



KEENE CITY COUNCIL  
Council Chambers, Keene City Hall  
August 6, 2020  
7:00 PM

Roll Call  
Pledge of Allegiance

MINUTES FROM PRECEDING MEETING

- July 16, 2020

**A. HEARINGS / PRESENTATIONS / PROCLAMATIONS**

1. A Neighborhoods Concept: 21 in 21

**B. ELECTIONS / NOMINATIONS / APPOINTMENTS / CONFIRMATIONS**

**C. COMMUNICATIONS**

1. Jason Horne - The Sale of the So Called "Green Hangar" at Dillant-Hopkins Airport
2. Petition - Deteriorating Conditions on the Thompson Road
3. Petition - Objecting to Land Use Code Discussions Over the Zoom Platform

**D. REPORTS - COUNCIL COMMITTEES**

1. Acceptance of Donations - Parks, Recreation and Facilities
2. BJA Coronavirus Emergency Supplemental Funding Grant - Police Department
3. Sale of Tax Deeded Property - 198 Baker Street - Assessing Department
4. Professional Services Contract for Wastewater Permitting Assistance - Public Works Department
5. Flowbird Pay Station Color Touch Screens - Economic Development, Initiatives and Special Projects
6. Rebate from Eversource Energy - Public Works Department
7. Radio Communications - PLC Upgrade and SCADA Programming - Public Works Department
8. City Council Support for MAST 2020 Complete Streets Grant Submission - Community Development Department
9. Marlboro Street Rehabilitation Project - Budget Adjustment - Public Works Department
10. Acceptance of CARES Act, FEMA, Homeland Security Emergency Management - Finance Department

**E. CITY MANAGER COMMENTS**

**F. REPORTS - CITY OFFICERS AND DEPARTMENTS**

1. FY19 Assistance to Firefighters Grant (AFG) Award - Fire Department

**G. REPORTS - BOARDS AND COMMISSIONS**

1. Bicycle Pedestrian Path Advisory Committee Resignation - Aaron Shields

**H. REPORTS - MORE TIME**

1. Councilors Remy, Bosley and Giacomo - Continued Remote Participation
2. Relating to the Wearing of Face Coverings

**I. ORDINANCES FOR FIRST READING**

**J. ORDINANCES FOR SECOND READING**

1. Relating to the Wearing of Face Coverings  
Ordinance O-2020-09-A

**K. RESOLUTIONS**

1. In Appreciation of Dorothy Farrar Howard Upon Her Retirement  
Resolution R-2020-30
2. In Appreciation of Christopher Thomas Milton For His Service  
Resolution R-2020-31
3. Relating to Funding for the Flowbird Pay Station Color Touch Screens  
Resolution R-2020-29
4. Relating to the Refunding of Bonds  
Resolution R-2020-33

**L. TABLED ITEMS**

1. Relating to an Appropriation of Funds for Gilbo Avenue Infrastructure Improvements  
Resolution R-2020-06-A

Non Public Session  
Adjournment

A regular meeting of the Keene City Council was held Thursday, July 16, 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 the members of the City Council would be participating remotely. The Mayor asked that during the roll call for attendance, each Councilor identify their on-line presence and if 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 were present. A motion by Councilor Powers to accept the minutes from the July 2, 2020 regular meeting was duly seconded by Councilor Bosley. The motion passed on a roll call vote with 15 Councilors present and voting in favor. The Mayor led the Pledge of Allegiance.

#### ANNOUNCEMENTS

Mayor Hansel reminded the City Council's summer vacation schedule will start with the cancelation of the Standing Committees for Wednesday, August 12, 2020 and Thursday, August 13, 2020 and the cancelation of City Council meeting on August 20, 2020. The Standing Committees for Wednesday, August 26, 2020 and Thursday, August 27, 2020 will remain as scheduled. Mayor Hansel announced a fiscal policy workshop is scheduled for Tuesday, September 1, 2020 at 6:00 PM.

#### PRESENTATION – ARTS AND CULTURE CORRIDOR CONCEPT – MONADNOCK ECONOMIC DEVELOPMENT CORPORATION

Mayor Hansel welcomed Arthur Robert, Monadnock Economic Development Corporation Executive Director.

Mr. Robert indicated that he had a brief presentation to introduce the arts and cultural corridor concept which summarizes the results of the conceptual design and study proposed for downtown Keene. Mr. Robert indicated that this presentation will build on conversations that were started prior to his tenure in his role as Executive Director of MEDC in which he started in April 2020. Mr. Robert indicated that he is a career economic development professional with utility, non-profit and government industries at both the State and local levels and most recently served as Community and Economic Development Director for the City of Framingham MA, which has about 70,000 residents and approximately 2500 business establishments. He continued that MEDC is looking forward to finding a path ahead for one or more elements in the arts and cultural corridor concept and make it a reality.

Mr. Robert continued with providing background on his employment with MEDC and previous experiences in the economic development industry. Mr. Robert provided a summarization of the planning and design concepts. Mr. Robert indicated that this plan was developed by planning and design professionals from Stevens and Associates based in Vermont and supported by a large contingency of community outreach and engagement that tested ideas, developed questions and strengthened the overall thinking, which led to a preferred conceptual design. Mr. Robert

summarized the preferred conceptual design by pointing to elements which comprise the corridor combined with connectivity. This concept will create a destination that provides much more value than the sum of its parts. He indicated that he would summarize some of the challenges that will need to be addressed to move the project forward. His presentation will also speak to some work already underway and the presentation will end with some next steps.

Mr. Roberts stated that arts and culture has an important and impactful presence in Cheshire County. He pointed to a number of different studies and most recently a conservative study focused on Cheshire County completed in 2017. That study revealed 146 business in the arts and culture industry directly employed 507 people and supported well over 600. These businesses had an economic impact that generated over \$18 million in total industry expenditures and paid out household incomes in excess \$12.7 million and drove events that combined generated well over \$5 million in event related spending.

Mr. Robert continued by indicating that Keene's downtown is home to a number of different important venues and activities, it is certainly an attractive destination for the region and because of what is there and what can be added it has great potential for new attractions and amenities. He reflected his perspective as a newcomer, indicating that there is open space available just off the downtown for either development or appropriate activities and venues or placement of activities and/or art to make the area much more interesting and attractive. He continued indicating that Keene State College is an asset because of the student base and creativity flow and its ability to partner to make great things happen.

Mr. Robert shared that his vision for creating an arts and cultural corridor is to create a destination where an attractive and highly walkable corridor along the Cheshire Rail Trail connects art venues, arts installations, and activated public space for performance venues. He indicated that this will create a vibrant corridor that can generate broader impacts benefiting residents and business. Such a destination will add value to residents but it is important that an activated space that reflects creativity and energy will also be attractive to the creative economy businesses. He continued that web companies, design firms, marketing organizations, video and gaming businesses and their employees thrive in a dynamic urban setting that is marked by creativity and activity. He indicated that he believes that an arts and culture corridor can contribute to creating that atmosphere to attract those types of firms and businesses into the office space available in the area. He indicated that they are pursuing a design that leverages much of what we already have here. A great foundation of businesses and attractions are captured in the downtown railroad heritage area of the Cheshire Rail Trail which runs east to west. There is a great base of downtown arts and culture and community organizations. He continued that in talking with MEDC board members there was indication of long term commitment in the community to building a vital downtown which has extended thirty years into the past, providing a foundation for next steps, such as an arts and cultural corridor. He continued that they want to this well and right by creating of a number of venues, a number of attractions, and exciting and interesting activated public space where people will want to be. It will be a destination of value exceeding the sum of the parts because it will have individual venues connected together in an attractive space where people will want to be.

He indicated that prior to his arrival the former MEDC Executive Director, Jack Dugan had many conversations with lots of people to obtain input and build interest to create a foundation for defining what an arts and cultural corridor could look like. We have an opportunity to take this idea to the next level by engaging with professionals planning support through Stevens and Associates to further refine those ideas and portray those ideas but more importantly take those ideas out into the community to share them, gain feedback, test ideas and obtain questions to finally produce a stronger preferred recommended conceptual design. In September 2019 that public engagement produced a number of elements community “walkshops” led by our consulting team that walked residents and others around the downtown area to point out what is possible and get people to physically look at space and by that physical interaction yield some helpful feedback and questions.

Mr. Robert continued that the Hannah Grimes Center hosts the annual Radically Rural event. Last year they had an event that focused on the idea of the arts & culture corridor, providing another venue to share with not just residents, but visitors throughout the United States, and get feedback on what people thought made sense or questions they had and opportunities to strengthen the concept. In October 2019, the consultant team hosted a community workshop pop-up event that deployed examples of what could be part of activated space in the downtown in the arts & culture corridor area. Based on people being able to see and experience it they got some fact-based feedback. Instead of just reacting to a PowerPoint slide, people were able to see, touch, and respond. The team hosted a design charrette in December that pulled a lot of the ideas and feedback together and then a more conventional community planning setup that laid out the charts, and people had markers to mark up the maps based on their questions and suggest improvements. One piece that was not formally part of the process was the community engagement that Beth Wood, the Downtown Coordinator, did with businesses on a one-on-one basis, during this period as she did her work in the downtown. She met and talked with many downtown business owners to explain the concept and ideas, and gain feedback. The feedback she provided informed the process and helped drive the results.

Mr. Robert continued that what resulted from all of that work and all that feedback was the creation of a preferred conceptual design. He indicated that it is summarized in the slide. It portrays an 11-acre site, ranging from School Street in the west to the Monadnock Food Co op in the east, connecting a number of different elements that can make up this corridor. It is connected by a walkable corridor ranging east/west across Main Street and ultimately through an amphitheater on the eastern edge near the Monadnock Food Co op. It is an 11-acre opportunity comprised of multiple elements, multiple parcels, all resting in a complex urban setting. There are multiple parcels and multiple owners that need to be considered. This concept is ultimately put into a downtown area that reflects decades of planning and prioritization around important long-term needs, ranging from managing traffic on Main St. to managing pedestrian flow and encouraging walkability and foot traffic, and planning utilities that support all of these.

He continued that this conceptual design includes a number of elements. In his review of the conceptual design study, he identified the set of elements shown in the slide. The possible components that together will make up an impactful arts & culture corridor include a covered

pavilion that could host different activities and events, which KSC has expressed great interest in and can certainly become a destination venue. It can anchor the corridor and encourage people to walk from one end of the corridor to the other. Other possible components include a skate park, which has enthusiastic fundraising efforts to design and construct a new one, which would be a destination of particular interest to young people; artists' "live/work/gallery" space, which has two possible locations – either rehabilitation of a building on Federal Street or new construction off of railroad land on the eastern edge of the corridor; a small performance venue (amphitheater) near the Co-op, which will be complete with the Co-op's expansion and provide another space for people to gather for various performances; and a small theater that the Colonial Theater has expressed interest in.

Mr. Robert continued that it is important to create a walkable corridor. There are two components: first, creating a walkable Gilbo Ave. corridor to School St. There is a separate section where Gilbo Ave. meets Main St., and crossing Main St. through railroad land. There is an opportunity to define that space and create an attractive walkable corridor and activate it with a number of different elements – overhead café lighting, railroad cars that can host small performances or pop-up stores, public art installations, and more. People have expressed interest in water features, fire pits, and other places constructed that encourage people to meet and gather. Wayfinding signage is important so people can find these different elements and find their way from one end of the corridor to the other.

He continued that critically, the conceptual design recommends a defining monument or marker to pull together the corridor across Main St. heading to the east and the west. It calls for an interesting idea, which is to place a modern arch across Main St. as a way to complement and contrast the existing, traditional, New England town architecture everyone enjoys. Last but not least, the design recommends creating a non-profit organization that can oversee operation of the corridor; manage scheduling of the different venues; manage occupancy for the different arts and culture sites, including the artists live/work/gallery space; maintain and ensure upkeep, not just of the corridor, but of its many elements, like lighting, water features, fire pits, and so on and so forth; and also play an important role in coordinating the maintenance and placement of public art. In this conceptual design is a complex opportunity of interrelated elements that each require different forms of attention, in terms of defining, developing, and making real.

Mr. Robert continued that they have developed a path forward for what this could look like. The conceptual design study pointed to, but certainly did not help resolve, a number of challenges. This slide summarizes a few of them. Certainly, funding is critical, and as he said before, different venues or elements have different costs and different revenue streams, so they will have to figure out how to make each piece of the corridor work. They will have to look at them differently. Over time, MEDC has been very effective accessing resources, including federal ones, to help finance projects. They expect that the other forms of incentives they will have to figure out how to tap to bring into these projects. He anticipates that there will be a role for philanthropy in all this and ways that they have not seen with MEDC projects in the past. The preferred conceptual design identifies where different corridor elements could be located, but those locations need to be finalized, and ultimately, site control needs to be assumed in order to

move forward. There are lots of property owners, and the property owners of today might not be the property owners of tomorrow, so there will have to be a lot of follow-up conversations.

He continued that to make a project like this work, City support will be very important. The one decision that MEDC looks forward to working through is the idea of closing Gilbo Ave. between Main St. and James St., which is a relatively short stretch. Closing it would maximize the creation of a space that can be activated and be the center of the arts & culture corridor. That said, they recognize that there are challenges that come with that. That road does manage traffic today, and they would like to figure out a partnership with the City to find a way to close that portion of the street and manage traffic. They know there are private property owners today that rely on access to Gilbo Ave. They would like to find a way for them to be successful without relying on that access. It is an important project element that they think will require some attention.

He continued that certainly, because of the funding challenges involved, they hope there will be opportunities to leverage Chapter 79-E, and any form of simplification of the permitting process to lower the time and costs associated with getting a project started would be appreciated. They look forward to taking advantage of the Building Better Together initiative that comes together.

He continued that another challenge is determining the feasibility of the artists' live/work/gallery space. They are talking about new construction and renovation and they have to understand what the revenue streams are associated with renting that space and how that relates to construction, as well as ongoing operations. This is a new area for MEDC. They look forward to addressing those feasibility questions as part of the predevelopment process.

Mr. Robert continued that given all of this, they have to be sure that they are working in alignment with existing City initiatives. As the City Council knows, MEDC has been working closely with the City and KSC to define, fund, and ultimately build the business partnership hub – essentially a training facility that can bring together academics and precision manufacturing leaders to create new opportunities to train existing workers and the next generation of workers, college students and others. That project generates impacts and challenges that they have to manage and they want to move forward together with the City on all of that.

There have been conversations about creating an intermodal center in downtown Keene, which would include structured parking. The location and function of such a facility are both very important, and where that facility would ultimately be sited would have implications for how they would organize and move forward on the corridor. They want to stay in close touch. Main St. planning continues and there is ongoing interest in improving utility infrastructure and they want to account for all of that, which they believe there is a way to do.

Mr. Robert stated that there are some corridor elements that are moving forward; they have the opportunity to be built upon and connected to an attractive, walkable corridor. The amphitheater will soon be completed as the Co-op is complete, creating a new location for performances, on the eastern edge of the 11-acre corridor. The Colonial Theater is moving forward on establishing a new small theater as well as renovating their existing one. That is an important draw at the center of downtown, and the center of what could be an arts & culture corridor. It is a great asset

and part of the foundation to build on. Also, the skate park interest has grown. There has been substantial fundraising and interest in moving on to the design phase. That will become an important draw for young people and an important element of the total project.

He continued that up until this point, they have been talking about a conceptual design. He has shared the preferred path forward tonight. The challenge before everyone is to determine a path forward from concept to reality. They have done a lot of work but there is still a lot of outreach necessary. It is important to continue the conversation with a number of audiences, most importantly, the City Council. This presentation is the first in a series that will get them from where they are today to a path forward. MEDC intends to follow up with arts and culture and downtown groups to share where they are and get feedback. They have begun to and will continue to coordinate with City staff, through the Property and Development Committee. He thanks the City Manager for inviting them into that process and making that team of City leaders available to the MEDC, to provide feedback and challenge their work in ways that will ultimately lead to a stronger final product. An important part of that is assessing whether there is a way of closing Gilbo Ave., assessing the feasibility of artists' live/work/gallery space, and considering all that he described earlier, and coming back with a realistic implementation plan that orders progress on different project elements in ways that will best support the City's many objectives, but also in a way that will be sustainable and successful.

Mr. Robert stated that he wanted to close with a few points. Today we live in the very near term, with a pandemic that has put us in the kind of situation where we communicate electronically and are pushed apart, all thinking about tomorrow and the next day. Everyone looks forward to getting past this pandemic, maybe with a combination of vaccines and herd immunity. That is at some point in the future. Knowing that, what we have before us is an opportunity to plan strategically and implement deliberately in a way that will help prepare the downtown for the next level and create a new destination that is attractive and vital. It will create value that is more than just the sum of its parts. MEDC looks forward to working with all parties to make that happen.

The Mayor asked if anyone had questions.

Councilor Greenwald stated that to the best of his knowledge, this project has never been endorsed by or authorized by the City Council. It has been an MEDC proposal which has been saying "Go forth, design," but it is not a done deal. He continued that the more they keep talking about it, it does not necessarily make it an endorsement. He wants that to be clear. He has two questions: first, what is the Property and Development Committee?

The City Manager replied that it is a committee that the City has – all the department heads come together and review the projects that are ongoing or upcoming in the City. She continued that it is an opportunity for them to brainstorm and communicate across all of the departments and they have invited MEDC to those meetings to give updates on their progress, and also so the City can give MEDC feedback and answer questions, such as making sure they are thinking about pedestrian and vehicular activity and coordinating efforts, if this project is going to move forward, to make sure that Main St. is working properly with Gilbo Ave. Councilor Greenwald



stated that it is the first he has heard of this. He asked if any City Councilors are involved. The City Manager replied no, it is a staff committee that has been in place for many, many years. Councilor Greenwald replied that he thinks that is a flaw in the concept.

Councilor Greenwald continued that a bigger question is: will any part of this pay property taxes? Or would it all be non-profit subsidized philanthropy? Will any of it be a for-profit organization? Mr. Robert replied that they do not have an answer for that yet. He continued that it is clear that a significant portion of what they are talking about, the corridor itself, would be activated public space. Whether there are particular activities that can generate tax revenue has yet to be seen. It is certainly a possibility. They can pay attention to that going forward. He understands how that could be a factor in any decision the City Council makes about how to move forward.

Councilor Greenwald stated that he has many more questions. If it is all going to be non-profit he is a little distressed about that. He continued that they need tax payers and job producers. He thinks it could be a mix if it is going to happen.

