersection and recalled seeing "zero" for cars turning right heading north on Winchester Street and asked if that is due to the driveway into Riverside Plaza from RT-101 and if yes, asked why traffic in that same direction is projected to increase by 38-39 cars. Mr. McCarthy said that most cars exiting the RT-101 roundabout onto Winchester Street in that direction are doing so to access Riverside Plaza and not to proceed into the City center.

The Mayor entertained comments from the public.

Mayor Hansel recognized Michael Hanley, the attorney representing the Sandri family, descendants of Aurelia Sandri, who began a variety of gas stations throughout New England, including the Sunoco gas station at the intersection of Winchester Street and Key Road. Mr. Hanley said that this Sunoco location is a profitable venture for the Sandri family being both a gas station and convenience store, and stated that this project would make it an "inconvenience store." He continued that the greatest impact would arise from losing the driveway and northernmost entrance causing significant impact to this business. He respectfully challenged the assertion that the City made reasonable effort regarding ingress/egress from the Sunoco station. From the Sandri's perspective, the root problem of this project is insufficient ingress/egress from the Riverside Plaza on the east side of Winchester Street and the various businesses on the west

side of Winchester Street. He said these businesses are substantial, with Walmart on one side and Applebee's and more on the opposite side that all feed into Winchester Street. Mr. Hanley said that the Sandri's believe the reasonable and appropriate method to resolve the problem would be to add ingress/egress roads from RT-101 directly into these various shopping centers. Mr. Hanley stated his understanding that this alternative was proposed early in the design phases and subsequently abandoned because the NH DOT deemed the option inconvenient and complex. The Sandri family believes that the net-positive benefit of this program is a matter that they must litigate in the NH Superior Court.

Mr. Hanley continued discussing the matter of curb cuts that exist on the northern end of the property on Winchester Street, and stated that losing this critical and essential ingress/egress point would have significant economic impacts. He said that lawyers in the NH Supreme Court call this "severance damages," meaning that severing this portion of the property would cause damage to the business; Mr. Hanley said these damages are recoverable as a matter of fundamental right according to the NH Supreme Court and that there is case law affirming severance damages as a constitutionally protected right. Throughout the phases of this roundabout project, Mr. Hanley said that the agents of the City stated categorically that they would not pay severance damages under any circumstances and according to Mr. Hanley, this is a complete denial of the businesses fundamental rights under the NH Constitution. He said the Sandri family is quite upset and thought that City Councilors would be too if in the same position. He said that in both takings, appraisals, and letters of offer, the representatives of the City took the fundamentally wrong position that severance damages are unavailable. As a result, Mr. Hanley said the family was met with "absurdly low" offers; in one instance \$600 and in the other instance roughly \$14,800. Compared to what he called very significant damages, he said these offers did not approach being reasonable and rather, are an abuse of power. If the Sandri property is taken and these offers remain, Mr. Hanley said that the family had no option other than going to court. The family believes that the net public burden is significantly higher than the net public benefit; specifically, they do not understand the need for three multi-lane roundabouts in such a short vicinity that would not address the fundamental problem of ingress/egress from the shopping centers east and west of Winchester Street.

Mr. Hanley continued that if the Council chose to proceed exercising its Eminent Domain authority, there were fundamental issues of due process and he stated that the City could not simply take the position that there is no such thing as severance damages in NH, when as recently as November 2020, the NH Supreme Court affirmed the right to severance damages. If this matter proceeded unfortunately through condemnation, he said the family would challenge the necessity, net public benefit, and fair and just compensation, which would result in NH Superior Court proceedings. He disagreed with the City Engineer, stating that the family believed there was precedent for challenge in the NH Superior Court and he did not believe the City could proceed with this project while that challenge was under review. Mr. Hanley stated that, "given the extremely low and unreasonable position of the town, we are left with no alternative," and he added that he said this with considerable reluctance but that this process had been unfair to the Sandri family.

Councilor Remy recalled Mr. Hanley stating that there had been cost analyses. Not as an expert but a driver, Councilor Remy imagined this as one of the more convenient gas stations from Chesterfield to Marlboro, especially given that in the roundabout alternative, drivers could circle the entire roundabout to access this location from any direction on the highway. The Councilor wondered if there had been analysis of how much business would increase incrementally from the passersby on the highway to possibly offset Mr. Hanley's concerns. Mr. Hanley replied that such an analysis was in progress and that a traffic engineer would speak before the Council later in the meeting on the matter. Mr. Hanley said that the Family's primary concern would still be the matter of entering/exiting the property due to losing the northern curb cut, which he said would make this highly visible station very difficult to ingress/egress from.

The Mayor recognized Mike Behn, President of Sandri Companies and an affiliate. Mr. Behn said the company's representatives were not invited to and were unaware of these public input sessions mentioned, and had no knowledge that this project was taking place until they received a letter saying that their land would be impacted and likely taken. As such Mr. Behn said the company was dissatisfied at not having been included in the earlier discussions, given that if he wanted to construct something on his property, he would have to notify every neighbor with a 300'-400' radius. He said the company was told that there was no obligation to inform them because there had been a formal notice in the local newspaper, but their business is located in Greenfield, MA.

Mr. Behn asked Mr. McCarthy what efforts were made to release the pressure of growing traffic in these two reservoirs of retail that would continue generating more traffic, when he said the proposal is to funnel that traffic to the same location as currently, only not with the signal as at present but rather the roundabout – what he called a blender – with the assumption of enhanced function. He asked if there was really any effort to find a way for these retail centers to exit not onto Winchester Street but the highway as Mr. Hanley suggested. Mr. McCarthy replied that the idea of ingress/egress from the highway was discussed in early design phases and he disagreed with the earlier characterization, stating that the idea was not dismissed for inconvenience but because private access is not allowed from a limited access ROW like this highway at this location; as such NH DOT said no emphatically because it is disallowed statewide. Mr. Behn countered that such a situation exists west of the RT-101 roundabout into a multi-use shopping center. Mr. McCarthy said he did not know much about that particular shopping center but could only assume that the situation is different on that part of the highway. He continued that there are different types of rights-of-way with different activities allowed: controlled access, limited access, and standard access. Mr. Behn concluded that Sandri Companies knew they were being injured and had a reasonable idea what that injury would amount to. Regardless of what this project would do to this property, Mr. Behn said he did not think this roundabout was the right solution but would instead intensify the growing issue on Winchester Street and would not be unmitigated by the signals, with pedestrian and vehicle traffic flowing freely. He cited accidents in the RT-101 roundabout numbering approximately 30 each year. Mr. Behn said the proposed

roundabout at the intersection of Island/Pearl/Winchester Streets met the company's approval and he said it might improve flow of traffic at the Key Road intersection.

Mayor Hansel recognized Attorney Steve Clark, who represents Keene Retail and Liscotti Development. Mr. Clark echoed the concern Mr. Hanley stated regarding loss of a curb cut. Mr. Clark stated that losing the curb cut from Winchester Street to the Keene Retail property would impact the business substantially and said the return offered for that impact was extremely low because it excluded compensation for loss of the curb cut. He echoed previous statements that insufficient consideration was given to how this project would impact these two businesses. He asked the Council to consider other options to avoid taking these properties. Mr. Clark recalled raising concerns at the site visit that he had since spoken about with the City Engineer, who expressed disbelief that the Federal and NH DOT would allow that curb cut to remain; notwithstanding that Keene Retail is willing to assist in obtaining whatever necessary from the abutting property owners to push "this" back.

Councilor Clark requested clarification as to what Mr. Hanley was asking of the Council; whether he was suggesting that the City not build the Key Road roundabout. Mr. Hanley stated his first suggestion was to, "go back to the table and people have an open mind and take reasonable positions." Mr. Hanley then replied to Councilor Clark's question in the affirmative and stated, "we do not believe there should be a roundabout at the intersection of Key Road and Winchester Street." Mr. Hanley echoed Mr. Behn in being unopposed to the roundabout at Island/Pearl/Winchester Streets, which he said might actually provide some benefit, whereas he said the roundabout at Key Road would bring significant traffic from the shopping centers in a way that would be more problematic for cyclists and pedestrians and would not ultimately mitigate the traffic generated by the shopping centers.

Mayor Hansel recognized Mr. Clark again, who asked if the City Engineer would read into the public record what actions caused him to proceed – since the site visit – choosing to not alter the design so that the curb cut on Winchester Street could remain. The City Engineer said he had a conversation with Mr. Clark on December 16 about the recommendation from Liscotti Development to include an entrance from Winchester Street into the Keene Retail site. The City Engineer continued that the City follows certain guidelines when designing a facility like this, which cite recommendations and best practices; while there is no explicit prohibition on a driveway in that proximity to a roundabout, they are discouraged and he did not recommend it. The City Engineer added that the Departments of Transportation have the ultimate power to review and veto any design decisions and driveways in such close proximity to roundabouts have only occurred in situations of duress, for which no other reasonable access to the parcel could be obtained. Both of these parcels in question would have two points of access to a Class V Highway after project completion and so the City Engineer did not anticipate the Departments of Transportation going against their guidelines when reasonable access is available elsewhere.

With no further questions, Mayor Hansel closed the public hearing at 8:12 PM, noting that the hearing would remain open for written comments until Monday, December 21, 2020 at 1 PM.

12/17/2020

Written comments should be signed and submitted to the City Clerk by the deadline to be included in the public record. Resolution R-2020-36 was referred to the Finance, Organization and Personnel Committee.

A true record, attest:



Assistant City Clerk

PUBLIC HEARING – RELATIVE TO THE COMPLETE DISCONTINUANCE OF A PORTION OF THE COMMERCIAL STREET PARKING LOT – R-2020-38

The Mayor reopened the hearing that was continued on November 5, 2020 and requested comments from Kurt Blomquist, Public Works Director/Emergency Management Director, who displayed a plot plan of the Commercial Street Parking Lot and surrounding streets as well as the parcel owned by the Colonial Theater Group since 1969/1970. He recalled that the Council laid-out the Commercial Street parking lot in 1969 as a public way with a Resolution for certain designations of that layout. As a result of two property owners not wanting their parcels in that layout, the Council attempted in 1970 to pass a Resolution undoing that 1969 action, but the procedure was not followed properly and therefore the 1969 Resolution remains. He recalled the Hamblet's coming forward in 2019 with a similar discontinuance request for their property. In this instance, the Colonial Theater Group needed a discontinuance to build an addition over the top of that public way as a part of their expansion.

Mayor Hansel recognized the Colonial Theater Group's representative, Gary Kinyon to explain the importance of this discontinuance. Mr. Kinyon said that the Public Works Director's explanation provided the relevant background and he added that the City did two layouts in 1969 and 1970, but the 1969 layout was never undone and so the western end of the property where the Colonial Theater operates had been subject to the 1969 layout with neither the City or Colonial Theater Group aware of it. In titling and surveying the newly purchased 20 Commercial Street property to the west of the theater, the owners discovered the need for this discontinuance. Mr. Kinyon appreciated the Council considering this request that would rid the 1969 discontinuance so that the 1970 discontinuance reflects the property boundaries accurately.

With no public comments, the Mayor closed the public hearing at 8:21 PM, noting that the hearing would remain open for written comments until Monday, December 21, 2020 at 1 PM. Written comments should be signed and submitted to the City Clerk by the deadline to be included in the public record. Resolution R-2020-38 was referred to the Municipal Services, Facilities & Infrastructure Committee.

A true record, attest:



Assistant City Clerk

NOMINATIONS

The following nominations for members existing members eligible for a second term or those changing membership type were received from the Mayor: To the Airport Development & Marketing Committee: Brian Johnson to continue serving in slot two with a term to expire December 31, 2023; Richard Blood to continue serving in slot three with a term to expire December 31, 2023; and Curt Hansen to continue serving in slot five with a term to expire December 31, 2023. To the Ashuelot River Park Advisory Board: Paul Bocko to continue serving in slot six with a term to expire December 31, 2023. To the Bicycle/Pedestrian Path Advisory Committee: Todd Horner to continue serving in slot one with a term to expire December 31, 2023; Drew Bryenton to continue serving in slot five with a term to expire December 31, 2023. To the Conservation Commission: Eloise Clark to continue serving in slot four with a term to expire December 31, 2023; Steven Bill, alternate, to continue serving in slot eight with a term to expire December 31, 2023; and Brian Reilly to move from regular to alternate member serving in slot five with a term to expire December 31, 2023. To the Energy and Climate Committee: Paul Roth to move from alternate to regular member serving in slot six with a term to expire December 31, 2023; and Jake Pipp to continue serving in slot two with a term to expire December 31, 2023. To the Historic District Commission: Russ Fleming to continue serving in slot four with a term to expire December 31, 2023. To the Housing Standards Board of Appeal: Donald Flibotteto continue serving in slot five with a term to expire December 31, 2023. To the Partner City Committee: Mari Brunner to continue serving in slot one with a term to expire December 31, 2023. To the Planning Board: Emily Lavigne-Bernier to move from alternate to regular member serving in slot one with a term to expire December 31, 2023; and Tammy Adams, alternate, to continue serving in slot 12 with a term to expire December 31, 2023. To the Trustees of Trust Funds and Cemetery Trustees: Michael Forrest to continue serving in slot one with a term to expire December 31, 2023. To the Zoning Board of Adjustment: Michael Welsh to continue serving in slot three with a term to expire December 31, 2023; and Arthur Gaudio to move from alternate to regular serving in slot five with a term to expire December 31, 2023. All re-nominations were tabled until the next regular meeting.

NOMINATIONS

The following nominations for new members to City boards and commissions were received from the Mayor: To the Planning Board: Roberta Mastrogiovanni to serve as a regular member in slot four with a term to expire December 31, 2023. To the Keene Housing Authority: Robert J. Elliot to serve as a regular member in slot three with a term to expire December 31, 2025. To the Energy & Climate Committee: Claire Oursler to serve as an alternate members in slot 13 with a term to expire December 31, 2023. All nominations were tabled until the next regular meeting.

COMMUNICATION – RODNEY BOUCHARD – RESIGNATION – ENERGY & CLIMATE COMMITTEE

A communication was received from Rodney Bouchard, resigning from the Energy & Climate Committee. A motion by Councilor Powers was duly seconded by Councilor Bosley to accept

the resignation with regret and appreciation of service. The motion passed with a unanimous vote in favor.

COMMUNICATION – MICHAEL BURKE – RESIGNATION – PLANNING BOARD

A communication was received from Michael Burke, resigning from the Planning Board. A motion by Councilor Powers was duly seconded by Councilor Bosley to accept the resignation with regret and appreciation of service. The motion passed with a unanimous vote in favor.

COMMUNICATION – JEFFREY TITUS – RESIGNATION – AD HOC COMMUNITY POWER COMMITTEE

A communication was received from Jeffrey Titus, resigning from the Ad Hoc Community Power Committee. A motion by Councilor Powers was duly seconded by Councilor Bosley to accept the resignation with regret and appreciation of service. The motion passed with a unanimous vote in favor.

MSFI REPORT – DETERIORATING CONDITIONS ON THOMPSON ROAD – PUBLIC WORKS DEPARTMENT

A Municipal Services, Facilities & Infrastructure Committee report read recommending to accept the report on deteriorating conditions at Thompson Road as informational. The report was filed as informational.

PLD REPORT – COUNCILOR FILIAULT – PROPOSED REDUCTION IN ROOMS AND MEALS TAX RATE BY GOVERNOR SUNUNU

A Planning, Licenses & Development Committee report read recommending that the Mayor draft a letter to the Governor opposing any reduction in municipal revenues including reducing the State's Rooms and Meals Tax. A motion by Councilor Bosley to carry out the intent of the report was duly seconded by Councilor Greenwald. The Mayor recognized Councilor Filiault to address his letter. The Councilor noted this was in response to talks in Concord, NH about a 2% reduction in the Rooms and Meals Tax rate. He noted this would significantly impact revenues for municipalities, and urged the Council to support sending a letter of opposition. The motion passed with a unanimous vote in favor.

PLD REPORT – THE ADDITION OF ASHUELOT RIVER MILLS TO THE ERZ TAX CREDIT PROGRAM – ECONOMIC DEVELOPMENT DIRECTOR

A Planning, Licenses & Development Committee report read recommending the addition of the "Ashuelot Mills" to the Economic Revitalization Zone (ERZ) tax credit program. The Mayor indicated his intent to file this report so that an amended motion could be presented for consideration with a new map. There was no objection. A motion by Councilor Bosley to carry out the intent of the report with the revised map titled "Ashuelot Mills ERV" dated December 14, 2020 was duly seconded by Councilor Greenwald.

The Mayor recognized Councilor Greenwald, who stated that part of the impetus for discussing adding to the area just beyond the Ashuelot Mills property was to include the area between

Emerald Street and Gilbo Avenue, where there is distressed former rail land that could benefit from this State tax credit. He emphasized that this does not involve local property taxes but is benefit from State taxes that a future developer might pay. He hoped the Council would support encouraging redevelopment in that area and he appreciated the map being enlarged to include the area.

Councilor Clark asked whether the State had to approve the enlarged map. The Mayor replied in the affirmative.

The motion passed with a unanimous vote in favor.

PLD REPORT – KEENE SUSTAINABLE ENERGY PROGRAM – ENERGY AND CLIMATE COMMITTEE

A Planning, Licenses, and Development Committee report read recommending that the City Council adopt the Keene, NH Sustainable Energy Plan dated November 2020.

Councilor Bosley stated that after hearing concerns from constituents before the meeting, she chose to amend her typical motion to carry out the intent of this report. A motion by Councilor Bosley to send this item back to Committee was duly seconded by Councilor Greenwald. Councilor Bosley deferred comment to Councilor Greenwald who had fielded the majority of constituent communications. With the Mayor's permission, Councilor Greenwald cited communications from residents and the real estate community regarding the specific portion of the program related to the Home Energy Labeling Program. There was significant confusion and perhaps some misinformation surrounding the program and instead of pushing through something that could create anxiety in the community, Councilor Greenwald thought it appropriate for the matter to return to Committee for further vetting. Further discussion followed. The motion to refer the matter back to Committee passed on a 13-2 vote; Councilors Clark and Ormerod voted in opposition.

Councilor Johnsen requested that any Councilors hearing questions or concerns inform their constituents that the matter would be before the PLD Committee again.

FOP REPORT – ART ROBERTS/MEDC – REQUEST TO RETAIN AN ALLOCATION TO THE CITY OF KEENE

Mayor Hansel recused his role as Chair for this report due to his position with the MEDC Board of Directors. A motion by Councilor Bosley was duly seconded by Councilor Manwaring to elect Councilor Powers as temporary Chair per Section Six of the Rules of Order on the item related to MEDC and allocation to the City of Keene. The motion passed with a unanimous vote in favor and Councilor Powers accepted the nomination to serve as temporary Chair.

A Finance, Organization & Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to pay over to Monadnock Economic Development Corporation the \$10,000 settlement payment to be made by Preti Flaherty to the City in connection with the conclusion of the financing of the courthouse project. A motion by Councilor Hooper to carry out the intent of the report was duly seconded by Councilor Remy.

Discussion followed. Councilor Workman asked if the City had ever gifted a non-profit, like MEDC, funds to this magnitude for their revitalization. The City Manager replied that it was a difficult question to answer because MEDC is an economic development corporation and as such, their mission to build tax value in the region is very different than other non-profits in the community. The City Manager could not think of a similar instance with a non-profit, noting that MEDC is not the same as a 501(c)3 non-profit agency, like a shelter or food bank. The City Attorney agreed that this type of economic development entity falls within the same IRS chapter but is not a 501(c)3 non-profit organization. Councilor Bosley asked if MEDC was the organization behind the Railroad Street properties and followed up by asking whether those are all now taxpaying properties. The City Manager said the majority are. Councilor Bosley questioned whether the City Manager could estimate those taxes at more than \$10,000 annually and the City Manager stated that through 2018, MEDC had initiated 28 projects in the City of Keene and the region. With reference to the motion on the floor to carry out the intent of the report, on a vote of 13-2, the motion passed; Councilors Filiault and Workman opposed.

Mayor Hansel resumed as Chairman.

FOP REPORT – FIRE DEPARTMENT ACCEPTANCE OF DONATION – FIRE DEPARTMENT

A Finance, Organization & Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to accept a donation of fitness equipment from the Professional Firefighters of Keene. A motion by Councilor Powers to carry out the intent of the report was duly seconded by Councilor Hooper and the motion passed with unanimous vote in favor.

FOP REPORT – HIGHWAY SAFETY AGENCY GRANT- KEENE – POLICE DEPARTMENT

A Finance, Organization & Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to accept the grant from the New Hampshire Highway Safety Agency to fund the Highway Safety Grant- Keene. A motion by Councilor Powers to carry out the intent of the report was duly seconded by Councilor Hooper and the motion passed with unanimous vote in favor.

FOP REPORT – CONCEPTUAL DESIGN FOR WEST KEENE FIRE STATION – CONSULTANT SELECTION – PARKS, RECREATION AND FACILITIES DEPARTMENT

A Finance, Organization & Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to negotiate and execute a professional service contract with Lavallee/Brensinger Architects for the program and conceptual design services for the West Keene Fire Station project for an amount not to exceed \$20,000; and if an agreement cannot be reached, to negotiate and execute an agreement with the next highest scoring service provider. A motion by Councilor Powers to carry out the intent of the report was duly seconded by Councilor Hooper. Councilor Clark asked – in the scope of this study – whether this would be considered a substation or another full fire station. Councilor Powers stated that the Central

Fire Station is downtown and this would be a substation designed based on the call volume, response area, and to bring the building to Code from when built in 1958. The motion passed with unanimous vote in favor.

**FOP REPORT – WATER SUPPLY MASTER PLAN AND WELL FACILITIES
EVALUATION – PUBLIC WORKS DEPARTMENT**

A Finance, Organization & Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to negotiate and execute a professional services contract with GZA to perform a Water Supply Master Plan and Well Facilities Evaluation for an amount not to exceed \$135,024. If the negotiations are unsuccessful, the City Manager is authorized to negotiate and execute a contract with the next ranked firm. A motion by Councilor Powers to carry out the intent of the report was duly seconded by Councilor Hooper and the motion passed with unanimous vote in favor.

**FOP REPORT – MARTELL COURT PUMP STATION DESIGN ENGINEERING CHANGE
ORDER – PUBLIC WORKS DEPARTMENT**

A Finance, Organization & Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to execute Change Order 1 with Aldrich & Elliot Engineers to perform engineering services for upgrades to the existing heating and ventilation system at the Martell Court Pump Station for an amount not to exceed \$28,750 for contract 04-20-23. A motion by Councilor Powers to carry out the intent of the report was duly seconded by Councilor Hooper and the motion passed with unanimous vote in favor.

**FOP REPORT – WASTEWATER TREATMENT PLANT GATE REPLACEMENT PROJECT
– PUBLIC WORKS DEPARTMENT**

A Finance, Organization & Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to reallocate \$37,018 in remaining funds from the Solids Dewatering Upgrade project (08030) and move these funds to the Gate Replacement project (08095). A motion by Councilor Powers to carry out the intent of the report was duly seconded by Councilor Hooper and the motion passed with unanimous vote in favor.

**FOP REPORT – BABBIDGE AND WOODWARD DAM PROJECTS – BUDGET
REALLOCATION – PUBLIC WORKS DEPARTMENT**

A Finance, Organization & Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to reallocate the unspent project balance from the Babbidge Dam Rehabilitation Project (05034-B) to the Woodward Dam Improvements Project (05034-C). A motion by Councilor Powers to carry out the intent of the report was duly seconded by Councilor Hooper and the motion passed with unanimous vote in favor.

**FOP REPORT – MARLBORO STREET CORRIDOR IMPROVEMENTS PROJECT –
DESIGN CHANGE ORDER – PUBLIC WORKS DEPARTMENT**

A Finance, Organization & Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to negotiate and execute an engineering

services Change Order with DuBois & King for additional services required for the design of the Marlboro Street Corridor Improvements project for an amount not to exceed \$13,500 with funding from the Marlboro Street Corridor Improvements project (90305). A motion by Councilor Powers to carry out the intent of the report was duly seconded by Councilor Hooper. The motion passed with unanimous vote in favor.

SUSPENSION OF THE RULES – CITY COUNCIL GOALS

Mayor Hansel requested that the Rules of Order be suspended so that his communication could be considered. The Mayor had provided to the Councilors earlier the day of this meeting with final draft of the eight goal statements that were discussed at the Goal Setting Workshop on December 15, 2020. A motion by Councilor Powers to suspend the Rules of Order to act upon a communication from the Mayor on the City Council's goals was duly seconded by Councilor Bosley. The motion passed on a vote of 14-1; Councilor Greenwald opposed.

Hearing no objection, the Mayor introduced the proposed goal statements and tabled this item until the January 7, 2021 City Council meeting.

CITY MANAGER COMMENTS

First the City Manager addressed the snowstorm Keene was facing. The City received about 18” of snow at Keene’s lowest elevations, with more in the hills. She said this was a challenging storm for public works to keep up with, ending just around noontime. That said, every single plow operator had been out since the beginning of the storm (around 3:00 AM) utilizing every piece of equipment the City has. Typical plow times average eight hours to complete one route, but due to the amount of snow and lack of visibility, it was taking more like 10 hours for each route in the City. Primary roads are obviously the first priority. Normal protocol would be to address the downtown parking later in the snow operations plan, but early this afternoon, some resources were diverted to the downtown to clear parking places for the merchants who are open. Given the already difficult conditions the merchants have faced due to Covid-19, it only made sense to do what was possible to help them get customers to their stores. Looking out the window in her office just after 2:00 PM, the City Manager said she could see most of the spaces around the square had been opened up and the crews were busy addressing others.

