

12/16/2021

A regular meeting of the Keene City Council was held on Thursday, December 16, 2021. The Honorable Mayor George S. Hansel called the meeting to order at 7:00 PM. Roll called: Stephen L. Hooper, Michael J. Remy, Janis O. Manwaring, Bryan J. Lake, Randy L. Filiault, Robert C. Williams, Philip M. Jones, Gladys Johnsen, Andrew M. Madison, Bettina A. Chadbourne, Catherine I. Workman, Kate M. Bosley, and Thomas F. Powers were present. Raleigh C. Ormerod and Mitchell H. Greenwald were absent. Councilor Lake led the Pledge of Allegiance.

ANNOUNCEMENTS

The Mayor announced that all Standing Committee meetings were canceled for the week of Christmas. He also announced that the Council would not meet again until their Inauguration Day on Monday, January 3, 2022 at 12:00 PM in the Council Chambers. Mayor Hansel reported that the second Council Goals Workshop would be on Tuesday, January 11, 2022 at 6:00 PM in Heberton Hall.

MINUTES

A motion by Councilor Powers to adopt the December 2, 2021 minutes was duly seconded by Councilor Bosley and the motion passed unanimously with 13 Councilors present and voting in favor. Councilors Ormerod and Greenwald were absent.

PRESENTATION – RETIREMENT RESOLUTION – BARRY HILTON SR.

Mayor Hansel welcomed Barry Hilton Sr. and Shane Maxfield to come forward. Mayor Hansel read into the record a Proclamation recognizing Mr. Hilton's service as Animal Control Officer, Traffic Signal Maintenance and Repairman, and Traffic Safety Specialist. Mayor Hansel honored Mr. Hilton upon his retirement and thanked him for his years of service.

Mr. Hilton thanked Councilor and former Police Chief Powers, who took a chance on him. Mr. Hilton said the City had been great to him. His children were young when he started with the City, and they are adults now. He thanked everyone at the City, stating that it was his second home.

NOMINATIONS – INCUMBENTS TO SERVE A SECOND TERM

Mayor Hansel nominated the following individuals to serve a second term on their respective Committees: to the Airport Development and Marketing Committee: Peter Temple with a term to expire December 31, 2022, Elizabeth Bendel, and Councilor Greenwald with terms to expire December 31, 2024; to the Ashuelot River Park Advisory Board: Steve Hooper with a term to expire December 31, 2024; to the Assessors Board: Rita Johnson with a term to expire December 31, 2024; to the Bicycle and Pedestrian Path Advisory Committee: Dillon A. Benik with a term to expire December 31, 2024; to the Building Board of Appeals: Doug Brown with a term to expire December 31, 2024; to the Conservation Commission: Alexander Von Plinsky, Kenneth Bergman, and Thomas Haynes with terms to expire December 31, 2024, and Councilor Williams with a term to expire December 31, 2023; to the Energy and Climate Committee: Zach Luce, and Bryan Lake with terms to expire December 31, 2024, Councilor Ormerod with a term to expire December 31, 2023, and Andrew Day with a term to expire December 31, 2024; to the Heritage

Commission: Cauley Powell with a term to expire December 31, 2024, Marilyn Huston with a term to expire December 31, 2022, Councilor Johnsen and Brian Lee with terms to expire December 31, 2023; to the Historic District Commission: Councilor Workman and David Bergeron with terms to expire December 31, 2024; to the Housing Standards Board of Appeal: Doug Brown with a term to expire December 31, 2024; to the Human Rights Committee: Marti Fiske with a term to expire December 31, 2023, Jan Manwaring, Shaun Filiault and Mohammad Saleh with terms to expire December 31, 2024; to the Partner City Committee: Kürt Blomquist with a term to expire December 31, 2023, Mayor Hansel, Lena Kridlo and Dawn Thomas-Smith with terms to expire December 31, 2024; to the Planning Board: Harold Farrington with a term to expire December 31, 2024, and Councilor Remy with a term to expire December 31, 2023; to the Trustees of Trust Funds: Jennie Newcombe with a term to expire December 31, 2024; and, to the Zoning Board of Adjustment: Joseph Hoppock with a term to expire December 31, 2024. Mayor Hansel tabled the nominations until the next meeting.

NOMINATIONS – NEW MEMBERS

Before reading the nominations, the Clerk identified a Scribner error in the nominations included in the Councilor's agenda packet. She noted that Councilor Workman was not being nominated as the Council member to the Conservation Commission. Councilor Williams is currently serving as the Council representative and was being nominated again for another term. Mayor Hansel nominated the following new members to City Boards and Commissions: to the Airport Development and Marketing Committee: Luca Paris with a term to expire December 31, 2022; to the Ashuelot River Park Advisory Board: Councilor Chadbourne with a term to expire December 31, 2023; to the Energy and Climate Committee: Diana Duffy with a term to expire December 31, 2024; to the Human Rights Committee: Hunter Kirschner and Rabbi Daniel Aronson with terms to expire December 31, 2023; to the Keene Housing Authority: Steve Bianco with a term to expire December 31, 2026; to the Planning Board: Armando Rangel as an alternate with a term to expire December 31, 2022; and, to the Trustees of Trust Funds: Martha Curtis with a term to expire December 31, 2024. Mayor Hansel tabled the nominations until the next meeting.