The Mayor asked if anyone else had questions. Councilor Williams stated that he noticed there is artist live/work space in the concept. He asked if there would be any other housing. Beyond arts and tourism, to speak to the needs of the city, which are housing, places to work, not so much in terms of bringing people in, but for the people who are here. Mr. Robert replied that in terms of what the art & culture corridor and what it could provide to residents of Keene directly, they are contemplating the artist live/work space. Artists are challenged to find places to live and to work, and live/work space can offer the opportunity for Keene-based artists to not just get established, but to live where they work and potentially put some of their wares up for sale. Beyond that, regarding the Councilor's question about jobs and housing, in its current form, MEDC believes that the corridor as defined will create an environment that will be attractive to "creative economy companies." Creative economy companies want to be where people are, and want to be in dynamic, activated settings that are stimulating and offer a lot of what they need in a small space. By creating the corridor MEDC believes they can encourage creative economy companies to locate and grow. The plan they put together does not contemplate housing, but Councilor Williams raises an important issue. They know there is a housing shortage. That contributes to higher rents and makes it more difficult for people to live and work in Keene. Although they had not contemplated it, they could look at housing as part of the project.

Councilor Jones thanked Mr. Robert for the presentation. He continued that the City Council had a presentation from six architectural students about 5 or 6 years ago on that same area, after the City completed the Gilbo Ave. overlay. They used the Gilbo Ave. overlay as the guideline. It called for a certain type of streetscape. They also used the City's Comprehensive Master Plan. That is something the committee should take a look at, because the students had some great ideas about open spaces, streetscape, and economic development. He also wants to thank Mr. Robert for including Chapter 79-E because he thinks that is probably the biggest answer to Councilor Greenwald's questions. That is how they would get tax-paying entities in there. He thinks there are some places where they could extend TIF into that area, to help with infrastructure. That is something they should look at.

Councilor Jones asked, why would they not extend it down Island St. and include the Colony Mill? Mr. Robert replied that it is not a simple question. Extending the corridor further would introduce more opportunity but also more complexity. The design team recommended a footprint of this size. Certainly there would be potential to extend it. He would want to look at adding elements with care, and if they were to do so, to be very deliberate about it so that they can be confident that each piece works on its own and the connectivity adds the value that is so important.

Councilor Clark asked what MEDC's next steps are for furthering the plan. Is it funding? Is it looking at particular solid concepts of buildings or something else? Mr. Robert replied that there are several elements. He continued that a fair amount of time has transpired over the course of the design study. They wanted to start with the City Council, to share what they have learned, and to start a conversation with other groups in the arts community and the downtown. They want to touch base with groups to see what folks think and what they are truly interested in going forward with. There are those questions about Gilbo Ave. that they need to get to clarity on, and they have some feasibility work to do. He would like to get through those steps, in collaboration with the City, and develop a phased approach to putting together a number of corridor elements and the connectivity the MEDC thinks is achievable and sustainable, but critically, to share with the City Council to get their feedback and ultimately their support. They are talking through something that is big and important and will have a huge, positive impact on the city and they want to move forward knowing, through interaction, to get to something that the City feels comfortable with.

Councilor Filiault stated that considering this is such a major project, alluding to what Councilor Greenwald said, he thinks that the City Council is woefully out of the loop at this point regarding this project, especially one so large. He continued that obviously they will have questions about funding and taxes and infrastructure and road closings and businesses maybe being bought out or moved. His personal recommendation is that before another minute of staff time is put forward on this, the City Council needs more of an update on some of these questions. He knows the City Manager said staff has been looking at this for a while, but there are no Councilors on that committee. He thinks they should slow down. He appreciates the update tonight, but it is the first update they have had on this in [a long time], and for some of the new Councilors it is the first time they have ever seen anything on this. Slow down and get the City Council more up to speed about finances and the questions. He knows they are looking at tax credits and some other non-tax-paying finances to come through and help fund this, but especially with this economy now and the way things have changed, there is no guarantee those tax credits are even going to be there anymore. He is not saying he is for or against this project. He does not have enough information right now to come close to making a decision.

Councilor Bosley stated that to follow up on what Councilor Filiault is saying, as a new Councilor, this is her first introduction to this project. She is also a tenant on Gilbo Ave., as a business, and she has not met with anyone concerning how this would affect her business. Mostly, her concern would be parking. She would also ask that they spend a lot of time reaching

out to the different businesses in the community and get them to buy in and explain how this change will affect them.

The Mayor asked if anyone else had questions or comments. Hearing none, he thanked Mr. Robert for the presentation and for kicking off this conversation.

#### CONFIRMATION

A motion was made by Councilor Powers and duly seconded by Councilor Bosley to confirm the following nomination: Ritu Budakoti to serve as an alternate member on the Human Rights Committee with a term to expire December 31, 2023. On a roll call vote, with 15 Councilors present and voting in favor, the nomination was confirmed.

#### COMMUNICATION – COUNCILORS REMY, BOSLEY AND GIACOMO – CONTINUED REMOTE PARTICIPATION IN PUBLIC MEETINGS

A communication was received from Councilors Remy, Bosley and Giacomo, recommending that the City Council and all other public bodies continue the availability of remote access for participation by members, the public and City staff with both video and audio beyond the COVID-19 pandemic. The communication was referred to the Finance, Organization and Personnel Committee.

#### MSFI REPORT – ECLIPSE MANAGEMENT GROUP – CONSTRUCTION ON CITY PROPERTY AT KEENE ICE

Municipal Services, Facilities and Infrastructure Committee report read recommending to report out the request from Eclipse Management Group for construction on City property at Keene Ice. The report was filed as informational.

#### MSFI REPORT – WATER SUPPLY AND WATER CONSERVATION MEASURES - OPERATIONS MANAGER & ASSISTANT PUBLIC WORKS DIRECTOR

Municipal Services, Facilities and Infrastructure Committee report read recommending the declaration of a Stage 1 – Water Conservation Alert as per Section 98-74.1 of the City Code of Ordinances. A motion by Councilor Manwaring to carry out the intent of the report was duly seconded by Councilor Giacomo. The motion passed on a roll call vote with 15 Councilors present and voting in favor.

#### PLD REPORT – KRISTIN FINNERTY – REQUEST TO DISCHARGE FIREWORKS ON PRIVATE PROPERTY

Planning, Licenses and Development Committee report read recommending the communication be accepted as informational. The report was filed as informational.

#### FOP REPORT – FIRST RESPONDER COVID 19 STIPEND PROGRAM – HUMAN RESOURCES DIRECTOR

Finance, Organization and Personnel Committee report read recommending that the City Council accept from the State of New Hampshire, pursuant to RSA 21-P:43, First Responder COVID 19

funding in the amount of \$205,485.42 and the City Manager be authorized to do all things necessary to accept and expend this funding provided for a state established stipend pay program for the time period beginning May 4, 2020 and ending June 30, 2020 for police officers and firefighters. A motion by Councilor Powers to carry out the intent of the report was duly seconded by Council Hooper. The motion passed on a roll call vote with 15 Councilors present and voting in favor.

#### FOP REPORT – ACCEPTANCE OF DONATIONS – PARKS, RECREATION AND FACILITIES DIRECTOR

Finance, Organization and Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to accept a donation of \$2,500.00 from Pathways for Keene, Inc and that the money is allocated for a kiosk at the trail head of Emerald Street and the Ashuelot Rail Trail. A motion by Councilor Powers to carry out the intent of the report was duly seconded by Council Hooper. The motion passed on a roll call vote with 15 Councilors present and voting in favor.

#### FOP REPORT – AVON STREET WATER AND SEWER REPLACEMENT PROJECT – BUDGET ADJUSTMENT – PUBLIC WORKS DIRECTOR/EMERGENCY MANAGEMENT DIRECTOR

Finance, Organization and Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to use an additional \$3,448 from the project balance of the Sewer Main Improvement Capital Project (08055) and an additional \$22,018 of unspent personnel and operating funds in the FY 20 Water Fund Operating Budget for the replacement of water and sewer utilities in Avon Street. A motion by Councilor Powers to carry out the intent of the report was duly seconded by Council Hooper. The motion passed on a roll call vote with 15 Councilors present and voting in favor.

#### CITY MANAGER COMMENTS

The City Manager began her comments by noting that last Wednesday in the early evening we had a rain event that created flash flooding in different areas across the city. Unfortunately, the Central Fire station sustained some damage as a result. A roof drain became separated and water entered the building, the roof drain has been fixed but we still need to make some repairs to the ceilings on first and second floor.

She continued her comments by announcing the Community Development Department recently launched an energy plan website that features podcast-style episodes and interviews produced by the City's UNH Sustainability Fellow, Carly Peruccio. The first podcast is about Community Power programs and how this type of program could benefit the City of Keene. The website also features an interview with the Director of Energy and Sustainability for the City of Greenfield, Mass about how Community Power has saved their ratepayers a significant amount of money while also offering 100% renewable electricity. You can view the website at the following website: [www.KeeneEnergyPlan.com](http://www.KeeneEnergyPlan.com).

She continued with some encouraging news to report: Spectrum has worked with the city to draft an application for the GOFERR Emergency Broadband grant funds to provide service to our four unserved streets (76 homes). This is an exciting opportunity. In addition to our letter of support to Governor and the committee, we have also encouraged residents in these neighborhoods to write to the GOFERR committee to advocate for this application.

Ms. Dragon went on to provide an update on the work of the Keene Rebound / downtown opening task force relative to "Sidewalk Saturdays". The task force created a survey for downtown businesses. In addition to sending the survey out via email several City Councilors volunteered to visit businesses personally. (Councilors Remy, Workman, Jones, Filiault, Giacomo, Bosley, and Johnsen all visited blocks of business in the downtown) This personal touch from the city councilors made a huge difference in our effort to connect with the downtown business community. She thanked them for doing this. The next step is for city staff to create a temporary sidewalk obstruction license for expanding use of the sidewalk on Saturdays for the rest of the season (through the end of October).

We currently process sidewalk obstruction licenses through the City Clerk's office. This new temporary license will include COVID-19 CDC precautions and the retailer will need to continue to follow the governors opening guidelines for retail business. While retailers are able to welcome customers inside their stores (in a limited capacity)-many people still prefer to be outside.

Once we have drafted the revised license, John Rogers will visit each location and review and approve their plan to utilize the space to ensure we maintain ADA accessibility. There will be no fee for this temporary license as it is an experiment. Next year if businesses wish to continue they would need to apply for the regular sidewalk obstruction license, which requires a \$100 fee for the season.

The Downtown coordinator is assisting with communication/outreach/and coordination. While the hours each retailer may decide to use the space could be different we are hoping to coordinate some common hours in the downtown and assist with getting the word out. I want to thank the clerk's office, city attorney, and John Rogers for their help making this happen. I recognize the additional work it takes to implement this kind of experiment and I am grateful for their help.

The City Manager continued her comments by saying that we are currently in the process of physically modifying space in the City Clerk's Office (utilizing GOFERR funds). These modifications will create a space similar to the set up in the Revenue office. The Revenue office has been able to maintain operations throughout the pandemic because there is a physical barrier between the employees and the public. The modifications in the Clerk's office (which is a much smaller space with closer contact) will allow us to fully open up the Clerk's Office and provide all of our normal services. The work should be complete in 1 to 2 weeks.

Related to property tax collection, this year due to COVID-19, the city teamed up with the communities of Rochester and Durham to request the Governor grant the ability to waive up to 3 months of interest and penalties on the June tax bill to ease the financial burdens on tax payers. The governor, granted that local authority in executive order# 25.

Property taxes were due July 10, 2020. We collected 89% of the warrant by the due date and another 3% since then so we are at 92%. For context the Manager noted that last year taxes were due July 9, 2019 and by that date we had collected 93% of the taxes. It is encouraging to see our collection numbers remain very close to last year.

The Manager ended by announcing some Fire Department personnel changes (some changing of hats). She went on to extend congratulations to Gregory Seymour who has been appointed to the training officer position, as well as to Francis Pierannunzi who was appointed to the position of Fire Alarm Officer and a lateral transfer of Joshua Brooks to Operations Lt.

#### MORE TIME

More time was granted by the Mayor for the following item in Committee: Let it Shine – Request for Use of City Property – Pumpkin Festival. The Mayor noted that the Keene Music Festival organizers have notified the City that for the overall safety and welfare of the community that they would be canceling the music festival for 2020. The Mayor stated he would be pulling the item off the PLD more time agenda and reporting it out.

RESOLUTIONS: R-2020-24: IN APPRECIATION OF TIMOTHY K. PELOQUIN UPON HIS RETIREMENT; R-2020-25: IN APPRECIATION OF ARTHUR L. JOHNSON UPON HIS RETIREMENT; and R-2020-26: IN APPRECIATION OF ALAN L. PURRINGTON UPON HIS RETIREMENT

Resolutions R-2020-24: In Appreciation of Timothy K. Peloquin Upon His Retirement; R-2020-25: In Appreciation of Arthur L. Johnson Upon His Retirement; and R-2020-26: In Appreciation of Alan L. Purrington Upon His Retirement was read by title only. A motion by Councilor Powers to carry out the intent of the report was duly seconded by Councilor Bosley. The motion passed on a roll call vote with 15 Councilors present and voting in favor. Resolutions, R-2020-24; R-2020-25; and R-2020-26 declared adopted.

#### PLD REPORT AND RESOLUTION R-2020-28: A RESOLUTION RELATING TO THE WEARING OF FACE COVERINGS

Planning, Licenses and Development Committee report read recommending the City Manager be requested to introduce into the City Council a resolution with respect to encouraging the use of face coverings, as presented to the PLD Committee, with the addition of encouraging the use of the Keene Safe program. The Mayor stated that several Councilors have approached him about the need to have an Ordinance rather than a Resolution on the issue of wearing face coverings. He believes that time is of the essence and that they City Council should make a decision on whether an Ordinance is warranted before taking our summer break on August 6. The Mayor has

07/16/2020

asked that the City Attorney be prepared with an ordinance, which uses the language in Resolution R-2020-28. A motion by Councilor Filiault for a motion to Suspend the Rules to allow discussion of the proposed Resolution or if it going to be in an Ordinance form was seconded by Councilor Clark. After a brief discussion, the motion was withdrawn. A motion by Councilor Bosley to carry out the intent of the Committee report was duly seconded by Councilor Greenwald. A motion by Councilor Greenwald to Suspend the Rules to adopt the Resolution R-2020-28 was seconded by Councilor Bosley. A brief discussion took place. The motion passed on a roll call vote with 15 Councilors present and voting in favor. A motion by Councilor Greenwald to adopt Resolution R-2020-28 was seconded by Councilor Bosley. The motion passed on a roll call vote with 15 Councilors present and voting in favor. Resolution R-2020-28 was adopted. A motion by Councilor Filiault to Suspend the Rules to introduce an ordinance that would be moved forward to the Planning, Licenses and Development Committee was seconded by Councilor Clark. A brief discussion took place. The motion passed on a roll call vote with 15 Councilors present and voting in favor. Ordinance O-2020-09 was read first time by title only. The Ordinance was referred to the Planning, Licenses and Development Committee.

As there was no further business, the meeting adjourned at 9:05 PM.

A true record, attest:

  
City Clerk



City of Keene, N.H.  
*Transmittal Form*

August 4, 2020

**TO:** Mayor and Keene City Council

**FROM:** Jason Horne

**THROUGH:** Patricia A. Little, City Clerk

**ITEM:** C.1.

**SUBJECT:** Jason Horne - The Sale of the So Called "Green Hangar" at Dillant-Hopkins Airport

---

**COUNCIL ACTION:**

In City Council August 6, 2020.  
Communication filed as informational.

**ATTACHMENTS:**

Description

Communication - Horne

**BACKGROUND:**

Mr. Horne is expressing his concern about the sell of the so-called Green Hangar at the Dillant-Hopkins Airport without the opportunity for the public to bid or have the hangar appraised.



August 4 2020

City Council, Re: Sale of green hangar at airport.

It has come to my attention the city has chosen to sell the hangar to the current tenant without the opportunity for the public to bid, or having the hangar appraised. The City manager was authorized to negotiate the sale. This meeting was on September 12th, 2019. In this meeting Greenwalt asked about how the price would be set. The answer was it would be difficult to set a price. Why in a situation like this would it not have been appraised or auctioned to find its value? I am requesting the city put an injunction or hold on this sale and reevaluate this situation. This hangar has the potential to be valued over 100k. Most privately owned hangars on the field sell for 25k-60k and hold 1 plane. 167 Old Homestead Hwy was in the same or worse condition and sold a few years ago for 58k. This hangar is 1/2 the size of the green hangar and has undergone an awfully expensive rehab since its sale. Someone has dropped the ball with our tax dollars. The other issue here is there are only 2 hangars on the field that meet the City requirements to be a maintenance facility. The last time this hangar came up for lease two people fought over it. The current tenant won, and the result was a long-term business at the airport was shut down leaving only the one we have now. Now we are selling it for pennies on the dollar. Simply wrong. As a taxpayer this is throwing money away.

Jason Horne  
55 Victoria St.  
Keene NH  
03431  
603 209 9743



In City Council August 6, 2020.  
Communication filed as  
informational.



City Clerk



External Communication  
*Transmittal Form*

August 4, 2020

**TO:** Mayor and Keene City Council

**FROM:** Thompson Road Residents

**THROUGH:** Patricia A. Little, City Clerk

**ITEM:** C.2.

**SUBJECT:** Petition - Deteriorating Conditions on the Thompson Road

---

**COUNCIL ACTION:**

In City Council August 6, 2020.

Referred to the Municipal Services, Facilities and Infrastructure Committee.

**ATTACHMENTS:**

Description

Petition

**BACKGROUND:**

Residents on Thompson Road are requesting immediate action to correct the rapidly deteriorating conditions on their road.

July 28, 2020

City of Keene  
City Council, Vice Chairman Mitch Greenwald, and Committee M.S.F.I.  
City Manager Elizabeth Dragon

RE: Thompson Road Condition

Our road conditions have deteriorated over the past several years. Last fall, eleven jersey barriers were placed as a temporary measure. The guardrails running the length of the hill are unsafe, with some of the posts no longer anchored, or even touching the ground. Due to the heavy rains this summer, we have experienced further erosion.

We were notified by Donald Lussier, City Engineer, that the study by a geotechnical engineering firm showed the slope of Thompson Road was only marginally stable. Without the required repairs, the road is deteriorating at a rapid rate. This is the only access to our homes, and this issue needs to be resolved before we have a preventable disaster.

The undersigned residents of Thompson Road request immediate action.

Thank you for your time and consideration.