By the time of this meeting, crews had gone home to take a break, but they would be back around midnight to begin cleanup operations. Primary and secondary roads had two complete passes by the time of this meeting. The City Manager said it would take a few days to get all the large piles of snow in the end parking spaces cleared, but the Public Works Department prioritized this, aware that the holiday sales period can make or break a merchant, and the City wanted to ensure their success. The City Manager took a moment to recognize the Public Works crew for this extra effort to support to our downtown economy; she appreciated the fact that they worked a long night shift, then went throughout the day, and stayed to make this extra effort before heading home for their much deserved break.

The City Manager continued providing updates on the Police Department, noting that the testing period for the body-worn and in-car camera systems had ended and proceeded into the evaluation

phase. Staff expected to be back to FOP potentially the second cycle in January but more than likely the first cycle in February. One issue that Staff encountered was related to stability of broadband. The Police Chief had been discussing options to address this issue with the IT Department.

City Manager reported some encouraging news that the Police Department also met their annual goal to hire six Police Officers. Councilors were aware that keeping positions filled had been a challenge in Police Departments nationwide; between an aging population (meaning more retirements) and the increasing demands placed on a Police Officer, it can be difficult at times to keep the Department staffed fully. A number of hiring incentives and other recruiting initiatives were enacted in 2019. The City Manager said that these strategies, at least in part, contributed to a much more successful year of recruitment for the Department.

The City Manager provided a final update on the Police Department. During summer 2020, the Council held an informational work session with the Police Chief to learn about the City's national certification process (CALEA), the Police Department hiring process, training, how Officers are held accountable, community policing efforts, and more. The Police Chief talked extensively about how the role of a Police Officer has changed drastically over time. He also talked about research he had done regarding other progressive models to improve services around issues like mental health and opioid use. He briefly mentioned his conversations with organizations like Monadnock Family Services about ways to supplement the Police Department with mental health services. Since that workshop, the Police Chief had continued those conversations, including reaching out to Cheshire County to determine ways to partner in some manner. Through these conversations, he identified both barriers and opportunities; the City Manager knew one barrier was a general lack of mental health professionals in our region. The Police Chief is slated currently to have follow-up meetings on this topic in January. The Chief understands the complex societal issues that the officers confront daily and the City Manager said that if anyone can find a way to improve services while supporting the Department it would be Police Chief Steve Russo. She appreciated his efforts and would continue supporting them.

On the topic of Covid-19, the City Manager said that starting December 21, the Library would move to an enhanced curbside service model due to the increasing Covid-19 rates, which indicate increased community spread. Services would move to "at the door" pick-up of pre-reserved Library materials as well as limited computer use, microform, and photocopy services by appointment. The Library's enhanced curb side services will be available during the same hours the Library has been open for the last several months: Monday-Friday 10am-12pm and 3pm to 6pm, Saturday 10am to 1pm. Library card holders may reserve materials online or by calling the Library. Appointments for photocopying, use of public computer or microform machine may be made by telephone.

She continued reporting that the Emergency Management team had been busy attending meetings with the State and local partners regarding the logistics of vaccination plans in our region. New Hampshire has a phased approach to the vaccine rollout, targeting critical populations with the initial allotment of vaccines. At risk health workers are in the first phase which has begun with local hospitals. We expect long term care facilities to begin vaccinating

staff and residents December 21st. Long term care facilities are contracting with pharmacies like Walgreens or CVS to come to their location to administer the vaccine. We expect to begin vaccinating our first responders starting the week of Dec 26th putting our highest risk people at the front of the line (only first responders with direct patient contact) are eligible for this initial phase of vaccination. The state is setting up fixed locations based on the 13 public health regions in the state. First responders and ambulatory care providers will receive their vaccination at these fixed locations and one will be here in Keene. Obviously, the first shipment of vaccine was not enough for everyone in this phase to be vaccinated and so this phase will continue for several weeks as more vaccine is received. Once we reach the phase that includes the general public it is expected that people like you or me will be able to be vaccinated by our primary care physician and if that's not an option we can be vaccinated at the fixed locations set up in our region. For others who are more remote and cannot get to be vaccinated by their doctor or at the fixed location in their public health region, the state will have some limited mobile response units.

The City Manager learned the day before this meeting in a meeting with the State- If you have had Covid-19 they are still recommending you be vaccinated. Covid-19 studies have shown there is a possibility of re-infection. If you are thinking about getting your flu vaccine or any other vaccine-make sure you do it more than 14 days from receiving your Covid-19 vaccination. The reason for that is to rule out side effects of other vaccination from the Covid-19 vaccination.

Earlier this week, the city shared information about the Covid-19 vaccine on our social media accounts and we shared that same information with all of our employees. We are asking people to read and learn about the vaccine now. If you have questions or concerns, talk to your primary care physician now so that when you have the opportunity to take the vaccine you will be ready.

Since this is last Council meeting before Christmas, the City Manager wished everyone a happy holiday and encouraged everyone to do their last minute shopping in downtown Keene. We have the holiday shopping event going on right now, if you spend just ten dollars at three of the businesses listed you can enter win the grand prize of \$500.

MORE TIME – FOP REPORT – COUNCILOR MANWARING – EVALUATION PROCESS FOR CHARTER EMPLOYEES; AND PLD REPORT – THE DOWNTOWN RE-OPENING COMMITTEE AND KEENE YOUNG PROFESSIONALS NETWORK – KEENE FOOD FESTIVAL

A Finance, Organization and Personnel Committee report read on 4-0 roll call vote recommending to put this item on more time.

A Planning, Licenses, and Development Committee report read on a 5-0 vote recommending to place this item on more time, pending review by City staff.

More time was granted.

MSFI REPORT – RELATING TO SPEED LIMITS – EASTERN AVENUE – ORDINANCE O-2020-13-A

12/17/2020

A Municipal Services, Facilities and Infrastructure Committee report read recommending to full Council on a vote of 5-0 the adoption of Ordinance O-2020-13-A. A motion by Councilor Manwaring to carry out the intent of the report was duly seconded by Councilor Giacomo and the motion passed with a unanimous vote in favor.

Hearing no further business, Mayor Hansel adjourned the meeting at 9:54 PM.

A true record, attest:



Assistant City Clerk



City of Keene, N.H.
Transmittal Form

December 14, 2020

TO: Mayor and Keene City Council

FROM: Mayor George Hansel

ITEM: B.1.

SUBJECT: Confirmations

COUNCIL ACTION:

In City Council January 7, 2021.

Voted unanimously to confirm the nominations.

In City Council December 17, 2020.

Tabled to the next regular meeting.

BACKGROUND:

I hereby nominate the following individuals to serve on the designated Board or Commission:

Airport Development and Marketing Committee

Brian Johnson, re-nomination, slot 2	Term to expire Dec. 31, 2023
Richard Blood, re-nomination, slot 3	Term to expire Dec. 31, 2023
Curt Hansen, re-nomination, slot 5	Term to expire Dec. 31, 2023

Ashuelot River Park Advisory Board

Paul Bocko, re-nomination, slot 6	Term to expire Dec. 31, 2023
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Bicycle/Pedestrian Path Advisory Committee

Todd Horner, re-nomination, slot 1	Term to expire Dec. 31, 2023
Drew Bryenton, re-nomination, slot 5	Term to expire Dec. 31, 2023

Conservation Commission

Eloise Clark, re-nomination, slot 4	Term to expire Dec. 31, 2023
Steven Bill, alternate, re-nomination, slot 8	Term to expire Dec. 31, 2023
Brian Reilly, moving from regular to alternate member, slot 5	Term to expire Dec. 31, 2023

Energy and Climate Committee

Paul Roth, moving from alternate to regular member, slot 6	Term to expire Dec. 31, 2023
Jake Pipp, re-nomination, slot 2	Term to expire Dec. 31, 2023

Historic District Commission

Russ Fleming, re-nomination, slot 4

Term to expire Dec. 31, 2023

Housing Standards Board of Appeal

Donald Flibotte, re-nomination, slot 5

Term to expire Dec. 31, 2023

Partner City Committee

Mari Brunner, re-nomination, slot 1

Term to expire Dec. 31, 2023

Planning Board

Emily Lavigne-Bernier, moving from alternate to regular member, slot 1

Term to expire Dec. 31, 2023

Tammy Adams, alternate, re-nomination, slot 12

Term to expire Dec. 31, 2023

Trustees of Trust Funds and Cemetery Trustees

Michael Forrest, re-nomination, slot 1

Term to expire Dec. 31, 2023

Zoning Board of Adjustment

Michael Welsh, re-nomination, slot 3

Term to expire Dec. 31, 2023

Arthur Gaudio, moving from alternate to regular slot 5

Term to expire Dec. 31, 2023



City of Keene, N.H.
Transmittal Form

December 14, 2020

TO: Mayor and Keene City Council

FROM: Mayor George Hansel

ITEM: B.2.

SUBJECT: Confirmations

COUNCIL ACTION:

In City Council January 7, 2021.

Voted unanimously to confirm the nominations.

In City Council December 17, 2020.

Tabled to the next regular meeting.

RECOMMENDATION:

I hereby nominate the following individuals to serve on the designated Board or Commission:

Planning Board

Roberta Mastrogiovanni, slot 4
267 East Surry Road

Term to expire Dec. 31, 2023

Keene Housing Authority

Robert J. Elliot, slot 3
110 Arch Street, Unit 21

Term to expire Dec. 31, 2025

Energy & Climate Committee

Claire Oursler, alternate, slot 13
21 Roxbury Plaza

Term to expire Dec. 31, 2023

ATTACHMENTS:

Description

Background_Mastrovannangi

Background_Elliott

Background_Oursler

Patty Little

From: Terri Hood
Sent: Tuesday, December 15, 2020 8:10 AM
To: Patty Little
Subject: FW: Interested in serving on a City Board or Commission

From: helpdesk@ci.keene.nh.us <helpdesk@ci.keene.nh.us>
Sent: Monday, December 14, 2020 8:09 PM
To: Helen Mattson <hmattson@ci.keene.nh.us>
Cc: Patty Little <plittle@ci.keene.nh.us>; Terri Hood <thood@ci.keene.nh.us>
Subject: Interested in serving on a City Board or Commission

<p>Submitted on Mon, 12/14/2020 - 20:08</p>
<p>Submitted values are:</p>

First Name:
ROBERTA

Last Name:
MASTROGIOVANNI

Address
267 East Surry Rd.
Keene, NH 03431

Email:

Cell Phone:
16034995590

Please select the Boards or Commissions you would be interested in serving on:
Planning Board

Employer:
self

Occupation:
Owner of The Corner News

Education:
Some College

Have you ever served on a public body before?
No

Other Information/Relevant Experience:

I have been a business owner, property owner, and Mom, in Keene for over 30 years. I would like to serve on the Planning Board and think my years of ties to the area would make me a valuable member.

Please provide some references:

Pam Russell Slack

603-762-4045

References #2:

Richard N. Van Wickler

603-903-1610

Robert J. Elliott

Experience

2010 - May 2020 Monadnock Economic Development Services

Chief Financial Officer

- *Managed cash flow and financing for this 65 Million dollar non-profit*
- *Co-developed Real Estate Projects in the Monadnock Region*
- *Managed Assets and prepared assets for sale when necessary*
- *Managed the IT requirements of the business*
- *Managed Construction Projects with the assistance of a Construction Manager securing financing and submitting Requisitions for Payment*
- *Managed the loan process to small businesses in the Monadnock Region*
- *Submitted Financial Support for HUD Community Development Block Grant funding*

2004 - 2010 Monadnock Developmental Services

Chief Financial Officer

- *Managed the Accounting Department and Financial requirements of this 10 Million dollar non-profit service provider*
- *Budgeted and worked with State of New Hampshire Health and Human Service Personal re: Financial and Program Regulations*

1997 – 2004

IniNet, Inc.

Keene, NH

Owner/CEO

- *Negotiated Strategic Alliances with business partners, analyzed new services and products that could profitably contribute to the growth of the company*
- *Presided over all facets of operations with ultimate responsibility for Profit and Loss and Annual Budgets*
- *Developed objectives for managers and sales goals based on budgets including financial analysis and reporting to Senior Staff weekly*
- *Managed daily financial operations and produced sources of cash and financial support as required*

1990 - 1997

DocuNet, Inc.

Lebanon, NH

Owner/CEO

- *Responsible for negotiations of new services and products for state-of-the-art digital printing company*
- *Became Beta site for Xerox Corporation's Docutech machine, successfully scanned and sent large document files over the Internet from Site A to printer at Site B*
- *Presided over all facets of operations and management of rapidly changing and dynamic technology with ultimate responsibility of Profit and Loss and Annual Budgets*

1984 - 1990 Community Resource Group, Inc. Keene, NH

Owner/CEO

- *Responsible for new construction and major renovation work of six elderly & family residential projects from Ashland, NH to Hinsdale, NH, including high-end condos in downtown Keene, NH*
- *Studied and complied with Federal Government Regulations of Rural Development and supervised the implementation of regulations and reporting requirements as property manager for 105 units*

1981 – 1984 Emile J. Legere Mgmt Co. Keene, NH

Controller/CFO

- *Presided over Accounting Department and coordinated cash requirements, working directly with banking relationships and funding sources*
- *Negotiated with owner and interested investors to fund the development of the Colony Mill Marketplace*
- *Managed 500 plus Subsidized and Market Rent housing units*

1977 – 1981 Pneumo Precision, Inc. Keene, NH

Controller/CFO

- *Supervised Accounting Department with emphasis in implementing Cost Accounting System in fast-growing precision manufacturing environment*
- *Reported to International Board of Directors on all aspects of financial reports and analysis of budgets and costs*

1973 – 1977 Smith, Batchelder & Rugg, CPA's Keene, NH

Accounting Manager

- *Performed Audits and Income Tax reviews with emphasis on non-profit accounting (Fund Accounting).*

Education

1985 New Hampshire College, Hooksett, NH

- M.B.A. Graduate School of Business
- Certificate in Decision Support Systems

1980 State of New Hampshire Board of Accountancy, Concord, NH

- Certified Public Accountant

1973 Bentley College, Waltham, MA

- B.S. in Accounting

Other Education
and
Achievements

18 Month Program at Boston University, Tyngsboro, MA

Network Technologies and Novell Certification (CNE)

47 Years of Continuing Professional Education (CPE) (40 hrs/year)

Including: Microsoft Certified Professional (MCP); Seminars in Finance's Role in Process Improvement, Quality Management & Re-Engineering; Best Practice in Finance & Accounting: Building a World-Class Organization, Excel University, Purchasing a Small Business, Selling a Small Business, Federal Tax updates, etc.

27 Courses Taught at Franklin Pierce College – Evening Division

Accounting I & II; Advanced Accounting, Cost Accounting & Managerial Accounting classes

Affiliations &
Volunteer Work

Monadnock Waldorf School Board of Directors: 2017-2020

Monadnock Economic Development Corp. Board of Directors: 2004-2010

Greater Keene Chamber of Commerce Board of Directors: 2001 – 2004

NH Developmental Disabilities Council: 2001 – 2007

Monadnock Developmental Services Board of Directors: 1994 – 2001

American Red Cross NH West Chapter Board of Directors: 1989 – 1994

Interests

Sailing, Woodworking, Golf, Skiing, Travel, Reading and Cooking

To Whom It May Concern:

Clair Oursler was born in 1940 in Cheyenne Wyoming. Clair attended high school and graduated in 1958. That summer he went to work on ICBM nuclear missile bases. In the 70's, Clair worked for his Uncle who was a soil conservation contractor building farm ponds, terracing and contouring farmland and restoring riparian habitat. He also ran a 300 acre dairy farm. In the 90's Clair worked in the private sector as an environmental consultant doing NPDES phase I and II assessments and complying with the Connecticut Transfer ACT which included soil sampling and submitting written reports. Clair also worked briefly for the Bureau of Land Management in Lander, Wyoming, participating in the first scientific assessment of wild horse grazing patterns which was compiled in a resource management plan as a final environmental impact statement. He testified and submitted both oral and written testimony for public and congressional hearings concerning multiple land use patterns which included assessment of wilderness study areas, mining issues and wildlife and livestock grazing patterns.

Clair hopes to bring to this committee my broad and varied background on land use issues and climate change. Clair has a double BS degree in environmental sciences and sociology from Utah State University (1985) and was a certified soil scientist and also has a technical degree in environmental protection technology from Colorado Mountain College in Ledville, Colorado (1981)

Clair has lived in Keene, NH area for the past ²⁴~~17~~ years. He completed 1 semester at Antioch Graduate School in Natural Resource Management.



City of Keene, N.H.
Transmittal Form

January 5, 2020

TO: Mayor and Keene City Council

FROM: Mayor George S. Hansel

ITEM: B.3.

SUBJECT: Nominations

COUNCIL ACTION:

In City Council January 7, 2021.
Tabled to the next regular meeting.

RECOMMENDATION:

I hereby nominate the following individuals to serve on the designated Board or Commission:

Human Rights Committee

Marti Fiske, ex-officio staff from Public Library, slot 6

Term to expire Dec. 31, 2023

Ashuelot River Park Advisory Board

Dian Mathews, slot 5
625 West Street

Term to expire Dec. 31, 2023

ATTACHMENTS:

Description

Background_Mathews

Patty Little

From: helpdesk@ci.keene.nh.us on behalf of City of Keene <helpdesk@ci.keene.nh.us>
Sent: Monday, December 21, 2020 9:45 AM
To: Helen Mattson
Cc: Patty Little; Terri Hood
Subject: Interested in serving on a City Board or Commission

<p>Submitted on Mon, 12/21/2020 - 09:44</p>
<p>Submitted values are:</p>

First Name:
Dian K

Last Name:
Mathews

Address
625 West Street

Email:
[REDACTED]

Cell Phone:
6033543595

Home Phone:
6033543595

Please select the Boards or Commissions you would be interested in serving on:
Ashuelot River Park Advisory Board

Have you ever served on a public body before?
Yes

If you answered yes above, please provide what public body you served on and where.
Town of Stoddard Building Committee and Planning Board

Please provide some references:

George Foscett

gfoskett@masiello.com

6032831944

References #2:

Andrew Bohannon

abohannon@ci.keene.nh.us

6033579829

If you would like to share any attachments, please upload them here.

[RESUME.docx](#)

RESUME' for Dian K Mathews

625 West Street

Keene, New Hampshire 03431

603-354-3595

EARLY HISTORY

***Born: March Air Force Base - Riverside, California 1949**

***College: Oneonta State University, NY 1971 BA in Education**

Stony Brook University, NY 1980 MALS

***Career: New Lane Elementary School 1971-2004**

*** LI Audubon Chapter President 10 years**

SINCE MOVING TO NEW HAMPSHIRE IN AUGUST 2010

***Old Homestead Garden Club - Vice President 2012-2015**

President 2015-2017

***New Hampshire Federated Garden Club - District III Representative 2017-May 2021**

***Town of Stoddard Building Committee 2010-2012**

***Town of Stoddard Planning Board 2012-2019 Chair for three years**

***Hidden Lake Homeowners' Association, Stoddard Secretary 2011- 2019**

***Friends of Ashuelot Park Arboretum Board member 2016 to present**

***Master Gardener Volunteer - Class of Spring 2020**



City of Keene, N.H.
Transmittal Form

January 5, 2021

TO: Mayor and Keene City Council

FROM: Hanspeter Weber

THROUGH: Patricia A. Little, City Clerk

ITEM: C.1.

SUBJECT: Hanspeter Weber - Resignation - Historic District Commission

COUNCIL ACTION:

In City Council January 7, 2021.

Voted unanimously to accept the resignation with regret and appreciation for service.

ATTACHMENTS:

Description

Resignation_Weber

BACKGROUND:

Hanspeter Weber is resigning as an alternate from the Historic District Commission. Mr. Weber has been a member since April of 2005.

Hanspeter Weber
22 Douglass Street, Keene, NH 03431

January 5, 2021

City of Keene, NH
City Clerk's Office, Patty Little
3 Washington Street
Keene, NH 03431

Dear Patty Little,

I would like to resign from the list of alternates of the Keene HDC.

Thank you very much.

A handwritten signature in black ink that reads "Hanspeter Weber". The signature is written in a cursive style with a long horizontal stroke at the end.

Hanspeter Weber



City of Keene, N.H.
Transmittal Form

January 5, 2021

TO: Mayor and Keene City Council

FROM: Councilor Terry M. Clark

THROUGH: Patricia A. Little, City Clerk

ITEM: C.2.

SUBJECT: Councilor Clark - Relating to Small Wireless Facility Deployments in Public Rights-of-Way

COUNCIL ACTION:

In City Council January 7, 2021.

Referred to the Planning, Licenses and Development Committee.

ATTACHMENTS:

Description

Ordinance amendments

PLD Minutes

PLD Minutes

Communication_Clark

BACKGROUND:

Councilor Clark is requesting that the City Council revisit Ordinance O-2020-18-A in light of the final report on the Commission to Study the Environmental and Health Effects of Evolving 5G Technology.

ARTICLE VIII. - SMALL WIRELESS FACILITY DEPLOYMENTS IN THE PUBLIC RIGHTS-OF-WAY

Sec. 82-201. - Purpose and intent.

- (1) The purpose of this article is to establish reasonable standards and procedures for the siting, construction, installation, collocation, modification, operation, relocation and removal of SWFs (SWF) in the city's public rights-of-way, consistent with and to the extent permitted under federal and state law.
- (2) The standards and procedures of this article are intended to protect and promote public health, safety and welfare. They are also intended to reflect and promote the community interest by:
 - a. Protecting and preserving the city's public rights-of-way and municipal infrastructure;
 - b. Maintaining the balance between public and private interests;
 - c. Protecting the city's visual character from potential adverse impacts;
 - d. Protecting and preserving the city's environmental resources; and,
 - e. Promoting access to high-quality, advanced wireless services for the city's residents, businesses and visitors.
- (3) This article is intended to establish procedures for application intake and completeness review, and encourage applicants to timely respond to incomplete notices.

([Ord. No. O-2019-18-A](#), 5-21-2020)

Sec. 82-202. - Applicability.

- (1) Except as expressly provided otherwise, the provisions in this article shall be applicable to all SWFs constructed and in operation as of the date of the adoption of this article, and to all applications and requests for authorization to construct, install, attach, operate, collocate, modify, reconstruct, relocate, remove or otherwise deploy SWFs within the public rights-of-way after the date of the adoption of this article.
- (2) To the extent that other infrastructure deployments involve the same or substantially similar structures, apparatus, antennas, equipment, fixtures, cabinets, cables or improvements within the public rights-of-way, the director or other official responsible to review and approve or deny requests for authorization in connection with such other infrastructure deployment shall apply the provisions in this article, unless specifically prohibited by applicable law or ordinance.
- (3) Any license issued pursuant to this article may be subject to retroactive modification in the event of changes in applicable federal or state law or rule requiring such modification, or in the event of revisions to this article necessitated for the protection of public health, safety and welfare. Any license issued subsequent to such change, or revision to this article shall be required to conform to the requirements of such change or revision.

([Ord. No. O-2019-18-A](#), 5-21-2020)

Sec. 82-203. - Required license and approvals.

- (1) *SWF license.* A "SWF license," subject to the director's review and approval in accordance with this article, shall be required for all SWFs and other infrastructure deployments located in whole or in part within the public rights-of-way.
 - a. *Indemnification requirement.* The SWF license shall contain the city's usual and customary indemnification provisions [and an executed indemnification agreement as set forth below, and documentation that applicant and any third party on whose behalf the small cell facility is being](#)

constructed and any co-locator, is in possession of General Liability Insurance without a pollution -exclusion.

Indemnification: Applicant shall provide an executed agreement in the form provided by the City of Keene, pursuant to which Applicant and any related third parties agree to defend, hold harmless and fully indemnify the City, its officers, employees, agents, attorneys, and volunteers, from (i) any claim, action or proceeding brought against the City or its officers, employees, agents, or attorney to attack, set aside, void, or annul any such approval of the Town or (ii) a successful legal action brought against the City for loss of property value or other harm caused by the placement or operation of a small cell installation. Such indemnification shall include damages, judgments, settlements, penalties, fines, defensive costs or expenses, including but not limited to, interest, attorney's fees and expert witness fees, or liability of any kind related to or arising from such claim, action or proceeding whether incurred by the Applicant, the City and/or a provision obligating the Applicant to indemnify the City for all of the City's costs, fees and damages which the City incurs in enforcing the indemnification provision of this Section.

b. Compliance Bond: Upon approval of the application, the Applicant shall be required to post a bond in the amount of \$50,000 (fifty thousand dollars) for each small cell installation, such bond to be held and maintained during the entire period of the Applicant's operation of each small cell installation in the City as a guarantee that no such installation, including any co-located equipment, exceeds or will exceed the allowable FCC limits for radio frequency radiation exposure to the general public as determined by a qualified independent radio frequency engineer.

- (2) *Other licenses and approvals.* In addition to a SWF license, an applicant must obtain all other licenses, permits and regulatory approvals as may be required by any other federal, state or local government agencies, which includes without limitation any approvals issued by other city departments or divisions.
- (3) In the event that FCC Order WT Docket No. 17-79 and/or WC Docket No. 17-84 are rescinded, or determined by legal authority to be invalid or unenforceable, then this article shall be deemed to be null and void, and any licenses issued under the terms and conditions of this article shall be revoked upon written notice to licensee effective 90 days after the effective date of such rescission or determination, and all equipment or appurtenances thereto shall be removed prior to the revocation date of the license. The failure to remove all equipment or appurtenances thereto prior to the revocation date of the license shall be deemed an abandonment under section 82-210(1)(m).