CONFIRMATION

Mayor Hansel nominated the following individuals to the Congregate Living and Social Services Licensing Board: Andrew Oram and Allison Welsh with terms to expire December 31, 2024, Martha Curtis, Abigail Abrash-Walton and Medard Kopczynski with terms to expire December 31, 2023.

A motion by Councilor Powers to confirm the following nominations to the Congregate Living and Social Services Licensing Board: Andrew Oram and Allison Welsh with terms to expire December 31, 2024, Martha Curtis, Abigail Abrash-Walton and Medard Kopczynski with terms to expire December 31, 2023 was duly seconded by Councilor Bosley and the motion passed on a unanimous roll call vote with 13 Councilors present and voting in favor. Councilors Ormerod and Greenwald were absent.

PLD REPORT – KEENE DOWNTOWN GROUP – REQUEST TO USE CITY PROPERTY – ICE AND SNOW FESTIVAL

Planning, Licenses, & Development Committee report read recommending that the Keene Downtown Group be granted a street fair license to use downtown City rights-of-way for purposes of conducting merchant sidewalk sales, as well as use of downtown City property on Central Square, Railroad Square, and designated parking spaces on Central Square and Main Street to conduct the Ice and Snow Festival on Saturday, February 5, 2022 from 10:00 AM to 4:00 PM. In addition, the applicant is permitted to close off a portion of Railroad Street from Main Street to the exit of the Wells Street Parking Garage. This permission is granted subject to the customary licensing requirements of the City Council, submittal of signed letters of permission from the owner for any use of private property, and compliance with any recommendations of City staff. In addition, the petitioner is granted use of the requested parking spaces free of charge under the provisions of the Free Parking Policy. The Petitioner agrees to absorb the cost of any City services over and above the amount of City funding allocated in the FY 22 Community Events Budget. A motion by Councilor Bosley to carry out the intent of the Committee report was duly seconded by Councilor Jones and the motion passed unanimously with 13 Councilors present and voting in favor. Councilors Ormerod and Greenwald were absent.

FOP REPORT – NEW HAMPSHIRE STATE LIBRARY, INSTITUTE OF MUSEUM AND LIBRARY SERVICES, AND THE AMERICAN RECOVER PLAN ACT FORMULAIC SUB-GRANT ROUND 2 – SUPPORT OF LIBRARY SERVICES – LIBRARY DIRECTOR

Finance, Organization, & Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to accept and expend a grant of \$34,496 from the New Hampshire State Library, Institute of Museum and Library Services, and the American Recover Plan Act Formulaic Sub-Grant Round 2 for the support of library services. A motion by Councilor Powers to carry out the intent of the Committee report was duly seconded by Councilor Hooper and the motion passed unanimously with 13 Councilors present and voting in favor. Councilors Ormerod and Greenwald were absent.

FOP REPORT – AUTHORIZATION TO ENTER INTO A CONTRACT – WRITING AND DISSEMINATION OF THE KEENE PUBLIC LIBRARY STEM AND MAKER ACTIVITIES TOOLKIT – LIBRARY DIRECTOR

Finance, Organization, & Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to negotiate and execute a contract with Regallium Consulting, LLC for the writing and dissemination of the Keene Public Library STEM and Maker Activities Toolkit as outlined in RFP 02-22-03. A motion by Councilor Powers to carry out the intent of the Committee report was duly seconded by Councilor Hooper.

Councilor Johnsen appreciated the motion and the program. She wondered if there was anything in the program about racism. The City Manager said that was not discussed during the FOP presentation, but she was happy to follow-up and provide additional information to Councilor Johnsen.

The motion passed unanimously with 13 Councilors present and voting in favor. Councilors Ormerod and Greenwald were absent.

FOP REPORT – ACCEPTANCE OF FAA AIP GRANT FOR AIRPORT – AIRPORT TAXIWAY ‘A’ RECONSTRUCTION – AIRPORT DEPARTMENT

Finance, Organization, & Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to accept, execute and expend a grant for the amount of \$594,324 from the Federal Aviation Administration Airport Improvement Program. A motion by Councilor Powers to carry out the intent of the Committee report was duly seconded by Councilor Hooper. Mayor Hansel requested clarification of the financial breakdown. The City Manager replied that it would be 90% Federal, 5% State, and 5% local. The motion passed unanimously with 13 Councilors present and voting in favor. Councilors Ormerod and Greenwald were absent.

FOP REPORT – MOVING FORWARD WITH PEG PROGRAMMING – ACM/IT DIRECTOR

Finance, Organization, & Personnel Committee report read recommending the City Manager be directed to proceed with a competitive bid process to provide public access programming. A motion by Councilor Powers to carry out the intent of the Committee report was duly seconded by Councilor Hooper. The City Manager recalled a recent presentation from the IT Director/Assistant City Manager, Rebecca Landry, on the Public, Education, and Government (PEG) Programming. The City was currently broadcasting their meetings over the channel and the school was looking to do their meetings online as well. She said the last piece was the public component, for which she sought to go out for a competitive bid process to determine whether a non-profit is interested in doing that public broadcasting. Regarding use of funds from franchise fees, she said the only requirement for use of those funds is public content created in the studio must be broadcast over the channel; it cannot just be streamed. The motion passed unanimously with 13 Councilors present and voting in favor. Councilors Ormerod and Greenwald were absent.