Patricia & Gregory Walker Patricia Walker Gregory Walker  
 Robert & Mary Ball Robert Ball Mary Ball  
 Jeffrey & Allison Gardner Jeffrey Gardner Allison Gardner  
 George & Patricia LaRoche George LaRoche Patricia K. LaRoche  
 Gregory & Jeannette Gardner Gregory Gardner Jeannette Gardner  
 Francis & Jessica Pierannunzi Francis Pierannunzi Jessica Pierannunzi

In City Council August 6, 2020.  
Referred to the Municipal Services,  
Facilities and Infrastructure Committee.

Submitted by:

Patricia Walker - 603-352-6932

17 Thompson Road

Keene, NH 03431



City Clerk

1



Looking down the hill at Jersey Barriers

2

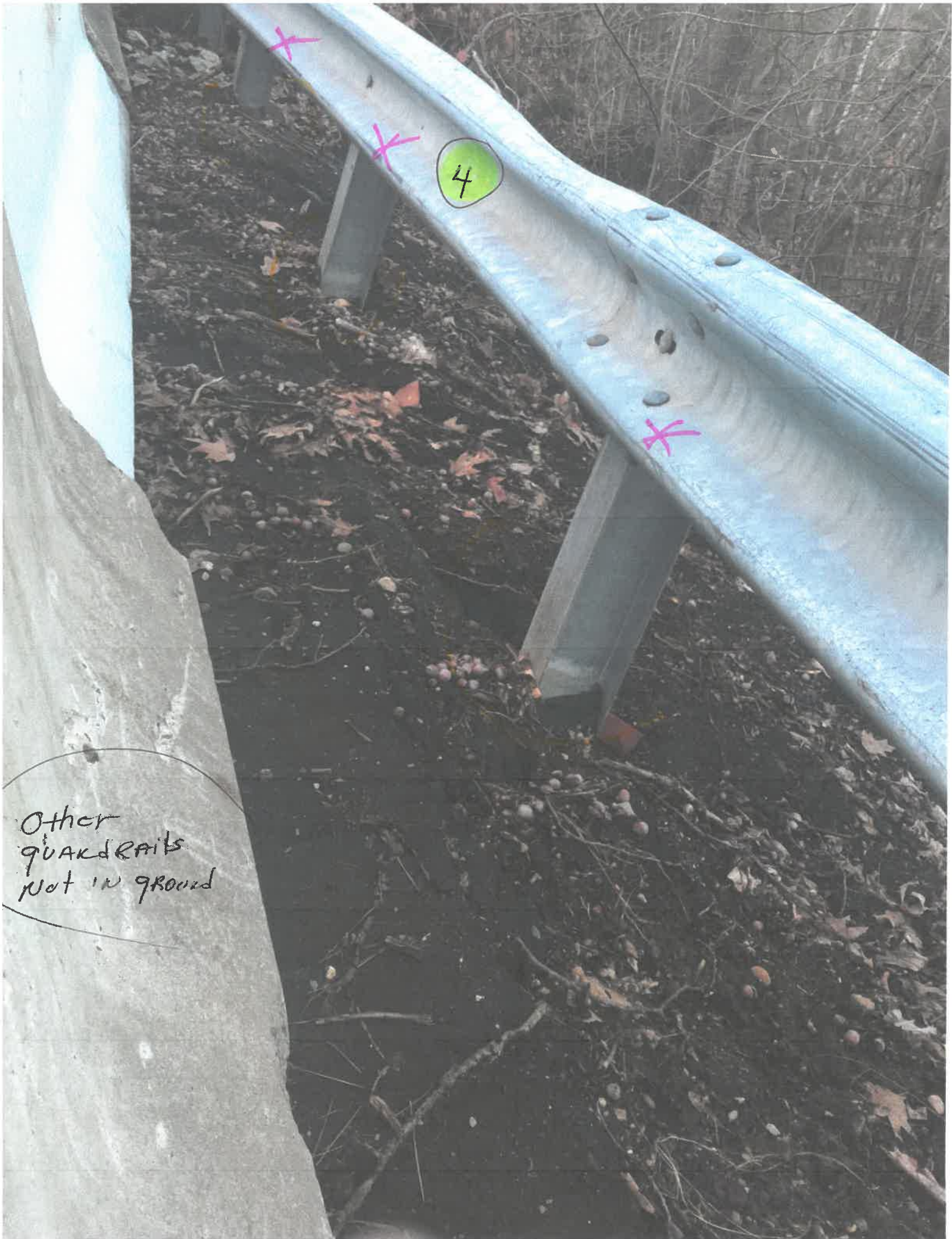


Looking up the hill At Jersey Backiers

3



Middle of hill - Behind barriers  
Guardrail not into ground



4

X

X

X

Other  
guardrails  
not in ground



5

Another - guard rail  
not in ground



X



6

Washed out  
Along side of  
Culvert

Both sides are  
Washed out  
down  
going



Rocky Hill  
Cannon  
from

Washed  
out

Culvert  
Filled with  
leaves.  
Not cleaned out  
in years  
No place for  
water to go

2



Roth's new  
petting  
ground

2



Small white label with a black dot on the wooden post.

Small white label with a black dot on the wooden post.

9

Yoder of the  
hill

Coast

Really  
A mess

up path  
pot down

Bo Home

Bottom of Hill  
Poorly put down  
LARGE stones

Bottom Needs  
to be fixed

P

ROAD  
NARROW

BEHIND





Needs to be  
taken care  
of ↓



ROAD AHEAD

MAILBOXES



City of Keene, N.H.  
*Transmittal Form*

August 4, 2020

**TO:** Mayor and Keene City Council

**FROM:** Peter S. Espiefs

**THROUGH:** Patricia A. Little, City Clerk

**ITEM:** C.3.

**SUBJECT:** Petition - Objecting to Land Use Code Discussions Over the Zoom Platform

---

**COUNCIL ACTION:**

In City Council August 6, 2020.

Mayor Hansel noted that he would be referring the petition to the Joint Planning Board and Planning, Licenses and Development Committee for their discussion. The Mayor added that the meetings being objected to are not part of the official adoption of the ordinance. The meetings are part of the public outreach that the City is doing.

**ATTACHMENTS:**

Description

Petition

**BACKGROUND:**

Peter Espiefs has submitted a petition signed by 11 property owners who are objecting to the Land Development Code process being conducted over the Zoom platform. The petition is requesting that any further review be postponed indefinitely until such time as the threats of COVID 19 pandemic are over and municipal government has returned back to its normal face-to-face meetings.

29 Middle St.  
Keene, NH 03431  
August 4, 2020


The Honorable Mayor and City Council  
City Hall  
Keene, NH 03431

Re: Petition containg Objection and Motion to Postpone ZOOM Hearings  
and Sessions relating to proposed chnges to the LAND DEVELOPMENT CODE

Honorable Ladies and Gentlemen:

Attached for your consideration and action is the above Petition with separate copies of the same signed by local property owners who support the Petition . Please reserve us a copy of deliberations on the petition. Please notify us of your action and,if needed,any questions.

Respectfully,

  
Peter S. Espie

pse/sw  
encl. - Attached Petition noted above

In City Council August 6, 2020. Referred to  
the Joint Planning Board and Planning,  
Licenses and Development Committee.



City Clerk



Petition TO The City Of Keene, New Hampshire

Objection to and Motion To Postpone Hearings  
on the Draft Land Development Code set for  
Hearings at City Hall via a ZOOM process on  
August 12 and August 13 at Keene City Hall

As a property owner in the sectors of the City that will probably be affected by Land Development Code, and as a citizen concerned about those vulnerable to the Covid 19 virus pandemic, I respectfully present my reasons for Objecting and Motion To Postpone:

The ZOOMed sessions being offered are not the equivalent of a "public" hearing for several reasons;

First, the public in general does not have access to the technology; second, the technology of Zoom has several limitations that prevent it from being a suitable substitute for a comprehensive "public" inquiry by those who have this technology; third, there is no law permitting the use of Zoom as and for the vehicle for a "public" inquiry. Finally, the ability to talk with City officials or representatives in person or by telephone, is no substitute.

The City's offer to conduct this proceeding through a ZOOM process shows it is aware of the possible public harm that would attend a conventional "Pre-Virus" hearing. However, a Zoom hearing is basically inadequate to fill the "public" requirement. No compelling urgency has been presented for this Draft Land Development Code process to proceed under the circumstances.

WHEREFORE, ~~your~~ petitioner moves that:

The said hearings on the Draft Land Development Code be postponed indefinitely until such time as the appropriate Government Authority decrees or rules that the public health and safety have been restored from the threats of the Covid 19 pandemic, and ~~municipal~~ business may return to normal.

Respectfully submitted,

*Peter S. Espieff*  
Peter S. Espieff, property owner

29 Middle St., Keene, NH

The undersigned agree and join in this Petition:

*Thom L. Austin* 75 Winter St., Keene

*Dr. Swastan* 75 Winter St., Keene

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

11 signatures



City of Keene, N.H.  
*Transmittal Form*

July 23, 2020

**TO:** Mayor and Keene City Council

**FROM:** Finance, Organization and Personnel Committee

**ITEM:** D.1.

**SUBJECT:** Acceptance of Donations - Parks, Recreation and Facilities

---

**COUNCIL ACTION:**

In City Council August 6, 2020.

Voted unanimously to carry out the intent of the report.

**RECOMMENDATION:**

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept a donation of \$280.00 from Bulldog Design's Great Grey Tee campaign and that the money is used for the Recreation Department scholarship fund.

**BACKGROUND:**

Parks Recreation and Facilities Director Andrew Bohannon addressed the committee first and stated this item is in reference to a \$280 donation from Bulldog Design's Great Grey Tee campaign for the purpose of raising money for the Recreation Department scholarship fund. He added 350 businesses participated, 9873 tees were sold, and \$100,000 was given back to local businesses. Mr. Bohannon thanked Bulldog Design for this contribution.

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

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept a donation of \$280.00 from Bulldog Design's Great Grey Tee campaign and that the money is used for the Recreation Department scholarship fund.



City of Keene, N.H.  
*Transmittal Form*

July 23, 2020

**TO:** Mayor and Keene City Council

**FROM:** Finance, Organization and Personnel Committee

**ITEM:** D.2.

**SUBJECT:** BJA Coronavirus Emergency Supplemental Funding Grant - Police Department

---

**COUNCIL ACTION:**

In City Council August 6, 2020.

Voted unanimously to carry out the intent of the report.

**RECOMMENDATION:**

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept a Bureau of Justice Assistance (BJA) Coronavirus Emergency Supplemental Funding grant in the amount of \$41,418.

**BACKGROUND:**

Captain Steve Stewart of the Keene Police Department addressed the next item, which is a BJA grant for \$41,418. The department was awarded the grant on June 7 and the project period for this award is from January 2020 to January 2022. The funds are to be used for efforts to help prevent the spread of the Coronavirus in the form of funding overtime, reimbursing wages and purchasing supplies.

Councilor Clark asked whether this money would replace any monies in the budget, which can then be used for other projects. Captain Stewart answered in the negative.

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

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept a Bureau of Justice Assistance (BJA) Coronavirus Emergency Supplemental Funding grant in the amount of \$41,418.



City of Keene, N.H.  
*Transmittal Form*

July 23, 2020

**TO:** Mayor and Keene City Council

**FROM:** Finance, Organization and Personnel Committee

**ITEM:** D.3.

**SUBJECT:** Sale of Tax Deeded Property - 198 Baker Street - Assessing Department

---

**COUNCIL ACTION:**

In City Council August 6, 2020.

Voted unanimously to carry out the intent of the report.

**RECOMMENDATION:**

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to sell the following tax deeded property by sealed bid: 198 Baker Street, Map 595 - Lot 71.

**BACKGROUND:**

City Assessor Dan Langille addressed the committee next. Mr. Langille explained this item is authorization to sell city owned property. This property is located at 198 Baker Street, it is a 3 bedroom, 2 bath, 1,673 square foot single family home with .23 acres of land.

Mr. Langille stated on November 8, 2019 the City took ownership of the property by tax deed for unpaid 2016 property taxes. He indicated when the final tax bill in December is unpaid the Revenue Collector can send out a delinquent notice for any amount that is outstanding at that time, plus interest. The city is also required to place a tax lien by September. Two years after the lien has been placed, the deeding process can begin. The entire process can take up to three years. During this entire time staff is working with the property owners to find a resolution and avoid the deed process. An additional 90 day time period is allotted for the prior owner to take back ownership of the property as well before the city looks to sell.

Councilor Ormerod asked when a lien has been placed, whether the owner could sell the property with full disclosure that there is a lien on it. Mr. Langille stated he did not believe they could – the back taxes would have to be paid and ownership of the property would have to be taken first. The Councilor asked if a property is not saleable what the city could do. Mr. Langille explained the property is sold through a sealed bid process at that point. If no one wants the property the city could see if an abutter would like the property sold to sealed bid process, the city can also tear it down. At that point it would be up to the City Council. The Councilor asked why the city chose the sealed bid option. Mr. Langille stated according to State Statute, this is the option the city is afforded.

Councilor Clark noted this is a double lot and felt the city should not have trouble getting rid of it.

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

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to sell the following tax dedeed property by sealed bid:198 Baker Street, Map 595 - Lot 71.



City of Keene, N.H.  
*Transmittal Form*

July 23, 2020

**TO:** Mayor and Keene City Council

**FROM:** Finance, Organization and Personnel Committee

**ITEM:** D.4.

**SUBJECT:** Professional Services Contract for Wastewater Permitting Assistance - Public Works Department

---

**COUNCIL ACTION:**

In City Council August 6, 2020.

Voted unanimously to carry out the intent of the report.

**RECOMMENDATION:**

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to execute a contract amendment with Weston and Sampson Engineers for \$25,000 for National Pollution Discharge Elimination System (NPDES) permitting services.

**BACKGROUND:**

Asst. Public Works Director Tom Moran stated the city has been working with Weston and Sampson since 2016 regarding the National Pollution Discharge Elimination and have finally received the draft permit in May (700 pages). There are seven parameters within this draft, which the city has gone back to the EPA with and required the assistance of Weston and Sampson for a cost of \$25,000. The funds will be taken from the left over 2020 sewer funds. The final response should be received sometime in September and the hope is that this is the last time staff has to come before Council. He noted the last permit cost the city \$300,000.

Councilor Clark asked whether this item is in the current CIP Budget. Mr. Moran answered in the affirmative.

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

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to execute a contract amendment with Weston and Sampson Engineers for \$25,000 for National Pollution Discharge Elimination System (NPDES) permitting services.



City of Keene, N.H.  
*Transmittal Form*

July 23, 2020

**TO:** Mayor and Keene City Council  
**FROM:** Finance, Organization and Personnel Committee  
**ITEM:** D.5.

**SUBJECT:** Flowbird Pay Station Color Touch Screens - Economic Development, Initiatives and Special Projects

---

**COUNCIL ACTION:**

In City Council August 6, 2020.

The Mayor noted the Resolution that would authorize the funding was later on the agenda. The Report filed as informational.

**RECOMMENDATION:**

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Council that \$34,045.00 be allocated from parking fund balance to purchase and install 11 Pay stations from CWT (Calle Web Terminal) S2 (our present system) to CWT Color Touch Screens. This upgrade includes all necessary hardware and software to convert a CWTS2 meter to CWT Color Touch Screen.

**BACKGROUND:**

Director of Economic Development and Special Projects Medard Kopczynski addressed the committee. Mr. Kopczynski stated this item is in reference to the upgrade of 11 parking pay stations and to change out the cabinet front to a color touch screen, which looks and operates like a tablet or mobile phone. It should resolve much of the concerns and complaints that people have expressed with the pay stations. Mr. Kopczynski then showed the committee a short video of how this is used.

Mr. Kopczynski went on to say that the color touch screen moves all controls on to the display allowing for very flexible interfaces maximizing the potential of the pay station to do things beyond parking (such as maps, points of interest, advertising) on the pay stations. He added Portsmouth has converted one of theirs to touch screens, Nashua is getting ready to install these, and Concord is planning to upgrade all 85 of their old meters to touch screen. He stated last year when the city sold Cypress Street lot to the Monadnock Food Co-op the parking fund received \$49,384.00, which was added to the parking fund balance. At that time, it was not earmarked. When the city has completed the upgrade, there will still be \$15,339 left in the parking fund balance from this sale that could be used for other parking operations purposes.

Councilor Clark asked how durable these units were. Mr. Kopczynski stated in speaking with Portsmouth and Concord, they have nothing but high regard for this product.

Councilor Remy asked why the city would not test one or two units first before purchasing all 11. Mr. Kopczynski agreed one could be tested first but felt Portsmouth has had no issues. He further stated coming

out of Covid-19 he is trying to get away from having to touch meters, deal with coins etc. but added one could be tested first. He pointed out there are pay stations in 11 spots and they have not had any issues.

Councilor Ormerod stated if the city was to go to a test market, we should have about two or three and not locate them next to each other.

Councilor Hooper stated especially with Covid-19 felt this would be a good safety option.

City Manager Elizabeth Dragon stated if the Council was to approve this purchase, perhaps staff could implement just the first part of it, which is to bring in two or three of these pay stations for a period and see if there are any complaints or concerns. Councilor Remy felt this was a good option and asked whether the Council could have a report before the remaining are brought in.

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

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City council that \$34,045.00 be allocated from parking fund balance to purchase and install 11 Pay stations from CWT (Calle Web Terminal) S2 (our present system) to CWT Color Touch Screens. This upgrade includes all necessary hardware and software to convert a CWTS2 meter to CWT Color Touch Screen.





City of Keene, N.H.  
*Transmittal Form*

July 23, 2020

**TO:** Mayor and Keene City Council  
**FROM:** Finance, Organization and Personnel Committee  
**ITEM:** D.6.

**SUBJECT:** Rebate from Eversource Energy - Public Works Department

---

**COUNCIL ACTION:**

In City Council August 6, 2020.  
Voted unanimously to carry out the intent of the report.

**RECOMMENDATION:**

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept a rebate check in the amount of \$18,124.65 from Eversource Energy for the energy saving equipment installed at the Wastewater Treatment Plant and to use the rebate to perform a sole source LED lighting project with Hamblett Electric at the Wastewater Treatment Plant.

**BACKGROUND:**

Mr. Moran addressed the committee again. Mr. Moran stated in 2014 a large project was completed at the Wastewater Treatment Plant; two (2) 150 HP turbo blowers were installed which was a successful project. There were also three hp mixers to replace the existing original 30 hp mixers in the aeration basin. In working with Eversource's commercial retrofit program, they provided the city with a rebate for \$18,124.65.

Mr. Moran stated Eversource also has a Commercial and Industrial Lighting incentive in which they have worked in conjunction with Hamblett Electric for the replacement of the existing lighting at the Wastewater Plant to LED fixtures. Eversource was able to get an extra 25% enhanced incentive added to the original program. This will cause a savings of 332,875 kWhs with an 8.2 year payback.