([Ord. No. O-2019-18-A](#), 5-21-2020)

Sec. 82-204. - Exemptions.

- (1) Notwithstanding anything in this article to the contrary, a SWF license shall not be required for the following:
 - a. Wireless facilities or other infrastructure deployments owned and operated by the city,
 - b. Over-the-air reception device (OTARD) facilities. [\(as per OTARD, a collocation for a wireless hub relay antennae for a third party, i.e other than the owner, is not exempt](#)
 - c. Requests for approval to collocate, modify, replace or remove transmission equipment at an existing wireless tower or base station submitted pursuant to 47 U.S.C. § 1455(a).
- (2) An exemption from the SWF license requirement under this section does not exempt the SWFs or other infrastructure deployments from any other permits or approvals as may be required by any

other federal, state or local government agencies, which includes without limitation any approvals issued by other city departments or divisions.

([Ord. No. O-2019-18-A](#), 5-21-2020)

Sec. 82-205. - Location standards.

- (1) *Location preferences.* To better assist applicants and decision makers in understanding and responding to the community's aesthetic preferences and values, this section sets out listed preferences for locations to be used in connection with SWFs ([emitting radio frequencies 4G, 4G plus, 5G and above](#)) in an ordered hierarchy. An applicant is required to demonstrate with clear and convincing evidence that ~~each the~~ higher priority locations ~~is are~~ not technically feasible in order for the director to approve a SWF in a lesser-preferred location.
 - a. The order of preference for locating SWFs from most preferred to least preferred is as follows:
 - i. Locations within non-residential districts; ([with a preference for SWF to be collocated on existing cell towers, with lower band 5G signals](#))
 - ii. Any location ~~more than within 1500 400~~ feet from an existing small cell in a non-residential district;
 - iii. Any location ~~more than within 1500 750~~ feet from an existing small cell in a residential district;
 - iv. Any location ~~more than within 1500 750~~ feet from a K—12 school, pre-school, or daycare provider, [residence, senior center, nursing home, hospital, fire station, police station, playground or park](#), established as of the enactment of this ordinance; and
 - v. Any location on Central Square or on Main Street between Central Square and the Marlboro Street/Winchester Street intersection.
- (2) *Prohibited support structures.* SWFs shall not be permitted on the following support structures:
 - a. New wood poles, unless it is a replacement for an existing wood pole
 - b. Existing city-owned decorative poles
- (3) *Encroachments over private property.* No SWF antennas, accessory equipment or other improvements may encroach onto or over any private or other property outside the public rights-of-way without the property owner's written consent.
- (4) *No interference with other uses.* SWFs and any associated antennas, accessory equipment or improvements shall not be located in any place or manner that would physically interfere with or impede access to any:
 - a. Above-ground or underground infrastructure;
 - b. Street furniture;
 - c. Fire hydrant or water valve; or
 - d. Doors, gates, stoops, fire escape, windows, or other ingress and egress points to any building appurtenant to the rights-of-way.
- (5) *Replacement pole location.* All replacement poles must:
 - a. Be located within five feet of the removed pole; and
 - b. Be aligned with the other existing poles along the public rights-of-way.
- (6) *Additional placement requirements.* In addition to all other requirements in this article, SWFs, other infrastructure deployments and all related equipment and improvements shall:

- a. Be placed as close as possible to the property line between two parcels that abut the public rights-of-way;
- b. Be placed so as to not obstruct a 200 foot all-season safe sight distance at any intersection;
- c. Be placed at least five feet away from any driveway;
- d. Be placed at least 50 feet away from any driveways for police stations, fire stations or other emergency responder facilities.

([Ord. No. O-2019-18-A](#), 5-21-2020)

Sec. 82-206. - Design standards.

- (1) *Height.* New support structures for SWFs shall not be more than 35 feet in height, or ten percent taller than nearby structures within the public right-of-way, whichever is greater. In no instance shall the overall height of an existing or new structure, including any antennas, exceed 50 feet.
- (2) *Colors and finishes.* All exterior surfaces shall be painted, colored and/or wrapped in muted, non-reflective hues that match the underlying support structure and blend with the surrounding environment; provided, however, that SWFs located on Central Square or Main Street between Central Square and the Marlboro Street/Winchester Street intersection shall be black in color. All surfaces shall be treated with graffiti-resistant sealant. All finishes shall be subject to the director's prior approval.
- (3) *Lights.* All lights and light fixtures must be fully shielded, dark skies compliant, and directed downwards so that their illumination effects are confined entirely within the public rights-of-way in a manner consistent with specifications by the director. All antennas, accessory equipment and other improvements with indicator or status lights shall be installed in locations and within enclosures that mitigate illumination impacts visible from publicly accessible areas.
- (4) *Trees and landscaping.* SWFs and other infrastructure deployments shall not be installed (in whole or in part) within any tree drip line. SWFs and other infrastructure deployments may not displace any existing tree or landscape features unless:
 - a. Such displaced tree or landscaping is replaced with native and/or drought-resistant trees, plants or other landscape features approved by the director, and
 - b. The applicant submits and adheres to a landscape maintenance plan.

Replacement trees must be installed under the supervision of a NH licensed arborist. Any replacement tree must be substantially the same size as the damaged tree unless approved by the director.

- (5) *Signs and advertisements.* All SWFs and other infrastructure deployments that involve RF transmitters must include signage that accurately identifies the site owner/operator, the owner/operator's site name or identification number and a toll-free number to the owner/operator's network operations center. SWFs and other infrastructure deployments may not bear any other signage or advertisements, including logos, unless expressly approved by the city, required by law, or recommended under FCC or other United States governmental agencies for compliance with RF emissions regulations.
 - a. All SWF shall be labeled with RF warning signs indicating RF warning signs, radiation being emitted above. ~~if required,~~ and shall be located as close to the antenna as possible and must face towards the street, be at eye level and be legible from 9 feet away. Unless otherwise required by law or regulation, the background color of the sign must match the color of the pole or surface to which it is attached.
- (6) *Site security measures.* SWFs and other infrastructure deployments may incorporate reasonable and appropriate site security measures subject to approval by the director. All exterior surfaces on SWFs shall be constructed from or coated with graffiti-resistant materials.

- (7) *Compliance with state and federal regulations.* All SWFs and other infrastructure deployments must comply with all applicable state and federal regulations, including without limitation all applicable regulations for human exposure to RF emissions and the federal Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 et seq.) and must submit a review and approval pursuant to NEPA, the National Environmental Policy Act. All required documentation must be demonstrated to show full compliance with NEPA as set forth by the FCC, unless exemption is claimed. If exempt, applicant must state the basis for such exemption and provide proof, including all supporting documents, that each and every exempt installation meets prescribed requirements. In the event that applicable federal or state laws or regulations conflict with the requirements of this article, the applicant shall comply with the requirements of this article to the maximum extent possible without violating federal or state laws or regulations.
- (8) *Antennas.* The following provisions in this subsection are generally applicable to all antennas.
- a. *Shrouding/concealment.* All antennas and associated equipment, including but not limited to cables, jumpers, wires, mounts, masts, brackets and other connectors and hardware, must be concealed from view within a single shroud or radome that is finished to match the color of the support structure.
 - i. For pole-top antennas, the shroud shall not exceed one and half-times the median pole diameter and must taper down to pole.
 - ii. For side-arm antennas, the shroud must cover the cross arm and any cables, jumpers, wires or other connectors between the vertical riser and the antenna.
 - b. *Antenna volume.* Each individual antenna associated with a single SWF shall not exceed three cubic feet. The cumulative volume for all antennas on a single small SWF shall not exceed:
 - i. Three cubic feet in residential districts; or
 - ii. Six cubic feet in nonresidential districts.
 - c. *Overall antenna height.*
 - i. Antennas placed on new structures may not extend more than five feet above the support structure, plus any minimum separation between the antenna and other pole attachments required by applicable health and safety regulations.
 - ii. Antennas placed on existing structures that meet the definition of a collocation or modification application as defined in NH RSA 12-K shall not increase the height of the structure by more than ten percent or five feet, whichever is greater.
 - d. *Horizontal projection.* Side-mounted antennas, where permitted, shall not project:
 - i. More than 18 inches from the support structure;
 - ii. Over any roadway for vehicular travel; or
 - iii. Over any abutting private property.
 - iv. If applicable laws require a side-mounted antenna to project more than 18 inches from the support structure, the projection shall be no greater than required for compliance with such laws.
- (9) *Accessory equipment volume.* The cumulative volume for all accessory equipment for a single SWF or other infrastructure deployment shall not exceed:
 - a. Nine cubic feet in residential districts; or
 - b. 17 cubic feet in nonresidential districts.

The volume limits in this subsection do not apply to any undergrounded accessory equipment.

- (10) *Undergrounded accessory equipment.*
- a. *Where required.*

- i. For proposed facilities on Central Square or on Main Street between Central Square and the Marlboro Street/Winchester Street intersection, accessory equipment (other than any electric meter emergency disconnect switch, where permitted) shall be placed underground.
 - ii. In all other locations, accessory equipment shall be placed underground unless the applicant demonstrates by clear and convincing evidence that compliance with this section would be technically infeasible.
 - b. *Vaults.* All undergrounded accessory equipment must be installed in a vault that is load-rated to meet the city's standards and specifications.
- (11) *Pole-mounted accessory equipment.* The following provisions in this subsection are applicable to all pole-mounted accessory equipment in connection with SWFs and other infrastructure deployments.
 - a. *Minimum vertical clearance.* The lowest point on any pole-mounted accessory equipment, which does not project over the travel way, shall be a minimum of ten feet above ground level adjacent to the pole.
 - b. *Horizontal projection.* All pole-mounted accessory equipment shall be mounted flush to the pole surface. Pole-mounted accessory equipment shall not project:
 - i. More than 18 inches from the pole surface; or
 - ii. Over any abutting private property.
 - c. *Orientation.* Unless concealed in a manner approved by the director, all pole-mounted accessory equipment shall be oriented so as to reduce visibility from the nearest abutting properties. In general, the proper orientation will likely be toward the street to reduce the overall profile when viewed from the nearest abutting property. If more than one orientation would be technically feasible, the director may select the most appropriate orientation.
- (12) *Ground-mounted or base-mounted accessory equipment.* The following provisions in this subsection are applicable to all ground-mounted and base-mounted accessory equipment in connection with SWFs and other infrastructure deployments.
 - a. *Concealment.* Where permitted, ground-mounted accessory equipment shall be completely concealed/shrouded or placed in a cabinet substantially similar in appearance to existing ground-mounted accessory equipment cabinets. Exterior colors shall be muted, non-reflective, and blend with the colors of the surroundings.
 - b. *Visibility.* No individual ground-mounted accessory equipment cabinet may exceed a height or width of four feet. Ground-mounted and base-mounted equipment cabinets shall not have any horizontal flat surfaces greater than 1.5 square feet.
- (13) *Support structure attachments.* The following provisions in this subsection are applicable to all support structure attachments (other than pole-mounted accessory equipment) and other related improvements that serve SWFs and other infrastructure deployments.
 - a. *Overhead lines.* The director shall not approve any new overhead utility lines in areas within which wires, cables, cabinets and other equipment associated with SWFs or infrastructure deployment are primarily located underground. In areas with existing overhead lines, no new overhead utility lines shall be permitted to traverse any roadway used for vehicular transit.
 - b. *Vertical cable risers.* All cables, wires, conduit attachments and other connectors must be routed through conduits within the support structure to conceal from public view. If this is technically infeasible, applicants shall route through a single external conduit or shroud that has been finished to match the underlying pole.
 - c. *Spools and coils.* To reduce clutter and deter vandalism, excess fiber optic or coaxial cables shall not be spooled, coiled or otherwise stored on the pole outside equipment cabinets or shrouds.

- d. *Electric Meters.* The director shall not approve a separate ground-mounted electric meter pedestal. If the proposed project involves a ground-mounted equipment cabinet, an electric meter may be integrated with and recessed into the cabinet.
- e. *Existing conduit or circuits.* To reduce unnecessary wear and tear on the public rights-of-way, applicants shall use existing conduits and/or electric circuits whenever available and technically feasible. Access to any conduit and/or circuits owned by the city shall be subject to the director's prior written approval, which the director may withhold or condition as the director deems necessary or appropriate to protect the city's infrastructure and/or prevent interference with the city's municipal functions and public health and safety.

([Ord. No. O-2019-18-A](#), 5-21-2020)

Sec. 82-207. - Application requirements.

- (1) *All applications.* All applicants for a SWF license must include the following information and materials as part of a formal SWF license application to the city:
 - a. *Application form.* The applicant shall submit a complete, duly executed SWF license application on the then-current form prepared by the city.
 - b. *Application fee.* The applicant shall submit the applicable SWF license application fee established in Appendix B of City Code. Batched applications must include the applicable SWF license application fee for each SWF in the batch.
 - c. *Project narrative and justification.* The applicant shall submit a written statement that explains in plain factual detail whether and why the proposed facility qualifies as a "SWF" as defined in this article. A complete written narrative analysis will state the applicable standard and all the facts that allow the city to conclude the standard has been met. As part of the written statement, the applicant must also include the following:
 - i. Whether and why the proposed support is a "structure" as defined by this article.
 - ii. Whether and why the proposed wireless facility meets each required finding for a SWF license as provided in section 82-209(2), "required findings for approval."
 - iii. [A master plan showing the geographic service area for the proposed small cell installations\(s\), and all the Applicants's existing, proposed and anticipated installations in the City.](#)
 - iv. [Certification that the proposed small cell installations\(s\) addresses an existing and significant gap in coverage in the service area, such certification to include a detailed map of the "gap areas" and documentation of such gap causing an inability for a user to connect with the land-based national telephone network or maintain a connection capable of supporting a reasonably uninterrupted communication.](#)
 - d. *Construction drawings.* The applicant shall submit true and correct construction drawings, prepared, signed and stamped by a New Hampshire licensed engineer that depict all the existing and proposed improvements, equipment and conditions related to the proposed project. This includes without limitation any and all poles, posts, pedestals, traffic signals, towers, streets, sidewalks, pedestrian ramps, driveways, curbs, gutters, drains, handholds, manholes, fire hydrants, equipment cabinets, antennas, cables, trees and other landscape features. The construction drawings must:
 - i. Contain cut sheets that contain the technical specifications for all existing and proposed antennas and accessory equipment, which includes without limitation the manufacturer, model number and physical dimensions;
 - ii. Identify all potential support structures within 400 feet from the proposed project site and call out such structures' overall height above ground level; and

- iii. Depict the applicant's preliminary plan for electric and data backhaul utilities, which shall include the anticipated locations for all conduits, cables, wires, handholes, junctions, transformers, meters, disconnect switches, and points of connection.
 - e. *Photo simulations.* The applicant shall submit site photographs and photo simulations that show the existing location and proposed SWF in context from at least three vantage points within the public streets or other publicly accessible spaces, together with a vicinity map that shows the proposed site location and the photo location for each vantage point. At least one simulation must depict the SWF from a vantage point approximately 50 feet from the proposed support structure or location and from the perspective of any property owner within 250 feet.
 - f. *Radio frequency compliance report.* The applicant shall submit a radio frequency (RF) exposure compliance report that certifies that the proposed SWF will comply with applicable federal RF exposure standards and exposure limits. Signal strength measurements must be collected as part of the commissioning process and when changes are made to the system that might affect its radiation, such as changes in the software controlling it. Signal strength is to be assessed under worst-case conditions in regions surrounding the SWF that either are occupied or are accessible to the public and the results of the data collection effort is to be made available to the public via a website. In the event that the measured power for the SWF exceeds radiation thresholds, the City is empowered to immediately have that facility taken offline. The RF report must be prepared and certified by an RF engineer acceptable to the director and the costs of the measurements will be borne by the site installer. If the applicant submits a batched application, a separate RF report shall be prepared for each facility associated with the batch. If the SWF is collocated the applicant must submit a radio frequency, signal strength compliance report for the aggregate emissions from all collocated equipment.
 - g. Additionally, the applicant must create and maintain performance specifications and data that identify the maximum and minimum amount or level of radio-frequency emissions that are produced by the equipment when it is in full operating mode, and a monitoring plan for the applicant's equipment capable of tracking and recording the daily amounts or levels of radio-frequency emissions that are produced by the equipment in order to verify that the average and peak emissions do not exceed the applicable FCC regulations. The city may conduct random, unscheduled and independent testing of any SWF antenna installation to ensure compliance with the FCC radio frequency guidelines
 - g. h. *Regulatory authorization.* The applicant shall submit evidence of the applicant's regulatory status under federal and state law to provide the services and construct the SWF proposed in the application.
- (2) *Collocation applications.* In addition to the application requirements listed in section 82-207(1), all applicants proposing to place a SWF on an existing structure must include the following information and materials as part of a formal SWF License application to the city:
- a. *Property owner's authorization.* For any SWF proposed to be installed on an existing support structure not owned or controlled by the city, whether in whole or in part, and which is not owned by the applicant, the applicant must submit a written authorization from the support structure owner(s). Public Notice is to be provided as stated in 3. A. below.
- (3) *Applications to install a SWF on a new support structure.* In addition to the application requirements listed in section 82-207(1), all applicants proposing to install a SWF on a new or replacement support structure must include the following information and materials as part of a formal SWF License application to the city:
- a. *Public notices.* For applications to locate a SWF on a new or replacement structure, the applicant shall include with the application a list that identifies all persons entitled to notice, including all owners of record and legal occupants of properties within a 3500-foot radius of the proposed SWF. In addition, the applicant shall submit two sets of mailing labels and pay a fee to

cover the cost of certified mailing to each person entitled to notice. Notice shall be filed within 5 days of filing an application and the application with all available documents will be made available for public inspection and copying.

- b. ~~Site~~ Site survey. For applications to locate a SWF on a new or replacement structure, the applicant shall submit a survey prepared, signed and stamped by a New Hampshire licensed surveyor. The survey must identify and depict all existing boundaries, encroachments and other structures within 75 feet from the proposed project site and any new improvements, which includes without limitation all:
- i. Traffic lanes;
 - ii. All private properties and property lines;
 - iii. Above and below-grade utilities and related structures and encroachments;
 - iv. Fire hydrants, roadside call boxes and other public safety infrastructure;
 - v. Streetlights, decorative poles, traffic signals and permanent signage;
 - vi. Sidewalks, driveways, parkways, curbs, gutters and storm drains;
 - vii. Benches, mailboxes, kiosks and other street furniture; and
 - viii. Existing trees, planters and other landscaping features.

([Ord. No. O-2019-18-A](#), 5-21-2020)

Sec. 82-208. - Application review procedures.

- (1) *Presubmittal conference.* The city encourages applicants to schedule and attend a presubmittal conference with the director and other city staff. This presubmittal conference does not cause the FCC shot clock or NH shot clock to begin and is intended to streamline the review process through collaborative, informal discussion that includes, without limitation, the appropriate project classification and review process; any latent issues in connection with the proposed project and/or project site, including compliance with generally applicable rules for public health and safety; potential concealment issues or concerns (if applicable); coordination with other city departments implicated by the proposed project; and application completeness issues.
 - a. To mitigate unnecessary delays due to application incompleteness, applicants are encouraged (but not required) to bring any draft applications, plans, maps or other materials so that city staff may provide informal feedback and guidance about whether such applications or other materials may be incomplete or unacceptable in their then-current form.
- (2) *Application submittal date.* All applications must be submitted to the city on the monthly application submittal date, which shall generally be the second Tuesday of every month unless specified otherwise by the director. Prospective applicants may submit up to five individual applications at one time as a batch. Any purported application received on a date other than the application submittal date, whether delivered in-person, by mail or through any other means, will be considered filed as of the next applicable application submittal date.
- (3) *Additional administrative requirements and regulations.* The city council authorizes the director to develop, publish and from time to time update or amend license application requirements and technical standards that the director finds necessary, appropriate or useful for processing any application governed under this article, not otherwise inconsistent with the requirements of this article. The city council further authorizes the director to establish other reasonable rules and regulations for duly filed applications, which may include without limitation regular hours for appointments and/or submittals without appointments, as the director deems necessary or appropriate to organize, document and manage the application intake process. All such

requirements, materials, rules and regulations must be in written form, on file with the director, and publicly released, to provide all interested parties with prior notice.

(4) *Incomplete applications.*

- a. *Initial completeness review.* Within 15 calendar days following the application submittal date, the director shall complete an initial review of each application to evaluate whether the submission requirements set forth in section 82-207 have been met. If the director determines that an application is incomplete, the director shall notify the applicant in writing of the application's nonconformance, including the specific deficiencies in the application, which, if cured, would make the application complete.
- b. *Shot clock extensions.*
 - i. *Collocation applications.* Applicants proposing to collocate a SWF on an existing structure shall have 15 days to cure all deficiencies in the application.
 1. If the applicant submits all information required for an application to be deemed complete by the director within 15 days, the shot clock shall not be suspended.
 2. If the applicant submits all information required for an application to be deemed complete after 15 days, the shot clock shall be extended by the number of days beyond the 15-day period that it takes for the applicant to submit this information in accordance with NH RSA 12-K:10.
 - ii. *Applications to install a SWF on a new structure.* Applicants proposing to install a SWF on a new or replacement structure shall have 15 days to cure all deficiencies in the application. On the date of the issuance of a written incomplete notice, the shot clock shall be suspended until the applicant submits all information required for an application to be deemed complete by the director.
- c. *Incomplete application deemed denied.* Any application governed under this article shall be automatically denied when the applicant fails to submit a substantive response to the director within 60 calendar days after the director deems the application incomplete by written notice. A "substantive response" must include, at a minimum, the complete materials identified as incomplete in the written incomplete notice.

(5) *Application submittal notice for SWFs proposed on new structures.* Within 15 calendar days after a complete application is received and prior to any approval, conditional approval or denial, the city shall mail public notice to all persons entitled to notice, including all owners of record and legal occupants of properties within a ~~500~~500-foot radius of the proposed SWF. The notice must contain:

- a. A general project description;
- b. The applicant's identification and contact information as provided on the application submitted to the city;
- c. Contact information for the director for interested parties to submit comments; and
- c. The date by which comments must be submitted to the director.

(6) *Application decision notice.* Within five calendar days after the director acts on a SWF license application, the director shall provide written notice to the applicant. If the director denies an application (with or without prejudice) for a SWF, the written notice must also contain the reasons for the denial.

([Ord. No. O-2019-18-A](#), 5-21-2020)

Sec. 82-209. - Decisions.

(1) *Decision deadlines.*

- a. The director shall make a final decision to approve, approve with conditions, or deny a completed application to collocate a SWF on an existing structure within 45 days of application submittal, unless the NH shot clock was extended according to section 82-208(4)(b).
 - b. The director shall make a final decision to approve, approve with conditions, or deny an application to place or install a SWF on a new support structure within 90 days after the application is determined to be complete.
- (2) *Required findings for approval.* The director may approve or conditionally approve a complete application for a SWF license when the director finds that the proposed project:
- a. Meets the definition for a "SWF" as defined in this article, if it involves a wireless facility,
 - b. Complies with all applicable location standards in this article;
 - c. Complies with all applicable design standards in this article;
 - d. Would not be located on a prohibited support structure identified in this article; and
 - e. Will be in planned compliance with all applicable FCC regulations and guidelines.
- (3) *Conditional approvals denials without prejudice.* Subject to any applicable federal or state laws, nothing in this article is intended to limit the director's ability to conditionally approve or deny without prejudice any SWF license application as may be necessary to ensure compliance with this article.
- (4) *Appeals.* Any decision by the director shall not be subject to any administrative appeals, but may be appealable to a court of competent jurisdiction.

([Ord. No. O-2019-18-A](#) , 5-21-2020)

Sec. 82-210. - Conditions of approval.

- (1) *Standard conditions.* Except as may be authorized in subsection 82-210(2) of this section, all SWF licenses issued under this article shall be automatically subject to the conditions in this subsection.
- a. *License term.* This license will automatically renew one year from its issuance, and each year thereafter, conditional upon receipt of the annual license fee established in Appendix B of City Code prior to the date of license expiration or \$270 per installation, whichever is higher. And , submission of ongoing signal strength/radio frequency emissions as required in Section 82-207 (1) f. of this Ordinance, and
- (i) Each year commencing on the first anniversary of the issuance of the permit, the Licensee shall submit to the City an affidavit which shall list all active small cell wireless installations it owns within the City by location, certifying that (1) each active small cell installations is covered by liability insurance in the amount of \$2,000,000 per installation, naming the City as additional insured and (2) each active installation has been inspected for safety by an independent radio frequency engineer hired by the Licensee with the approval of the Director and at the Licensee's expense, and found to be in sound working condition and in compliance with all federal regulations concerning radio frequency exposure limits. .and
- 9ii) The City shall have the right to employ a qualified independent radio frequency engineer to conduct an annual random and unannounced test of the Licensee's small cell wireless installations located within the City to certify their compliance with all FCC radio frequency emission limits as they pertain to exposure to the general public. The reasonable cost of such tests shall be paid by the Licensee. and

(iii) In the event that such independent tests reveal that any small cell installation or installations owned or operated by Licensee or its Lessees, singularly or in the aggregate is emitting RF radiation in excess of FCC exposure guidelines as they pertain to the general public, the City shall notify the Licensee and all residents living within a 1500 feet of the small cell installation(s) of the violation, and the Licensee shall have forty-eight (48) hours to bring the small cell installation(s) into compliance. Failure to bring the small cell installation(s) into compliance and maintain them in compliance throughout the period of the lease shall result in the forfeiture of all or part of the Compliance Bond, and the City shall have the right to require the removal of such installation(s), as the City in its sole discretion may determine is in the public interest.