FOP REPORT – DOWNTOWN INFRASTRUCTURE IMPROVEMENT AND RECONSTRUCTION PROJECT – UPDATE – PUBLIC WORKS DIRECTOR/EMD

Finance, Organization, & Personnel Committee report read accepting the Downtown Infrastructure Improvement and Reconstruction Project update as informational. Mayor Hansel filed the report as informational.

CITY MANAGER COMMENTS

The City Manager began by reporting that the City is in the process of recruiting a Planner and a Community Development Director. Mari Brunner was promoted to Senior Planner. Rhett Lamb, the recently retired Community Development Director, who is still serving part-time, continues to provide assistance remotely. John Rogers is assuming some additional supervisory duties while the recruitment and transition to a new Director proceeds. Med Kopczynski will also be providing assistance to the Community Development Department with the transition over the upcoming year, and Director of Public Works, Kurt Blomquist, will assume the Assistant City

Manager duties once provided by Mr. Lamb. The City has hired Chris Cusack to provide temporary contract assistance on the planning side of the Department; he begins January 3 and has agreed to assist the City through April for 30 hours weekly. In addition to day-to-day planning assistance, Mr. Cusack will provide support at various committees. He has an impressive resume, including a PhD in Urban Studies and Professional Planning, in addition to his work on the Keene Planning Board.

The City Manager continued by congratulating Frank “Pepper” Anderson in the Facilities Department for his successful completion of the Building Operator Certification Level II. He continues to advance his training and has proven to be a great asset to the team.

The City Manager wanted to personally thank Councilors Hooper and Manwaring at their final Council meeting. They were both a part of the Council that hired the City Manager and she was grateful for their support and guidance over the last 4.5 years. The City Manager said she learned a great deal from both Councilors, and she was thankful for the opportunity they gave her to serve this community.

Lastly, the City Manager wished everyone a wonderful holiday.

REPORT – 79E COMMUNITY REVITALIZATION TAX RELIEF APPLICATION FOR 112 WASHINGTON STREET

A memorandum read from the City Assessor, Dan Langille, recommending that the Mayor set a public hearing regarding the 79-E Community Revitalization Tax Relief application submitted by Josh Gorman for property located at 112 Washington Street owned by 112 Washington LLC and refer the item to the Finance, Organization, and Personnel Committee. Mayor Hansel set a public hearing for Thursday, January 6 at 7:00 PM and referred the application to the Finance, Organization, & Personnel Committee.

REPORT – 79E COMMUNITY REVITALIZATION TAX RELIEF APPLICATION FOR 310 MARLBORO STREET, LLC

A memorandum read from the City Assessor, Dan Langille, recommending that the Mayor set a public hearing regarding the 79-E Community Revitalization Tax Relief application submitted by Randall Walter for property located at 310 Marlboro Street owned by 310 Marlboro St., LLC and refer the item to the Finance, Organization, and Personnel Committee. Mayor Hansel set a public hearing for Thursday, January 6 at 7:05 PM and referred the application to the Finance, Organization, & Personnel Committee.

ZBA REPORT – RESIGNATION

A memorandum read from John Rogers, Building/Health Official, recommending that the City Council accept Author Gaudio’s resignation from the Zoning Board of Adjustment. A motion by Councilor Powers to accept the resignation with regret and appreciation of service was duly seconded by Councilor Bosley and the motion passed unanimously with 13 Councilors present and voting in favor.

ORDINANCE FOR SECOND READING – RELATING TO AMENDMENTS TO THE BUSINESS, GROWTH, AND REUSE DISTRICT – ORDINANCE O-2021-14

Planning, Licenses, and Development Committee report read recommending the adoption of Ordinance O-2021-14. Mayor Hansel filed the report. A motion by Councilor Bosley to adopt Ordinance O-2021-14 was duly seconded by Councilor Jones. Councilor Jones felt obligated to speak on this as he started the issue with a letter that he wrote in 2004. This was the City’s biggest rezoning operation since 1970, and the City created new zones and uses that did not exist before. He said this use as outlined in Ordinance O-2021-14 fits perfectly, but slipped through the cracks. He supported adopting the amendment. The motion passed on a unanimous roll call vote with 13 Councilors present and voting in favor. Councilors Ormerod and Greenwald were absent.

ORDINANCE FOR SECOND READING – RELATING TO THE WEARING OF FACE COVERINGS – ORDINANCE O-2021-16

Planning, Licenses, and Development Committee report read accepting the communication from Debbie Bowie in support of the Mask Ordinance and recommending adoption of Ordinance O-2021-16-A. Mayor Hansel filed the report. A motion by Councilor Bosley to adopt Ordinance O-2021-16-A with an effective date of December 20, 2021 was duly seconded by Councilor Jones.