Mr. Moran stated staff's request is to accept this rebate check and use that to perform an LED lighting project at the Wastewater Treatment Plant.

Councilor Remy asked whether the LED Lighting project was going to be put out to bid. Mr. Moran stated it was going to be sole source. The Councilor asked for the reason for sole source. Mr. Moran stated Eversource has worked with Hamblett on this project and if it was to be put out to bid each light has a rebate number assigned to the specific light and separating them out would be difficult. The Councilor felt 8.2 years seemed like a long payback period. Mr. Moran noted these lights are only used during the daytime.

Chair Powers noted he believed Hamblett Electric has been the electrical contractor on this project for the past four to five years. Mr. Moran agreed they have.

Councilor Clark noted if this was going to be sole sourced whether that language should be included in the

motion. The City Attorney agreed it should be included in the motion.

Councilor Ormerod also felt 8.2 years was a long payback period, but noted the rebate check was going to be used for this LED project, which he felt, was a good idea and the city will start saving money immediately.

Councilor Remy asked whether the 8.2 year payback is based on a discounted rate. Mr. Moran stated this is based on allocating \$18,124.65 towards the project. Councilor Remy stated he was not comfortable sole sourcing but understands the complexity of the project.

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

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept a rebate check in the amount of \$18,124.65 from Eversource Energy for the energy saving equipment installed at the Wastewater Treatment Plant and to use the rebate to perform a sole source LED lighting project with Hamblett Electric at the Wastewater Treatment Plant.



City of Keene, N.H.  
*Transmittal Form*

July 23, 2020

**TO:** Mayor and Keene City Council

**FROM:** Finance, Organization and Personnel Committee

**ITEM:** D.7.

**SUBJECT:** Radio Communications - PLC Upgrade and SCADA Programming - Public Works Department

---

**COUNCIL ACTION:**

In City Council August 6, 2020.

Voted unanimously to carry out the intent of the report.

**RECOMMENDATION:**

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to reallocate \$29,449.09 in remaining funds from the Water/Sewer Rate Study Project and \$2,922.48 in remaining funds from the Water Treatment Facility PLC Replacement Project to the Radio & PLC Upgrade Project, 05038-21.

The Committee further recommends that the City Manager be authorized to do all things necessary to sole source purchase technical services from LCS Controls, Inc., for SCADA & PLC installation and programming for an amount not to exceed \$41,100.00.

**BACKGROUND:**

Public Works Water Treatment Facility Operations Manager Aaron Costa addressed the committee and began by addressing Councilor Remy's concern about sole sourcing and noted he has come before the committee in the past many times with reference to sole sourcing. The project Mr. Moran just discussed and the component in that item with reference to the three hp mixers, Mr. Costa stated this was a sole source project brought before the committee in August 2018. He added staff takes sole sourcing very seriously and always takes into consideration Council's concern with sole sourcing.

With reference to this item, Mr. Costa stated the Wastewater and Water Treatment Facility has 27 radios to communicate with the outstations, which are not manned. Information from these outstations are obtained by radio. He indicated there is a CIP item for radios for the Wastewater component in FY25. In May 2019, the city was informed the radio manufacturer was going out of business, which would be an issue for the city to obtain radio or replacement parts.

Because this project was now unexpectedly accelerated, 2019 fiscal year funds were used to purchase this radio equipment. Mr. Costa noted in December 2019 City Council authorized sole sourcing TCS Communication to provide the radio hardware, radio programming and FCC licensing services. That phase of the project is complete, for a total cost of about \$73,000.

For the next phase of the project, staff recommends that LCS Controls Inc. provide SCADA programming so that the radios may communicate with and transfer data to both treatment plant's SCADA systems through the Programmable Logic Controllers. The City will purchase the necessary PLC hardware at a total cost of \$27,196.23. Mr. Costa noted the city standardized with Alan Bradley PLC, which is essentially the brains of all the communication to avoid compatibility issues. LCS Controls will provide installation and programming services.

Because this project serves both Water and Sewer and was not funded through an existing capital project. A variety of funding strategies is being used to fund the second half of this project. For the water portion, funds will come from two completed capital projects, and the remaining \$4,558.41 needed to complete the work for the water utilities has been requested via carryover from the FY20 Operating Budget.

For the sewer side would come from \$11,900.70 the FY20 Operating Budget. There is an existing capital project at Martell Court to complete the PLC and SCADA work, which meets the original purpose of the project.

Mr. Costa stated the only item being requested from the Council is the reallocation of \$2,922.48 in remaining funds from the Water Treatment Facility PLC Replacement Project to the Radio & PLC Upgrade Project.

Councilor Ormerod noted that it seems like the SCADA systems are dated and this is why several companies are going out of business because of upgrade to technology. He felt getting PLC to work with the existing infrastructure was a good idea and asked whether this new PLC controller is going to be compatible with the new technology that would be coming in the next ten years. Mr. Costa stated this is a difficult question to answer with respect to the length of time as technology changes fast but because the municipal industry is continuing to use SCADA as its main communication, the PLC's should be valid in ten years and added not all 27 are being ungraded; only the four that are obsolete.

Councilor Remy asked whether there was a reason the city is doing sole sourcing for the installer. Mr. Costa stated it is because there are not many in the industry that do this work; LCS did all the major work at the wastewater treatment plant as well as built the logic at the water treatment plant when it came online in 1993. They are the most familiar with the city's automated system and equipment. Chair Powers added this work is specialized and LCS is talented when it comes to this work and they come with a lot of experience. He felt the city should think of having them as a contractor of record for a certain period, as the city does with its electricians and plumbers.

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

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary reallocate \$29,449.09 in remaining funds from the Water/Sewer Rate Study Project and \$2,922.48 in remaining funds from the Water Treatment Facility PLC Replacement Project to the Radio & PLC Upgrade Project, 05038-21.

The Committee further recommends that the City Manager be authorized to do all things necessary to sole source purchase technical services from LCS Controls, Inc., for SCADA & PLC installation and programming for an amount not to exceed \$41,100.00.



City of Keene, N.H.  
*Transmittal Form*

July 23, 2020

**TO:** Mayor and Keene City Council  
**FROM:** Finance, Organization and Personnel Committee  
**ITEM:** D.8.

**SUBJECT:** City Council Support for MAST 2020 Complete Streets Grant Submission - Community Development Department

---

**COUNCIL ACTION:**

In City Council August 6, 2020.

Voted unanimously to carry out the intent of the report.

**RECOMMENDATION:**

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to support Staff's submission of a Monadnock Alliance for Sustainable Transportation (MAST) Complete Streets Grant proposal by signing a letter of support.

**BACKGROUND:**

City Engineer Don Lussier stated the Monadnock Alliance for Sustainable Transportation sponsors a grant program every year. Their goal is to encourage communities to adopt complete streets infrastructure. The city is planning on submitting an application for this and have found some small improvements they would like to make; Cheshire Rail Trail/Gilbo/School Streets installation of concrete pads to enhance access to the cross walk signals; improved overhead lighting at the intersection of the Cheshire/Ashuelot Rail Trails on Emerald Street; Improved pedestrian striping and space at West Street/Island Street intersection; and a pilot wayfinding study and temporary signage placement focusing on the core of the City's trail system specifically in the project area to guide public input and investment into a formalized wayfinding system for the trails.

The amount of the grant is unknown as staff is still working through cost estimates. This is a 100% grant program and the city's contribution would be in kind. Another component of the grant is to report out on its success.

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

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to support Staff's submission of a Monadnock Alliance for Sustainable Transportation (MAST) Complete Streets Grant proposal by signing a letter of support.



City of Keene, N.H.  
*Transmittal Form*

July 23, 2020

**TO:** Mayor and Keene City Council  
**FROM:** Finance, Organization and Personnel Committee  
**ITEM:** D.9.

**SUBJECT:** Marlboro Street Rehabilitation Project - Budget Adjustment - Public Works Department

---

**COUNCIL ACTION:**

In City Council August 6, 2020.

Voted unanimously to carry out the intent of the report.

**RECOMMENDATION:**

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to reallocate \$78,000 from the project balance of the Sewer Main Improvement Capital Project (08055) to the Marlboro Street Utility Improvement Project.

**BACKGROUND:**

Mr. Lussier stated the Marlboro Street project is almost complete and the estimated timing of completion should be during the month of August.

Mr. Lussier stated 2.6 million was appropriated for this project; comprised by a combination of water, sewer and general funds. Up until this point, the project has been moving along within the budget. However, during work on the sewer line between Adams Street and Jennison Street a thin layer of clay silty material was encountered. Placing infrastructure on top of clay does not work as it tends to absorb water and would sink causing pipes to separate and other such issues. The only solution is to over excavate and replace this area with better material. This extra work will be at cost of approximately \$78,000. Staff's suggestion is to increase the project budget by reallocating unspent Sewer Improvement project funds. He explained the reason for this project balance is in 2016 and 2017 there was to be a full sewer replacement project (Silent Way and Perham Way). However, through inspection it was realized that just lining would take care of the issues, which resulted in savings of about 1.1 million dollars.

Councilor Remy asked why the city would not want to return this capital balance to the general fund. Mr. Lussier stated if it is to be returned, it will be returned to the sewer fund. He referred this question to the Finance Director. Ms. Howe explained the project balances role from year to year and do not close out. Usually such funds are used for similar projects if funding is short. If it is to be moved to the sewer fund, it will be considered unassigned fund balance in the sewer fund.

Councilor Clark asked whether the city does not have soils maps for this area, which would have shown clay, and the cost could have been anticipated. Mr. Lussier there are GIS maps available, which show large areas but not specific locations on a street. He stated there are geo technical borings that could have been done, but unfortunately, that was not done. The Councilor asked whether Southwest Regional Planning Commission

does not have such maps. Mr. Lussier stated he was not sure but DES does have mapping, which can be downloaded.

Chair Powers asked whether there was still concrete left on Marlboro Street. Mr. Lussier stated there would still be some concrete pavement left.

The City Manager added that the monies are in a capital reserve account and not in a project balance and added the city has been using its project balances down to a zero and there is not a lot left, which staff will be looking at.

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

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to reallocate \$78,000 from the project balance of the Sewer Main Improvement Capital Project (08055) to the Marlboro Street Utility Improvement Project.



City of Keene, N.H.  
*Transmittal Form*

July 23, 2020

**TO:** Mayor and Keene City Council

**FROM:** Finance, Organization and Personnel Committee

**ITEM:** D.10.

**SUBJECT:** Acceptance of CARES Act, FEMA, Homeland Security Emergency Management - Finance Department

---

**COUNCIL ACTION:**

In City Council August 6, 2020.

Voted unanimously to carry out the intent of the report.

**RECOMMENDATION:**

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary accept receipt of funds from the CARES Act, such as, FEMA, Homeland Security Emergency Management, and other funding sources pertaining to the COVID19 pandemic under RSA 21-P:43 which states that gifts, grants or loans for emergency management purposes may be accepted by the City Council.

**BACKGROUND:**

Finance Director Merri Howe noted a correction to the motion, which has been changed to remove the reference to GOFERR as it had its own authorization on May 23.

Ms. Howe stated this memo is for the Manager to accept funding related to Covid-19 in order to reimburse the city for expenses incurred. This covers funding sources such as FEMA, Public Assistance and does not require specific council acceptance such as GOFERR. She indicated in the future a memo would be prepared for Council information. Ms. Howe went on to say FEMA public assistance reimburses up to 75% for emergency protective measures. Through end of June the expenses incurred and reimbursed has been \$27,267.

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

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary accept receipt of funds from the CARES Act, such as, FEMA, Homeland Security Emergency Management, and other funding sources pertaining to the COVID19 pandemic under RSA 21-P:43 which states that gifts, grants or loans for emergency management purposes may be accepted by the City Council.





City of Keene, N.H.  
*Transmittal Form*

August 3, 2020

**TO:** Mayor and Keene City Council

**FROM:** Mark Howard, Fire Chief

**THROUGH:** Elizabeth A. Dragon, City Manager

**ITEM:** F.1.

**SUBJECT:** FY19 Assistance to Firefighters Grant (AFG) Award - Fire Department

---

**COUNCIL ACTION:**

In City Council August 6, 2020.

Voted unanimously to Suspend Section 35 of the City Council Rules of Order to act upon the request to authorize the City Manager to apply for, accept, and expend a FY19 Assistance to Firefighters Grant.

Voted unanimously to authorize the City Manager to do all things necessary to apply for, accept, and expend a FY19 Assistance to Firefighters Grant totaling \$369,090.91 in accordance with the terms, conditions, and limitations of the grant.

**RECOMMENDATION:**

Recommend that the City Council Suspend Section 35 of the City Council Rules of Order to act upon the request to authorize the City Manager to apply for, accept, and expend a FY19 Assistance to Firefighters Grant.

Recommend that the City Council authorize the City Manager to do all things necessary to apply for, accept, and expend a FY19 Assistance to Firefighters Grant totaling \$369,090.91 in accordance with the terms, conditions, and limitations of the grant.

**BACKGROUND:**

In December of 2019, the fire department, with the approval of the City Manager, applied for an FY19 Assistance to Firefighters Grant (AFG) for the replacement of our current Self Contained Breathing Apparatus. The total award is \$369,090.91; the City is responsible for a 10% match, \$36,909.09. The City has thirty (30) days from the date of the award notification, July 31, 2020, to accept or decline the award. Once accepted, the City has one year to expend the funds. (Award notification application # EMW-2019-FG-006300.)

This grant will assist in the funding of the replacement of our Self Contained Breathing Apparatus (SCBA). This SCBA project, which is part of the CIP for FY24, and as discussed in last year's CIP presentations, the department was going to apply for an AFG grant to help offset the costs of this project if awarded. Deputy Chickering completed the application process requesting 58 SCBA with face piece, 58 additional face-pieces, and 116 SCBA cylinders.

The funding allocated in the FY19 AFG award will cover 58 SCBA's, 58 face-pieces and 58 spare SCBA

cylinders. The grant award will not cover an additional 58 personal SCBA face-pieces, nor will it cover the four rapid intervention SCBA kits that were listed in the CIP Project as they did not qualify. This equipment will require another funding source to be determined.



City of Keene, N.H.  
*Transmittal Form*

August 5, 2020

**TO:** Mayor and Keene City Council

**FROM:** Will Schoefmann, GIS Technician

**THROUGH:** Patty Little, City Clerk

**ITEM:** G.1.

**SUBJECT:** Bicycle Pedestrian Path Advisory Committee Resignation - Aaron Shields

---

**COUNCIL ACTION:**

In City Council August 6, 2020.

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

**RECOMMENDATION:**

Accept the resignation of Aaron Shields as a full time member of the Bicycle Pedestrian Path Advisory Committee.

**BACKGROUND:**

Mr. Shields has informed staff that he is unable to sustain his commitment to the committee due to other professional obligations. Staff thanks him for his time and efforts with the BPPAC and wishes him the best in his future endeavors.



City of Keene, N.H.  
*Transmittal Form*

July 23, 2020

**TO:** Mayor and Keene City Council

**FROM:** Finance, Organization and Personnel Committee

**ITEM:** H.1.

**SUBJECT:** Councilors Remy, Bosley and Giacomo - Continued Remote Participation

---

**COUNCIL ACTION:**

In City Council August 6, 2020.  
More time granted.

**RECOMMENDATION:**

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends putting this item on more time.

**BACKGROUND:**

Councilor Remy addressed the committee and stated remote participation is something he had discussed with the City Attorney and City Manager during his election process. He noted this is something that has recently proven to be working, even though it is not perfect and according to State Statute, in-person quorums will always be required. However, he felt there are definite advantages to remote participation; people who have to travel for work, young parents, people who are disabled in some way. He felt this is both for councilors and for committees. Councilor Remy stated he has listened to more sessions of other bodies now that they are broadcast online.

Councilor Remy stated he would like this type of participation to continue even after Covid-19.

Councilor Clark felt this was a great idea if it can be worked out in keeping with State Statute.

Councilor Hooper felt the city needs to do all it can to make sure the public is able to participate and get them involved in what is going on.

Councilor Ormerod asked whether the intent is to allow the public to join offline in committee meetings. Councilor Remy stated this is for continued simultaneous access for meeting participation but he agreed this does add complexity for the city and hence the reason for more time on this item.

Councilor Ormerod noted a quorum for a committee will be three people physically present in the room and two can join remotely. Councilor Remy agreed but the preference is always in-person unless there are unavoidable circumstances. He stated this would be for elected and appointed committees.

Chair Powers asked for the Attorney's comment with reference to RSA 91-A, as it relates to this item. Attorney Mullins explained when Executive Order #12 eventually gets removed and in-person meetings need to

resume, under 91-A it has always allowed for committee participation remotely as long as it was not a quorum that was taking place remotely. The technology requirement is providing for a conference telephone line.

The City Manager added this is a great idea but it is a complex solution. At present time, the meeting is happening via zoom and is being broadcast by Cheshire TV. The complexity begins when in-person and remote are put in place where mics need to work; Cheshire TV should be able to broadcast etc. She added there are some committees, which the Council cannot dictate they meet this way as they function under their own statute and can decide if they want remote participation. These committees do not offer the option to be viewed but the Planning Board is broadcast over Facebook. Our meetings are broadcast live online and via Cheshire TV. The complicating piece will be when in-person meetings resume to make technology continue and how to integrate multiple people calling in. She indicated it is possible but there are certain processes that need to be put in place.

IT Director Rebecca Landry added when social distancing is integrated with mic it creates an issue; it is not impossible but equipment would need to be purchased and a staff person would need to be in charge of muting to prevent echoing.

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

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends putting this item on more time.



City of Keene, N.H.  
*Transmittal Form*

July 22, 2020

**TO:** Mayor and Keene City Council  
**FROM:** Planning, Licenses and Development Committee  
**ITEM:** H.2.  
**SUBJECT:** Relating to the Wearing of Face Coverings

---

**COUNCIL ACTION:**

In City Council August 6, 2020.  
Report filed as informational.

**RECOMMENDATION:**

On a vote of 5-0, the Planning, Licenses, and Development Committee placed this item on more time to allow the City Attorney time to reflect on and include the comments made, and for the PLD Committee to take this up for further discussion next Wednesday.

**BACKGROUND:**

Chair Bosley stated that she has had several citizens reach out to her and express their opinions for and against an ordinance addressing face masks and expects to hear from several of them tonight. She continued that she will call on the Councilors who originally brought this issue before the City Council, and she also plans to recognize Dr. Don Caruso, the President of Cheshire Medical Center and our local public health expert. She asks that people keep their comments brief. Each person wishing to speak will be given a three-minute time limit to allow everyone a chance to speak. There will be no disrespectful comments allowed, whether aimed at opposing groups, City departments, City Council members, neighbors, or anyone else. There will be a 10-minute recess at 9:00 PM and the meeting will be adjourned at 10:00 PM. If necessary they will continue the comments at another meeting.