- B. *Post-installation certification.* Within 60 calendar days after the final inspection for any building permit associated with a SWF, the applicant shall provide the director with documentation reasonably acceptable to the director that the SWF or other infrastructure deployment has been installed and/or constructed in strict compliance with the approved construction drawings and photo simulations. Such documentation shall include without limitation as-built drawings, GIS data and site photographs.
- c. *Build-out period.* This SWF license will automatically expire 12 months from the approval date (the "build-out period") unless the applicant obtains all other permits and approvals required to install, construct and/or operate the approved SWF or other infrastructure deployment. Upon written request, the director may grant up to three extensions to the build-out period in 90-day increments if the applicant demonstrates justifiable cause. If the build-out period and any extension finally expires, the license shall be automatically revoked.
- d. *Site maintenance.* The applicant shall keep the site, which includes without limitation all licensed improvements, in a safe condition in accordance with the approved construction drawings and all conditions in the SWF license. The applicant, at no cost to the city, shall remove and remediate any graffiti or other vandalism at the site within 48 hours after the applicant receives notice or otherwise becomes aware that such graffiti or other vandalism occurred.
- e. *Compliance with laws.* The applicant shall maintain compliance at all times with all federal, state and local statutes, regulations, orders, permits or other rules ("laws") applicable to the applicant, the subject property, the SWF or other infrastructure deployment or any use or activities in connection with the use authorized in this SWF license. The applicant expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the applicant's obligations to maintain compliance with all laws. No failure or omission by the city to timely notice, prompt or enforce compliance with any applicable law shall be deemed to relieve, waive or lessen the applicant's obligation to comply in all respects with all applicable laws.
- f. *Adverse impacts on other properties.* The applicant shall avoid, or immediately remedy if necessary, any adverse impacts on nearby properties that may arise from the applicant's or its authorized personnel's construction, installation, operation, modification, maintenance, repair, removal and/or other activities on or about the site.
- g. *Inspections; emergencies.* The applicant expressly acknowledges and agrees that local, state, and federal officers, officials, staff, emergency personnel, agents, contractors or other designees may inspect the licensed improvements and equipment to disable or remove any licensed improvements or equipment in emergencies or when such improvements or equipment threatens actual, imminent harm to property or persons.
- h. *Applicant's contact information.* Within ten days from the date of approval of the SWF license, the applicant shall furnish the city with accurate and up-to-date contact information for a person responsible for the SWF or other infrastructure deployment, which includes without limitation such person's full name, title, direct telephone number, mailing address and email address. The applicant shall keep such contact information up-to-date at all times and promptly provide the

city with updated contact information if either the responsible person or such person's contact information changes.

- i. *Performance security.* Before the city issues any permits required to commence construction in connection with this license, the applicant shall post a security in a form acceptable to the director in an amount reasonably necessary to cover the cost to remove the improvements and restore all affected areas based on a written estimate from a qualified contractor with experience in wireless facilities or other infrastructure removal. The preferred forms of security are certified checks made out to the City of Keene and letters of credit.
- j. *Truthful and accurate statements.* The applicant acknowledges that the city's approval relies on the written and/or oral statements by applicant and/or persons authorized to act on applicant's behalf. In any matter before the city in connection with the SWF license or the SWF or other infrastructure approved under the SWF license, neither the applicant nor any person authorized to act on applicant's behalf shall, in any written or oral statement, intentionally provide information that is materially and/or factually incorrect or omit any material information necessary to prevent any material factual statement from being incorrect or misleading. Failure to comply with this condition shall be grounds for license revocation.
- k. *License revocation.* The director may revoke a license granted under this article when the director finds substantial evidence that the facility is not in compliance with the requirements of this article, and with any applicable laws, which includes without limitation, any license or permit issued in connection with the facility and any associated conditions required by such license(s) or permits.
 - i. Before any decision to revoke a license granted under this article, the director must issue a written notice to the applicant that specifies the facility, the violation(s) to be corrected, the timeframe within which the applicant must correct such violation(s), which shall be a minimum of 30 days, and that the director may revoke the license for failure to correct such violation(s).
 - ii. If the applicant does not correct the violations as specified in the written notice within the timeframe stated, the director may issue a decision to revoke the license. Within five business days after director makes a decision to revoke a license, the director shall provide the applicant with a written notice that specifies the revocation and the reasons for such revocation.
- l. *Records.* Any and all documentation or data submitted to the city in connection with a SWF license application and license is a public record subject to the requirements of NH RSA 91-A, unless otherwise claimed to be confidential by the applicant and agreed to by the city in accordance with state law. In the event of a public record request for confidential information, the city shall notify the licensee within five calendar days of receipt of the request, and the licensee may, at its sole cost and expense, seek an immediate protective order from the NH Superior Court. In the event that the licensee does not take such action within 30 days of notification, the city shall release the record subject to redactions required by law.
- m. *Abandoned facilities.* The SWF or other infrastructure deployment authorized under this SWF license shall be deemed abandoned if not operated under a valid license for any period of time that is 90 days or longer. The city shall notify the applicant in writing of the abandonment. Once deemed abandoned, the applicant and/or SWF owner shall completely remove the SWF or other infrastructure deployment and all related improvements and shall restore all affected areas to a condition substantially similar to the condition at the time the license was initially granted. In the event that neither the applicant nor the SWF owner complies with the removal and restoration obligations under this condition within a 30-day period after the notice by the city, the city shall have the right (but not the obligation) to perform such removal and restoration without further notice, and the applicant and SWF owner shall be jointly and severally liable for all costs and expenses incurred by the city in connection with such removal and/or restoration activities.

- n. *Trees and landscaping.* The applicant shall replace any landscape features damaged or displaced by the construction, installation, operation, maintenance or other work performed by the applicant or at the applicant's direction on or about the site. If any trees are damaged or displaced, the applicant shall hire and pay for a NH licensed arborist to select, plant and maintain replacement landscaping in an appropriate location for the species. Any replacement tree must be substantially the same size as the damaged tree or as otherwise approved by the city.
 - o. *Utility damage prevention.* The applicant shall comply with the requirements of NH RSA 374:48—56, and any adopted administrative rules.
 - p. *Rearrangement and relocation.* The applicant acknowledges that the city, in its sole discretion and at any time, may perform any work deemed necessary, useful or desirable by the city (collectively, "city work") in the city right-of-way. If the director determines that any city work will require the applicant's SWF located in the public rights-of-way to be rearranged and/or relocated, the director shall issue written notice to the applicant of the work to be performed, and the action to be taken by the applicant. The applicant shall, at its sole cost and expense, do or cause to be done all things necessary to accomplish such rearrangement and/or relocation within ten days after the director's notice. If the applicant fails or refuses to either permanently or temporarily rearrange and/or relocate the applicant's SWF or other infrastructure deployment within ten days after the director's notice, the city may (but will not be obligated to) cause the rearrangement or relocation to be performed at the applicant's sole cost and expense.
 - i. The city may exercise its rights to rearrange or relocate the applicant's SWF or other infrastructure deployment without prior notice to applicant when the director determines that city work is immediately necessary to protect public health or safety.
 - ii. The applicant shall reimburse the city for all costs and expenses in connection with such work within ten days after a written demand for reimbursement and reasonable documentation to support such costs.
- (2) *Modified conditions.* The city council authorizes the director to modify, add or remove conditions to any SWF license as may be necessary or required to ensure compliance with the City of Keene Code of Ordinances, this article or other applicable law. To the extent required by applicable FCC regulations, the director shall take care to ensure that any different conditions applied to SWFs are no more burdensome than those applied to other similar infrastructure deployments. The director shall provide written notice to the applicant of any required alteration to the license.

([Ord. No. O-2019-18-A](#), 5-21-2020)

Sec. 82-211. - Preapproved designs.

- (1) *Purpose.* To expedite the review process and encourage collaborative designs among applicants and the city, the city council authorizes the director to designate one or more preapproved designs for SWFs and other infrastructure deployments. This section sets out the process to establish or repeal a preapproved design and the expedited review procedures and findings applicable to these applications.
- (2) *Adoption.* The director may, in the director's discretion, establish a preapproved design when the director finds that a proposed preapproved design meets or exceeds the design standards in this article. The director shall make preapproved designs publicly available at the offices of the director and at the time of application.
- (3) *Repeal.* The director may repeal any preapproved design by written notice posted at Keene City Hall and at the offices of the director. The repeal shall be effective to any application received after the date of the repeal.
- (4) *Modified findings.* When an applicant submits a complete application for a preapproved design, the director shall presume that the findings for approval in section 82-209(2)(c) of this article are satisfied

and shall evaluate the application for compliance with the remaining findings for approval listed in section 82-209(2).

- (5) *Nondiscrimination.* Any applicant may propose to use any preapproved design whether the applicant initially requested that the director adopt such preapproved design or not. The director's decision to adopt a preapproved design expresses no preference or requirement that applicants use the specific vendor or manufacturer that fabricated the design depicted in the preapproved plans. Any other vendor or manufacturer that fabricates a facility to the standards and specifications in the preapproved design with like materials, finishes and overall quality shall be acceptable as a preapproved design.

([Ord. No. O-2019-18-A](#), 5-21-2020)

Sec. 82-212. - Definitions.

The definitions in this section shall be applicable to the terms, phrases and words in this article. If any definition assigned to any term, phrase or word conflicts with any federal or state-mandated definition, the federal or state-mandated definition will control.

Accessory equipment means equipment other than antennas used in connection with a SWF or other infrastructure deployment. The term includes "transmission equipment" as defined by the FCC in 47 C.F.R. § 1.6100(b)(8), as may be amended or superseded.

Antenna means an apparatus designed for the purpose of transmitting or receiving electromagnetic radio frequency signals used in the provision of personal wireless service and any comingled information services.

Antenna facility means an antenna and associated accessory equipment.

Applicant means any person who submits an application and is a wireless provider.

Batched application means more than one application submitted at the same time.

Clear and convincing evidence means the presentation of objective facts which are sufficient to show that it is highly probable, and not merely likely, that the higher priority location is not technically feasible.

Collocation means mounting or installing an antenna facility on a pre-existing structure, and/or modifying a structure for the purpose of mounting or installing an antenna facility on that structure, as defined by the FCC in 47 C.F.R. § 1.6102(g) (as may be amended or superseded). "Collocation" does not include a "substantial modification."

Decorative pole means any pole that includes decorative or ornamental features, design elements and/or materials intended to enhance the appearance of the pole or the public rights-of-way in which the pole is located.

Director means the public works director or their designee.

FCC means the Federal Communications Commission or its duly appointed successor agency.

FCC shot clock means the presumptively reasonable timeframe, accounting for any tolling or extension, within which the city generally must act on a request for authorization in connection with a personal wireless service facility, as such time frame is defined by the FCC and as may be amended or superseded.

Height means the distance measured from ground level to the highest point on the structure, even if such highest point is an antenna. The term "ground level" means the average existing grade or elevation of the ground surface within the footprint of the structure prior to any alterations such as grading, grubbing, filling, or excavating.

NH shot clock means the presumptively reasonable timeframe, accounting for any tolling or extension, within which the city generally must act on a request for authorization in connection with a

personal wireless service facility, as such time frame is defined in NH RSA 12-K:10 and as may be amended or superseded.

Nonresidential district means any zoning district that is not included in the definition of "residential district."

OTARD means an "over-the-air reception device" and includes all antennas and antenna supports covered by 47 C.F.R. § 1.4000(a)(1), as may be amended or superseded.

Person means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization.

Personal wireless services means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services. See 47 U.S.C. § 332(c)(7)(C)(i).

Personal wireless service facilities means facilities for the provision of personal wireless services as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended or superseded.

Persons entitled to notice means the record owners and legal occupants of all properties within a 300-foot radius of the proposed SWF. Notice to the legal occupants shall be deemed given when sent to the property's physical address.

Public right-of-way or *public rights-of-way* means land or an interest in land which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved for or dedicated to or open to the use by the general public for road or highway purposes, or other public access.

Residential district means a zoning district that is intended primarily for residential uses. This term includes the following zoning districts:

- (1) Rural.
- (2) Low density.
- (3) Low density-1.
- (4) Medium density.
- (5) High density.
- (6) High density-1.
- (7) Residential preservation.

RF means radio frequency or electromagnetic waves.

Shot clock days means calendar days counted toward the presumptively reasonable time under the applicable FCC shot clock or NH shot clock. The term "shot clock days" does not include any calendar days on which the shot clock is tolled (i.e., "paused").

Small wireless facility or *SWF* means the same as defined by the FCC in 47 C.F.R. § 1.6002(l), as may be amended or superseded, except as modified in this article. A SWF meets each of the following conditions:

- (1) The facility is mounted on a structure that:
 - a. Is 50 feet or less in height including the antenna; or
 - b. Is no more than ten percent taller than other adjacent structures; or
 - c. Does not extend the existing structure on which it is located to a height of more than 50 feet or by more than ten percent, whichever is greater.
- (2) Each antenna is located inside an enclosure of no more than three cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet.

- (3) All other wireless equipment attached directly to a structure associated with the facility is cumulatively no more than 28 cubic feet in volume.

Support structure means a "structure" as defined by the FCC in 47 C.F.R. § 1.6002(m), as may be amended or superseded. This section states that a "structure" means a pole, tower, base station, or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types of services).

Technically infeasible means a circumstance in which compliance with a specific requirement within this article is physically impossible and not merely more difficult or expensive than a noncompliant alternative.

([Ord. No. O-2019-18-A](#), 5-21-2020)

City of Keene
New Hampshire

PLANNING, LICENSES AND DEVELOPMENT COMMITTEE
MEETING MINUTES

Wednesday, April 22, 2020

7:00 PM

Remote via Zoom

Members Present:

Kate M. Bosley, Chair
Mitchell H. Greenwald, Vice-Chair
Philip M. Jones
Gladys Johnsen
Catherine Workman

Staff Present:

Elizabeth A. Dragon, City Manager
Thomas P. Mullins, City Attorney
Terri Hood, Assistant City Clerk
William Dow, Deputy City Clerk
Rhett Lamb, Community Development
Director
Mari Brunner, Planner
Kürt Blomquist, Public Works Director
John Rogers, Zoning Administrator
Mark Howard, Fire Chief

Members Not Present:

Mayor George Hansel

Chair Bosley called the meeting to order at 7:06 PM. She read a prepared statement explaining how the Emergency Order #12, pursuant to Executive Order #2020-04 issued by the Governor of New Hampshire, waives certain provisions of RSA 91-A (which regulates the operation of public body meetings) during the declared COVID-19 State of Emergency. She explained the procedures of the meeting and how the public can participate.

Roll call was conducted.

1) Cheshire Housing Trust - Application for a Lodging House License

Chair Bosley stated that they do not have a petitioner present. She asked staff to speak.

Rhett Lamb, Community Development Director/Assistant City Manager stated that he will give a quick background, with the intent of making sure everyone knows where this property is. He continued that it has been a lodging house for several years and it has now come to light that they need a license. It is the Hampshire House property owned and operated by Cheshire Housing Trust. It is at the corner of Winter and School Streets and has been a lodging house for a number of years, and that has only recently come to light as a function of the work the City has been doing on the Social Services and Congregate Care ordinance. The City did a comprehensive look at all lodging houses and other uses under the larger category of congregate care to see what existed in the community. What was

revealed is that the Hampshire House falls under the definition of a lodging house, even under the current Chapter 46 standards. Staff let the Hampshire House know that they need to come forward to the City Council for a lodging house license. That is why the Council are seeing this now.

Chair Bosley asked if they have been operating unlicensed. Mr. Lamb replied yes, because no one in the City had placed them in the category of "lodging house." He continued that they had not been aware that they needed a license. They are trying to correct that through this process today.

Chair Bosley stated that they heard that Hampshire House had all their inspections. Mr. Lamb replied that Fire Chief Mark Howard or Zoning Administrator John Rogers can speak to that.

Chair Bosley asked for Mr. Rogers to speak.

Mr. Rogers stated that he and John Bates from the Fire Department conducted an inspection. They have no concerns and recommend granting the license.

Chair Bosley asked if Chief Howard had comments to add.

Chief Howard stated that what Mr. Rogers reported is accurate. He continued that both departments have completed inspections of the location and they are active. That location, from a Fire standpoint, has been active under prior inspections and services. Even though this is new coming to the City Council, from a Fire Code point of view it is not new to get them up to Code.

Chair Bosley asked if the committee had questions or comments.

Councilor Workman stated that her personal experience with Cheshire Housing Trust is that she is not surprised they are in compliance with codes and ordinances now. She continued that she used them when she was a case manager, placing clients there as tenants. The Cheshire Housing Trust is diligent and take precautions on who they rent to and follow all necessary guidelines.

Councilor Johnsen stated that she would like to know: is this in relationship to the meeting the City Council had with folks who did not want to have 20 people in this area? If so, how many people are in this dwelling?

Chair Bosley stated that people who did the inspections could speak up with corrections if needed, but the application is for 18 rooms and 20 people. She continued that this dwelling has been active for years. She, through Comfort Keepers, has served tenants who have been there for years. She asked if anyone knows how long it has been operating.

Mr. Lamb stated that it has been at least 25 years in that location, with the same activity and the same use.

Chair Bosley stated that regarding Councilor Johnsen's question, she thinks that may give them grounds for having a grandfathered situation, when it comes to the stipulations they are discussing at the Joint Planning Board/Planning, Licenses, and Development Committee level for the new ordinance.

Councilor Johnsen stated that she understands that they have been there for a long time. She continued that she remembers saying she was not comfortable with approving that many people in that area because she heard what the people who live in that area said. Wouldn't this slip them in and defeat the whole purpose of not having more than five or six?

Chair Bosley replied that she understands what Councilor Johnsen is saying. She continued that the Joint Committee has had lengthy conversations about this. She thinks that because of the length of time this facility has been in operation, some of the people who came before the Joint Committee with feedback had purchased their homes well after this lodging house was established, moving into the neighborhood knowing that the facility was there already. The ordinance the Joint Committee has been discussing will prevent future buildings being put together in this manner, limiting occupancy at least to 16, which was the initial point they had discussed, and then they talked about lowering that number even more. She continued that Councilor Johnsen needs to look at what her position would be, regarding this particular lodging license. But it has been there for 25 years. Many people who moved in and out of that area were aware that it was already constructed.

Councilor Johnsen asked the City Attorney to address this so she better understands. She continued that she wants to make sure they are not slipping something in that would defeat what they had discussed in the Joint Committee.

Tom Mullins, City Attorney, stated he is not prepared to address the long-term implications. He continued that when the land use development ordinance is in place it will deal with a lot of these uses. This use has been in place for quite some time. When the new ordinance goes into play it will address uses that will be coming into effect after the time that the ordinance is enacted. A better person to answer this question of the interplay between this particular use and the upcoming land use code change would be the Community Development Director or the Zoning Administrator.

Mr. Lamb stated that as it relates to the proposed Social Services and Congregate Care ordinance, the only reason they referenced it tonight is that in doing the preparation for that ordinance they tried to identify all possible lodging houses, group homes, and other categories of land uses that might be affected in the future. He continued that they identified the Hampshire House as a preexisting lodging house, which is why it is coming forward under Chapter 46. In terms of the future ordinance, this is a preexisting use, an allowed use today, and the Hampshire House is there with all the appropriate approvals. The changes associated with the Social Services and Congregate Care ordinance, if it is adopted in the future, would not affect this use, because it is preexisting. The discussion about the ordinance and how they manage congregate care uses in this part of the city is still up for

discussion. It will be coming back in front of the PLD Committee and the full City Council for discussion how to move forward with the issues raised as concerns here tonight.

Councilor Johnsen asked if this is for one year. Mr. Lamb replied yes, it is a one-year license.

Chair Bosley stated that they have an ordinance that will come into play that will level out the dates for all lodging houses to July 1 so this one will be a year and a month.

Councilor Johnsen stated that she remembers people coming and saying, "We don't want this many people in this area." She continued that she is being cognizant of the citizens. If this is grandfathered and that is the consensus of the committee, she will be in support, but she does not want that support to weigh on what will be coming after January 2021.

Chair Bosley asked Chief Howard if he had anything to add.

Chief Howard stated that the proposed number of 20 residents includes two people who reside there, as managers of the property, so there would be 18 lodging house residents.

Councilor Jones stated that something that he keeps bringing up in Joint Committee meetings, regarding the Social Services and Congregate Care ordinance, is that things like what Councilor Johnsen brought up will be taken away from the City Council. For example, the six contingencies they will be making tonight as part of the motion - they would not be able to do that anymore. There is nothing they can do about this tonight, but it is a point he has been making at the Joint Committee meetings. Chair Bosley replied that it is a valid point.

Chair Bosley asked if any attendees or members of the public had comments.

Councilor Clark stated that the Hampshire House has been a resident house for much longer than 25 years, for he remembers it from his youth. He continued that it has always had a reputation of having very strict rules for its residents. He recalls that during a discussion for one of their license renewals maybe 7 or 8 years ago, the Police said they have never had a call there. Maybe that will calm people's fears about there being too many people there. It has never been a problem.

Councilor Workman made the following motion, which was seconded by Councilor Jones.

By a roll call vote of 5-0, the Planning, Licenses, and Development Committee recommends that a lodging license be issued to Cheshire Housing Trust for property located at 86 Winter Street for a period of one year from the date of issuance. Said license is conditional upon the following:

1. No more than 20 persons may reside on the premises.
2. Compliance with all applicable laws, ordinances, codes, and rules and regulations.
3. The continuation of the license is subject to and conditioned upon the successful

passage of an inspection to be conducted by the City.

4. Continued violation of any parking ordinances by residents of the premises or their guests, may be grounds for suspension or revocation of the license, as determined by the Police or the Community Development Departments.
5. Access to the common areas of the licensed premises shall be granted to the Police, Community Development, and Fire Departments at all reasonable times
6. The owner shall notify City staff of any change in the building operator; failure to do so may be grounds for suspension or revocation of this license.

This license expires on the 17th day of May, 2021, and may be revoked by the City Council in accordance with Sec. 46-590 "Suspension or Revocation."

It was noted that the license term will extend out to July 1, 2021 when Ordinance O-2020-03 becomes effective on July 2, 2020. Ordinance O-2020-03 established a consistent license expiration date for all lodging house licenses to be July 1st of the year subsequent to its issuance date.

2) Anthony and Fanella Levick – Granite Roots Brewing – Request to Serve Alcohol on City Property

Chair Bosley asked if Mr. or Ms. Levick was available to speak. Anthony Levick, majority owner of Granite Roots Brewing in Troy, NH and participating via phone, stated that they are seeking approval to once again sell alcohol at Keene Farmer's Market on Tuesdays and Saturdays.

Chair Bosley asked if they have already spoken with the Farmer's Market to get approval. Mr. Levick replied yes.

Chair Bosley asked if he understands that there are issues with doing samples while there are emergency orders in place. Mr. Levick replied yes, and they agree not to give free samples while these regulations are in place. He continued that when COVID-19 finally goes away they will reapply to give samples. Chair Bosley replied that the way the committee would be looking at this tonight is: the City Manager, once emergency orders are lifted, would have the discretion to say when that would be appropriate.

Kürt Blomquist, Public Works Director, stated that Chair Bosley is correct. He continued that Granite Roots Brewing is requesting their annual permission to sell beer at the Farmer's Market. A requirement of the Liquor Commission is that the legislative body on an annual basis must also grant permission. Currently under the Governor's Executive Order 2020-04 providing samples is not permitted. The recommended motion covers that issue. Granite Roots Brewing would be subject to other conditions the City Council set for the Farmer's Market, involving other restrictions, social distancing, how they sell their wares, and so on and so forth, as a member of the Farmer's Market.

Chair Bosley asked if the committee or public had comments or questions.

Councilor Clark stated that he got a text from Councilor Greenwald that he needs to be unmuted. Chair Bosley noted that Councilor Greenwald is in the list of attendees and asked for staff's assistance in bringing him back as a panelist. She continued that in the meantime, she would entertain a motion.

Councilor Workman made the following motion, which was seconded by Councilor Jones.

By a roll call vote of 5-0, the Planning, Licenses, and Development Committee recommended that Granite Roots Brewing be granted permission to sell alcohol at the 2020 Keene Farmer's Market on City property licensed to the Farmer's Market of Keene. Said permission is contingent on the following: submittal of a signed letter of permission from the Farmer's Market of Keene, obtainment of all necessary permits and licenses and compliance with all laws.

During and following the State of New Hampshire Emergency Declaration due to the Novel Coronavirus (COVID-19) and as amended, Granite Roots Brewing shall be subject to, and shall comply with the licensing conditions applied to all vendors participating in the Farmer's Market of Keene; provided, however, that the City Manager is authorized to allow Granite Roots Brewing to offer individual product samples to patrons in accordance with the requirements of the State Liquor Commission, either at the conclusion of the State of Emergency as declared by the Governor, or at such time thereafter as determined to be appropriate by the City Manager.

3) Ashley Sheehan/Modestman Brewing – Request to Serve Alcohol on City Property

Chair Bosley asked staff to comment. Mr. Blomquist stated that this is Modestman Brewing's request to sell alcohol on City property, in connection with a future license to utilize the sidewalk area for a café. He continued that the license is typically issued administratively, but alcohol permission must be given by the City Council. The permission will be renewed annually unless something changes. Staff recommends this item be placed on more time, due to the COVID-19 executive order. The City is waiting for guidance from the State and the Governor about how the reopening will go. Then they will have guidance for the issuance of the license.

Chair Bosley asked if anyone had comments, or a motion.

Councilor Greenwald made the following motion, which was seconded by Councilor Jones.

By a roll call vote of 5-0, the Planning, Licenses, and Development Committee placed the item on more time.