A motion by Councilor Bosley to amend Ordinance O-2021-16-A to incorporate the suggested amendments from Staff (identified in the Council packet as a communication from the City Manager) was duly seconded by Councilor Jones. The motion to amend passed unanimously on a roll call vote with 13 Councilors present and voting in favor. Councilors Ormerod and Greenwald were absent.

Mayor Hansel heard further amendments.

Councilor Remy said there was a survey to local business owners asking one question: Are you in favor of reinstating a requirement that people wear face coverings in all indoor public spaces. There were 70 responses from individual businesses within one mile of Main Street and 49 (70%) responses were No. He stated that the City would be “forcefully deputizing [those 70%] to enforce this Ordinance,” which he did not think was fair to them. He wears masks and appreciates that they can add value in certain instances. However, he did not think it was good to require businesses to enforce this.

Councilor Remy moved to amend Section 171-B, changing all instances of “required” to “encouraged” and striking the line “provided however that members of the public should not be required to wear face masks while actually seated,” and to amend Section 171-C, changing all instances of “required” to “encouraged” and further changing the word “requirement” to “recommendation,” and to amend Section 171-F, changing “required” to “encouraged.”

Councilor Remy said this would encourage patrons to wear masks without requiring businesses to enforce something. Staff of businesses would still be required to wear masks.

Councilor Johnsen felt that changing “required” to “recommended” would water the Ordinance down, which concerned her. She knew this was a thoughtful process for many Councilors. She listened to the recording the day after the PLD Committee meeting. She feels very strongly about protecting people because too many people are dying. Therefore, she was confused and uncomfortable with changing the words in this amendment.

Mayor Hansel reminded those in attendance that this was not the time for members of the public to speak.

Councilor Jones asked if this Ordinance would be nullified by removing the word “required.” The Mayor said it would still be an Ordinance passed by the Council. Councilor Jones thought it would become a Resolution; that they would no longer be creating a law. Mayor Hansel said an important point was that staff of businesses would still be required to wear masks.

Councilor Bosley stated that she had a clarification to Section F, where it says “children under 10 years of age are not required...” She pointed out a double negative when the word “required” is changed to “encouraged,” noting that the word “not” should be eliminated. Mayor Hansel assured the Councilor that wording would be resolved.

On a vote of 3 in favor—10 opposed, Councilor Remy’s motion to amend Sections 171-B, C, and F failed. Councilors Remy, Manwaring, and Bosley voted in favor. Councilors Ormerod and Greenwald were absent.

Mayor Hansel heard further amendments.

Councilor Jones referred to Section L, which is the sunset clause that was amended at Committee to say, “...shall be reviewed every 60 days.” He said that “reviewed” was not a word in the Rules of Order and each Councilor could interpret it differently. Mayor Hansel replied that he understood the 60 days to be a maximum period, during which a Councilor could bring it up at a meeting. In practical application, if this passed, the Mayor would take the closest Council meeting that does not exceed the 60 days and review the Ordinance among the Council, not with public input. Councilor Jones offered no amendment with that explanation.

Councilor Bosley expressed concern about the proposed language in Section I of the Ordinance. She wanted to change the language to address that businesses are currently “on the hook for fines for patrons refusing to wear their masks.” She was concerned people would challenge this and businesses would be negatively impacted.

Councilor Bosley moved to amend language in Section I to read: “Notwithstanding any provisions of the City Code to the contrary, the penalty under this Ordinance for any member of the public who declines to wear a face covering as required by this Ordinance, shall be denied entry to or service provided by the business. In addition, any member of the public who declines to wear a face covering as required by this Ordinance shall be given a verbal warning for first offense, a written warning for second offense, a fine of \$100 for third offense, and a fine of \$250 for fourth or subsequent offenses.” Councilor Chadbourne duly seconded the motion.

Councilor Bosley said this put the onus back on the patron for their responsibility in complying with the Ordinance.

Mayor Hansel said he understood the point of the amendment, but thought there could be issues to work out. He added that this amendment would substantially modify how this proposed Ordinance would be enforced. He said Staff would have to investigate how this would impact the Police Department and how it would work. Mayor Hansel said the Council could do what it wanted, but that this was a substantial change for the Council to consider.

Councilor Workman supported the amendment and that the accountability needed to be on the person and/or business. She said the monetary fine should be passed onto the person in addition to businesses, though perhaps at a lower value. She understood the burden this could add for Staff, but wondered if there was any other way so it would not be a violation of City Ordinance, but some other ticketed system that the Police would not have to enforce. Mayor Hansel's understanding was that this would not be a criminal offense; it would not go on someone's record, and it would not be traceable in any system. He continued the amendment on the floor has not been fleshed out and he cautioned the Council in moving in this direction. However, if the Council wanted to consider this, they could send it back to Committee. He said this was a substantial change that he would not want to rush.