Chair Bosley asked Councilor Filiault, Councilor Clark, and Councilor Williams to speak. Councilor Filiault stated that he will give a brief synopsis of how they got here. He continued that back in May he, Councilor Clark, and Councilor Williams sent a letter to the Mayor, asking that the City Council discuss a mask ordinance similar to the one recently approved in Nashua. Shortly after, Nashua's mask ordinance was challenged in the courts. He and Councilors Williams and Clark decided to withdraw their letter until that court case was resolved. Now that it has been resolved, the City Council can move forward with their own ordinance, which brings them here tonight. They are respectfully requesting that the City move forward with what they consider a public safety ordinance. It is not a political ordinance. They are not asking for anything unprecedented. Over half the country has mask ordinances, all in the name of public safety. They can look to the 25 to 30 states that have mask ordinances in place and find out that they are effective and can be enforced. Unfortunately, NH is not one of those states. Governor Sununu decided not to make a State mandate at this point, leaving cities and towns on their own to create their own ordinances. He continued that his position on this is well known, so he will not take up more time. He looks forward to people's comments.

Councilor Clark stated that he supports an ordinance requiring face coverings. He continued that we are fortunate to live in one of the country's least populated states, but we are getting into tourist season and will soon be descended upon by thousands of people from all over the country. Other states have been having recurring issues with this pandemic. For example, Stoddard has about 1,400 year-round residents, and it swells to more than 6,000 people in the summer. Keene is the central hub of the region. Tourists from all the towns in the Monadnock region will undoubtedly be visiting Keene's stores, restaurants, beaches, and leaf-peeping areas. It is important to take this measure to protect local people who have not been exposed to COVID-19. There is an ordinance they are modeling this after, from Nashua. He has a concern about the perception of the fine that would be imposed by this ordinance so he hopes to get direction about this, by getting information about the comparable fines for other endangerment violations, and how often that maximum fine is imposed. He read that the suggested motion is to place this on more time. He is not sure why they need that, since the Nashua ordinance is pretty clear and they have it here. He thinks what they are recommending on paper tonight is not much different from it. In Nashua it has been vetted by the courts. The PLD Committee should be able to make the needed changes tonight so that it can go to the next City Council meeting and not be put off until leaf-peeping season. They can hopefully get this passed in the month of August.

Councilor Williams stated that he does not have a lot to add because he knows they will be hearing from a lot of people. He continued that Keene has been fortunate to not have higher numbers and he gives credit to the good weather. In the south the summers are much hotter and people are staying inside for the air conditioning. Keene might get a similar effect in the fall when the cool weather makes us go inside, too. The mask ordinance can set the expectation for how people should behave while inside and the ordinance is important to keep everyone safe.

Chair Bosley stated that regarding Councilor Clark's point, Nashua has an ordinance. And Keene needs to look at what Keene should have as an ordinance. As a concept, Nashua has paved the way. But tonight the PLD Committee needs to listen to what the public has to say and look at what the committee feels the appropriate framework is to build an ordinance into. Next week is the 5<sup>th</sup> week of the month so there is no City Council meeting. There is potential for additional time to be made up there.

Chair Bosley asked Dr. Caruso to speak. Dr. Don Caruso, CEO and President of Cheshire Medical, stated that he is also a family physician and has been practicing in this community for over 28 years, and he has a Master's degree in Public Health. The Master's in Public Health is an important piece of the knowledge he brings to the committee today. He continued that he wants to make clear: COVID-19 is not the flu on steroids. It is a new infection. Early in the pandemic, [the medical community] knew very little about it, and they know much more about it now. It is important that we use the tools we have to protect our community from this very infectious virus. COVID-19 kills in a very different way than the flu does, and it is not just people who are susceptible due to other health conditions. It kills by mechanisms that are different from the way diseases usually cause people to die, which is why young people die as well as old people. It is incredibly infectious. One person who has COVID-19 will rapidly infect three others in a short period of time. This is called the R0 value. Any R0 value above 1 is not good. The great news that in Keene the R0 value is about .95. We are not where we are by accident or because it is the summer, we are here because early on when the Governor said people need to stay at home, people in Keene and the surrounding communities did so, and wore masks, and did the right things. But COVID-19 is here. Cheshire Medical Center has a patient with COVID-19 receiving oxygen right now and five others under investigation. They need to keep the disease burden low so stores and schools can open and the economy can remain sustainable. He knows this is important to the City Council and it is important to Cheshire Medical Center, too. In the six weeks that Cheshire Medical Center went to emergencies only, it lost 24 million dollars in revenue and was only given half of that by the Federal Government's support. Cheshire Medical Center is in significant financial crisis, like local businesses and community partners are.

So, Dr. Caruso asked, why [have a mask ordinance] if the disease burden is low? In a few weeks Keene State

College (KSC) will open. He and KSC President Melinda Treadwell have been talking regularly, and KSC will do everything they can when the students are on campus, to [have people wear] masks and do all the right things. The tools are limited: masks and social distancing are all we have. Even the drug Remdesivir has minimal effect on this disease. The most important thing is to keep people from getting it. When 4,000 students come back from places like NY, CT, RI, and MA, the disease burden will increase. There will be a considerable number of cases in the community. We need to keep that number low. The way to do that is with masking. Data and studies are clear that if 80% of the population is masked it will give the same result as a strict shutdown. He would rather have people wearing masks and protecting each other. People in Cheshire County are the oldest of any other county in the state. Those people are more at risk than the younger people who probably will get better, but not all of them will.

Dr. Caruso continued that his message tonight is: this disease is not influenza. It is not something most people are going to recover from. Even people who get it and recover have sequelae, or long term problems because of it. There are very simple methods we can use to protect our community, and wearing masks is the most important. Trying to keep people 6 feet apart is really hard. Human nature is to get close to each other. Masks clearly have an impact and they can prove the outcomes. He continued that he will end with an anecdote: two hair stylists in TN were both COVID-19 positive. They both wore masks and both took care of about 100 people before realizing they were positive, and those people all wore masks, too. No one got COVID-19, because wearing masks works. Early on in the pandemic there was a question of whether or not wearing masks would work, and now it is clear that it works and makes a difference. It is important to understand that we have few tools against this deadly virus, and masks are one of the few tools we have to give our community.

Councilor Greenwald stated that he is in favor of wearing a mask and he wears them, and anyone who is not wearing a mask in public gets the evil eye. He continued that he has a question for the City Attorney – can he clarify what the court had to say about Nashua’s ordinance, which is what Keene is sort of patterning after? He is aware of the concept of “home rule.” The State has neglected their responsibility to step in. So where is Keene?

The City Attorney replied that there is a bit of a misunderstanding with respect to what the court did and did not do with respect to the Nashua ordinance. He continued that it is important for the City Council and the public to understand the legal status. No court, not even the Nashua court, has made a final determination that the ordinance that was enacted in the City of Nashua is one the City of Nashua has the authority to do. There has been no final decision. Basically what happened in Nashua is the plaintiffs filed a motion for a preliminary injunction. It is an extraordinary relief, one that is not readily granted. The request is that the court hold the status quo until there is a final decision on the merits of whatever the complaint was. In this case, the complaint was that the City did not have the authority to enact this ordinance. What the court was required to do was make a determination at that preliminary stage whether or not there was a reasonable likelihood of success on the merits at the end of the process. That is a requirement for granting a preliminary injunction. If there is no reasonable success on the merits then the preliminary injunction will not be granted. That does not mean the ordinance at that point is otherwise under the authority of the City to execute. That will not happen until the court makes the final decision on the complaint.

He continued that something else to keep in mind is that it is not even the same judge that will consider that question. The case has been transferred to the Merrimack County Superior Court for any and all challenges to the Governor’s orders. Part of the action in Nashua included the challenge to the Governor’s authority. Ultimately, the Supreme Court might/probably will make a decision one way or the other. Having said all that, he is not suggesting the PLD Committee not go through this process. Clearly it is still an open question. The other thing the court did not do specifically was dissect the ordinance before it because it was not required to do that. It did not have to look at the language in the ordinance, but it did, in the motion it was considering, to make a determination of the reasonable likelihood of success. In the trial on the merits there is a good possibility that the court would dissect the language in the ordinance to make a determination on that as well, keeping in mind that there are two things going on: first, does the City have the authority to do it? Second, if



the City has the authority to do it, does the language of the statute that it crafted comply with the requirements of the law? This is potentially a criminal statute because its violation goes through the criminal court, and there are special rules for crafting a criminal ordinance. You have to be able to place everyone on notice about the requirements of the ordinance before you can enforce them. So there are questions with respect to the Nashua ordinance, and to what they presented to the City Council through the resolution that they morphed into the draft ordinance, as to whether or not the language in those documents is something the court would find clear enough to be able to warrant some sort of action for a violation. Those are still all on the table. But the PLD Committee can go forward, and he hopes they do, and they can come up with a result.

Councilor Greenwald stated that the concept of a mask is good. He continued that if it were up to him everyone would wear them. He has a number of questions. The ordinance as presented is extremely ambiguous/open to interpretation. They need to tighten it up. The obvious questions are: who would enforce this ordinance? He cannot imagine the KPD would step up. He hopes the Chair asks the KPD for their thoughts. The KPD cannot even keep bicycles off the sidewalks and now they want them to be the mask police? And what about penalties? Ultimately the committee needs input from the public. That is the big value of tonight's meeting. He would have preferred a more formal public hearing, but he gets it. Our little bubble is about to be invaded by the KSC world coming back and they need to have something in place. It is very important to be unambiguous. The City Attorney is the one who will draft whatever it is the committee votes on. He cannot imagine voting on it tonight. He understands and agrees with Councilor Clark about the urgency but it needs to be clear, and what Nashua put together was very loose. He continued that he is reminded of a phrase a friend said: "Act in haste, repent in leisure." They must get it right. During his time on the Council he cannot remember any time when they had discussion on any issue that impacted the behavior of the public as much as this does. They cannot rush into it and think they will get it right on the first swing. Tonight they can get input from the public, and raise questions, and maybe set up a multiple choice for the City Attorney to put before them. The PLD Committee has the opportunity to meet next week, since it is a 5<sup>th</sup> week, to put something together that is sound and makes sense. It would be ready for the first City Council meeting in August and that is when they will vote in favor or not in favor. He thinks the people not in favor need to be heard. He understands the health reasons, and the counterarguments. The committee will hear a wide range of opinions tonight. Chair Bosley is doing a great job.

Chair Bosley stated that she, through this whole pandemic, has experienced multiple governmental knee-jerk reactions. She continued that some affected her company disastrously. That is one of the reasons she is so keen on going through this process and not just having a knee-jerk reaction. It is why it is important to craft something that makes sense for our community specifically, so they are not just taking something a different community has done and stamping "Keene" on the top of it. They have to be thoughtful. She hopes the committee can take some of the feedback they get this evening and work toward that end.

Councilor Workman stated that she is wholeheartedly in support of wearing face masks. She continued that she wears one when she is in public and cannot social distance. She had some questions about "Why now?" and thanks Dr. Caruso for answering those questions about why [masks are recommended] now but were not a few months ago. She also wants to thank everyone who has reached out via email or phone to express their opinions. She has heard from a lot of people from the public and she thanks them. She wants to make sure that if the City Council goes ahead with this ordinance the recommendations are enforceable and the language is strong and it is not just a feel good measure to say "Look, we've done something."

Councilor Johnsen stated that she is happy to hear from Dr. Caruso and thanks him. She continued that she wants to be clear: are they talking tonight about a resolution or an ordinance? Chair Bosley replied that they are talking about an ordinance. She continued that at their last City Council meeting there was a vote to take the resolution the City Council passed, which is in effect, and label it with an ordinance number and present it to the City Council as an ordinance. The PLD Committee will review it now on its merit as an ordinance.

Councilor Johnsen stated that someone asked her a question: if the ordinance is passed, will it apply to every business? Will people going to the movies, going to play poker, or going to some other activity, have to wear a mask? Chair Bosley replied she understands, and she has gotten a lot of those questions, too - people asking about all kinds of scenarios, wanting to know if they would be required to wear a mask. She continued that the ordinance as written now is vague and all-encompassing. It does not leave a lot of opportunities for people to understand clearly what would be expected of them. The committee's job is to listen to comments tonight and talk again about what they want to see in an amended ordinance. The committee will come up with ideas, such as limiting mask-wearing to retail businesses, or businesses that invite the public inside, or to require masks both indoors and outdoors, or just outdoors, or to identify places that would not require masks, or require masks in all businesses. They need to go through it.

Chair Bosley asked if the committee members had more questions or comments. Hearing none, she asked for questions or comments from members of the public.

Melinda Treadwell, Keene State College President, of 229 Main Street, stated that she is also Co-Chair of the University System of NH's Coordinating Committee, which is creating a coordinated effort regarding the reopening of colleges and universities. She continued that in her role of President of KSC she takes very seriously her responsibility to preserve the safety of the faculty, staff, and students. Equally important to her is ensuring that the campus does not present a risk to the broader Keene community or Cheshire County. As Dr. Caruso said, they have been working together for the past five months, very actively, on the reopening plan for the university system. For KSC specifically they have been working with infectious disease experts and epidemiologists to develop the best evidence-based plan they can, with regard to ways they can protect people's safety and well-being and consider opening the college in a way that would be safe and have early methods by which they could identify early outbreaks.

She continued that she is here tonight to underscore the importance of cloth face coverings. They are an important element of infection prevention. What is known about COVID-19 at this point is the primary pathway of infection is airborne droplet transfer, which occurs when individuals are within 6 feet of each other for 10 minutes or more. As Dr. Caruso stated, the use of cloth face coverings is essential when a person is symptomatic but does not know it, or asymptomatic but carrying the virus. Masks are an essential element of preventing transmission of the virus, and an important part of KSC's plan. KSC's reopening plan will require cloth face masks at all times inside and out on the campus, combined with very aggressive testing and surveillance of COVID-19 status. They will require 6 feet of separation.

President Treadwell stated that the reason this ordinance is so important is: although KSC [leadership] is standing up and requiring a number of responsibilities of students and and engaging actively with the students, normalcy between students' experience on and off campus is very important. A consistency in expectation and recognition by the City through the adoption of something like a mask ordinance is essential in creating a shared sense of community and safety for the entire population. She strongly supports a mask ordinance and is happy to help in any way she can.

Gerhard Bedding, of 25 Ivy Drive, stated that what bothers him most is: actual health results from wearing masks for a long time are hardly looked at. He continued that they only look at how people can wear masks to prevent transmission of the virus. It is clear, especially for children, that mask-wearing can be detrimental. Sometimes adults wearing masks are in a role where they have to speak to the public and their voice comes through kind of muffled. There are a lot of elements in there that are bad for public health. That seems not to be looked at. There seems to be a one-sided view of this. They are not weighing all aspects of public health. He asks the committee to consider that more actively.

Chair Bosley asked if Dr. Caruso is still available, because she has some questions for him. Hearing no response, she continued with public comments.

Jonathan Gallup stated that he lives in Winchester and shops in Keene. He continued that his concern is: are we going to look into people who medically cannot wear masks? They cannot fine people who medically cannot wear them, like people who have been abused that mentally would suffer from wearing a mask, or people who have issues with oxygen and want to do their own shopping instead of having someone else do it for them. They should be able to go out in public without wearing a mask. What about letting the population build up a herd immunity? They cannot do that if they are wearing masks. Also, he keeps hearing that asymptomatic people are spreading the virus, which has been debunked by the World Health Organization (WHO). He also heard a concern about leaf-peepers. Most leaf-peepers are in cars or outside and that is nothing to worry about. Finally, why can't KSC make its own ordinance, or why can't stores make their own ordinances? The [City Council] is trying to control the public and it is not okay.

Tiffany Matthews, of 85 Nims Road, stated that she is a Public Health professional with a focus on school health, and a member of the NH Science and Public Health Task Force. She continued that they conducted a survey in the first two weeks of June, and she will email it to the City Council. A majority of Monadnock region residents say they are mask users. And the majority felt they could not consistently say they felt safe and comfortable shopping in Keene. She also wanted to share: someone talked about how to do enforcement. She wonders, how are shirts and shoes enforced in stores at this time? Perhaps that method is something that can be used for masks. She understands that the public is confused about what public health professionals have been saying about masks. Understanding science and public health and especially what Dr. Caruso had said, that this is a novel virus, so there is so much that people have been learning. [Public health professionals] have now learned so much more. They have learned that this virus is transmitted through aerosol droplets that can spread from one person to another. It is even more contagious than the respiratory droplets. There was a mask/PPE shortage in March and now there is an abundance, especially of cloth masks. Public health officials also now know that asymptomatic and presymptomatic spread is real. They also know there is a delay in test results right now, of about 6 to 10 days in NH, and some of those tests are being sent to Concord and also sent to NJ because of the backlog in Concord. Business owners and staff in the beginning were being harassed for requiring masks in their stores. The Governor and the Mayor said "We really hope people do the right thing and follow the guidance of the business owners," but when people were trying to require that they were getting into trouble. The public needs clear direction on COVID-19 safety precautions, and Keene needs to take a hard stance.

Councilor Greenwald stated that he wants to ask the public about some of the ambiguities he has thought of. Where should masks be worn? What is a "business"? Should masks be worn walking on the sidewalk downtown? What about construction workers on private property doing construction labor? What about restaurants? Should people wear masks going into the building, and sitting at the table? What about restaurant employees? The Council needs to tighten it up. What is a "worksite"? What is a "government building"? Would the Council try to tell the Post Office that everyone going into and out of the Post Office needs to wear a mask? The City Attorney will tell them they cannot tell the Federal Government what to do. What about apartment buildings? If you are walking down the hall, are you supposed to be wearing a mask? He is not saying yes or no, just raising the questions. What about walking down the rail trail? They need to get this very, very clear. Regarding the enforcement and penalties question, he wants to hear from the public. He has heard both sides. They need the ordinance to be clear because once the City Council passes the ordinance, it stays. He hopes to have a sunset clause to have this go away after a time period where they can revisit it and renew it if appropriate. There is no question that masks are important and useful, but there are also the negatives to consider and they need public input.

Chair Bosley thanked and agreed with Councilor Greenwald. She asked the public: are there situations or locations in which pro-maskers would feel okay not having masks? What about exercising outside or biking? Should kids outside wear masks? Should anyone outside wear a mask?