4) Ordinance O-2019-18-A – Relating to Small Wireless Facility Deployments in the Public Rights-of-Way

Chair Bosley stated that they will be taking additional public comment tonight, limited to

new information or conversation about the amendments to Ordinance O-2019-18 only. She continued that they have already had a public hearing about this topic and talked about it at several meetings.

Councilor Greenwald stated that they are not talking about the merits of 5G tonight, they are just discussing this ordinance which says ‘If and when 5G ever comes to Keene, this is how it will be dealt with.’ That is the only thing the City can control.

Councilor Jones stated that he loves the red line version of the ordinance; he is much happier with this than the other version. He thanked staff. He continued that his question is: there was a part about 5G coming into effect [being possible starting] January 2. What would the process be for that? A new ordinance, or an amendment to this ordinance?

Chair Bosley replied that the PLD Committee had made a motion to hold off on 5G applications, per Councilor Jones’s letter, until January 2, 2021. They could issue 4G licenses under these standards but all 5G licenses would be held until January 2021.

Councilor Jones stated that his question is whether that would be a new license or an amendment to this license. Chair Bosley replied that she thinks it would be the same ordinance that just sunsets. She continued that they will go through the amendments with staff tonight and have further discussion if Councilor Jones thinks it needs to be changed. She asked Mari Brunner to speak.

Mari Brunner, Planner, introduced herself and gave a PowerPoint presentation about the revised ordinance proposal. She stated that the original version was introduced in November and establishes a license that would be issued by the Public Works Director that would include location, siting, and design standards for small wireless facilities (SWFs), and establishes application intake and review procedures. She continued that they have since heard many public comments, mostly concerning potential health impacts of 5G, as well as concerns related to aesthetics and public safety. At the February 26 Planning, Licenses and Development Committee meeting this committee made a motion directing staff to craft a revised ordinance based on those comments, and the motion also included a recommendation to City Council that if this ordinance is adopted staff would be directed to hold off on accepting any 5G applications until January 2, 2021. The reason for that date is that is after the report is due from the State’s commission to study the environmental and health impacts of 5G. That was established by HB 522 last year.

Ms. Brunner continued that there are a few introductory provisions to the ordinance, including purpose and intent, applicability, required licenses and approvals, and exemptions. There were two changes made to these sections. The first, under the “Applicability” section, is a clause that was added, stating that if there are amendments, any such amendments will apply to future applications. Also, under “Required Licenses and Approvals,” they added a “sunset clause,” saying that if the FCC order gets overturned, this license becomes null and void and all licenses issued under this ordinance shall be revoked. It gives a time frame of 90 days for equipment and attachments to be removed, and if they are not, they will be deemed abandoned.

Ms. Brunner continued that the next section, “Location Preferences” establishes where the facilities can be located. A few highlights are: the section gives an ordered hierarchy of preferences, from most to least preferred locations. An applicant is required to demonstrate with clear and convincing evidence that higher preference locations are not technically feasible in order for the director to approve SWFs in a lesser preferred location. There were two changes made to this list: previously they just had the 400-foot spacing requirements, and now they added a 750-foot spacing requirement for residential districts. It will still be 400 feet in non-residential districts. They also added a 750-foot buffer from K-12 schools, preschools, and daycare centers, established as of the enactment of this ordinance.

Ms. Brunner continued that in addition this section lists some prohibited support structures: new wooden poles (with a photo to illustrate), unless they are replacements for existing structures; and existing, City-owned, decorative poles. Highlights from this section: the “Additional Requirements” subsection has a provision that states that SWFs shall be placed as close as possible to the property line between two parcels that abut the public right-of-way. The purpose is to place them between properties as much as possible, instead of right outside someone’s window. There is also a provision geared toward public safety saying that SWFs shall be placed to not obstruct a 200-foot, all-season sight distance at any intersection so they are not a hazard to drivers. Also, it says SWFs shall be placed at least five feet from any driveway and 50 feet from any driveway for police stations, fire stations, or other emergency responder facilities.

Ms. Brunner continued that the ordinance also lists a number of design standards. This is a pretty large section. It includes standards for many items, such as height, colors and finishes, lights, trees and landscaping, signs and advertisements, and so on and so forth. There were no changes made to this section.

Ms. Brunner continued that what is new in the “Application Requirements and Review Procedures” is as follows: staff removed language, which stated that separate radio frequency (RF) reports are not required for batched applications when the same small cell wireless facility equipment is proposed for each location. This change was made in response to a comment they received from the public, asking why separate reports would not be required. It was a valid point so they decided to remove that language. Now, an RF report *will* be required for each facility, even if it is a batched application.

Ms. Brunner continued that the next section is “Decisions.” This outlines the process for issuing a decision on a license application, including the deadlines by which decisions need to be made. It is an important section, because the City has very short timeframes, which have been set for the City at the State and Federal level to act on these applications. In particular, for applications to locate SWFs on an existing structure. From the date someone applies, the City has to issue a decision within 45 days. That is a quick turn-around time, and it has driven some of the ways that this ordinance is set up. The “Decisions” section also includes required findings for approval. The Public Works Director has to be able to go through the list and make a finding on each item in order to issue a license.

Ms. Brunner continued that the “Conditions of Approval” section includes a list of 16 standard conditions that would apply to all licenses issued under this ordinance. It also includes a provision called “Modified Conditions,” which authorizes the Director to modify, add to, or remove any of those 16 standard conditions for any SWF license as may be necessary to ensure compliance with the City of Keene Code of Ordinances, this Article, or other applicable law.

Ms. Brunner continued that lastly, this ordinance creates the opportunity for the Public Works Director to establish Preapproved Designs. If someone submits a design to the Director and he is able to find that that design meets or exceeds the design standards in this Article, he can adopt it as a pre-approved design and make it publically available. The purpose of that is to streamline the review and reduce the burden on staff in reviewing these applications. If someone is going to propose several facilities and they use a pre-approved design, then when the Director is making those findings of approval, if the applicant is using a pre-approved design he can presume that the design standards are satisfied and he will only have to go through and make a finding on the other items.

Chair Bosley thanked Ms. Brunner and asked if other staff members wanted to speak to this.

Mr. Lamb stated that staff is in support of the ordinance and Ms. Brunner’s presentation and did not have specific comments but are available to answer questions.

Councilor Jones stated that he understands why the decision would come from the Public Works Director, because it would not make it through the City Council with the 45-day deadline, but he would like to know what the process is if an applicant wants to appeal the Public Works Director’s decision. Ms. Brunner replied that the appeal would go to “a court of competent jurisdiction.”

The City Attorney stated that there are two potential courts of competent jurisdiction, depending on which part of the ordinance is appealed, keeping in mind that the ordinance melds the FCC Order and State law. If there was an issue with regard to the FCC Order it would go to the Federal District Court, but if it was something that arose under State law only it would probably go to the Superior Court. There is a possibility that the Federal Court would take jurisdiction of it but if it were strictly a State law question under RSA 12-K it would probably go to the Superior Court.

Councilor Jones stated that he is happy with the change to 750 feet in residential areas. He continued that the 400-foot requirement was one of the things he did not like about the ordinance, and he appreciates that change being made.

Chair Bosley stated that she agrees. She continued that she thinks staff has done a great job listening to public and committee comments. She likes the way this has shaped up.

Chair Bosley asked for comments from the public.

Beth Cooley, Assistant Vice President of State Legislative Affairs at CTIA, stated that CTIA

is the trade association for the wireless communications industry. She continued that she has been asked to express concerns about the City of Keene's proposed ordinance, on behalf of the wireless industry. As drafted, the ordinance violates both State and Federal law. CTIA also has concerns that the proposed ordinance "will deprive the residents of Keene of enhanced wireless services." Connectivity as we can see today is imperative for the world that we live in, from work to school to play, and the provisions of this ordinance will hinder wireless providers' ability to deploy and upgrade their networks.

Ms. Cooley continued that she will not go line by line but she wants to highlight a few things in the ordinance that are problematic in the CTIA's view. First, the ordinance violates State statute, RSA 12-K. That is an overarching problem, to the extent that the ordinance attempts to regulate facilities on utility poles, which violates that State statute. That was Senate Bill 101 in 2013, for reference. Section 82-205 of the proposed ordinance discusses prohibited support structures and this is, in effect, a prohibition. It flatly prohibits SWFs on new, non-replacement wooden poles. There appear to be no similar restrictions on other rights-of-way users, so imposing this restriction only on SWFs is discriminatory and violates Sections 253 and 332 of the Federal Communications Act.

Ms. Cooley continued that also, under 82-206-9, the "accessory equipment volume" definition conflicts with Federal law. The FCC order says that accessory equipment volume is 28 cubic feet for all antenna equipment, whereas this ordinance's language says 9 cubic feet in residential and 17 cubic feet in nonresidential. That is a conflict.

Ms. Cooley continued that finally, she would be remiss not to point out that although it is not in the ordinance, she heard reference to a moratorium on 5G applications being in effect until January 2, 2021. She is familiar with and sits on the NH 5G Commission; however, a moratorium on applications also violates Section 253 of the Federal Communications Act and recent FCC affirmations reaffirming that moratoriums are unlawful. She concluded that the CTIA respectfully requests that the ordinance not pass in its current form.

Chair Bosley thanked Ms. Cooley for her comments. She continued that they have made some decisions as a committee with the understanding that there could be ramifications, based on what they think is right for the citizens of Keene. There were some good points that were made. She asked the Community Development staff and/or the City Attorney if they have information or if those points have been looked into.

The City Attorney replied that the short answer is, yes, they have looked into those points. He continued that they are trying to balance what the City and City Council needs and expects, with the State law and FCC Order. He does not want to get into a debate with Ms. Cooley tonight, but staff believes they have crafted the ordinance in a manner that they are going to proceed on. If there are issues that arise from it, they will deal with the issues if they arise.

Councilor Clark stated that to comment to Ms. Cooley, they are all aware of the ramifications of the City Council's decision but they have decided that the health and safety of the Keene citizenry is more important and they are willing to take due diligence to protect

them from harm. He continued that it is not unreasonable to craft the ordinance around the State commission's work. That commission was unanimously created by the legislature and the Governor so it is a prudent step to take and he thinks what the City Council is doing is right.

Chair Bosley stated that the City Council as a whole has been progressive in the decisions it has made throughout time. She continued that if the City Attorney feels they have crafted an ordinance that does keep them on this side of legal and they understand moratorium issues, they are all definitely aware of the sensitivity around these topics.

Mr. Lamb stated that part of the reason for this ordinance is that there has been interest on the part of developers of SWFs but he also wants to point out, when City staff have spoken to those folks, none of them have spoken about installing 5G. They say it is potentially several years away. So studying 5G, evaluating it, and putting it into the ordinance when they are ready to do that is prudent. No one has made applications for 5G installations in the City of Keene. All applications have been for 4G using the SWF concept in the public right-of-way.

Councilor Jones stated that he thanks the committee and the City Council – he could not be at the February meeting as he was out of state. He thanks them for addressing his letter considering the moratorium until they can hear from the State committee. He thinks that was the right thing to do and he thanks them for their support.

Chair Bosley replied that he is welcome and everyone heard his point. She continued that she believes what Mr. Lamb was saying. They do not see immediate applications so there is no reason to not take the time with this process and have safety be a consideration.

Hearing no additional comments, Chair Bosley stated that she would entertain a motion.

Councilor Greenwald made the following motion, which was seconded by Councilor Jones.

By a roll call vote of 5-0, the Planning, Licenses, and Development Committee recommends that City Council adopt Ordinance O-2019-18-A Relating to Small Wireless Facility Deployments in the Public Rights of Way, with the condition that the City Manager or her designee be directed to accept only applications for antenna and transmission equipment of up to a maximum of 4G until January 2, 2021.

There being no further business, Chair Bosley adjourned the meeting at 8:11 PM.

Respectfully submitted by,
Britta Reida, Minute Taker

City of Keene
New Hampshire

PLANNING, LICENSES AND DEVELOPMENT COMMITTEE
MEETING MINUTES

Wednesday, May 13, 2020

7:00 PM

Remote Meeting via Zoom

Members Present:

Kate M. Bosley, Chair
Mitchell H. Greenwald, Vice-Chair
Philip M. Jones
Gladys Johnsen
Catherine Workman

Staff Present:

Elizabeth A. Dragon, City Manager
Thomas P. Mullins, City Attorney
William Dow, Deputy City Clerk
Terri Hood, Assistant City Clerk
Mari Brunner, Planner
Rhett Lamb, Community Development
Director
Kürt Blomquist, Public Works Director
John Rogers, Zoning Administrator
Andrew Bohannon, Parks, Recreation, and
Facilities Director

Members Not Present:

Mavor George S. Hansel

Chair Bosley read a prepared statement explaining how the Emergency Order #12, pursuant to Executive Order #2020-04 issued by the Governor of New Hampshire, which waives certain provisions of RSA 91-A (which regulates the operation of public body meetings) during the declared COVID-19 State of Emergency. She called the meeting to order at 7:03 PM and explained the procedures of the meeting, including how the public could participate. Roll call was conducted.

1) Ashley Sheehan/Modestman Brewing – Request to Serve Alcohol on City Property

Chair Bosley asked the applicant to speak.

Ash Sheehan, speaking via phone from 100 Main Street, stated that his business is about six months old, and is a “Nano plus” brewery. He continued that this is their first time applying for a sidewalk café license. They are requesting permission to serve alcohol on the front sidewalk in front of their Main Street location.

Chair Bosley asked if staff could speak to this. Public Works Director Kürt Blomquist stated that this is the standard application for permission to serve alcohol in the public right-of-way with the intent of potentially getting a café license from the City.

Chair Bosley asked if the process has been completed for the café portion. Mr. Blomquist replied that he is not aware of that. Chair Bosley asked if Mr. Sheehan has spoken with the City

Clerk's Office about getting the café portion of the license going. Mr. Sheehan replied yes, he has been through that process. He continued that they also have seating in the rear of the building, which is not City property, and that has been approved. The same aesthetics would be for the front. They applied in early March.

Chair Bosley stated that the food portion of a license can be approved administratively through the City Clerk's Office, but what has come before the PLD Committee is the first-time request to serve alcohol.

Zoning Administrator John Rogers stated that he wanted to confirm that Modestman Brewing has applied for a café license. He continued that Mr. Sheehan submitted a diagram for their sidewalk seating. It has been reviewed and appears to be compliant. They will do another review once the seating is set up.

Councilor Greenwald asked if food will be available at all times that there is seating out front. Mr. Sheehan replied yes. He continued that they comply with the Nano plus license issued by the State Liquor Commission. They have a kitchen in their restaurant and they have a menu that is available at all times that beer is served.

Councilor Workman thanked the petitioner for joining the meeting. She continued that Mr. Sheehan mentioned that they have will have seating out back. She asked why they are looking for the additional seating out front, and whether that seating out front will have a barrier around it.

Mr. Sheehan replied that everything they applied for is pre-Covid-19 and the NH Liquor Commission is strict on having all alcohol tightly secured. He continued the NH Liquor Commission has approved all of their outdoor seating and the front is very secure. The reason why they want a front and back patio is because people like to sit outside and have a cold beer.

Chair Bosley replied that that is accurate and people are probably ready, with the start of this beautiful weather and the Governor's orders opening things back up.

Councilor Johnsen asked Mr. Sheehan to explain what the food situation is like in the back. Mr. Sheehan replied that that is a separate LLC that he also owns, which is a food truck. It parks on their private property in the rear of the building. He continued that Mr. Rogers and his staff have deemed it safe. The food truck offers food whenever Modestman Brewing is open. To be compliant with the NH Liquor Commission Modestman Brewing also has a 5-item menu they do in the kitchen inside, which has refrigerators, hand-washing sinks, dishwashers, etc.

Chair Bosley thanked Mr. Sheehan for the explanation, because there had been some questions about how the food truck and brewery worked together. She asked if the Committee had any more questions.

Councilor Jones stated that he wanted to say that he was one of the ones that voted to send this to committee, because it is the only time the public gets to speak to this. Otherwise there is no transparency. He continued that in the past they have had issues and one time they started the

revocation process on someone's license. One of the complaints from the public was that the business was not serving food and the business's comeback was "We're serving ice, that's food." The City Council is glad to hear that Mr. Sheehan is compliant and they look forward to this.

Councilor Clark stated that he was one of the ones who had questions, and now they have been answered, and he hopes the license is approved.

Councilor Greenwald made the following motion, which was seconded by Councilor Workman.

Move to recommend that Modestman Brewing be granted permission to serve alcoholic beverages in connection with their Sidewalk Café License, subject to the customary licensing requirements of the City Council, and compliance with the requirements of Sections 46-1191 through 46-1196 of the City Code. As part of the license conditions during and following the State of New Hampshire Emergency Declaration due to the Novel Coronavirus (COVID-19) and as amended, the Licensee shall:

- Maintain and monitor social distancing practices of at least six feet for customers and restaurant staff;
- Provide adequate space for patron seating and flow to maintain 6 foot social distancing practices;
- Use non-porous tables that can be easily disinfected;
- Discontinue the use of table items that cannot be cleaned and sanitized;
- Have access to and utilize hand sanitizer for use between customers;
- Disinfect customer surfaces between customers;
- Remain in strict compliance with the Seating Location Plan, which plan may be further altered or discontinued at the discretion of the City; and,
- Follow any other requirements that may be issued by the City and/or the State for health and safety of the restaurant staff and the public.

This license shall expire on March 1, 2021.

During the Emergency Declaration issued by the Governor due to the Novel Coronavirus (COVID-19) crisis, or until such time thereafter as determined by the City in its sole discretion, the Licensee shall comply with the recommendations of the Federal Center for Disease Control, the State of New Hampshire (with specific reference to Executive Order #40, Exhibit C, subsection A), and the City of Keene, with respect to the operation of a sidewalk café restaurant.

Chair Bosley asked if there was any additional discussion from the Committee or the public.

Councilor Johnsen asked if there is a way they can speed this up, since it is taking longer than expected. Chair Bosley replied that their recommendation is due to come to the City Council next Thursday. She continued that she does not think there can be a full vote on it any earlier than that. City Attorney Tom Mullins replied that that is correct. He continued that the process

is in place for it to now go to the full City Council next Thursday. The only way to have it acted upon faster would be to call a special meeting. Councilor Johnsen stated that she appreciates that Mr. Sheehan got all of the material in on time. She continued that the delay happened because no one anticipated the Covid-19 crisis.

Mr. Rogers stated that he wanted to point out that the Community Development Department did work with Mr. Sheehan and approved the outdoor seating for the rear of the building and that the rear location will be able to open on Monday when outdoor seating is allowed by the Governor's orders.

Chair Bosley asked if the seating out front can be approved administratively and they could just have the service of alcohol held until it is approved by the City Council. The City Attorney replied that the sidewalk café license is administrative, so the action the City Council is taking is with respect to the serving of alcohol. Therefore the answer is yes. As soon as the City Clerk completes the process of the sidewalk café license they can start serving food. Chair Bosley replied that that is fantastic, because everyone is anxious to get back to business. She continued that even if the process is slow, as Councilor Johnsen pointed out, maybe they can at least get Modestman Brewery able to serve food per the Governor's orders on Monday. If everything goes smoothly at the City Council meeting the alcohol piece would follow.

The motion passed with a vote of 5-0.

2) Request to Sign on to the Clean Energy New Hampshire "Common Sense Net Metering Letter" - Energy and Climate Committee

Chair Bosley stated that the Energy and Climate Committee (ECC) brought this before the City Council last week. She asked Peter Hansel to speak.

Peter Hansel, of 61 Bradford Road, stated that he is the Vice Chair of the ECC. He continued that this proposal is similar to one that the City Council voted on last year for a similar request to go to the Legislature to approve expanding the net metering from 1 megawatt to 5 megawatts. That proposal that was passed last year was vetoed by the Governor. This is a compromise proposal which basically adds several other categories into the existing legislation, allowing municipalities and other municipal organizations to go up to 5 megawatts. The second part of the letter says that projects that involve low-middle income projects would also be subject to the 5 megawatt cap instead of the 1 megawatt cap. The letter recommends that private businesses also be allowed to qualify if they have been approved after careful review by the PUC. The ECC met on May 5, reviewed this request, and voted unanimously to pass it along for the City Council's approval.

Chair Bosley thanked Mr. Hansel and asked Mr. Lamb to speak. Mr. Lamb stated that he is just here as backup in case they have questions.

Councilor Johnsen asked if she is hearing that this is superimposing 5G on them. Mr. Lamb replied that this is not related in any way to telecommunications or 5G. He continued that what Mr. Hansel is referring to is solar energy generation and the current limit of 1 megawatt.

Councilor Johnsen asked for clarification about the move “from 1 to 5.” Mr. Lamb replied that currently net-metered connections to the electricity grid for solar generation on private property are limited to the size of 1 megawatt. The request was to raise the cap to 5 megawatts, allowing larger solar generation to take place on private property and be net metered into the electricity grid.

Councilor Greenwald stated that he is very much in support of this, and in support of the City Council weighing in on important issues that affects Keene. It is important that the Legislature hear from Keene. Solar is the way of the future, environmentally smart, and financially terrific. This letter of support is hopefully something the Governor and Legislature will pay attention to.

Chair Bosley stated that she agrees. She continued that they heard at the City Council meeting that this could negatively impact many solar arrays that have already been installed.

Councilor Jones stated that he wants to thank Mr. Hansel, Councilor Clark, Dr. Shedd, and everyone else on the ECC. He continued that he knows how difficult it is dealing with the NH when it comes to this, and the NH PUC, and he hopes they do adopt this letter.

Chair Bosley asked if there were any more comments from the Committee. Hearing none, she asked if there were comments from the public.

Mr. Hansel stated that he left out one item in his earlier comments – Governor Sununu came to Keene last fall and spoke to the Keene Rotary Club. The Governor was asked why he had vetoed the previous legislation raising the cap to 5 megawatts. Governor Sununu’s reply was that he was preparing a compromise solution where municipalities like Keene would be eligible for the 5 megawatt proposal. Mr. Hansel continued that he thinks this compromise being proposed is partly what Governor Sununu has already publicly stated in Keene that he would endorse. There are a few other things that have been included, such as the low-middle income component, and the recommendation as described in the letter is to allow private businesses to also qualify as long as they go through the PUC review process.

Councilor Greenwald made the following motion, which was seconded by Councilor Workman.

On a vote of 5-0, the Planning, Licenses, and Development Committee recommends that the “Common Sense Net Metering Letter” shared by Clean Energy New Hampshire on May 5, 2020 be signed on behalf of the City of Keene in order to show support for expanding the net metering project cap size from 1 MW to 5 MW for political sub-divisions of the State and low-moderate income community solar projects.

3) Relating to Small Wireless Facility Deployments in the Public Rights-of-Way Ordinance O-2019-18-A

Mr. Lamb stated this is the Ordinance that was referred back to Committee last week. They do not have a specific presentation tonight, but they are ready to listen to whatever edits or changes the Committee is asking for and he and Ms. Brunner, who was a primary drafter, is here to answer questions, as is Mr. Blomquist.

Chair Bosley asked for Committee members' questions or comments.

Councilor Jones asked: what is the biggest contrast between A and B? Chair Bosley replied that they do not have a "B" version of the ordinance. She continued that O-2019-18-A is what they reviewed two weeks ago at the PLD Committee meeting that had the red-lined changes and edits that the PLD Committee approved to go to the City Council. There were some concerns at the City Council meeting. Some Councilors thought the PLD Committee might want to take a second look at some the issues inside the Ordinance itself. Tonight they are deciding if they are any tweaks they want to make based on the comments or if they are happy with the Ordinance as is.

Councilor Jones stated that the Committee received several possible recommended motions for their consideration. He continued that the final sentence in each recommended motion talks about the City Manager accepting up to a maximum of 4G or allowing 5G after a certain date, which is January 2, 2021. He thinks they should eliminate the 5G one and use the one that says maximum of 4G, because there is a 4G+ out there that can be used. He thinks they should eliminate the motions that talk about allowing 5G after that date and keep the ones that say "a maximum of 4G."

Chair Bosley asked if the Councilor is happy with the Ordinance and the language within it, but his concern is for the potential delay in accepting 5G applications and he would like that delay to stay. Councilor Jones replied that some motions say "not to accept 5G," which opens the door for 4G+. Chair Bosley asked if he likes the wording "maximum of 4G" because it does not allow "4G+." Councilor Jones replied that that is correct.

Councilor Greenwald asked the City Attorney to comment on the differences between the possible recommended motions B and C. He continued that he was thinking they were discussing not accepting 5G applications and that that would be the question. He did not know there was a "4 and a half."

The City Attorney stated that what the committee has is the staff's effort to try and anticipate the possible outcomes of tonight's meeting, with respect to what the Committee might do or might not do. The four motions were suggested, with respect to trying to anticipate that discussion. With respect to the "enhanced 4G," that was not something he understood. He did not understand that there was a "4 and a half." He thinks that the language of "up to a maximum of 4G" was in the original recommendation from the PLD Committee. If that language needs to change because there is something greater than 4G that should be allowed, yes, they would need to consider that.

Chair Bosley asked if it is accurate to say that if they were to leave the original language of the interior of the Ordinance as it is, and leave their recommendation of "up to 4G," that would be recommended motion A; and if they were to eliminate the ability to delay the applications of 4G+ or 5G, then motion B would be accurate.

The City Attorney replied that if they do not make changes to the underlying ordinance and they want to keep the non-acceptance of 5G applications, then that would be the first proposed motion, about endorsing and adopting what they have already sent to the City Council. He continued that he needs to check what the language in that original action was.