Councilor Filiault said he initially intended to support Councilor Bosley's amendment, but he changed his mind based on the Mayor's comments. He said this could be reviewed again in 30–60 days to give Staff more time to understand the ramifications of this amendment, which was larger and harder to enforce than he expected it to be. Councilor Filiault stated he would vote no at this time, but said it could be reviewed again in the future.

Councilor Manwaring supported Councilor Bosley's amendment. Councilor Manwaring said there were many reasons this would be difficult for businesses; those she had spoken with have said this would add stress to Staff, when it is already hard to keep Staff. She said businesses have been paying for sanitizers and masks and now the City would impose fines. She thought it would be punishing the wrong person. She continued to support this being recommended only, which was a way out of this that she said was really up to Staff.

Councilor Hooper said he had been hearing a lot from the business community, some more aggressively than others. He said he had a nice talk with Ted McGreer, who is a business and community leader in Keene, and he is concerned about putting this onus on younger employees. While Councilor Hooper did not want to dilute the mandate, he did want to strengthen the business community's situation because of what the City is trying to do to protect the community. He supported the amendment to show the business community that the City was supporting them during this difficult time.

Councilor Johnsen agreed with Councilor Hooper. Councilor Johnsen added that she was empathetic to the businesses, and this took the onus off of the businesses and put it on the people. She supported this amendment, which she hoped would be a good middle ground.

Mayor Hansel said that this amendment might take the onus off businesses, but puts enforcement directly onto City Staff. He strongly encouraged the Council to not substantially modify this Ordinance in this way. He said that if Councilors strongly disagreed with the Ordinance, they should vote it down.

The City Manager added her concerns with this amendment. She noted the City has no system to track individual tickets for this Ordinance and a tracking system would need to be created. She also questioned who was calling the Police to report violations of the Ordinance; the point of entry of the business was where people put a mask on or otherwise they do not conduct business. She said another way of looking at it—a potential compromise—was that if a business really did not want to enforce the Ordinance, there really is no mask requirement then unless a patron calls the Police on another patron. It was originally for the point of entry because for someone to come in and conduct business they needed to comply with the Ordinance. She said there would be challenges enforcing this individually depending on the business community, and whether they would enforce it in their store. She said Staff could do whatever the Council wanted, but she would need time to do two things: establish a tracking system and communicate with the public. The original effective date was December 20, 2021 but those two issues would need more time if the Council supported this amendment.

Councilor Workman thought the Council could effectively move forward as the Ordinance was written and make an amendment at any time in the future if wanted; for example, in 60 days. The Mayor thought a public hearing would be required.

Councilor Bosley pointed out that this is the City's Ordinance and therefore the City should be responsible for enforcing it. She said the Council should not be asking business owners to enforce their work with this Ordinance. She added that previously, it worked the way the City Manager mentioned, patrons had to call Code Enforcement on other patrons instead of the Police Department. She said her amendment is the same model, but it means the ultimate person responsible for this is not the young worker at a business, but the patron likely challenging this Ordinance.

On a roll call vote of 10 in favor—3 opposed, Councilor Bosley's motion to amend Section 171-I passed. Councilors Filiault, Jones, and Powers were opposed. Councilors Ormerod and Greenwald were absent.

Mayor Hansel heard other amendments.

Councilor Manwaring asked if there was something in Councilor Bosley's amendment stating that it would happen immediately or whether the Council could provide Staff the time needed to accomplish the two tasks mentioned by the City Manager. Mayor Hansel said the current effective date was December 20, 2021. There could be a motion to amend that date. Councilor Manwaring supported moving the date out further.

The City Manager said her concern was that the hospital wanted this to happen right away because of the holidays approaching and therefore she was uncomfortable pushing this out. She said there was no system to track this and no tickets; and that work was needed before

enforcement was possible. Most of the time she said it is a conversation and educational opportunity; few people become so resistant that they require a ticket. However, this is such an emotionally charged issue that she was unsure it would be the case this time around.

A motion by Councilor Manwaring to amend the motion on the table, changing the effective date to January 3, 2021, was duly seconded by Councilor Remy.

Mayor Hansel heard discussion on the proposed amendment.

Councilor Williams opposed moving the date out farther than needed. He said Omicron is here, we are in the thick of it, we need this now, and he does not believe further delays are warranted.

Councilor Filiault was also opposed to moving the date, stating that the intent of this Ordinance and the last one was never to be fining people, which is why multiple warnings come before fines. The only intent is to get people wearing masks during a pandemic. It is not to punish people or businesses. He said that anything we can do during a pandemic to alleviate it, even if saving to only a few people, we know we can prevent it. We do not need a ticket to give a verbal warning. He said the true intent is to get business owners on board with the fact that the City is just trying to stop spread of a pandemic, not to punish businesses. He said that Keene's Ordinance is weak compared to other cities in the region, with the others still requiring outdoor congregation only. He said that businesses in cities like Hanover have not had a problem with it. He did not feel there would be a problem with it here. He thought most business owners would try their best, though he imagined there would be some who would not, but it is not enforceable with everyone. He said the Council is trying to educate everyone as best possible and get out of this pandemic before spring.

Councilor Jones did not think the date needed to change just for enforcement. He said Staff could work with the immediate start date and begin enforcing when possible. That is an administrative function. He did not support changing the date.