Councilor Clark replied that that question is easy to answer and they already have protocol of when to wear a mask: anytime you come within 6 feet of someone. It is as simple as that. Chair Bosley replied yes, that is how

the ordinance is written. She continued that however, she has heard from many, many people who support an ordinance requiring the wearing of masks inside buildings but not outside in fresh air. They have to have an opinion about it.

John Michael Dumais, of 10 Foster Street, stated that he appreciates the committee considering the best interests of the people in Keene and he takes issue with the science. He continued that first, regarding Dr. Caruso's comments, we *have* seen hypoxemia like we are seeing here with SARS-CoV-2, with SARS 1. That was symptomology that was definitely seen. The WHO, until bowing to some kind of pressure, for years and years said on their website said: "There is no evidence that wearing a mask, whether medical or other types, by healthy persons in the wider community, including universal masking, can prevent infection with respiratory viruses, including COVID-19 and no evidence currently suggests that healthy people wearing any kind of mask in public will protect them from getting the virus." Anecdotes are not science. If you look at masking science from the past 20 years, with randomized control trials, not biased trials, you will not find a single one that supports mask-wearing by the larger community. There are other instances, like in a healthcare setting, but if you look at a regular medical mask, the aerosolized droplets will be coming out all over, because the air goes to the least pressure, which means at the top of your nose, the sides of your face, and the bottom of your chin. N95 masks are not filtered as you exhale. If you are sick, you are not helping anybody, except maybe yourself, in not getting further sick. A study of the asymptomatic SARS-CoV carriers, with a woman who came to Oregon, showed that 455 people were exposed to her and none got sick. The WHO says asymptomatic transmission is very rare. We can have fear all the time or we can have science, and he likes science. 82% of deaths in NH are in nursing homes. Why not call this "the nursing home virus"? Why make everyone else [wear masks]? It boggles the mind. For people 0 to 19 years old the death rate is 0.490%, nationwide. That is 55 for the entire United States. And 147 have died typically per year from regular influenza. He continued that hydroxychloroquine with zinc and azithromycin or inhaled steroids with zinc and other antibiotics are extraordinarily useful in treating COVID-19 with an up to 99% success rate and these have been suppressed. This is not a pandemic. This is a nursing home virus. The rest of us should go about our lives unless we are in the high risk group and have co-morbidities.

Rebecca Montrone, of 75 Winter Street, stated that she is the owner of Wondrous Roots and is a holistic healthcare practitioner. She continued that she agrees with Mr. Dumais and she can really talk about the science. What everyone is hearing here is very one-sided. She wants to tell the committee that they just do not even know. Her point is that business owners need to be able to set their own standards. Patrons can choose whether to work with a business or not. Her type of practice is a small shop that people come in and out of. She has clients who have health problems and none of them are COVID-19; they are cancer, Parkinsons, diabetes, and horrible things that happen to people all the time. As a practitioner, being able to see people's faces is a huge part of human interaction. It is vital. It is ridiculous for her to be forced to wear a mask sitting at her desk with someone who wants to be there. She works with people through phone and video, too, and it is fine if her clients want to wear masks. But it is her right as a business owner. The City Council has to give people credit for common sense and knowing what is safe and what is not. If she even had a cold, she would cancel. This is an outrageous, monstrous overreach of government. What next? The original ordinance said "Public health officials have determined that it is possible for an infected individual to transmit certain diseases without exhibiting any symptoms and the best means of slowing a virus is [this, that, and that]." COVID-19 is like other things, germs and viruses happen and pass and pass and pass, but when does this end? There will always be something, like a flu, that someone can get. This is not okay. There will be no end. We will be living this way and it is ridiculous.

Ben Robertson, of 20 West Street, stated that he is also a business owner. He continued that he is very respectful to the businesses that request mask-wearing, like the Monadnock Food Co-op and others. He also believes business owners and customers need to be allowed to use their own judgment. He does not believe it reinforces a shared sense of community. In his mind it would be succumbing to mass hysteria and delusion. He has identified in medical literature since 2009, seven studies, including in the American Journal of Infection Control, Epidemiology and Infection, and Influenza and Other Respiratory Viruses, all of which indicate that

wearing masks does not reduce the risks of contracting a verified illness. He continued that he also wants to cite the New England Journal of Medicine, which he knows has come out and stated somewhat differently to their previous work on this topic, but he thinks their previous work is quite relevant. They stated “Masks outside healthcare facilities offer little if any protection. They serve symbolic roles. A mask will not protect if not accompanied by hand hygiene, eye protection, gloves, and gowns.” There is a very rigorous protocol that allows us to prevent infection. The public will not follow that. According to the New England Journal of Medicine’s previous work, “Focusing on mask-wearing may lead to more not less transmission, because it diverts attention from very proven techniques such as hand-washing and gives a false sense of security.” He continued that therefore he believes that it is symbolic, unscientific, and risks making the situation worse instead of better. The Council should refrain from this ordinance.

Jessica from Winchester stated that she has grown up in and around the Keene community for the majority of her life and she loves Keene. She continued that walking down Main Street and seeing people she knows and seeing new faces is amazing. Having those faces blocked off by masks, as someone said earlier, really impacts community. You cannot see someone’s whole face; you can only see the eyes. Often people are not happy about having to wear those masks. It is heartbreaking to see the community being broken down in this way. Also she agrees that science does not prove that masks stop the spread of COVID-19. The droplets come from when someone sneezes or coughs. If someone is asymptomatic or presymptomatic and not coughing, how are the droplets being spread? It is disheartening for her to watch this and see members of the community speaking out and to see the looks on the Council members’ faces looking like they just are not going to be moved. If a mask ordinance is passed in Keene she knows she and several others will stop going to Keene and stop shopping in Keene because this is an infringement of their rights as Americans and it is an overreach of the government.

Cheryl Maibusch stated that she lives in Spofford. She continued that regarding Councilor Greenwald’s questions, one was, “What is a business?” She has a home-based business. No one can tell her what to do in her own home. The way she handles it is that if people come to her wearing a mask, she will put on a mask, too, to make them feel comfortable. If someone shows up without a mask, she is perfectly fine with that and prefers not to wear a mask, either. She gives people the choice of whether to wear a mask or not. She is completely against any sort of overarching policy to this. She agrees with Mr. Dumais, Ms. Montrone, and everyone who has talked about government overreach. Patrons should decide which businesses they want to frequent based on the protocol that the businesses themselves put into place. She continued that she thinks, although she is not any kind of medical professional, that mask-wearing is probably psychologically damaging to children. It is already damaging to be living through a pandemic like this, and to then have to personally affect your own face, in public, is not good for kids. She asked, why does it have to be a cloth mask? What about the paper ones? There is no reason to wear a mask outside, because it is fresh air. If the City Council does put an ordinance into place there had better be a sunset clause. Because like a previous person said, there will always be something. She does not believe it is government’s role to infringe on the public like this.

Councilor Greenwald stated that his question of “What is a business?” gets into the fact that there are different types, such as retail, restaurants, and offices. He continued that there are offices that the public does not go to, manufacturing plants where the public does not go, and that is what he is reaching for. He is really looking for input from the public on this. The devil is in the details. They need to flesh out the details.

Chair Bosley replied that they have more public comment to listen to, but yes, definitely they need to get into the weeds when they deliberate. She continued that she is keeping notes on her questions and comments.

Varrin Swearingen, of 2 Starlight Drive, stated that he works in transportation in a non-medical setting, but it is safety-sensitive and he works a lot with risk management. He wears masks. He would like to not get into the science of it or the benefits of it but wants to focus on this being an ordinance with potential penalties for citizens and businesses. Science is clear that transmission is exceptionally low outdoors, so it does not make sense to mandate that on any level. The right purpose of government is to protect individuals’ rights.

Businesses are part of that. If businesses struggle with mask compliance the City could potentially be helpful in providing penalties for people who do not respect the business's property rights. However, if the ordinance requires the business to adopt a specific policy that violates the business's rights and/or those of the landowner, who presumably allows the businesses to set their own policies [he is opposed]. He is opposed to an ordinance that would provide one policy for the whole city. City buildings, he thinks, are well within the purview of the City Council so he does not object to the City setting a mask policy for its own spaces, like City Hall and the Police Department. Federal buildings would of course be outside of the jurisdiction of the City.

He continued that he echoes Councilor Greenwald's insistence on a sunset clause. That would be essential in any ordinance the City Council considers. He has some points of clarification: someone said test results are slow, and that is incorrect. There have been test results given within less than 24 hours, in Keene, in the last couple weeks. Regarding determining where such an ordinance might be applicable, Councilor Greenwald is asking good questions about what businesses are and under what circumstances this might apply. He suggests that rather than categorize businesses they think about who has the rights, and that is the property owners or operators of the businesses. They should be the ones setting the policies and the City could simply assist in providing whatever enforcement is necessary to uphold those rights.

Chair Bosley called on Peggy. Hearing no response and assuming Peggy was having connection difficulties, she called on the next person.

Joseph Mirzoeff, of 641 Park Ave., stated that he had questions for Dr. Caruso: If he had the choice of an employee with symptoms wearing a mask, or the employee being required to be asymptomatic, which is more important? He thinks Dr. Caruso would say the latter. He continued that when someone enters the hospital there is a person at the door taking their temperature and asking them about symptoms, and [business owners] should be doing that with employees, as well as wearing a mask if that is what someone wants to do. There are negatives to masks and positives to fresh air. People need fresh air and there is not fresh air in the mask. You should not be required to wear a mask outdoors. You should not be required to breathe your own exhaust. Another question for Dr. Caruso is: what do we know about the accuracy of the tests that Dr. Treadwell will be depending on? That is changing over time. He continued that wearing a mask for eight hours is a difficulty for employees. He does not see any reason why, say, grocery store clerks should have to do this. Why can't they have 15-minute breaks every few hours to get fresh air? That should be the City Council's policy. He agrees with the people who say that each business should have the right to determine the rules of entry to that business. It can be "Shirt, shoes, mask" if you want. He is 69 years old but will go to the grocery store that does not require a mask because he prefers it that way. His comments at the last PLD Committee meeting are in the meeting minutes, and he urges the committee to read that.

Michael Rigoli, of West Street, Swanzey, stated that he is the owner of Fritz in Keene. He continued that he has spoken with several City Council members. He has tried to educate about the opportunities out there so they can stay away from masks, because he agrees with Councilor Greenwald that this is a slippery slope. He interacts with several hundred people a day and can say that people do not know how to wear PPE. They are wearing masks with air valves, which is spewing stuff out of their mouth and violating the whole reason for having a mask. He does not know how a mask rule from the City could be enforced and how people would get educated about how to properly use them. Most people wearing masks have not read the CDC guidelines. It is just a slippery slope. There is a technology coming down the pipe that is not here yet, called Far UVC lighting. The FDA has had it for two years and has not yet approved it for use. It will deal with the virus and is passive and should be in every public building. He does not know how the City would enforce a mask rule. It just will not work. They talk about people coming for tourist season. Most people who come to Fritz on the weekends are from MA, RI, CT, NJ, and other states and they come here because they do not have to "go through this stuff." A mask ordinance would make them lose business in the downtown area.

Jared Goodell, of 39 Central Square #201 stated that regarding small businesses, the City and rightly so has

many times helped small businesses grow. He continued that this is a time more than ever when that is needed. The City has a unique opportunity now to do so by not instituting this mandate. There are several national chains, like Walmart and Target that are instituting mask mandates. He encourages the Councilors to go and watch how many people are turned away at the door for not having masks and refuse to put on masks and just leave. Those people still need to buy products, and could buy products online, or they could go to local stores. They should go to local stores. This is an incredible opportunity to help local businesses. He himself was turned away at the door of big national chain and he went to a small store and got the supplies that he needed. Regarding the sunset issue, of course this needs to be sunset. The public has been told that eight weeks of everyone wearing masks is all that it will take, therefore, eight weeks should be the sunset period on the ordinance. He also wants to point out that in 2018, 17 people in Keene died of opioid overdoses. So far only two people in Cheshire County have died of COVID-19. One death is too many, of course. But are they going to ask a mass of people to change their lifestyle completely, to do things with their bodies against their will, because of the deaths of two people? The people in Keene have done it right and that is why the numbers are low. We do not need the government to interfere with people's rights right now.

Chair Bosley again checked to see if Peggy was available. Hearing no response, she called on the next person.

Christopher Nelson, of 357 Water St., stated that he thanks the City Council for taking the time to listen to everyone's concerns. He continued that the whole issue of masks is very difficult because it is a right for some people to say they do not want to wear them, but as a consumer and Keene resident many times he goes into a store and plans on making a big purchase and walks out if he does not see clerks and other people wearing masks. He planned on buying a whole house worth of floor coverings, saw an unmasked person in the store, and walked out. That Keene business lost thousands of dollars he would have spent. He is also a mental health professional, an educator working in the schools. There are many thoughts out there now, but the best thoughts from professionals are: wear a mask for the short time you spend in front of students and staff, and for the 20 minutes you are in a store, and you can take it off once you are away from people. The best minds across the country are saying it is not that invasive to wear a mask for the short period of time that you are within 6 feet of people. He went out to dinner at an outdoor facility and there were no other people around him, and the staff handled everything well; they cleaned the tables and wore masks and he felt comfortable. They need to look at all sides of this. There are reasons why NY, RI, MA, and NH have kept their numbers low. By wearing masks they can do that, and do it responsibly, and might be much better off overall.

Meg Henning of 93 South Lincoln Street stated that she is concerned because there is a lot of data indicating mask-wearing can be beneficial, particularly when thinking about high-risk individuals. She continued that if someone chooses to not wear a mask, of course they have that choice, but she is concerned for people who have asthma, cancer, or some other health issue that puts them at high risk, and then they are exposed and vulnerable if someone is not wearing a mask and might have the virus but be asymptomatic. That is important to keep in mind. We have a large elderly population in Keene and a lot of kids and young people to consider, too.

Chair Bosley tried to get Peggy on the line again and was unsuccessful. She noted that Peggy did not seem to have audio, and gave the phone number again if Peggy or others wanted to try via phone if their computer audio was not working.

Councilor Ormerod stated that he encourages everyone to listen to the voices. He continued that he wants the Council to listen to the timing of the data that people are talking about. People are referencing data from 2009 and from well before COVID-19 happened, yet he heard Dr. Caruso say this is a different animal and he wants everyone to think about that and consider the more recent, relevant data. Something he has seen as a Councilor and a volunteer working with vulnerable populations is: vulnerable people are all around us, although they may not be the loudest voices, the angriest voices, the most insistent, or most articulate. It is incumbent on us to be purveyors of public health and to consider this as the public health crisis that it is. You do not know who is vulnerable, you do not know who could get seriously sick, and you do not know who could pass this on to

others. Creating a clearly-defined mask ordinance based on the *recent* data is really important for the City Council to flesh out. It is the job of the government – they have a legislative and an executive branch - to enforce that, just like it is done in other places.

Carmen Trafton, of 5 Pender Court, stated that it is imperative that they pass some sort of mask ordinance to protect people. She continued that she wears a mask personally and professionally, and often finds herself in situations where because there is not a mask ordinance she is not able to protect herself. She implores the City Council to make it possible for her to stay protected in her own community that she loves. She wants to echo and praise the comments of Dr. Treadwell and Dr. Caruso, two prominent leaders in our community who are knowledgeable and well respected. Dr. Caruso is like the chief Public Health Officer of the community. If he is recommending a mask ordinance, that should be enough for any City Councilor. The research mentioned earlier is not up-to-date. She does not think many people who support masks are on this particular venue because it has taken so much time tonight to stay connected, but if you read the Facebook posts on the Keene Sentinel's Coronavirus page you will see there are lots of medically challenged people in the community who feel helpless. She has high blood pressure and her husband has diabetes, and their daughter could become an orphan, because she and her husband cannot protect themselves. She works with interns at KSC and applauds KSC for mandating masks so interns can come to the office where she is the Director of The Samaritans. The office is inside the Hannah Grimes Center, so the businesses would be affected by a mandate, but she is more concerned about protecting people in the hallways to and from the businesses. She also thinks signage would be really important. They could put signs at the entrances to Keene saying "There is a mask ordinance in effect until further notice." She thinks it should only be indoors when you cannot enforce 6 feet of distance, but not outside. Please hear [medically-challenged/vulnerable people] and know that they need the City Council's help to be protected. She needs to be able to shop and get her pharmacy goods and feel very safe. It is not a matter of not wanting to support those businesses. She asked that the City Council please get this mask ordinance into effect as soon as possible. She and others are concerned about the tourists. There are businesses out there that are not in compliance, so she thinks this should be enforced like other ordinances.

Chair Bosley called on Gordon Matthews. There was no response/the response was not audible, so she moved on.

Peggy Schaffler of 15 Roxbury Street stated that she is a business owner and wants to thank Keene. She continued that they spend a lot of time working for business owners and trying to keep downtown open. A question that comes up is: "Why is it such a big deal? Why can't people just wear a mask?" She will answer that. She does not wear a mask. It is not a health issue. It is not about her rights. As she has studied history she is looking at Nazi Germany. We can go right down the list of: they declared a state of emergency, took away freedom of religion, started telling people what they had to do, put the Gestapo in place, and she could go on. They arrested people, cannot travel. This is the same thing, right down the line of what Nazi Germany did. This probably seems bizarre to you. But they also used ANTIFA in World War I. If she wears a mask it is the first step in giving her rights away and the rights of all Americans. She loves Americans and Keene. But if they pass the mask ordinance, as a business owner, she would go out of business. She would shut her doors. Because if she does not stand up now, then things are going to keep happening until we have no rights. We have to do something right now. We have to be 6 feet apart and take the masks off. We have been dehumanized from each other. No one has even dealt with all the censorship in media.

John Schmitt, of 31 Green Acres Road, stated that he agrees with all the comments from everyone who is against this silly ordinance, especially this last speaker. He continued that he will move out of Keene if the ordinance goes through. Keene is turning into a nanny state. Businesses will suffer. He will not shop anywhere in Keene. He will not go in the Co op anymore and he is a member there. Government should not be making these policies. Businesses will suffer, and tax revenue to Keene will suffer. We have the highest property taxes in the state. "This whole scandemic" is shutting the little businesses down. Monopolies like Amazon are making the money. Mandatory masks means people like him will not shop in small businesses in Keene. People who are for this ordinance are nuts. There are no studies that prove that a mask will prevent a viral



infection. Viruses will go right through the mask. Masks are a joke and unhealthy. You can buy an oxygen meter to measure oxygen and CO2. Put your intake hose under your mask and you can see your oxygen content goes down below 20%. The CO2 level goes up. It is okay if you go in a store for a few minutes, but there are people working in there for eight hours a day. This is extremely unhealthy. The Governor of Georgia passed an Executive Order, and that is what he would like to see, outlawing mandatory masks in the state. That is what we need, not a nanny government. People should concentrate on their immune systems. Eat good food, take some supplements, and you don't have to worry about a little virus.