Chair Bosley replied that while the City Attorney is looking that up, it might be helpful for the Committee to look at the proposed recommended motions: Options A and B are designed to leave the original body of the Ordinance alone, and the changes would revolve around whether to keep or remove the Committee's previous recommendation to delay the acceptance of 5G applications. She continued that motions C and D would be if the PLD Committee was recommending altering the body of the Ordinance and then again, keeping the delay or removing the delay on accepting applications.

Chair Bosley continued they have a few items that were brought to them at the last PLD Committee meeting, which had come up as questions about whether there were issues in the Ordinance the Committee wanted to reconsider. So the question for the Committee is: do they want to reconsider the delay? Do they want to reconsider any amendments to the interior of the Ordinance?

Councilor Greenwald stated that he thought the Ordinance itself was pretty much intact, but there was a Committee recommendation attached to the Ordinance. Chair Bosley replied that that is correct. She asked for the City Attorney to clarify.

The City Attorney stated that if the committee decides to do nothing at all, then the proposal is the first motion: "Move to endorse and adopt the recommendation with respect to Ordinance O-2019-18-A as previously submitted to the City Council." He continued that the original recommendation contains that limitation on not accepting 5G applications and only accepting up to a maximum of 4G. If the PLD Committee were to leave everything in place, that language of non-acceptance would remain. The question raised at this point by Councilor Jones is: is there "4G+" that the City Council would want? Because that recommendation on its face would foreclose 4G+, so they would need to adjust that.

The City Attorney stated that he does not know if the potential motions are all labeled the same on everyone's sheet, but on the sheet that he has, the motion that answers Councilor Greenwald's question reads as follows: "Move that the Planning, Licenses, and Development Committee recommend that Ordinance 0-2019-18-A be adopted, but that the direction to the City Manager not to accept 5g applications until January 2, 2021 contained in its previous recommendation be deleted." They would be accepting the ordinance as it was previously presented, but they would be deleting the part of the recommendation that has the non-acceptance of 5G applications until January 2, 2021.

Chair Bosley replied that on the committee members' sheet, motions A and B are to keep the main ordinance the same and either keeping or deleting the recommendation about the delay. She continued that motions C and D are about changing the body of the ordinance and either keeping or deleting the recommendation about the delay.

Councilor Johnsen stated that she was thinking they had until the end of December until they did anything with 5G. She continued that she has people contacting her again saying they do not want 5G.

Councilor Clark asked the City Attorney – if the City were to adopt option C, which makes no mention of 5G or a prohibition, would that lessen their exposure to a lawsuit by the industry? The City Attorney replied that he does not want to get into the questions of the legality of one action or another. He continued that the PLD Committee is here to discuss the merits and what they want to do to proceed and it is the Committee’s prerogative to do that. He requests that legal questions be deferred. The reality from his point of view is you put five lawyers in a room dealing with these kinds of issues and you will get 12 answers to the same question. He asks the Chair to defer these types of questions.

Chair Bosley welcomed comments from the public.

Beth Cooley, Assistant Vice President of State Legislative Affairs at CTIA, the trade association for the wireless communications industry, stated that members of the CTIA asked her to come tonight to reiterate their concerns and opposition to the proposed Ordinance. She continued that they submitted questions to the full City Council on April 30, so many of their arguments and comments are provided there, but she will be happy to provide them to the PLD Committee if needed. This Ordinance is unlawful on the State and Federal level. The overarching problem is it attempts to regulate facilities on utility poles, which violates NH RSA 12-K:10, regarding the deployment of personal wireless facilities. That Statute States that “notwithstanding anything to the contrary, an authority may not mandate, require, or regulate the installation, location, or use of wireless facilities on utility poles, including those owned by the municipality.”

Ms. Cooley continued that the Ordinance also has provisions that conflicts with Federal law. The PLD Committee has been talking about their 5G moratorium, which she expressed concerns about at their last meeting so she will not reiterate the comments on the moratorium being unlawful. Regardless of whether the Committee decides to have that moratorium be removed or kept, there is still an existing moratorium in the Ordinance Section 82-205.2 – “Prohibited Support Structures.” That also establishes a moratorium/blanket prohibition on attachments to new wooden poles and City decorative poles. That runs afoul of Sections 253 and 332 of the Communications Act.

Ms. Cooley continued that there are other provisions in the Ordinance of concern. The industry would be happy to work with the City on a path moving forward with this Ordinance. At a time when wireless connectivity is so important, the ability for wireless providers to enhance and upgrade their networks is paramount. The industry wants to meet the needs of its customers, who are also the City’s constituents. In order to meet the demand, their investment must be met with forward-looking infrastructure regulations that promote rapid and efficient deployment. This Ordinance does not reflect such forward-looking regulations. The CTIA asks that this Ordinance be rejected.

Councilor Johnsen thanked Ms. Cooley for the information. She if this Ordinance is not fitting with the State laws, does Ms. Cooley have a motion in mind? Ms. Cooley asked if she means

what Ordinance would she bring. Councilor Johnsen replied yes. Chair Bosley asked if Ms. Cooley has suggested amendments.

Ms. Cooley replied that the CTIA would need to work with the City Attorney and the wireless industry's attorney, because NH is so unique because of the Statute. It does not look like any other Ordinance in New England. She continued that she does not have anything to offer the PLD Committee today, but the CTIA would be happy to work with the City offline.

Councilor Giacomo asked: should the City enact a "moratorium" (or some other language that has that effect) on 5G? Or would it result in litigation or cause the City to be sued? Does Ms. Cooley know of a case where the wireless industry sued a municipality for having a moratorium on small cell facilities? Chair Bosley asked if he was asking the City Attorney. Councilor Giacomo replied that his questions were for Ms. Cooley.

Ms. Cooley replied that she cannot speak with any certainty regarding litigation on this type of ordinance, but she can say that there is precedent when a locality has passed a moratorium on 4G or 5G. She continued that wireless providers, wireless infrastructure providers, and the CTIA filed suit. Most recently in August 2017 CTIA filed a lawsuit against the City of Tampa, FL. They had an ordinance that was a moratorium. The lawsuit was rescinded in November 2017 because the City of Tampa passed an ordinance that undid the moratorium. This is just CTIA's point of view. There may be individual members with other plans she is not privy to – it is quite a competitive industry.

Councilor Ormerod stated that they have an Ordinance that represents the vision they have for the City of Keene - the look, the feel, and where they want to be. The Ordinance was extremely well-crafted. He continued that he wonders if the idea that they cannot accept applications before January 2 is confusing the issue. He wants to debate the merits of the Ordinance and if it does indeed represent where they want Keene to be. He invites anyone from the telecommunications industry to help him understand what the problem is with the City Council considering the concerns of its citizens and Keene's vision of where Keene wants to go.

Mayor George Hansel stated that he has thought a lot about this issue over the past several weeks. He continued that he does not think Keene is at the forefront of where 5G installations will be put in place. Right now 5G is being installed in Boston and metropolitan areas and is unlikely to come to Keene for a long time. He does not think the moratorium would accomplish much. They should think about taking it out of their recommendation. There are obviously some legal questions around 5G and the FCC ruling. The City and the City Council would be inserting themselves into the frontlines of the issue when they do not need to be, and they should think about taking the moratorium language out of their recommendation. He wants the City Council to think about the perception and message the moratorium sends. They are trying to attract new businesses and young people to Keene. There is a workforce problem here. There is a perception that would reverberate if they put themselves in a posture that is anti-new technology and anti-broadband. There are conflicting issues here with their need for connectivity and their need to enhance connectivity for current and future citizens, and taking a stand against this new technology from being implemented. Those are things for the City Council to think about as they are trying to figure out what to do.

Chair Bosley replied that she echoes a lot of that sentiment. She continued that she thinks they did a great job creating this Ordinance and yes, like Councilor Ormerod said, they are trying to protect their citizens and the look of downtown. She does not think 5G is just around the corner. They do not have any pending applications right now or any interest. The Keene community is probably a little ways down the road, while bigger communities like Boston, Chicago, San Francisco, and so on and so forth, are ripe for these installations and the roll out of 5G. The moratorium or delay on acceptance of those applications is there to create an environment of protection, but she does not know if it is against something that is actually happening. She thinks staff did a great job writing the body of the Ordinance, making sure they looked into all regulations thoroughly and complied with everything and they do feel like there is comfort that they have met the requirements they need to meet.

Councilor Greenwald stated that within the Ordinance right now there are many important protections and controls that need to get enacted before an application comes through. He continued that at first he was thinking they could just keep this in Committee and talk and talk and talk about it, but these controls need to be acted upon before they get an application. He thinks they need to focus on two issues: the moratorium they can talk about. If an individual Councilor is dead-set against 5G that is another variable. He wants to get an answer, perhaps from Ms. Cooley, on what 4G+ is.

Chair Bosley asked Ms. Cooley to speak. Ms. Cooley stated that she can speak broadly to that but she is not an expert in license spectrum, which the wireless carriers use. She continued that 4G+ is another name for LTE (Long Term Evolution) advanced. It uses multiple spectrum bands at once. 4G today generally uses one spectrum band at a time.

Chair Bosley asked if 4G+ has already proliferated the State. Ms. Cooley replied that she does not know. She continued that she can speak to her members and find out and follow up with Chair Bosley. Chair Bosley replied that she would like to know if 4G+ is already happening or if it is something that has not been rolled out in NH. She continued that she agrees with Councilor Greenwald that it is important to get something on the books. The City has a 4G application that has been waiting for this Ordinance. If the City has an Ordinance in place they can still potentially work on it and massage it into something better if needed, but if they have nothing on the books at all they have no control or protections over the aesthetics or other items that are in the Ordinance.

Councilor Workman stated that agrees with the Ordinance as written; she thinks the City Planners did an excellent job with it. She continued that prior to Covid-19 she would have been on board with the moratorium, but in light of recent developments and further information, it is her understanding that they do not have applicants knocking down their door with 5G requests. Her concern is the legal issue, and do they want to bring that, and potentially utilize those resources during a crisis, when those resources could be used for other purposes.

Councilor Jones asked the City Attorney – if they add something that gives direction to the City Manager that is automatically a B version, right? The City Attorney replied no, it is not automatically a B version of the Ordinance, because the issue with respect to this delay was

included in the recommendation, not the Ordinance. If they were going to remove the delay, there is a recommended motion for how to do that, without changing the underlying Ordinance.

Councilor Jones asked if that means they can do the A version of the Ordinance and give direction to the City Manager. The City Attorney asked what type of direction he is suggesting. Councilor Jones replied “to accept only applications for antenna and transmission equipment of up to a maximum of 4G.” The City Attorney replied that that is one of the available motions the Committee has before them. Chair Bosley replied yes, that is motion A; that was their original action. Councilor Jones replied that he just wanted to make sure it did not turn into a “B” Ordinance by adding that language.

Councilor Jones continued that he wants to say to the committee that they have to deal with these issues. They need to remember that if they do not take this action it falls under State guidelines, instead of where Keene went with it. Some examples of the differences are: under State and Federal guidelines, the height allowed was 50 feet, and Keene changed that to 35 feet. The spacing was different, as were the poles - Keene says a company cannot use a wooden pole. They have to take things into consideration that other people are not. The industry is looking to make money. The City Council has to look at public safety, quality of life, aesthetics, and property values. He thinks they did a great job with this Ordinance. The City Council had not had a statutorily required public hearing in over ten years. They heard a lot - they had a packed room and that public hearing was great to do. He thanks the Committee for recommending that and thanks the Mayor for holding it.

Councilor Jones concluded that if they do not do something, something is going to happen. This is something they have to do. They should do this and limit the City Manager to accepting applications for 4G now. It is the City Council’s job to help protect the City. His reason for asking for the delay: there is a State Commission investigating the safety of 5G and they want to hear the report on that. That is a good reason for waiting. It is not that they are trying to hold things up. He does not know when the report is coming out, but they need to wait for it.

Chair Bosley replied that the report is due in November from the State, which is why they had chosen the date of January 2, 2021.

Councilor Johnsen stated that motion C says: “Move to recommend the adoption of Ordinance O-2019-18-B, with the condition that the City Manager or her designee be directed to accept only applications for antenna and transmission equipment of up to a maximum of 4G until January 2, 2021.”

Chair Bosley replied that the motion she just read would indicate that the PLD Committee was going to recommend changes to the body of the Ordinance. She continued that the Ordinance in question currently is the A version. The Ordinance referred to in both motions A and B is O-2019-18-A. That indicates that they are moving forward to the full City Council with the original ordinance. Motions C and D refer to a B version of the ordinance. That B version only gets created if the Committee asks for changes to the Ordinance. She has not heard anyone from the Committee asking for changes to the interior to the Ordinance. It sounds like they will be looking for a motion for the A version of the Ordinance to move forward. The last decision to be

made is whether to accept 5G applications or to limit the applications accepted to 4G until January 2.

Councilor Johnsen asked if that means making this motion: “Move to endorse and adopt the recommendation with respect to Ordinance 0-2019-18-A as previously submitted to the City Council.” Chair Bosley replied that that would be the motion to choose the original ordinance with the original recommendation to have a delay in accepting applications of 5G until January 2, 2021. Councilor Johnsen replied that that motion does not even say anything about 5G. Chair Bosley replied that that is because the original recommendation was attached to the original ordinance. So they basically would not be making any changes to what they originally recommended to be put before the City Council, with motion A.

Councilor Jones stated that he thinks she misspoke: he thinks motion A says the maximum of 4G. Chair Bosley replied yes, it does. She continued that the language of the motion says to “endorse and adopt the recommendation,” but does not specify what that recommendation was. She thinks what Councilor Johnsen is confused as to what that original recommendation was. Councilor Jones replied that her reply to Councilor Johnsen about the maximum, instead of 4G - he thinks she misspoke. Chair Bosley asked if he thinks the PLD Committee’s original recommendation said they will not accept 5G applications until January 2, 2021, or if it says “maximum of 4G.” Councilor Jones replied that it said “a maximum of 4G, until January 2, 2021.” Chair Bosley replied yes, that is correct, and that is how she recalls it as well. Councilor Jones replied that then he misheard what she said to Councilor Johnsen and apologizes. Chair Bosley replied that it is okay; it is a lot of language to get through and they can continue to clarify as needed.

Councilor Remy stated that they do not have a lot of people knocking down their door for [5G] and he has a hard time believing the industry would jump over Manchester, Portsmouth, and Hartford and jump right to Keene and start installing [5G] between now and January 2 when they are currently working on big cities like New York, Boston, San Francisco, and LA. That said, speaking in the interest of the taxpayers of Keene, for those who have been listening to the budget review discussions, Keene has an amazing City Attorney but he has mentioned before that his office as it is structured today could not handle a lawsuit like this. They do not have the budget. They do think the Ordinance and recommendation are defensible but speaking in the interest of the tax payers it is not worth spending the City’s money on it, when it is not likely to happen between now and January 2 anyway, just to prove a point. It would be irresponsible of the City Council. The money they have allocated for outside legal counsel is nowhere near enough to fight this kind of case.

Chair Bosley asked if he has recommendations or concerns about the interior of the ordinance. Councilor Giacomo replied that he knows there are concerns that Ms. Cooley raised. He continued that he thinks the interior of the Ordinance is well crafted. People in the community gave feedback to him saying they really support it. He got a call today from someone in support of the delay but he talked them through it and explained that 5G is not being installed in cities larger than Keene today and by the time the call ended the caller agreed with him that it is not worth spending taxpayer money on the potential lawsuit that would be just to prove a point and to set precedent for the rest of the State. He is sure the telecommunications industry would love for Keene to fight it because it would be less expensive than Portsmouth or Manchester.

Councilor Clark stated that he thinks that Councilor Jones summarized it very well. He continued that this entire issue of the moratorium is formed on the Commission that was tasked with studying the safety of 5G. They have serious questions, and that is where this proposed delay came from. He thinks there is reason to go with motion C. They need to ask themselves if business is more important the safety of the community. The State Legislature signed off on this Study Commission. Otherwise, would the City Council have put the moratorium in the Ordinance? Probably not. But they are doing it because it is really important, to protect Keene's citizens. He does not know that the arguments of "We won't get a 5G applicant anyway" is valid. They are already seeing promotions for 5G. The industry plans to ramp this up. Keene needs to draw a line in the sand and say, not in Keene. He doubts the industry will waste their time on a little town like Keene. He thinks it is time for Keene to stand up and say that they will not succumb to this ploy by the industry. They have a good plan and should go forward with it. He thinks option C is a very good alternative. They should not give the industry everything they want right from the get-go. 5G might not be safe. This is something that is important, especially at the time of the Covid-19 crisis. There are safety concerns, and that is important; it is not just about money. Money is not why the City Council is here; that is not their job. Their job is to protect the citizens of Keene so they can live and prosper. He urges them to choose option C.

Chair Bosley asked if Councilor Clark is saying that he likes the original Ordinance language with the original delay left in place. Councilor Clark replied yes, he would like the original Ordinance, but he understands that there is this option C. Chair Bosley replied that option C is for if they choose to edit the original ordinance. Councilor Clark replied that he hopes they do not alter the ordinance, but if they do, he hopes they follow the advice of Councilor Jones and choose option C. Councilor Jones replied that he thinks Councilor Clark means option A, which would be the adoption of the Ordinance without any changes to the text. Chair Bosley replied yes, that is accurate.

Lori Schreier from Westmoreland stated that she encourages the Committee and City Council to stay the course with the current Ordinance and the delay that the City Council approved quite a while ago. She continued that she knows new issues were raised that they need to consider. Industry is raising a lot of issues, and it sounds to her that even if the City Council removes the delay, industry will still come forward with the other issues they are claiming are not appropriate. So why remove the delay until the Commission report is released, which is important to many people in the City? They also might soon find out the result of several lawsuits that could change the whole legal landscape with the FCC and what the City is able to do.

Ms. Schreier stated that her understanding of LTE/4G+ is that it exists in NH, on those tall towers that are far away from people. If the City allows 4G LTE, which is a higher frequency and has more of an impact on people, closer to our homes and workplaces on small cell facilities, they are bringing the frequencies closer to our lives in every way. That is the concern about going above 4G. 5G is cellular communication. It is not internet service. If you want to improve internet service, you go to fiber optics to the premises. That is how you improve internet service in the community. 5G is for high speed videos on phones. It is not what the

average person will need to run their businesses. She hopes the Committee and City Council can stay the course.

Councilor Giacomo stated that he has a clarification: 4G+ is run on the same frequencies as 4G, just with more bands within those frequencies. He continued that it is not necessarily higher frequencies. Yes, Keene has 4G LTE (4G+), in downtown, at Keene State College, and at other locations. You can find all of this information online looking up the LTE maps.

He continued that he has been thinking along the same lines as numerous people who have previously spoken about this topic: he does not want the City to end up on the wrong side of history here. New technologies have always been met with suspicion and fear. This is nothing new. He had concerns when he heard of the need for a 5G Ordinance in Keene. Early on, the City Council was given many studies, write-ups, papers, and videos touting the negative impacts of electromagnetic radiation, specifically in the 5G range. The State put together a Commission to study the effects of 5G because they had a concern. Fortunately, he continued, his fear of this 5G technology led him to research the topic, out of interest. He read and watched every document/file sent to the City Council, including opinion pieces in scientific magazines, social media posts, studies, and legal advice. Remarkably, he did not find any peer-reviewed, proven, repeatable, scientific studies. He then did his own research and found this critical information. He found studies on the epidemiological effects of cell phone microwave frequencies on adults and children, and not only was there was no repeatable correlation with cancer or any other nervous system effects, several studies showed improved cognitive function and reduced risk of Alzheimer's disease. He continued that he is not promoting increased cell phone usage, which is problematic in other ways, but his point is that actual peer-reviewed, repeatable, published, scientific studies have been done and show no link to health risks. These studies were done on 3G and 4G, so many people worry that because 5G is an order of magnitude higher energy/frequency, the potential harm to our brains and internal organs is also amplified and it seems to make sense. But what people are not taking into account is the biology of human skin, which actually blocks radiation more the higher the frequency is. That is why the lights in your house do not make your insides glow. Even though visible light from a light bulb is 10,000 times more energetic than 5G signals. It is blocked by your skin. This is also why 5G cells need to be closer together: the higher-frequency waves cannot actually penetrate things like trees, buildings, or people. A misunderstood study was circulated, which planted and grew a seed of doubt in people in the echo chambers of the internet. Other fear-inducing narratives online claim that 5G causes Coronavirus or is a means by which the government controls people. Fear is powerful, and when fear is repeated and spread enough, it can become "fact." Conspiracy theories are born. How conspiracy theories work is that any evidence contradicting them are declared to be just part of the conspiracy. It is why these theories are so hard to defeat – "one drop of fear or doubt can create it, and an ocean of evidence can't destroy it." For this reason, he does not trust that the report coming out in November will change the views of people who are so militantly against 5G. He has aesthetic concerns about 5G and believes an Ordinance is absolutely critical to protect Keene from ugliness, telecoms, and legal liability, but as for protecting them from wireless signals, science already has that covered. Councilor Giacomo concluded that when the Councilors vote, they can follow science, or follow fear. They should ask themselves which side of history they want Keene to be on.

Councilor Clark stated that they are just asking that Keene wait for the report from the Legislative Committee. He continued that he likes his cell phone and internet connectivity as much as anyone else. Waiting to hear the report is not fear-mongering. This is about “Let’s find out first before we do something.” Hopefully the report will say everything is fine and there are no health risks and that would be wonderful. But Keene is not going to rush into this just because the industry wants to make more money. Yes, Keene will have to do something, but January is seven months from now. It is not likely that the industry is going to sue. He thinks it is a big ploy and the industry is trying to scare them into changing the ordinance. Keene should just wait for the report.

Chair asked for more public comment. Hearing none, she asked the committee for their thoughts on which direction to go in.

Councilor Jones stated that they have to pass something tonight, because if they do not, the State and Federal regulations go in effect by default, and the City’s regulations are more restrictive and protect Keene citizens more. He continued that the question is the delay, and they owe it to the citizens to wait for the report, and he strongly urges motion A. He thinks that is what is best for the citizens. At the public hearing they heard a lot of concern about safety, and not waiting for the report is a disservice.

Councilor Greenwald stated that to get a parliamentary track to get this through he is looking at motion B. He continued that starting with discussing the moratorium would open the door to an amendment to change 5G to 4G. The first discussion is about the moratorium.

Councilor Greenwald made the following motion, which was seconded by Councilor Workman.

Move to recommend that Ordinance 0-2019-18-A be adopted, but that the direction to the City Manager not to accept 5g applications until January 2, 2021 contained in its previous recommendation be deleted.

Chair Bosley stated that the motion is to remove the delay and to keep the body of the ordinance intact. She asked if anyone on the committee wanted to speak to that.

Councilor Johnsen stated that she heard what he said, but he said “previous recommendation be deleted,” and she would start with motion A: “Move to endorse and adopt the recommendation with respect to Ordinance 0-2019-18-A as previously submitted to the City Council.” Chair Bosley replied that they have a motion on the table right now. She continued that given what Councilor Johnsen just expressed, Councilor Johnsen would be voting “no” on the current motion, and then they could move forward with another motion if the one currently on the table does not pass.

Councilor Jones stated that he does not know whether to ask for an amendment or just vote “no” and hope it does not pass. He continued that he will vote “no” and hopes the majority does. Making an amendment would confuse people too much.

Chair Bosley asked if there were any further comments from the public. Hearing none, she called for a vote.

On a vote of 3-2, the Planning, Licenses and Development Committee recommended that ordinance O-2019-18-A be adopted, but that the direction to the City Manager not to accept 5G applications until January 2, 2021 contained in its previous recommendation be deleted. Councilor Johnsen and Councilor Jones voted in opposition.

Chair Bosley stated that the motion now goes to the City Council and probably they will have this whole conversation again next Thursday at the City Council meeting, and they can talk about amending it back.

Councilor Johnsen asked if Councilor Jones can retract his motion and then they could go back to motion A. Chair Bosley replied no, the motion tonight was made by Councilor Greenwald and he probably does not want to retract his motion. She continued that Councilor Johnsen will have another chance to speak to this entire process at the full City Council meeting next Thursday and should come prepared to speak about her position. It will be a split vote at the City Council like it was here, with a debate like this again.

Councilor Greenwald stated that he suggests that Councilors spend some time with the City Attorney about what the nuances are with all of these different choices. He continued that tonight was a good attempt but it was really confusing, the way it was laid out. The City Council meeting will turn into a “herd of cats,” so doing any amount of homework to figure out what your positions are (whether the issue is 4G, 5G, or the moratorium) so the meeting can move efficiently on Thursday would be a good use of time.

Chair Bosley stated that she agreed. She continued that it sounds like all of the Councilors they heard from tonight and the Committee is really happy with the Ordinance. They have gone back and forth on the Committee’s recommendation. People should digest it and come prepared to speak about it next Thursday because it definitely will be a topic of discussion.

Councilor Jones stated that he encourages everyone to read the Telecommunications Act of 1996, Section 704, as part of their preparation for next Thursday.

There being no further business, Chair Bosley adjourned the meeting at 8:43 PM.

Respectfully submitted by,
Britta Reida, Minute Taker

In City Council January 7, 2021.
Referred to the Planning, Licenses
and Development Committee.


Patricia Castle
City Clerk

January 5, 2021

Re: Ordinance 2020-18-A - Relating to Small Wireless Facility Deployments in
the Public Rights- of-Way

To Mayor and Council,

The ***Final Report on Commission to Study the Environmental and Health Effects of Evolving 5G Technology (RSA 12-K:12-14, HB 522, Ch. 260, Laws of 2019)*** was completed and sent to the governor, state senate and legislature on November 1, 2020.