Councilor Manwaring stated she understood that we are in a state of crisis, but she thought there were other things to focus on besides just wearing masks; for example, people have been waiting weeks for booster shots in Keene. She thought the issue of vaccines was getting lost. She did not understand passing an Ordinance that would not be enforced. She said that all businesses were likely listening and hearing the City Manager say it could not be enforced and so businesses would then not comply. She said the Council was "gutting" the Ordinance they were proposing. Councilor Manwaring thought perhaps the best way forward was to vote down the Ordinance. It did not sound to her like the City was ready to hit the ground running and she did not think this should be effective until they are.

Councilor Johnsen thought some people had not heard or seen all the emails from constituents who had positions that were opposite of speakers at the PLD meeting. She is receiving emails from the public begging Councilors to pass this Ordinance—emails from doctors, to lawyers, to mothers, to clergy. She did not want to lose sight of that. Councilor Johnsen said the pandemic is happening and no one likes it or the masks, but she would wear her mask to help.

On a roll call vote of 2 in favor -11 opposed, the motion to amend the effective date failed. Councilors Remy and Manwaring voted in favor. Councilors Ormerod and Greenwald were absent.

Mayor Hansel heard other amendments.

Councilor Williams moved to amend Section 66, 171-B, which reads, *“Members of the public entering an enclosed indoor business for any purpose are required to wear a face covering completely covering their nose and mouth while conducting their business. However, members of the public shall not be required to wear face coverings while actually seated,”* to add to the end, *“at a food service establishment.”* Councilor Jones duly seconded the motion.

Councilor Williams thought that the original language was broad, and the intention was for people eating in a restaurant, which he did not support at this time. He did not support opening the stipulation to sitting indoors anywhere, like the library and waiting rooms that are often crowded.

Mayor Hansel clarified that bars count as food service establishments.

On a unanimous roll call vote of 13 - 0, Councilor Williams’ amendment to Section 66, 171-B passed. Councilors Ormerod and Greenwald were absent.

Mayor Hansel heard further amendments.

Councilor Workman questioned Section 171-D, non-membership fitness clubs, asking if most were membership-based. The City Manager said the City Attorney included non-membership clubs intentionally. The City Attorney agreed, stating that there was some confusion in the last iteration of the Ordinance from some fitness centers; there were possibilities of fitness locations in a hotel/motel and the public aspect may cover that. This was to make clear that if you must pay to enter the fitness center it was not a place of general public or invite. Councilor Workman asked if regular fitness clubs were included in the mandate. The City Attorney replied that the fitness clubs that charge a membership fee for entry are not covered by the mandate.

Councilor Bosley asked about the Recreation Center and if masks were required during play. The City Manager said they must wear the mask inside while participating in their sport.

Councilor Powers asked who would enforce the Ordinance and the City Manager said the Police Department.

Councilor Remy asked about performers in concerts or plays, for example. Mayor Hansel thought that if it was a pay-to-enter performance then it would not be open and accessible to the public; otherwise, they would have to wear masks as the Ordinance was written. Councilor Remy considered an amendment. Mayor Hansel thought the most appropriate way was to exempt performance venues or theaters. The Mayor said this becomes complicated when breaking down people and roles, and to therefore focus on the performance space. Councilor Remy asked if it were not appropriate to refer to a performer and a performance space. Mayor Hansel thought that would be very challenging. Councilor Remy expressed his nervousness having the City Attorney present only virtually for this matter. Mayor Hansel said that as with much legislation, the words

within matter very much. When stating something like a performer at a venue, a restaurant owner could claim their wait staff are performers, for example. He said this could get very messy.

Councilor Johnsen said there would be a large Messiah Sing at Central Square, for which all performers would wear masks. She added that the Keene Chorale planned to do a concert with masks as well.

Mayor Hansel reminded that the Ordinance allows for barriers between the public and workers/performers that exempts the latter from wearing masks.

Councilor Chadbourne referred to Section 66-171-G, which states that, *“A face covering is not required for anyone with a medical condition to whom wearing a face covering would pose a threat to their health or safety. The individual shall not be required to produce documentation or other evidence to verify the condition.”* Councilor Chadbourne thought this was good for people with PTSD and other conditions, but she still thought this could be abused. She wondered how members of the public or business employees are to enforce the Ordinance without being able to differentiate someone’s need for a mask. She felt the Ordinance was flawed.

Councilor Jones referenced Section B that states, *“Businesses shall implement adequate measures to notify their employees.”* He asked if the City could produce a friendly sign available on the website that businesses can print and post at their buildings. The City Manager assured that would occur.

Councilor Filiault appreciated everyone’s comments because they were trying to make the best Ordinance without “handcuffing” businesses. He said all Ordinances have flaws, which is why there are courts and enforcement. In reading Brattleboro’s, Lebanon’s, and Hanover’s mask ordinances, they are all flawed, but all are intended to get people to comply. The intent is the same for Keene. He said the elected people of the City were doing the best they could with what they have for the health and safety of the public. There could be corrections in the future. He said sitting all night and seeking flaws was not the best way. He said the point was to try to save lives at the bottom line. Councilor Filiault said this was only an inconvenience to some.