Mike Lucas from Park Ave. stated that he is on vacation on Cape Cod. He continued that he is favor of the mask ordinance. His comments are: 1) It is disturbing that it is left to Keene to figure this out and not handled at the State level. When you look around the country and assess the number of states now putting a mask ordinance in place, you will see the majority have done so. A lot of folks have commented on data and he will not spend a lot of time on that; we have organizations like the WHO and CDC that are experts in this field. We can choose to ignore the data and science but we do so at our own peril. All we have to look at are the ICU and death counts that continue to escalate. The virus has a lag time on those results and we would be ignorant to ignore the value of masks and social distancing and recognize that it is a temporary thing. Hopefully we would only have a mask ordinance and be social distancing for a matter of weeks or probably in the worst case they might see that into 2021 until there is a vaccine and therapeutics that help reduce the impact of COVID-19. For Keene to ignore the data and science, we would be well behind the curve and only inviting the types of results you have seen in GA, FL, and most of the southeast and southwest. Regarding business, it is vitally important that we have a vibrant business community and it is supported. Keene has a history of this. He has been traveling in a little camper so he can socially distance and he can report out from VT and MA and what he noticed in MA is that there is virtually 100% mask compliance by all visitors to the tourist towns and there is a vibrant local business occurring here. There is always a transition period but he sees no reason why we would not end up with a situation like that in Keene, given Keene's great support of local businesses.

Gordon Mathews, of 85 Nims Rd., stated that he echoes Dr. Caruso, Dr. Treadwell, and Meg Henning: let's think about the most vulnerable citizens in the populations in Keene and statewide. This is a once in a century pandemic and health crisis, and the City should step up, show some leadership, and pass this ordinance. [Wearing masks] is minimally inconvenient for folks and is in the best interest of the most vulnerable population.

Tejasinha Sivalingam, of 9 Pine Arden Dr., Ashland, stated that he opposes mask ordinances. He continued that the numbers are not demonstrating that there is a pandemic that warrants such a thing. Additionally, the ordinances that have been proposed oftentimes neglect religious exemptions. There are many reasons why people might seek to be exempt. He supports all of those reasons. Government should not be able to tell people what should go on or in their bodies. He urges the committee to please consider religious exemptions in whatever ordinance they might put through.

Gene Clerkin, of 135 Silent Way, stated that he is a health practitioner in town. He continued that part of the problem is that in the beginning we had numbers being projected that never came to fruition. We also had reports that people had COVID-19 and died, but not of COVID-19, although those were marked as COVID-19 deaths, so he is not sure we can trust the numbers on that. In our area the numbers do not warrant that. His real concern is, think about knee-jerk reactions. He has not heard much conversation about what impact masking has on the development of our children. We should think long and hard and not just take the party line on this. He has young children and is very concerned about that. If we are concerned about a virus now, will this be the precedent from now on? Every time there is a virus, are we going to be a masked and distanced society? He thinks there are bigger implications here and they need to take a deeper look. He is against too much government overreach because it is a slippery slope and it can be the next thing in the name of the greater good and that is a dangerous place to go.

Sean O'Mara of 19 Martin St. stated that he hopes the committee can sort fact from fiction, both historical fiction and science fiction. He continued that people are likening mask-wearing to Nazi Germany, and that is a

completely erroneous, false claim. He hopes the City Council is aware enough of history to throw that bogus claim in the dust bin. He hopes no one brings that claim up again because it is irresponsible. Our local government's first priority is to protect health. The City Council cannot decide public health policy based on the angry ranting of people throwing out ignorant and uninformed statements. People can throw a lot of opinions out here tonight, but he hopes the City Council is doing their own research and taking a look at the data nationwide and globally and listening to the public health experts, not feelings and hunches from people. Feelings and hunches do not make good public health policy. The WHO, the CDC, UCSF in California, BYU, and Stanford University have all published studies on the effectiveness of masks in limiting transmission. It is those kinds of studies that anyone who holds public trust needs to defer to. It would be irresponsible and immoral for us as a city to ignore the overwhelming consensus in the global public health community and instead go with a hunch or erroneous claims. He asks the Council to please follow the science and good public health policy.

Chair Bosley called for a break at 8:56 PM. She called the meeting back to order at 9:07 PM. She stated that it is time for the committee to discuss the way forward, and asked who would like to start the conversation.

Councilor Johnsen stated that she thinks she is the oldest PLD Committee member. She continued that her daughter and son-in-law are medical doctors. They were very concerned about her (Councilor Johnsen's) health when this all started. Her daughter has been doing all of her shopping for her, and her children are not ones to rely on fear. She is hearing a lot of fear tonight. She is not hearing rational thinking, except from a few voices, and that really concerns her. The City Council is comprised of 15 really smart people plus the Mayor and the City staff, and she is really proud to be a part of it. But many people are not getting good facts and they are worrying about things that mean they are not understanding that this is an epidemic. Her family lost someone to opioids. That was real, and some people did not think it was real. This [COVID-19] is real. Everyone knows people who are her age or older. It is important to think about them. She does not see the City Council as "big government" trying to run things; she sees them being, in this particular situation, a group of 20 or 25 people, including the wonderful doctors who spoke, who are really thinking about the community.

Chair Bosley asked Councilor Johnsen about her thoughts on the language in the ordinance. Does she want the mask ordinance affecting all citizens, or should children be exempt from a certain age? Would she like it to be about inside and outside? Should it include every business or just businesses that accept the public in? Councilor Johnsen replied that she has heard that children 10 and under should not wear masks. She continued that when she went to Walmart the other day she had to wear a mask, and she was happy to see that, and to see everyone else wearing masks. She thinks the first step is to define "businesses" and the businesses they think would affect our community the most, like restaurants.

Councilor Workman stated that she has a list of things to start with: first, the language in the "recommendation" section. She continued that every instance of "encouraged" to wear a face mask should be stronger, if they are going from a resolution to an ordinance. It has to have more teeth to it. She thinks "encouraged" should be changed to "mandatory" or "must" wear masks. She thinks they should define businesses. Maybe businesses with fewer than five employees can opt out or be exempt from this. She is glad to see there is not a financial or criminal penalty in the ordinance but it does need to have more teeth than the resolution so she would propose something in lieu of a fine. They have to come up with a way to identify violators, but maybe violators would have to do volunteer work with Green Up Keene. That is a socially-distanced activity and a way to give back to the community without having a financial burden or criminal aspect. Again there is the question of who will enforce this. She does not like the idea of having the KPD enforce it. They are trying to hold back on the KPD's responsibilities. They have expressed that they have a lot of overtime and their Officers are burdened with a lot of other responsibilities beyond their scope. Regarding Code Enforcement, if they are talking about individual violators, how do they identify those people? They might not know who they are walking down the street, so she does not understand how Code Enforcement could enforce anything other than the businesses themselves.

Councilor Jones stated that he has been an independent manufacturer's representative for several years, and many of the companies he represented were manufacturers of disinfectants, sanitizers, and PPE equipment. He continued that he teaches infection control, not from a medical point of view but from a facility care point of view. His courses give continuing education units from the National Sanitary Supply Association or the International Executive Housekeeper's Association. He does have knowledge about this topic. When manufacturers want you to talk to the infection control team, he is the one they send. He helps develop infection control plans for colleges and so on. He understands a lot of this. COVID-19 is what is called a "spittle catch." It is liquids coming from your nasal passages and your mouth, while you are talking, singing, sneezing, or coughing, and that is why they have the 6 foot rule. Masks are the greatest thing to stop this. The University of Washington just came out with a report: they have a mask law, and the virus spread dropped by 35%. There is science out there that tells you that masks do the job. If they were voting on the ordinance before them tonight he would vote no, because it does not have enough bite to it. It does need some kind of policing policy, otherwise it is just a piece of paper. If the Police will not enforce it, then who will? They need to know the actual jurisdictions they have the ability to cover and where they do not. There are certain places where masks have to be used. For example, his wife and an associate, both wearing masks, got into an elevator and three other people got on without masks, so his wife and her associate were protecting those three people, but those three people without masks were not protecting his wife and her associate. There are certain places where you have to have that. They also need a definition of "mask." He saw one the other day that was mesh, like a scarf someone had knitted. That is not going to do it. He saw another mask with a hole so the person could smoke a cigarette. That defeats the purpose. The comment about N-95 masks tonight was half right: yes, sometimes they do come with an exhaust on them, and that is for people in the remediation business, like working with mold or asbestos. That mask is protecting them from breathing in and allows them to breathe out. There are two kinds of N-95 masks, one with the exhaust and one without. They need a mask with a veracity of 4 or 5 micrometers so they can protect others from the spittle. That is all they need to do.

He continued that he really wants to see this ordinance happen. He sees a lot of tactics going on in the community, people trying to make people feel better, but they are not doing it right. For example, one grocery store wipes down the belt that you put your food on between each customer but not with a spray that actually kills the virus, so they were creating a wet warm place for the virus to go and that actually encourages the virus. Those are things to be aware of. Gowns and gloves are unnecessary. The best thing you can do is wash your hands, use hand sanitizer, and wear masks. Councilor Filiault was right that this should be a state issue, not Keene's issue. Last week there was an issue before the Saratoga Springs, NY's City Council and they meet in person with physical distancing and they have the police physically remove people from the meetings. So it is an issue that is all around us. He would love to see a sunset clause in the ordinance. They can always redo the ordinance but they should let the people know there is a time it will end. Most importantly, there has got to be policing in the ordinance, otherwise it is just a piece of paper and he does not know if he can vote for it.

Chair Bosley asked where Councilor Jones thinks masks should be mandatory. Indoors or outdoors, businesses that allow the public in, or all businesses? Councilor Jones replied that he would turn that around and ask what kinds of places the City has jurisdiction over. He is not sure he could make a list. But places with public elevators would be on his list.

Councilor Greenwald stated that he sees the City Attorney taking notes; ultimately he will have to do his magic to take the writing out of Nashua that is very vague and turn it into something that is understandable. He continued that he thinks the enforcement is going to be peer pressure and doing the right thing. That is how he has felt all the way through. He sees 90% of people in Home Depot wearing masks, and the people who are not go in with an attitude and will not wear a mask. Ultimately it would be up to Home Depot to say they cannot come in without a mask. It is private property. Someone brought up the question of whether they will go into a manufacturing plant and say that if workers are not 6 feet apart they need to wear masks, just the same as in an office setting, and this is what they are going to have to put together. Some version of an ordinance will come forth from the City Attorney and the committee will discuss the options and they can make some changes, and then it comes down to voting. Eight votes will make this either happen or not. Right now they

have a very aspirational, mutated resolution. They should change the “encourage” and “should” to “shall,” but without the hard definitions it is wishy-washy. He thinks they should put this on more time so the City Attorney can give his wisdom in turning this into an ordinance. He cannot wait to come back next week to work on something.

Chair Bosley stated that she has a list of items to bring up for the committee to consider. She wrote lots of notes. She is sorry that Dr. Caruso is no longer present because she has a list of questions. She does not think they can get to a place tonight to vote to move something forward. Some things to consider: she has listened to some data suggesting children ages 10 and under should not be wearing masks regularly. She has not seen any research on the long term effects of wearing masks, like someone brought up. That would be an interesting question for public health officials. She wears masks and her children wear masks if they are with her, but they are in the store for a few minutes. Is there data showing long-term mask wearing has negative effects? She had not heard that there is a backlog on testing, so she would ask that question. She would like to see a sunset clause.

She continued that she also would like them to consider leaving the definition of “mask” open to interpretation and allow for face shields. She wonders if Councilor Jones has input on that. Some restaurants have employees wearing the plastic face shields. Or if employees are behind plastic plexiglass is that sufficient to offset the requirement of a mask? Councilor Jones replied that anything that will stop the splittle is fine. He continued that the plastic face shield is actually a hardened mask. Chair Bosley stated that the current language very clearly outlines what a mask is and calls it a “cloth face covering” and she would expand that to include “face shield.” Even City Hall has plastic barriers. They need to have some sort of way for the public to offer complaints and for there to be enforcement, and a way for there to be a medical exemption for something like anxiety and they will have to take people their word; HPPA prevents them from asking people to identify their medical issues. This is a wonderful town and people try to be considerate of others, so hopefully that is something that would not be abused.

She continued that she is a runner and runs on the Rail Trail. Would bicyclists and runners be required to wear masks, if they wanted the ordinance to apply to the outdoors? She would like to exempt the outdoors and focus on people in buildings. If the City Council wanted to look at having the mask mandate apply to people going in and out of enclosed spaces, they can do that. She wants to look at the difference between businesses that invite the public in and businesses that do not. If employees inside are working together and the public is not allowed in, are they exempt from the ordinance? She asked the committee what they think.

Councilor Jones stated that he agrees with the outdoors part, as long as there is physical spacing. People walking together in a clump is different from people running individually. Chair Bosley asked, what about a family group? If she is walking with her immediate family, would someone be able to call the Police and have them check their familial status? Those are the kinds of things she thinks about. Councilor Jones replied that that is a good question and he does not have an answer.

Councilor Filiault stated that he wants to give kudos to Chair Bosley for moderating this. He continued that as far as the outdoors, as long as people are six feet apart, he thinks it should be exempt. In the downtown area people might be clumped together and then you might require masks, but not when you are out for a walk or on the trails. A few businesses got a hold of him today and did not want to be on the air, saying they do favor this ordinance. They want the enforcement for their employees and their customers, but they do not want to be “the bad guy;” they want to be able to say “I’m sorry, you need a mask, but it’s that darn City Council that requires it.” They asked him to tell that to the City Council tonight. One business owner asked tonight who enforces this. Any restaurant has to enforce being 21 to drink alcohol, so it would not be difficult to tell people they have to wear masks and give customers masks. Dr. Fauci and Dr. Caruso are the medical experts. They heard the real science tonight. This is a once-in-a-century pandemic. There is no cure yet. Since the State is not going to back them on this, he favors a mask ordinance. He agrees that they can relax the restrictions for the outdoors. They can go down the list from A to H and do a little bit of tweaking. Some of the wording

needs to be changed since it was originally a resolution.

Councilor Workman stated that she also runs and thinks the outdoor part is common sense. She has less of an issue with that as well. She always has her mask handy so she can put it on quickly if she is approaching someone. When she is on West Street approaching Main Street she does not wear a mask because there is no one within 6, 12, or 20 feet of her, but as soon as she turns the corner she puts on the mask because Main Street is more populated and the 6 foot distance would not be possible to maintain. When she, as part of the Keene Rebound committee, was visiting stores for a separate matter there were smaller businesses that had just one or two employees and no customers in the store and they did not have a mask on when she first opened the door but as soon as she entered they put their masks on. The City Council needs to have distinguishing characteristics for the businesses. Also, as a caller mentioned, they need to have a religious exemption as well. Regarding enforcement of businesses, it can be easily enforced. She is more concerned with the Joe Schmoe passing Joe Schmoe on the street. She does not want to see social media shaming or people trying to take video of strangers, or anything like that, and she is concerned about that. Even if they do pass this ordinance now they have the Keene Safe Program and a resolution in place. She would implore the City as a whole to do more public service announcements and projects to really promote those two. The State has also, this week, launched an aggressive education campaign: Don't Go Viral. The City should promote and educate the public on that, too.

Councilor Johnsen stated that she has been involved with churches, which are meeting online. She had some personal business meetings with one or two people and they have all been online. She does not think the City Council will be considered such bad guys. They have the support and people who are already taking measures. What Councilor Workman said was thoughtful. People can help do this themselves, if they have a sign up outside. She was surprised when the employee at Walmart was telling people they could not go in the door without a mask, and that employee blamed the Governor. She thinks there is a lot of support for this. She encouraged the committee to read the comments on Facebook, because many people there were in support of the mask ordinance. She has received many letters from people (with a 50/50 split for and against) and she is sure the other City Councilors have, too.

Councilor Clark stated that as far as where they will enforce this, there is a 6-foot rule. They have been told by science and medical experts that 6 feet is the safe distance, regardless of your age, religion, activity, or anything else. For all human beings the 6-foot rule should be enforced. If you are within 6 feet of someone in public you should wear a mask. That is very simple. It is not necessary to bring up all of these examples. Secondly, he has been on the Council for almost 11 years. He does not recall when they have ever been in the process of passing a new ordinance and asked "Who will enforce it?" That is a given. There is a system in place and that has been in place for many decades. When you add an ordinance, there are rules on who enforces it. In this case here, he does not know if it would be the KPD or the Health Department but there must be, somewhere in our caverns of information, who would enforce this ordinance. He thinks it is out of place to be holding this up because they do not know who will be enforcing it. They have never asked that question before. He thinks they are making this a little more difficult than it should be. It will only be a temporary ordinance, maybe for three or five months, but if they keep talking about it tourist season will be upon them and people from all over the world will come here, and they will be bringing things with them. Keene has been lucky, since it is a low populated city in a low populated state, but that will change soon and is starting to change. No one is immune to this, whether they are business owners that need to make money, or Episcopalians or Universalists or members of any other religion. If you are within 6 feet of someone who sneezes, you can get this virus. The City Council as elected officials need to do something to protect their citizenry. He thinks they should cut through all of this stuff and try and bring it down to the simplest equation that they can.

Councilor Johnsen asked if they can hear from the City Manager and the City Attorney because she is interested in their thoughts. Chair Bosley replied yes, but they have about 15 minutes left and she does not think they will get to a point tonight where they will vote to put this ordinance through the way it is written. She is proposing that on July 29 the PLD Committee meet again via Zoom to pick this up so they can continue this

conversation and hopefully have something drafted that they can approve or recommend or not recommend to move forward to the next City Council meeting. She asked if the City Manager had comments.

The City Manager replied that tonight staff's job was to listen and to hear the comments from the public and the City Council. They knew going into tonight's meeting that the resolution that came forward was vague, because a resolution serves a different purpose than an ordinance. Tonight they got some good feedback and the City Council has asked some really good questions and she has a better understanding, but it is really the City Attorney that will work on the next draft that will come forward for the committee to consider.