In light of the recommendations made in that report, I ask the Council to revisit Ordinance 2020-18-A - Relating to Small Wireless Facility Deployments in the Public Rights- of-Way.

Thank you,



Terry M. Clark
Keene City Councilor
Ward 3
14 Barrett Ave.
Keene, NH 03431
(603)661-8347

attachments:

- a- Final Report on Commission to Study the Environmental and Health Effects of Evolving 5G Technology (RSA 12-K:12-14, HB 522, Ch. 260, Laws of 2019);***
- b- Proposed amended ordinance***
- c- Minutes to 5/13/2020 and 4/22/2020 PLD meetings***

<http://www.gencourt.state.nh.us/statstudcomm/committees/1474/reports/5G%20final%20report.pdf>



City of Keene, N.H.
Transmittal Form

December 22, 2020

TO: Mayor and Keene City Council
FROM: Finance, Organization and Personnel Committee
ITEM: D.1.
SUBJECT: Bulletproof Vest Partnership Grant Program- 2020

COUNCIL ACTION:

In City Council January 7, 2021.
Voted unanimously to carry out the intent of the report.

RECOMMENDATION:

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommend that the City Manager be authorized to do all things necessary to accept \$4,540.25 from the Bulletproof Vest Partnership Grant Program funds of the US Department of Justice, Bureau of Justice Programs.

BACKGROUND:

Captain Todd Lawrence addressed the Committee first and stated the Keene Police Department provides all its officers with body armor to wear when on duty. This armor has a warranty life of five years. The department annually budgets \$3,950 for body armor. It is anticipated the department will spend \$8,490.25 on vests for the upcoming year. This program will reimburse the City 53% (\$4,540.25). These vests will be issued to new officers and as replacements for any vests that are five years old.

Councilor Hooper made the following motion, which was seconded by Councilor Clark.

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommend that the City Manager be authorized to do all things necessary to accept \$4,540.25 from the Bulletproof Vest Partnership Grant Program funds of the US Department of Justice, Bureau of Justice Programs.



City of Keene, N.H.
Transmittal Form

December 29, 2020

TO: Mayor and Keene City Council

FROM: Mark Howard, Fire Chief

THROUGH: Elizabeth A. Dragon, City Manager

ITEM: K.1.

SUBJECT: Relating to Use of Fund Balance SCBA Masks

COUNCIL ACTION:

In City Council January 7, 2021.

Referred to the Finance, Organization and Personnel Committee.

RECOMMENDATION:

That Resolution R-2021-01 relating to the use of fund balance for items not included in the 2019 Federal Assistance to Firefighters Grant have a first reading in front of the City Council and that it be referred to the Finance, Organization and Personnel Committee.

ATTACHMENTS:

Description

Resolution R-2021-01

BACKGROUND:

The 2024 Capital Improvements Program included a Fire Department project for the full replacement of self contained breathing apparatus equipment with an estimated cost of \$750,000 to be debt funded.

In December 2019, Deputy Chief Chickering authored and submitted the grant application for the full replacement of the SCBA equipment in the CIP project. The grant was awarded to the City of Keene in July 2020 for \$369,090.91 and accepted by City Council in August. By accepting the grant, the project will be completed in FY 2021, therefore, no longer included in the CIP.

The City funded a 10% match, \$39,909.09, by utilizing a FY 2020 City Manager carryover request from the fire department budget. The total amount of the grant including match is \$406,000 for the replacement of 58 complete SCBA packs (base back-pack, mask with voice amp, regulator and two 4500 PSI 30 minute bottles). However, the grant award does not cover the replacement of the 5-RIT Packs, fifteen 4500 PSI one hour bottles, and 60 SCBA masks.

By working with and guidance from FEMA, it has been determined that if the purchase and receipt of the SCBA equipment is under budget, the City can re-submit for the remaining funds to be re-allocated through a waiver to purchase some of the equipment not approved in the initial grant. Upon approval, the waiver will

cover the fifteen 4500 PSI one hour bottles and the RIT Packs, but will not cover the additional 60 masks. The estimated cost of the 60 additional masks is \$15,960, and with the approval by the City Council, to be funded with the use of fund balance.



CITY OF KEENE

Twenty-one

In the Year of Our Lord Two Thousand and
Relating to an appropriation for the purchase of items not included in the

A RESOLUTION
2019 Federal Assistance to Firefighters Grant

Resolved by the City Council of the City of Keene, as follows:

WHEREAS: Deputy Chief Chickering authored and submitted a grant application in December 2019 for the 2019 Federal Assistance to Firefighters Grant; and

WHEREAS: In July 2020, the 2019 Federal Assistance and Firefighters Grant was awarded in the amount of three hundred sixty-nine thousand ninety dollars and ninety-one cents (\$369,090.91) and accepted by the City Council in August 2020; and

WHEREAS: The City has funded a ten percent (10%) match of the grant totaling \$36,909.09 creating a total budget of four hundred six thousand dollars (\$406,000); and

WHEREAS: The grant award is for the replacement of 58 complete Self Contained Breathing Apparatus packs which include base back-pack, mask with voice amp, regulator and two 4500 PSI 30 minute bottles; and

WHEREAS: The grant award does not include the replacement of sixty (60) Self Contained Breathing Apparatus Masks and other replacement items;

NOW, THEREFORE, BE IT RESOLVED by the Keene City Council:

That the sum of fifteen thousand nine hundred sixty dollars (\$15,960.00) is hereby appropriated in the 2020-2021 fiscal year for the purpose of providing funding for items not included in the 2019 Federal Assistance to Firefighters Grant. Said appropriation is to be funded by the General Fund unassigned fund balance.

George S. Hansel, Mayor

In City Council January 7, 2021.
Referred to the Finance, Organization
and Personnel Committee.


City Clerk



City of Keene, N.H.
Transmittal Form

December 22, 2020

TO: Mayor and Keene City Council
FROM: Finance, Organization and Personnel Committee
ITEM: K.2.

SUBJECT: Authorizing the Condemnation of Land for the Winchester Street Reconstruction Project

COUNCIL ACTION:

In City Council January 7, 2021.

Report filed as informational. Voted unanimously for the adoption of Resolution R-2020-36-A. Councilors Chadbourne, Ormerod, Williams and Johnsen were abstained.

RECOMMENDATION:

On a vote of 4 – 0, Resolution R-2020-36 was amended to reflect the language presented by outside legal counsel and the City Attorney. Councilor Ormerod abstained.

On a vote of 4 – 0, the Finance, Organization and Personnel Committee recommends the adoption of Resolution R-2020-36-A. Councilor Ormerod abstained.

ATTACHMENTS:

Description

Resolution R-2020-36-A

Resolution R-2020-36-A_redlined

Right of Way Plan - Recorded

BACKGROUND:

Chair Powers began by explaining that this item has been on the City Council agenda for a while. The Council had a site visit in November but the public hearing scheduled for that evening was continued due to a notice error in the publication. The continued public hearing was held last week before the entire Council with the public calling in. The item has been referred back to the Finance Committee for the eminent domain procedure.

He noted this discussion is just among the Committee as the public has had the opportunity to weigh in, as well as forward comments to the Clerk's office. The Chairman added Councilor Ormerod was unable to join the Council at its site visit. As a result, he will be able to participate in the discussion, but he will not be permitted to participate in the vote. Same would be true at the Council meeting in January.

City Engineer Don Lussier addressed the Committee next. Mr. Lussier stated there are certain items that are required to be met for eminent domain to be carried out.

1. Necessity – It has already been determined by the City the Winchester Street roundabout project is

necessary. These two parcels are needed to complete this project and meet the public necessity.

2. Public Use – Taking the property outweighs the burden on the property owner.

3. Net-Public Benefit – The public benefits of taking the property outweighs the burden on the property owner. In determining that, the saving of time for vehicular traffic, the energy efficiency and environmental benefits that will go along with the more efficient intersection. There are also safety benefits that go along with the roundabout as well as an aesthetic benefit because this location is a gateway into the City.

4. Reasonable Efforts to Negotiate –The City Manager has, through the City’s consultant and staff, made reasonable efforts to work with the property owner; those efforts previously identified, included contact from the City’s consultant team, and discussions about additional driveway openings, etc.

5. A government entity, in this case the City Council, must vote to acquire the property through its adoption of Resolution being considered.

Mr. Lussier called the Committee’s attention to the marked up version of the Resolution and what is being considered tonight will be an A version. The attorneys have reviewed the original Resolution and they have made some changes to it. One of the changes is to the date of the public hearing. He noted Items a, b and c capture what he just discussed. Item d outlines how staff should move forward, should the Council adopt the Resolution.

Attorney Mullins reiterated the substantive change to the document was the change in the reference to the public hearing date. Reference to RSA 498-A was also broadened.

Councilor Clark asked how long the ad hoc committee was assembled to discuss this item. Mr. Lussier stated Mayor Lane appointed this committee in July 2016; the first meeting happened on August 2, 2016. The final recommendation for a roundabout was voted on December 13, 2016. It was a four months process. Powers noted the first several meetings of the Steering Committee were small group discussions with stakeholders. From these discussions the engineers formulated a plan, which was finally brought to Council for its approval.

Councilor Ormerod noted it seems like the public necessity was established in 2016, but the need for eminent domain was not established until mid-2020 when the City, knowing they needed private property, approached the owners. He asked whether this four year time frame could be an issue. Mr. Lussier stated during the discussion with MSFI in January 2017, property impacts and in particular the acquisition of property was discussed. Permanent acquisition versus temporary use of the property was not nailed down until sometime in 2019. The purpose and need for the project has not changed since the committee started its work in 2016.

Public Works Director, Kurt Blomquist noted the Winchester Street improvement to this intersection was identified in 1998 during the Keene Swanzey Bypass project. Hence, the improvement to this intersection has been discussed for the past 22 years and the need for this work has been well documented.

Councilor Hooper referred to the amount of \$15,000 for the Sandri property and asked how this amount was derived at. City Manager, Elizabeth Dragon stated there is a formula the State and Federal Government uses for property acquisition. Mr. Lussier stated according to RSA 498-A, the City has to follow a very prescribed program. This includes an independent appraisal of each of the parcels that are going to be acquired. The value of the parcel is looked at immediately before the acquisition and then immediately after the acquisition. The property owners are also able to perform their own appraisal which is evaluated by the City’s consultant, but with respect to the Sandri property Mr. Lussier noted no independent appraisals were submitted.

Councilor Ormerod referred to net-public benefit and asked for explanation as to how waiting times contribute

to environmental hazards in the area. Mr. Lussier said he is probably not qualified enough to answer that question; however, what he can say is that idling and longer wait times do contribute to climate change and idling does utilize more energy, which is not furtherance of the City's energy goals. The Public Works Director added that Federal Highway does have studies that document that roundabouts do result in a reduced carbon footprint as compared to a traditional intersection.

Councilor Hooper made the following motion, which was seconded by Councilor Clark. That the Finance, Organization and Personnel Committee recommend the adoption of R-2020-36. The City Attorney recommended that the Committee amend the Resolution before taking a vote.

Councilor Remy made a motion to amend the Resolution to include the language presented tonight. The motion was seconded by Councilor Clark. On a vote of 4 – 0, Resolution R-2020-36 was amended to reflect the language presented by outside legal counsel and the City Attorney. Councilor Ormerod abstained.

Councilor Remy noted there was much testimony presented with reference to the harm that will be placed on the property owner's business because of this. He noted as a driver and not an expert, he felt what is being proposed will actually be a benefit. At the present time, there are two ways to get in and out of the Sandri site. After the change a motorist can get in and out of the site from any direction pretty easily and then get back onto the highway.

Referring back to the original motion, Councilor Hooper made the following motion on the amended version of the Resolution, which was seconded by Councilor Clark. On a vote of 4 – 0, the Finance, Organization and Personnel Committee recommends the adoption of Resolution R-2020-36-A. Councilor Ormerod abstained.



CITY OF KEENE

R-2020-36-A

In the Year of Our Lord Two Thousand and Twenty

Authorizing the Condemnation of Land for the Winchester Street

A RESOLUTIONReconstruction Project.....

Resolved by the City Council of the City of Keene, as follows:

WHEREAS, the Keene City Council has determined that Winchester Street, between New Hampshire Route 10/12/101 and the Winchester Street bridge over the Ashuelot River, including the intersection with Pearl Street and Island Street and the Island Street bridge over the Ashuelot River, is in need of improvement; and

WHEREAS, Mayor Kendall Lane nominated, and the Council accepted, an ad-hoc steering committee on July 7, 2016 to provide planning, guidance and general direction for the Winchester Street Reconstruction Project, in partnership with affected residents, local business interests, City staff, and the New Hampshire Department of Transportation; and

WHEREAS, the Winchester Street Reconstruction Project Ad-Hoc Steering Committee conducted several duly noticed public meetings between August 2, 2016 and December 13, 2016, to obtain public input, review the design consultant’s work product and develop a recommendation to the City Council; and

WHEREAS, on December 13, 2016, the Winchester Street Reconstruction Project Ad-Hoc Steering Committee voted unanimously to recommend roundabout alternatives as the preferred method of reconstructing the Key Road and Island Street / Pearl Street intersections; and

WHEREAS, the Keene City Council and the Council Standing Committees known as the Municipal Service, Facilities and Infrastructure Committee, met on several occasions between January 19, 2017 and February 2, 2017, in order to review and hold public discussion on the reconstruction of Winchester Street; and

WHEREAS, as a result of such review and discussion on February 2, 2017, the Keene City Council voted to select roundabouts as the appropriate design to provide the necessary improvement to Winchester Street, and authorized the City Manager to do all things necessary for the implementation of that design; and

WHEREAS, a public necessity exists to acquire land for the reconstruction of Winchester Street, as designed; and

WHEREAS, pursuant to such authority the City Manager, acting through the City’s consultant, entered into negotiations with the owners of twelve (12) parcels of land impacted by the project, said parcels and impacts being more particularly described in a plan prepared by GM2 Associates, Inc., dated 7/8/2020, and certified 8/11/2020, entitled “Right of Way Plan of a portion of Winchester St. in Keene, NH,” a copy of which is attached hereto; and

PASSED

WHEREAS, as a result of said negotiations, the City Manager has acquired, or has been informed of the property owner's intent to provide, the necessary property rights from the owners of nine (9) of the twelve (12) impacted parcels; and

WHEREAS, the following property owners have not indicated their intent to provide the necessary property rights:

Owner	Parcel No	Required Property Rights
RE Sandri, TVE, LLC	111/026	55 square feet (permanent) 605 square feet (temporary)
RE Sandri, TVE, LLC	111/027	1,005 square feet (permanent) 3,155 square feet (temporary)
Keene Retail, LLC	111/028	605 square feet (permanent) 735 square feet (temporary)

and;

WHEREAS, the City Manager made every reasonable effort to negotiate with the remaining property owners; however, the negotiations have not, to date, resulted in the voluntary acquisition of the property rights necessary to reconstruct Winchester Street; and

WHEREAS, the design of the reconstruction project makes it necessary to acquire said property rights from the remaining property owners in order to complete the project; and

WHEREAS, on September 17, 2020, the Keene City Council, at its regularly scheduled meeting, received a Petition to Acquire Property by Eminent Domain for Highway Purposes; and

WHEREAS, on September 17, 2020, the Mayor scheduled a public hearing of the Keene City Council to be held on November 5, 2020, in order to hear testimony of interested parties relative to whether the Keene City Council shall exercise its authority to acquire the necessary property rights by condemnation for highway purposes, pursuant to RSA 498-A, and the authority granted by RSA 31:92, and in accordance with the procedures set forth in RSA 231; and

WHEREAS, the Keene City Council held a duly noticed public hearing on November 5, 2020, at the site of the proposed condemnation and a duly noticed public hearing on December 17, 2020, at City Hall, 3 Washington Street, Keene, New Hampshire, in order to hear testimony from interested parties relative to whether there exists the public necessity to acquire property rights by condemnation, if necessary, for highway purposes, pursuant to the authority granted by RSA 31:92, and in accordance with the procedures set forth in RSA 231; and

WHEREAS, the Keene City Council heard testimony from interested parties at the public hearing; and

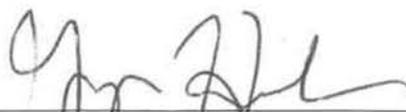
WHEREAS, based upon the testimony received at the December 17, 2020 public hearing, the Petition to Acquire Property by Eminent Domain for Highway Purposes, the November 5, 2020 site visit, and the prior and subsequent review and public discussion regarding the

reconstruction of the Winchester Street, the Keene City Council has voted to find that public necessity exists to acquire land by condemnation, for the above-stated purpose, pursuant to RSA 498-A, and the authority granted by RSA 31:92, and in accordance with the procedures set forth in RSA 231; and

WHEREAS, based upon the testimony received at the December 17, 2020 public hearing, the aforementioned Petition, the November 5, 2020 site visit, and the prior and subsequent review and public discussion regarding the reconstruction of Winchester Street, the Keene City Council has also voted to find that the property rights to be so acquired, and the improvements to be constructed thereon, constitute a public use and provide a net public benefit.

NOW, THEREFORE, BE IT RESOLVED by the Keene City Council:

- a. That there is a necessity to take portions of the above-referenced lands for a public use and purpose; and
- b. That the taking of the above referenced lands, which are portions of the owners' properties, will provide a net-public benefit; and
- c. That the City Manager has made reasonable efforts to negotiate with owners of said parcels for the voluntary acquisition of said property rights; and
- d. That the City Manager is hereby authorized to initiate eminent domain proceedings pursuant to RSA 498-A, and under the authority granted by RSA 31:92, and in accordance with the procedures set forth in RSA 231, in order to condemn portions of the above-listed parcels for the reconstruction of Winchester Street; and
- e. That, in exercising the authority herein granted, the City Manager is directed to:
 1. Follow the procedure defined in RSA 498-A, acquisition of land; and
 2. Cause a Declaration of Taking to be filed with the New Hampshire Board of Tax and Land Appeals and a Notice of Condemnation to be filed in the Cheshire County Registry of Deeds; and
 3. Do all things necessary in accordance with RSA 498-A in order to perfect the acquisition of the aforementioned property by eminent domain, unless the Condemnees shall, prior to such filings, consent to the voluntary transfer of said property rights by suitable conveyance to the City of Keene.


George S. Hansel, Mayor

Twenty

Authorizing the Condemnation of Land for the Winchester Street
Reconstruction Project

WHEREAS, the Keene City Council has determined that Winchester Street, between New Hampshire Route 10/12/101 and the Winchester Street bridge over the Ashuelot River, including the intersection with Pearl Street and Island Street and the Island Street bridge over the Ashuelot River, is in need of improvement; and

WHEREAS, Mayor Kendall Lane nominated, and the Council accepted, an ad-hoc steering committee on July 7, 2016 to provide planning, guidance and general direction for the Winchester Street Reconstruction Project, in partnership with affected residents, local business interests, the city staff and the New Hampshire Department of Transportation; and

WHEREAS, the Winchester Street Reconstruction Project Ad-Hoc Steering Committee conducted several duly noticed public meetings between August 2, 2016 and December 13, 2016 to obtain public input, review the design consultant's work product and develop a recommendation to the City Council; and

WHEREAS, on December 13, 2016, the Winchester Street Reconstruction Project Ad-Hoc Steering Committee voted unanimously to recommend a roundabout alternatives as the preferred method of reconstructing the Key Road and Island Street / Pearl Street intersections; and

WHEREAS, the Keene City Council and the Council Standing Committees known as the Municipal Service, Facilities and Infrastructure Committee, met on several occasions between January 19, 2017 and February 2, 2017 in order to review and hold public discussion on the reconstruction of the Winchester Street; and

WHEREAS, as a result of such review and discussion on February 2, 2017, the Keene City Council voted to select roundabouts as the appropriate design to provide the necessary improvement to Winchester Street, and authorized the City Manager to do all things necessary for the implementation of that design; and

Whereas, a public necessity exists to acquire land for the reconstruction of Winchester Street, as designed; and

WHEREAS, pursuant to such authority the City Manager, acting through the City's consultant, entered into negotiations with the owners of twelve (12) parcels of land impacted by the project, said parcels and impacts being more particularly described in a plan prepared by GM2 Associates, Inc., dated 7/8/2020, and certified 8/11/2020, entitled "Right of Way Plan of a portion of Winchester St. in Keene, NH", a copy of which is attached hereto; and

WHEREAS, as a result of said negotiations, the City Manager has acquired, or has been informed of the property owner's intent to provide, the necessary property rights from the owners of nine (9) of the twelve impacted parcels; and

WHEREAS, the following property owners have not indicated their intent to provide the necessary property rights:

Owner	Parcel No	Required Property Rights
A.R. Sandri Trust, LLC	111/026	55 square feet (permanent) 605 square feet (temporary)
A.R. Sandri Trust, LLC	111/027	1,005 square feet (permanent) 3,155 square feet (temporary)
Keene Retail, LLC	111/028	605 square feet (permanent) 735 square feet (temporary)

and;

WHEREAS, the City Manager made every reasonable effort to negotiate with the remaining property owners; however, the negotiations have not, to date, resulted in the voluntary acquisition of the property rights necessary to reconstruct Winchester Street; and

WHEREAS, the design of the reconstruction project makes it necessary to acquire said property rights from the remaining property owners in order to complete the project, ~~without increasing the overall impacts on adjacent property owners; and~~

WHEREAS, on September 17, 2020, the Keene City Council, at its regularly scheduled meeting, received a Petition to Acquire Property by Eminent Domain for Highway Purposes; and

WHEREAS, on September 17, 2020, the Mayor scheduled a public hearing of the Keene City Council to be held on November 5, 2020, in order to hear testimony of interested parties relative to whether the Keene City Council shall exercise its authority to acquire the necessary property rights by condemnation for highway purposes, pursuant to RSA 498-A, and the authority granted by RSA 31:92, and in accordance with the procedures set forth in RSA 231.

WHEREAS, the Keene City Council held a duly noticed public hearing on November 5, 2020, at the site of the proposed condemnation and a duly noticed public hearing on December 17, 2020 at City Hall, 3 Washington Street, Keene, New Hampshire, in order to hear testimony from interested parties relative to whether there exists the public necessity to acquire property rights by condemnation, if necessary, for highway purposes, pursuant to the authority granted by RSA 31:92, and in accordance with the procedures set forth in RSA 231; and

WHEREAS, the Keene City Council heard testimony from interested parties at the public hearing; and

WHEREAS, based upon the testimony received at the ~~November 5~~December 17, 2020 public hearing, the Petition to Acquire Property by Eminent Domain for Highway Purposes, the November 5, 2020 site visit, and the prior and subsequent review and public discussion regarding the reconstruction of the Winchester Street, the Keene City Council has voted to find that public

necessity exists to acquire land by condemnation, for the above-stated purpose, pursuant to RSA 498-A, and the authority granted by RSA 31:92, and in accordance with the procedures set forth in RSA 231; and

WHEREAS, based upon the testimony received at the ~~November 5~~December 17, 2020 public hearing, the aforementioned Petition, ~~the November 5, 2020 site visit,~~ and the prior and subsequent review and public discussion regarding the reconstruction of Winchester Street, the Keene City Council has also voted to find that the property rights to be so acquired, and the improvements to be constructed thereon, constitute a public use and provide a net public benefit;

NOW, THEREFORE, BE IT RESOLVED by the Keene City Council:

- a. That there is a necessity to take portions of the above-referenced land for a public use and purpose; and
- b. That the taking of ~~portions of the above referenced land,~~ which are portions of the owner's property, will provide a net-public benefit; and
- c. That the City Manager has made reasonable efforts to negotiate with owners of said parcels for the voluntary acquisition of said property rights; and
- d. That the City Manager is hereby authorized to initiate eminent domain proceedings pursuant to RSA 498-A, and under the authority granted by RSA 31:92, and in accordance with the procedures set forth in RSA 231, in order to condemn portions of the above-listed parcels for the reconstruction of Winchester Street; and
- e. That, in exercising the authority herein granted, the City Manager is directed to:
 1. Follow the procedure defined in RSA 498-A:4 ~~thru 7,~~ effecting the acquisition of land, ~~including, but not limited to, RSA 498-A:4, III(b);~~ and
 2. Cause a Declaration of Taking to be filed with the New Hampshire Board of Tax and Land Appeals and a Notice of Condemnation to be filed in the Cheshire County Registry of Deeds; and
 3. Do all things necessary in accordance with RSA 498-A in order to perfect the acquisition of the aforementioned property by eminent domain, unless the Condemnees shall, prior to such filings, consent to the voluntary transfer of said property rights by suitable conveyance to the City of Keene.