Mayor Hansel said this was the discussion about the whole Ordinance as amended.

Councilor Jones thought the Council had done its best from listening to all the comments in opposition at the PLD meeting. He said there was an educational component to this and some at the PLD meeting spoke about protecting oneself, which is correct. Councilor Jones said the more important concept is protecting others from spreading, which is done by “stopping projected spittle,” which is where the virus lives. He said the mask stops the projection of spittle to a high degree, which is important in addition to the six-foot social distancing standard. He said the Council has a social conscience and must do something. To that end, he asked his fellow Councilors three questions: 1) As an employer, is it your job to protect the City’s employees? 2) As a Councilor, is it your job to protect the health and wellbeing of the City? and 3) As a human being, is it your job to possibly keep one other human being from dying? If the Councilors could say yes to any of those three questions, he thought they should vote for the Ordinance.

A motion by Councilor Bosley to adopt the Ordinance as currently amended was duly seconded by Councilor Jones.

The City Attorney clarified the termination provision under Section L, which is like a sunset provision, although the Council has a role in determining the sunset. He heard conversation of amending this Ordinance at some point in the future, short of termination. If that occurred, the City Attorney said that it would have to go through the amended Ordinance process, which is not required if simply terminating the whole Ordinance.

Councilor Hooper shared some quotes. He said he was always a safety and health Councilor and he thought it was the top of this Covid-19 crisis, which is increasing in NH and Keene. The hospitals are on Code Red, with no beds, forcing patients to drive long distances for care. He urged the Council to consider the importance of this Ordinance, recalling the Councilors' oath to look out for the best interests of the community, which he believes includes keeping them safe and healthy. He read emails from residents, which he said were overwhelmingly in favor of the mandate. He acknowledged that everyone is tired of the pandemic and patience is frayed. He does not like local businesses being affected. He does not like that the community is split on the issue. He said the community should be together and solid. Councilor Hooper quoted an email from Craig McBeth, a retired dentist, who said:

As a retired dentist, I spent over 40 years wearing a mask at work because the science is clear that bacteria and viruses that are in the body easily become airborne and spread from the mouth. A sneeze, an unexpected event, and just breathing expel bacteria and virus particles into the atmosphere. There is no question that wearing a mask has prevented me and my staff from becoming exposed to infectious diseases as well.

Councilor Hooper continued saying that Dr. McBeth makes a strong case to wear a mask. Councilor Hooper said in 1918 his Great Aunt, Maryann McEwen Rice, was a Red Cross nurse in France. He quoted one of her letters home, which stated:

Why won't our American boys keep their [gas] masks on? Will they never learn sense? The percentage of gas cases is appalling among them, not among others. The Americans don't like to be uncomfortable, and the masks are not comfortable.

Councilor Hooper said that 100 years ago people were resistant to wearing masks. 1918 was the great influenza and the medical community protected themselves with masks. He urged the Council not to forget history. Councilor Hooper said masks were important 100 years ago and now.

Councilor Remy said he understood how masks help prevent spread of Covid-19 and he thought people should wear masks when it would help; he thought it was a personal responsibility. He thought people should keep themselves and others safe. Still, he thought enforcing this Ordinance would be a "nightmare" and he could not support creating this enforcement mechanism.

Councilor Filiault said there was no question that any Mask Ordinance would be an inconvenience for some businesses. Still, he shared that inconvenience to him was when a dying

family member was on a ventilator and called him to say goodbye. He said that was a true inconvenience.

Councilor Powers did not dispute concern on either side of the issue. Correspondence and speakers he heard seemed 50/50 to him, which told him it was an important issue and concern for everyone. Still, he was concerned with this Ordinance because it puts the onus on business owners because other people are irresponsible and will not wear masks. Getting vaccinated, distancing, and wearing a mask help, so he asked everyone to wear a mask and not make a City employee enforce this issue because someone is being “stupid.” He thinks it was going down the wrong road trying to mandate this at present. He heard all the concerns and said it was important to send a message to get shots.

On a roll call vote of 10 in favor—3 opposed, the motion to adopt Ordinance O-2021-16-B as amended passed. Councilors Remy, Manwaring, and Powers opposed. Councilors Ormerod and Greenwald were absent.

Mayor Hansel used the Chair’s privilege to comment. He said it was not his job to steer the Council and he tried not to on this issue. Still, he said that this community is completely divided and the tribalism he saw displayed over the past few weeks was the most concerning thing. Ultimately, he said this Mask Ordinance would pass, but he said it would not solve the problem unless people are encouraging their friends to wear masks voluntarily and get vaccinated to keep people out of the emergency room and intensive care. He said the vaccination rate was appallingly low compared to the rest of the state. In the long term, Mayor Hansel hopes the Keene community can come back together, though he did not think this mandate helped that. He said everyone needed to, “get over it and come back together and get through this.” The Mayor said we did it last year and can do it again.

Mayor Hansel thanked everyone for their time and work on this Ordinance, which he appreciated.

