

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-Swansey 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-Swansey 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 (BTIA), 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.

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:



Tessi M. Wood
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:



Tessi M. Wood
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 ASHUELLOT 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:

A handwritten signature in black ink, appearing to read "Jessie M. Hood".

Assistant City Clerk