A true copy:
Attest:


City Clerk


George Hansel, Mayor

Twenty

Authorizing the Condemnation of Land for the Winchester Street
Reconstruction Project

WHEREAS, the Keene City Council has determined that Winchester Street, between New Hampshire Route 10/12/101 and the Winchester Street bridge over the Ashuelot River, including the intersection with Pearl Street and Island Street and the Island Street bridge over the Ashuelot River, is in need of improvement; and

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WHEREAS, on December 13, 2016, the Winchester Street Reconstruction Project Ad-Hoc Steering Committee voted unanimously to recommend a-roundabout alternatives as the preferred method of reconstructing the Key Road and Island Street / Pearl Street intersections; and

WHEREAS, the Keene City Council and the Council Standing Committees known as the Municipal Service, Facilities and Infrastructure Committee, met on several occasions between January 19, 2017 and February 2, 2017 in order to review and hold public discussion on the reconstruction of ~~the~~ Winchester Street; and

WHEREAS, as a result of such review and discussion on February 2, 2017, the Keene City Council voted to select roundabouts as the appropriate design to provide the necessary improvement to Winchester Street, and authorized the City Manager to do all things necessary for the implementation of that design; and

Whereas, a public necessity exists to acquire land for the reconstruction of Winchester Street, as designed; and

WHEREAS, pursuant to such authority the City Manager, acting through the City's consultant, entered into negotiations with the owners of twelve (12) parcels of land impacted by the project, said parcels and impacts being more particularly described in a plan prepared by GM2 Associates, Inc., dated 7/8/2020, and certified 8/11/2020, entitled "Right of Way Plan of a portion of Winchester St. in Keene, NH", a copy of which is attached hereto; and

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WHEREAS, the following property owners have not indicated their intent to provide the necessary property rights:

Owner	Parcel No	Required Property Rights
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Keene Retail, LLC	111/028	605 square feet (permanent) 735 square feet (temporary)

and;

WHEREAS, the City Manager made every reasonable effort to negotiate with the remaining property owners; however, the negotiations have not, to date, resulted in the voluntary acquisition of the property rights necessary to reconstruct Winchester Street; and

WHEREAS, the design of the reconstruction project makes it necessary to acquire said property rights from the remaining property owners in order to complete the project, ~~without increasing the overall impacts on adjacent property owners;~~ and

WHEREAS, on September 17, 2020, the Keene City Council, at its regularly scheduled meeting, received a Petition to Acquire Property by Eminent Domain for Highway Purposes; and

WHEREAS, on September 17, 2020, the Mayor scheduled a public hearing of the Keene City Council to be held on November 5, 2020, in order to hear testimony of interested parties relative to whether the Keene City Council shall exercise its authority to acquire the necessary property rights by condemnation for highway purposes, pursuant to RSA 498-A, and the authority granted by RSA 31:92, and in accordance with the procedures set forth in RSA 231.

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WHEREAS, the Keene City Council heard testimony from interested parties at the public hearing; and

WHEREAS, based upon the testimony received at the ~~November 5~~December 17, 2020 public hearing, the Petition to Acquire Property by Eminent Domain for Highway Purposes, the November 5, 2020 site visit, and the prior and subsequent review and public discussion regarding the reconstruction of the Winchester Street, the Keene City Council has voted to find that public

necessity exists to acquire land by condemnation, for the above-stated purpose, pursuant to RSA 498-A, and the authority granted by RSA 31:92, and in accordance with the procedures set forth in RSA 231; and

WHEREAS, based upon the testimony received at the ~~November 5~~December 17, 2020 public hearing, the aforementioned Petition, the November 5, 2020 site visit, and the prior and subsequent review and public discussion regarding the reconstruction of Winchester Street, the Keene City Council has also voted to find that the property rights to be so acquired, and the improvements to be constructed thereon, constitute a public use and provide a net public benefit;

NOW, THEREFORE, BE IT RESOLVED by the Keene City Council:

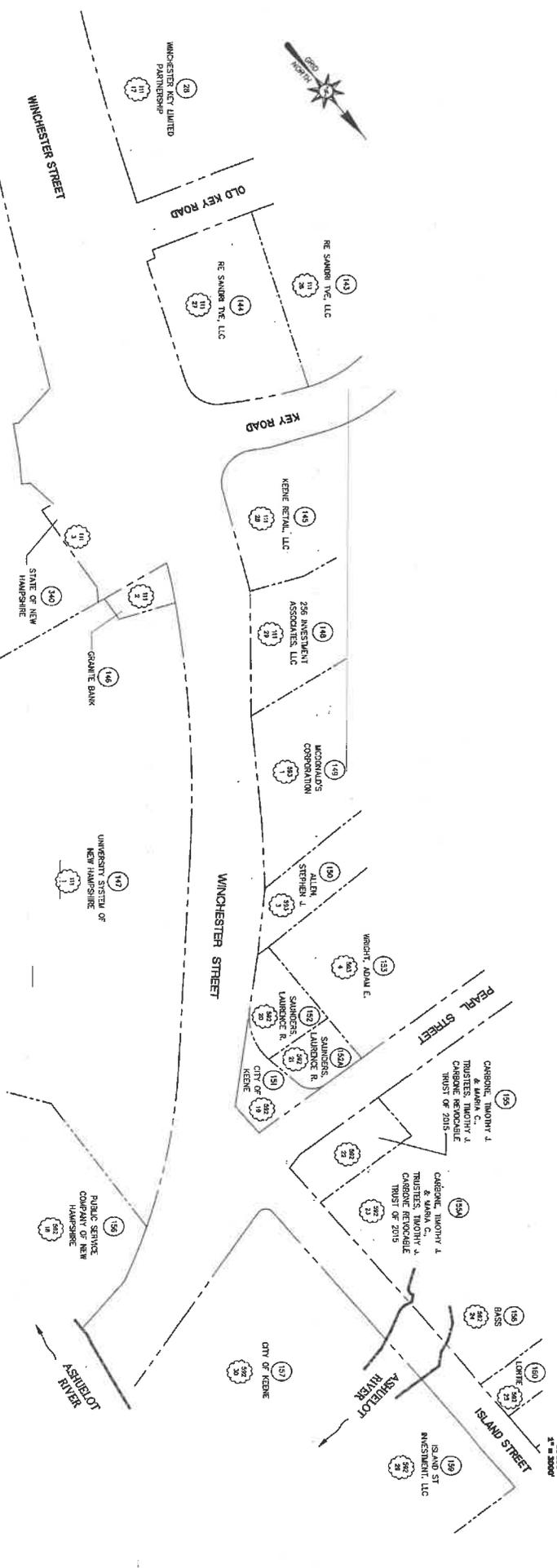
- a. That there is a necessity to take portions of the above-referenced land for a public use and purpose; and
- b. That the taking of ~~portions of the above referenced land~~, which are portions of the owner's property, will provide a net-public benefit; and
- c. That the City Manager has made reasonable efforts to negotiate with owners of said parcels for the voluntary acquisition of said property rights; and
- d. That the City Manager is hereby authorized to initiate eminent domain proceedings pursuant to RSA 498-A, and under the authority granted by RSA 31:92, and in accordance with the procedures set forth in RSA 231, in order to condemn portions of the above-listed parcels for the reconstruction of Winchester Street; and
- e. That, in exercising the authority herein granted, the City Manager is directed to:
 1. Follow the procedure defined in RSA 498-A:4 ~~thru 7~~, ~~effecting the~~, acquisition of land, ~~including, but not limited to, RSA 498-A:4, III(b)~~; and
 2. Cause a Declaration of Taking to be filed with the New Hampshire Board of Tax and Land Appeals and a Notice of Condemnation to be filed in the Cheshire County Registry of Deeds; and
 3. Do all things necessary in accordance with RSA 498-A in order to perfect the acquisition of the aforementioned property by eminent domain, unless the Condemnees shall, prior to such filings, consent to the voluntary transfer of said property rights by suitable conveyance to the City of Keene.

George Hansel, Mayor

WINCHESTER STREET

CITY OF KEENE STATE OF NEW HAMPSHIRE COUNTY OF CHESHIRE RIGHT-OF-WAY PLANS

PLAN NOTES:
 THE PURPOSE AND INTENT OF THESE PLANS IS TO DOCUMENT THE ACQUISITIONS AND EASEMENTS NECESSARY FOR THE PROPOSED IMPROVEMENTS WITHIN THE PROPOSED LIMITS.
NOTES:
 1) THIS SURVEY IS A RESULT OF AN ACTUAL ON-THE-GROUND SURVEY COMPLETED BY THIS OFFICE BETWEEN DECEMBER 2015 AND OCTOBER 2016.
 2) THE HORIZONTAL AND VERTICAL DATUMS REFERENCED ARE NAD83(2011) (FOR THE DEGREE) AND NAD83 (FOR THE DISTANCE) (FOR THE VERTICAL).
 3) THE EXISTING FEATURES SHOWN ON THIS SURVEY ARE FEATURES EXISTING AT THE TIME OF THE SURVEY. NO PROPOSED IMPROVEMENTS ARE SHOWN.
 4) NO ENCUMBRANCE HAS BEEN SET AS PART OF THIS SURVEY. THE ENCUMBRANCE SHOWN HEREON IS EXISTING AND SET BY OTHERS.
 5) CONTROL POINTS WERE RUN WITH A CLOSEST FIT TO THE SURVEY. THE ENCUMBRANCE SHOWN HEREON IS EXISTING AND SET BY OTHERS.
 6) ALL UNDERGROUND UTILITIES AND FACILITIES SHOWN ARE APPROXIMATE AND NOT NECESSARILY COMPLETE. CALL UTILITY BEFORE ANY EXCAVATION.
 7) SHOWNED RIGHTS IN LAND, WHICH THEY MAY OWN, ARE NOT SHOWN ON THIS SURVEY.



- LEGEND:**
- PROJECT BOUNDARY
 - PROPOSED RIGHT-OF-WAY
 - EXISTING PRIVATE BOUNDARY LINE
 - EXISTING
 - PROPOSED IMPROVEMENT
 - PROPOSED ACQUISITION



DATE	REVISIONS
10-21-20	REVISED PROPOSED BOUNDARIES

1. I CERTIFY THAT THIS PLAN WAS PREPARED BY ME OR THOSE UNDER MY DIRECT SUPERVISION AND MEETS THE PRECISION AND ACCURACY REQUIREMENTS OF A CLASS "A" REAL PROPERTY SURVEY.
 DATE: 6-28-2020
 REGISTERED LAND SURVEYOR

REA CERTIFICATE 1. I CERTIFY THAT THIS SURVEY PLAN IS NOT A SUBDIVISION PURSUANT TO THIS TITLE AND THAT THE LINES OF STREETS AND LOTS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR LOTS ALREADY ESTABLISHED AND THAT NO NEW LOTS ARE BEING

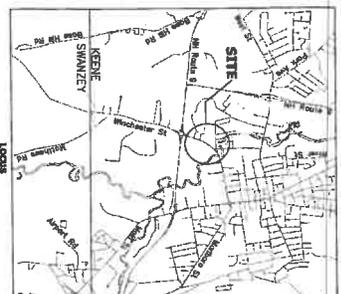
WINCHESTER STREET
 Right of Way Plan
 of a portion of
WINCHESTER ST. IN KEENE, NH
 Owner of Record: State of N.H.

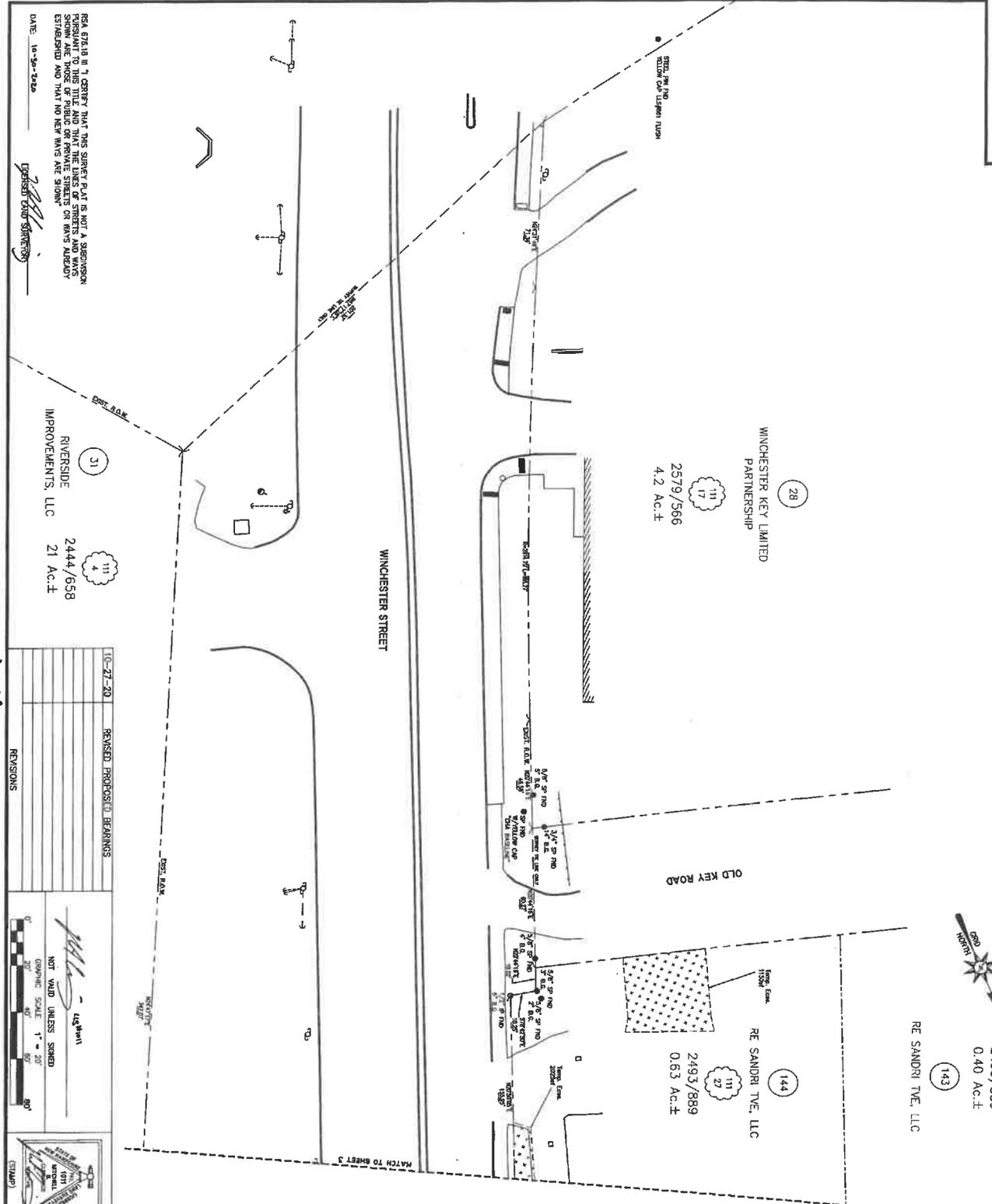
GNZ Associates, Inc.
 1971 London Road, Suite 310
 Concord, NH 03301
 Tel: 603-455-7854
 Fax: 603-856-7855

JOB NO.: 40289.00
 SCALE: 1"=60'
 DATE: 7/6/2020
 SHEET 1 OF 5

GNZ

411001





WINCHESTER STREET
 Right of Way Plan
 of a portion of
WINCHESTER ST. In KEENE, NH
 prepared for McFarland Johnson, Inc.
 Owner of Record: State of N.H.

JOB NO.: 40289.00
 SCALE: 1"=20'
 DATE: 7/9/2020
 SHEET 2 OF 5

GM2 Associates, Inc.
 197 Loudon Road, Suite 310
 Concord, NH 03301
 Tel: 603-556-7554
 Fax: 603-556-7555

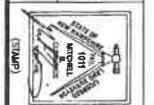
NO.	DATE	DESCRIPTION
1	07-27-20	REVISED PROPOSED BEARINGS
REVISIONS		

NOT VALID UNLESS SIGNED

GRAPHIC SCALE 1" = 20'

LEGEND

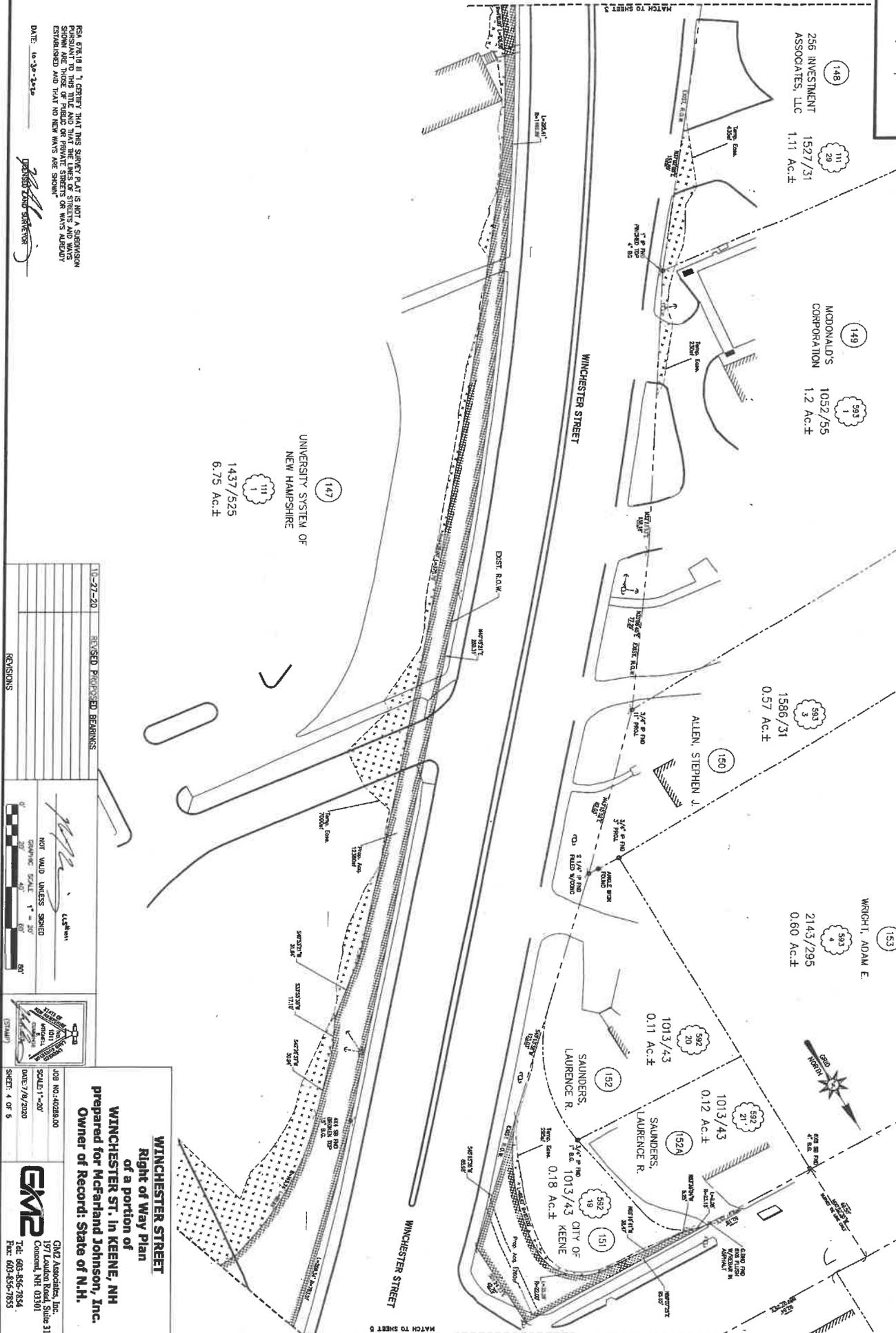
DATE: 7/9/2020



DATE: 11-30-2020

DESIGNED AND DRAWN BY: [Signature]

2100 1



REVISIONS

NO.	DATE	DESCRIPTION
10-27-20		REVISED PROPOSED BEARINGS

NOT VALID UNLESS SIGNED

DATE: 10/27/2020

SCALE: 1" = 40'

DATE: 7/8/2020

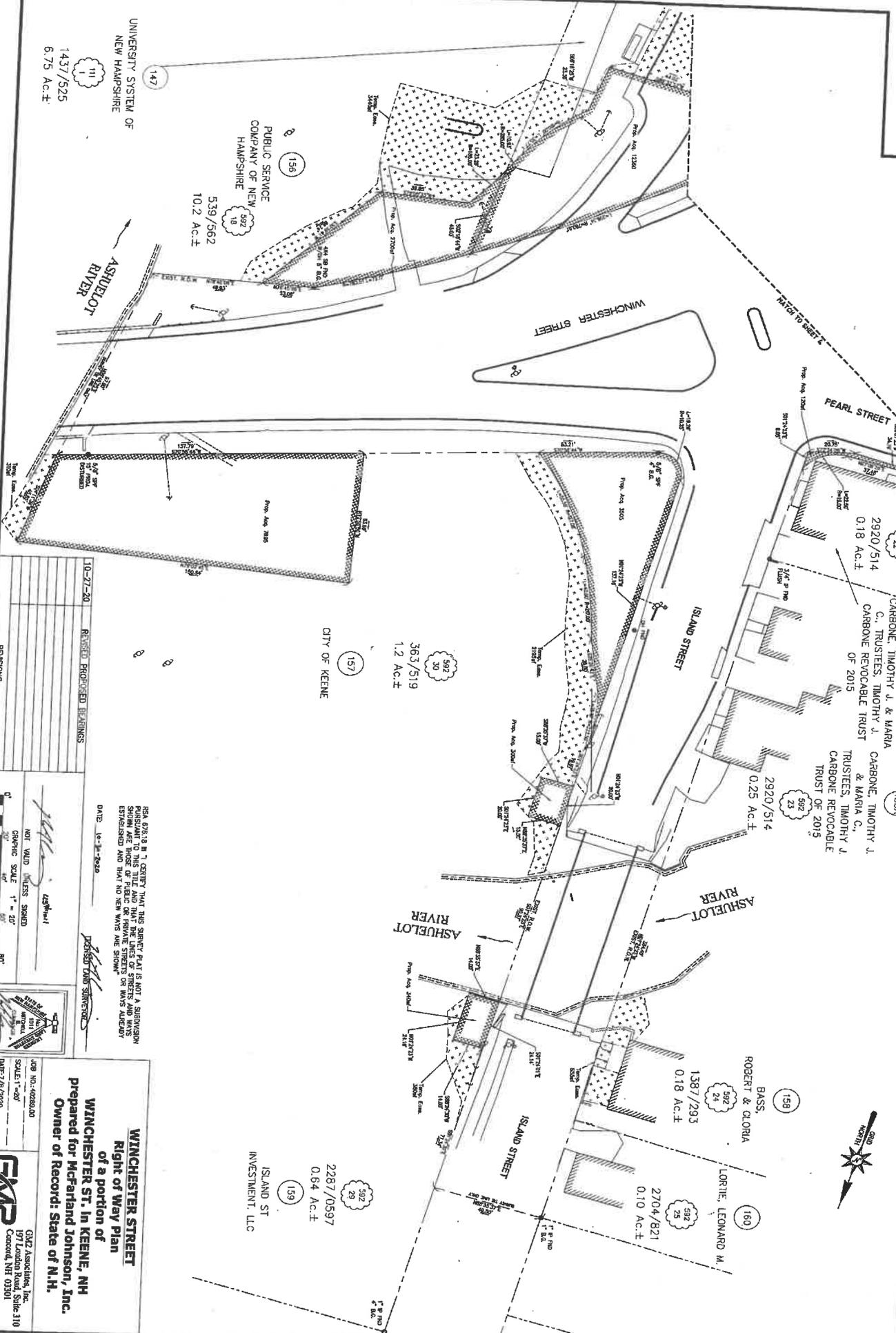
SCALE: 1" = 40'

WINCHESTER STREET
 Right of Way Plan
 of a portion of
WINCHESTER ST. in KEENE, NH
 prepared for McFarland Johnson, Inc.
 Owner of Records, State of N.H.

JOB NO.: 402828.00
 SCALE: 1" = 40'
 DATE: 7/8/2020

GN2 Associates, Inc.
 197 Loudon Road, Suite 310
 Concord, NH 03301
 Tel: 603-866-7834
 Fax: 603-866-7833

21004



10-27-20 REVISIONS

NO.	DATE	DESCRIPTION
1		
2		
3		
4		
5		
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7		
8		
9		
10		

NOT VALID UNLESS SIGNED
 GRAPHIC SCALE 1" = 20'
 0' 20' 40' 60' 80'



WINCHESTER STREET
 Right of Way Plan
 of a portion of
 WINCHESTER ST. in KEENE, NH
 prepared for McFarland Johnson, Inc.
 Owner of Record: State of N.H.

GNZ Association, Inc.
 191 Loudon Road, Suite 310
 Concord, NH 03301
 Tel: 603-465-7954
 Fax: 603-465-7955

DATE: 10-27-2010

JOB NO.: 0288.00
 SCALE: 1"=20'
 DATE: 7/26/2010
 SHEET: 5 OF 9

REMARKS:
 RSA 678.8 b 1. I CERTIFY THAT THIS SURVEY PLAN IS NOT A SUBDIVISION
 SUBSEQUENT TO THIS TITLE AND THAT THE LINES BETWEEN THE
 ESTABLISHED AND THAT NO NEW WAYS ARE SHOWN.

City of Keene, New Hampshire

George S. Hansel, Mayor

December 17, 2020

TO: Keene City Council
FROM: Mayor George Hansel
RE: Proposed 2020 Council Goals

At the workshop held on December 15th, the members present voted unanimously to recommend that the following unprioritized goal statements be forwarded to the City Council for their consideration and action. If the Council chooses to wait to act on these goals, my suggestion is to table this communication until the January 7th, 2021 City Council meeting.

Goal 1: Manage municipal finances in a manner to minimize the burden to the property taxpayer.

Goal 2: Collaborate with federal and state authorities to support an effective pandemic response.

Goal 3: Support the diverse needs of all Keene residents.

Goal 4: To help stabilize and revitalize existing businesses along with the arts and other non-profit organizations and attract new ones.

Goal 5: Environmental – Advance Keene’s Sustainable Energy Plan.

Goal 6: Infrastructure – Continue to ensure that Keene’s municipal infrastructure supports the varied needs of Keene residents and businesses.

Goal 7: Public Engagement – Conduct effective, ongoing public communications and engagement with Keene residents and businesses and with other partners as we negotiate these challenging times.

Goal 8: Make quality housing as affordable and available as possible.

Sincerely,



George S. Hansel, Mayor