ORDINANCE – REDISTRICTING OF WARD LINES – AD HOC REDISTRICTING COMMITTEE – ORDINANCE O-2021-15

Finance, Organization, and Personnel Committee report read recommending that Ordinance O-2021-15 be adopted and be effective January 1, 2022. Mayor Hansel filed the report. A motion by Councilor Powers to adopt Ordinance O-2021-15 with an effective date of January 1, 2022 was duly seconded by Councilor Hooper.

Councilor Jones said he saw this happen for several years and the Committee works with tough guidelines. He congratulated the Committee for laying out the Wards in the best way he has seen in years, particularly Ward 4. Councilor Jones and Mayor Hansel thanked the Committee for their work.

The motion passed on a unanimous roll call vote with 13 Councilors present and voting in favor. Councilors Ormerod and Greenwald were absent.

RESOLUTION – RELATING TO FIRE/EMS TRAINING AND PUBLIC EDUCATION
REVOLVING FUND – RESOLUTION R-2021-48

Finance, Organization, and Personnel Committee report read recommending the adoption of Resolution R-2021-48. Mayor Hansel filed the report. A motion by Councilor Powers to adopt Resolution R-2021-48 was duly seconded by Councilor Hooper and the motion passed unanimously with 13 Councilors present and voting in favor. Councilors Ormerod and Greenwald were absent.

RETIREMENTS – COUNCILORS HOOPER AND MANWARING

Mayor Hansel recognized that this was the last meeting for Councilors Hooper and Manwaring. The Mayor recognized their years of service, beginning with Councilor Hooper.

Councilor Hooper was elected in 2015 and started his service as a member of the Municipal Services, Facilities, and Infrastructure Committee. He served on that Committee until 2020 when he assumed the Vice Chair position of the Finance, Organization, and Personnel Committee. Councilor Hooper will continue to serve the community through his membership on the Ashuelot River Park Advisory Board. Mayor Hansel offered Councilor Hooper a key to the City and thanked him for his service; noting he is always welcome back to City Hall.

Councilor Hooper said that when he was a news photographer, it was his job to run into danger to take pictures, which he did for 40 years. Subsequently, he was encouraged to run for City Council. He said that serving on City Council was quite the six-year experience. He thanked Councilor Powers for his leadership on the FOP Committee and his fellow Committee members, whom he was honored to serve with. He thanked Councilors past and present for the honor of serving with them as well. Councilor Hooper continued thanking the City Staff and management leaders—the City Manager, Clerk, and Attorney—for their support. He said all City Staff are hardworking and talented, and he will miss working with them. He also thanked Councilor Manwaring for leading him previously on the MSFI Committee and for the honor of serving with her. He said it was an honor serving the businesspeople of Keene. Councilor Hooper thanked everyone.

Next, Mayor Hansel honored Councilor Manwaring. Councilor Manwaring was elected in 2009 and her service on the City Council started and concludes with the Municipal Services, Facilities, and Infrastructure Committee. Councilor Manwaring has served as the Chair of the MSFI Committee since 2016 and she has effectively managed a variety of issues that have come before her Committee, such as raising the minimum age to 21 for the sale, possession, or use of tobacco products; responding to concerns from residents related to flood management, road maintenance and removal of trees; as well as many other items of business—both staff and public driven—related to city parklands, public art, parking, utilities, sidewalks, and other vital City infrastructure. Councilor Manwaring has, and will continue to have, a positive impact on the community through her many endeavors, including her dedicated work on the design plans for the Patricia T. Russell Park, her affiliation with the Serenity Center, her service as Chair of the Friends of Keene Public Library, her continued membership on the Human Rights Committee, and her role as an elected Supervisor of the Checklist in Ward One. Mayor Hansel offered

12/16/2021

Councilor Manwaring a key to the City and thanked her for her service; she is always welcome back to City Hall.

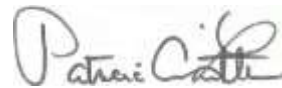
Councilor Manwaring said it had been quite a trip serving the City Council. When she ran for Council, she thought it was only for two years, not four. While she was surprised, she said her tenure as Councilor had been wonderful. She said that her motto when the Mayor asks her to do something is to just do it, whether you like it or not. She said the really wonderful thing about being a Councilor is that she learned so much. She is continually in awe of the complicated work City Staff does for the community. City Staff were always willing to help her with questions and she will miss them all. Councilor Manwaring said it had been a wonderful experience working with her fellow Councilors. She loved Chairing the MSFI Committee for so many years and hearing the various issues—from salamanders to flooding. Councilor Manwaring is more involved now as a Checklist Supervisor and she looks forward to continuing to support the City. She is very proud of Keene and the wonderful Staff, including the City Manager, Clerk, and Attorney.

ADJOURNMENT

Mayor Hansel thanked everyone for their work during a difficult, challenging year. He said the Council pulled together despite healthy disagreements and he hoped that camaraderie and respect would continue into 2022's likely challenges. He wished everyone a happy and healthy holiday season.

There being no further business, Mayor Hansel adjourned the meeting at 8:48 PM.

A true record, attest:



City Clerk