The City Attorney stated that there are a couple things he would like to put into the mix: the court did, in its order, at least inform to some extent what it thought about the Nashua ordinance which is relevant to this discussion. A quote from the decision: "The ordinance does not prohibit gatherings, nor does it regulate where people may assemble." That is important. The City Council cannot put restrictions in public places about how people come together. There is a First Amendment right for people to assemble. They need to be careful with that. Another thing that seemed to inform the court about the ordinance was that it was primarily based on indoor spaces. The court talks about how "requiring individuals to cover their faces while indoors will help reduce the transmission of a highly contagious virus that is spread through the air." The court went on to say "There is nothing in the ordinance requiring the use of face masks while speaking outdoors in outdoor public spaces." It seemed to be important to the court that if you are in a public place outside, the ordinance was not regulating that kind of place. He is putting that out there because he has heard some of the discussion, from Councilor Clark, suggesting that if you have to be within 6 feet of people, even outside, the mask would be required. He is not sure how the court would react to that, based on the language put in the ordinance. It seems to be important to them that Nashua's ordinance was primarily dealing with indoor spaces. He needs direction from the committee because those are very different things, on where they want to go on that, given what the court has said with respect to those issues.

Chair Bosley stated that she completely agrees with that synopsis. She continued that they should be excluding the outdoor space and should only look at the indoor space. She is not sure if anyone on the committee differs on that opinion. There could be some sort of compromise to what Councilor Clark is suggesting that affects businesses indoors, and personally, she would like to see it apply to those businesses that invite the public in and exempt businesses that have a locked door policy. She is not sure where the rest of the committee stands.

Councilor Workman stated that she agrees about having the language be about indoor space. Maybe they could say they "suggest" wearing masks outdoors if people are closer than six feet to each other, if legally it would not be good to use strong language like "require." Chair Bosley replied that they have a resolution that says that, so the ordinance could focus on indoor spaces. Councilor Workman agreed.

The City Manager stated that there was a lot of discussion tonight about enforcement, and the City will figure out the enforcement piece, but she is curious about penalties and what the committee thinks. She has heard different views tonight, from focusing on education and social norming, but typically with a violation of an ordinance there is a penalty, like for the noise ordinance. Is the committee interested in staff bringing forth a proposal for a fine?

Councilor Williams stated that he suggests, and his preference would be for the Police to be the enforcers, for a first-time violator to be given a warning, and subsequently a \$25 fine, and then if it happens again, a \$50 fine. He does not want it to be a serious burden. If someone is a serial scofflaw and is causing problems, yes, it should cost them money, but for someone who just made a mistake or had a bad day, they could get a warning and some education and they would learn and not make the mistake next time. After that it would be a \$25 fine.

Councilor Greenwald stated that he would like this to apply to manufacturing facilities, offices, and anywhere where workers cannot separate by six feet. It should apply to both small and large businesses, if they are doing this. He wants to get this ordinance tightened up and then the City Council can decide whether to vote yes or

no on it, when it is all in one piece.

Councilor Filiault stated that regarding Councilor Williams' comments, the intent is not to be fining people and be the big, bad government; it is about education. Most people, if they accidentally have their mask down, will comply with it. He thinks the only time they will really run into a fine issue is when you get those belligerent people who defiantly go into a business without a mask. Hopefully they are few and far between. An ordinance in place allows business owners a little more teeth to say "No, you cannot come in here without a mask." Not everyone will be in agreement, as is evidenced from the comments tonight, but he thinks that for the enforcement part, allowing the business owners to say "No, that big, bad City Hall will not let you in" will be enough. If there is going to be a penalty, it needs to be small. The fine is not the intent here. The intent is public safety.

The City Attorney stated that Councilor Workman did raise a potential for the penalty that he needs to speak to. If a fine is going to be enforced it has to go through a summons into the Superior Court. The City does not have the authority to order community service. That is something the court can do but the City's opportunity is to have a fine category and that is it.

Councilor Greenwald made a motion for the Planning, Licenses, and Development Committee to place this item on more time to allow the City Attorney time to reflect on and include the comments made, and for the PLD Committee to take this up for further discussion next Wednesday. The motion was seconded by Councilor Workman.

Ben Robertson stated that he appreciated the idea of exemptions in regards to business size. He continued that he heard what people are saying about families. Coworkers and friends have become like family units during this period. He worked in the Hannah Grimes Center through June, without masking, and with handwashing and social distancing, no one got sick. That was practical and effective and a good model for how to work indoors with other people without getting ill. He is currently working in an office with people not exactly six feet apart and not wearing masks, but they are doing lots of handwashing. He does not spit on people and avoids people who spit on him, which is common sense. He would appreciate it if the City Council, in crafting this, realizes that people have good judgment and know how to protect their health and like to be left and respected in their judgment.

John Schmitt stated that in regards to who will enforce this, the KPD should not, because it is unconstitutional. If they do enforce this, and if it is criminal, you will never get a conviction with a jury trial because the people have enough sense to use jury nullification to overthrow this silly law. Regarding the studies, on the CDC site there are no studies saying that masks work.

The City Attorney stated that it is a violation-level offense, akin to a speeding ticket. He continued that juries are reserved for other types of offenses.

Rebecca Montrone stated that this is what she does; she does science. She continued that she cannot believe what is coming through from the City Council. It does not make any sense with the things she knows. "We" just had a study come out saying Glutathione deficiency was a major factor for COVID-19 serious consequences. Has the Council heard of Glutathione? She has been on it for years. This is a cytokine storm based on radiation and anti-oxidation and all this stuff and no one is talking about that. People say "Ohmygod, there are all these molecules of the virus and I'm going to breathe it in and it's going to be horrible and I'm going to die" and that is not the truth. The message the Councilors are sending out tonight is ignorant. She continued that she is a scientist and knows a lot that the City Council does not.

Chair Bosley stated that what they are doing right now is trying to create a productive draft that can be discussed further. She continued that this will not be voted on tonight for approval. They are fleshing out what sort of document the Council would consider, and then it would need a majority vote to pass.

Sean O'Mara stated that after hearing what Ms. Montrone just said, he wants to say that what he has heard from the City Council is anything but ignorance. He applauds the conversation. He does not know where Ms. Montrone gets her science, but what she was talking about there was not science. Also, the person who was just talking about having different standards for different businesses that becomes a very problematic issue if the City tries to create different standards based on what people in individual businesses decide is right for them. It needs to be standard across the City in this ordinance. The idea of religious exemptions also concerns him. Palm Beach, FL, passed a mask ordinance and they noted that there are people using the religious exemptions left and right almost like a "Get out of jail free" card. It is happening on airlines, too – people are saying "Oh, [wearing a mask] is against my religion." If anyone can verbally just say it is against their religion that wipes out the purpose of the ordinance if they can just throw that around. He does not know of any particular religion that a mask ordinance would violate, but that is something that would have to be carefully worded, if they are going to put a religious exemption in the ordinance, because it can be abused and people will take advantage of it. He thinks a fine of \$5, \$10, or \$20 is totally appropriate. Regarding people who says a mask law is "unconstitutional," he does not think they know what they are talking about when it comes to Constitutional law and they do not understand the history of public health measures throughout our nation's history. We have a long history of legislating things for public health reasons and he doubts anyone who says it is "unconstitutional" could give a definition of what they are talking about.

Joseph Mirzoeff stated that he wants to thank the City Council for doing this. He continued that he loved hearing from everyone and is glad everyone had the opportunity to speak. The City Council is being very conscientious, taking notes. He asked if the committee members have a basic count of how many people want an ordinance and how many do not. Chair Bosley replied that she thinks she will have to watch all three hours. She continued that she has been keeping a list of everyone who spoke but has not been marking off which side each person was on. Councilor Johnsen replied that she has been keeping a list. She continued that people should also read the Facebook comments.

Christopher Nelson stated that one of the main reasons he decided to listen to the meeting tonight is because of the KSC students coming back. He continued that he has worked with young adults and children pretty much his entire life and knows that peer pressure and impulsivity can go a long way with many young people. The desire to be together and the desire to socialize and the desire to have fun can override good judgment sometimes. He is glad that the City Council is taking that under advisement, to limit some of the large groups that these students congregate in and having a way to enforce social distancing and masks is important for the City to take under consideration. He thanks the City Council for listening.

Chair Bosley called for a vote on the motion. The motion to place this item on more time to allow the City Attorney time to reflect on and include the comments made and for the PLD Committee to take the Ordinance up for further discussion the following Wednesday passed by unanimous vote.

Chair Bosley stated that the PLD Committee will meet again on Thursday, July 29, at 6:00 PM, to discuss a new draft. There being no further business, she adjourned the meeting at 10:11 PM.





City of Keene, N.H.  
*Transmittal Form*

July 29, 2020

**TO:** Mayor and Keene City Council  
**FROM:** Planning, Licenses and Development Committee  
**ITEM:** J.1.  
**SUBJECT:** Relating to the Wearing of Face Coverings

---

**COUNCIL ACTION:**

In City Council August 6, 2020.

Report filed as informational. Voted with 12 in favor and two opposed for the adoption of Ordinance O-2020-09-A.

**RECOMMENDATION:**

On a vote of 5-0, the Planning, Licenses, and Development Committee recommends the adoption of Ordinance O-2020-09-A.

**ATTACHMENTS:**

Description

Ordinance O-2020-09-A

**BACKGROUND:**

Chair Bosley asked City Attorney Tom Mullins to speak. The City Attorney stated that he was tasked last week to take the structure of the ordinance that staff had presented, O-2020-09, and this is an A version now because of the changes to it. He continued that he tried to maintain the structure of the last draft. The first page contains only two changes, in section E. The Statement and Intent lay out the reason for the ordinance, with respect to the COVID-19 emergency. He highlighted the changes - “proper face covering” worn in a “proper manner.” This is to remind folks that there is a proper way to wear the face covering, and to be conscious of that.

He continued that the real substantive changes come next [in the “Requirements” section]. He made some language changes in “a)” relating to employees of businesses, to make it clear that employees are under this obligation (to wear a mask) while they are performing their duties, because the way it was written before made it sound like an employee would have to wear a mask when they were out doing anything at all even if it was unrelated to their job. He also added the words “completely covering their mouth and nose at all times” so people understand that covering the nose is important. Recent research says that the nose is one of the primary transmitters of the virus. The second change to “a)” is the addition of the words “unless a barrier approved by a City Health Official provides sufficient separation.” Employees of some businesses are behind a proper barrier, like a teller. If the City Health Official agrees the barrier is appropriate there is an exception to the mask.

The City Attorney continued that “b)” talks about people entering businesses being required to wear masks,

(and he added the words) “while conducting their business; provided however, that members of the public shall not be required to wear a face covering while actually seated at a restaurant table.” Otherwise you technically could not eat.

He continued that he took out the previous “c)” because it was duplicative based upon the language of the ordinance itself and covered in other sections. The new “c)” better defines “residents, visitors, and members of the public entering a residential complex” and he changed “containing two (2) or more units” to “three (3) or more units” so they are not bringing private duplexes into play. This is aimed at commercial areas. It is limited to interior common areas. This is not about the outside, and that is a general theme in this ordinance and the changes he has made. In this section it applies not to outdoor common areas, but only to *interior* common areas like stairwells and elevators and foyers, unless six feet of social distancing can be maintained. He also included language to clarify that if a business with common areas, regardless of number of units, allows members of the public in, the ordinance should apply to them as well.

The City Attorney continued that there are big changes to “d)” - he took great pains to define “business.” He stated that the definition is, for purposes of this ordinance: a business that invites the public in to your location to operate business, to provide them any services, provide them with what they need, or sell them anything. There is a list in the ordinance, which is not all inclusive, but gives examples: retail stores, fitness centers, personal care facilities, and so on. He included “public conveyances licensed by the City of Keene.” Having heard the comments from the last meeting, he exempted businesses that are conducted in a personal residence from the definition of “business” so that people can make their own rules at their own house.

He continued that he made changes in “e)” to better define “face covering.” He did include paper, because paper face coverings were not included before, listening to some of the comments. A mask cannot have holes, mesh, or exhaust valves, because that defeats the purpose of the face covering. He added the sentence “the face covering shall be worn in a manner to completely and continuously cover the nose and mouth of the wearer when required to be worn.” It is important for people to remember that if the mask is down below a person’s nose, according to what we know from the CDC and others, it will not provide the needed effect.

He continued that he provided a provision stating “this provision shall not supersede any Personal Protective Equipment requirements that may otherwise apply to employees” as a result of their employment activities. There are employees who need to wear, say, a mask with an exhaust valve if they work in hazard mitigation.

The City Attorney stated that in “b)” he wants to point out something that a PLD Committee member pointed out to him: the text “such as a fabric mask, scarf, or bandana” should have been stricken. It was duplicative under the definition of face mask, and scarves and bandanas are not necessarily appropriate. If the committee recommends the ordinance as proposed he suggests that be considered a scrivener’s error so the ordinance does not have to return as a B version.

He continued that in “f)” he cleaned up the language to say that wearing a mask is not required for children under 10 years of age. The committee will note that throughout the ordinance, he has changed the word “encouraged” to “required” because it is now a directive ordinance.

He continued that regarding the changes to “g),” he looked at examples of other mandates for masks, and this is similar to language in the mask statute about to be adopted by the State of VT. It provides an exemption for a medical or developmental condition for which a mask might pose a health hazard. As with VT, and appropriately, the individual will not be required to provide documentation for that. No one is qualified to make that determination. They will be relying on people to act honestly and appropriately.

He continued that “h)” has the requirement that businesses need to notify their employees, and members of the public that may be entering, about the mask requirement through appropriate signage and that sort of thing, and internal procedures to comply with the ordinance. The last sentence of “h)” says “Businesses shall deny entry

and/or services to any person who declines to wear a face covering after being requested to do so.”

He continued that “i)” is the penalty provision. If there are individuals who violate the ordinance, businesses are supposed to deny them service or entry. The provision applies more to the businesses because they are in control of their premises. If a business is found to be not complying, the first offense results in a verbal warning, the second is a written warning, then there is a \$100 fine for the third offense, and a \$250 fine for any fourth and subsequent offense.

Under “j)” they wanted to make sure everyone understands: there are all kinds of executive orders out there and guidance with respect to individual business operations and with members of the public. The orders and guidance are directive to businesses and suggestive to members of the public, but they wanted to make sure it is clear that this ordinance is not intended to change any of those, except to the extent that the mask is required by the ordinance as defined by the ordinance.

He continued that under “k)” it is clear that businesses have control over their own premises, so they want to make sure that a business that wants to impose more strict requirements with respect to wearing masks can do so. This means that if a person says “I don’t have to wear a mask because I have a medical condition,” the business can say “We still don’t want to let you in.”

The City Attorney continued that “i)” has the sunset provision that was requested. It is an automatic termination without any action needed from the City Council if the State of Emergency issued by the Governor is terminated. He is happy to answer questions.

Councilor Greenwald thanked the City Attorney for his excellent work. He continued that the City Attorney answered a lot of his questions and eliminated ambiguity. He thinks this will work. No one enjoys wearing a mask but they are essential for health and safety. We are in a nice healthy bubble in Keene. But in a few weeks new and returning KSC students will be coming here from CT, NJ, NY, MA, and they will be bringing all manner of things and they need to know masks are essential to our community. KSC President Treadwell is [taking this seriously], being sincere and aggressive [with health and safety measures]. Students will wear masks on campus. This ordinance will bring consistency to on and off campus.

Councilor Greenwald continued that he wants to insert language about house parties. The ordinance does not define “bars” and “restaurants” so they are one and the same? Students will congregate there in larger groups. Based on what he has seen in recent weeks, masks are not being worn (in these bars/restaurants) and the students are not following this. This needs some enforcement. Holding businesses responsible for enforcement and fining businesses is a very effective way of dealing with it. If a bar has a mask-wearing policy, as they all say they do, but is not enforcing it, they will get a fine. Can multiple warnings and fines be issued on the same day? Or do you only get one a day? For example, if a bar just does not get it, and if they are amenable to paying a \$100 fine and then just continuing with their chaos, can they be fined repeatedly? Or can they lose their license to do business?

Councilor Greenwald continued that the other issue is, when the social activities spill over into private apartments and housing, it would help to have some way to hold landlords accountable. This rises to the level of public health. He suggests holding a landlord responsible if s/he owns three or more buildings, since by real estate law, an owner of three or more is considered a professional. If such a landlord cannot control the house parties, he would like to see that landlord be fined and go through the same process as the other business owners.

Councilor Greenwald stated that overall this is an excellent start to work with. He thinks the public is behind this ordinance and it will be adhered to. There are many people not liking the masks but you do not have to wear a mask when you are on the sidewalk, riding a bike, or just doing basic activities; it is about when you are doing business. This is for the protection of all our citizens – not just the elderly, but everyone. He supports it.

Chair Bosley stated that she respectfully disagrees with reaching into private property. She continued that she likes the language in this ordinance a lot but would struggle with that process – where do you draw the line? She understands that he is trying to hold landlords accountable but she does not know how you could police mask-wearing inside a private residence, even with young adults. Once you insert that language you are opening it up to any private residents in this town, like people holding a gathering at their home having to require masks. She is uncomfortable with that as a slippery slope. This ordinance is a good starting place. As they watch the climate for COVID-19 changing in the community they can revisit some of these finer points without overstepping any further than they have.

Councilor Johnsen thanked the City Attorney for this fine work. She continued that she has been in contact with a woman who is deaf, who cannot read lips when people are wearing masks. But then she (Councilor Johnsen) saw that the City Attorney included a provision in the ordinance saying that if a person has a disability [that makes mask-wearing difficult, they are exempt,] and that covers it. She thanks him for that.

Councilor Jones thanked the City Attorney. He continued that the day after he saw the ordinance he called and said “Wow, [Attorney Mullins], you’re a very good listener.” The City Attorney included almost all of the comments from the last meeting. He understands where Councilor Greenwald is going with his comments but sections “c)” and “h)” seem to cover what he was saying, unless he was talking about homes without a common area, and then he disagrees with Councilor Greenwald. If it was a private residence without a common area he does not know what they would do about that. The most important section is “h).” He was thinking about what Councilor Filiault said - some businesses are hesitant to say “We don’t want you in here without a mask.” Now those businesses can blame the City for the mask requirement and name the City ordinance. He thinks that is what they wanted and thinks this ordinance will help overall. He is really happy with this document. He thinks they covered what Councilor Filiault asked for. Councilor Filiault put it into perspective very well. He thought about what Councilor Clark said – do they have to put who the enforcer is? At the time, he kind of disagreed with Councilor Clark and thought yes, they do, because he was not sure if this was a criminal code or health. Now he knows it falls under the criminal code and thus, enforcement is automatic just as Councilor Clark said. He looks forward to the other comments. He hopes they can move this through and not have to make any amendments.

Councilor Greenwald stated that to clarify: no, he is not saying [they should require mask-wearing in] private residences. He continued that his issue when there is a house party, basement party, or students having an illegal alcohol event. That is his concern - to try and get enforcement for those situations. No, they do not need to go to a B version of the ordinance and no, they do not need amendments. Maybe he is just venting. Maybe the KPD can be a little more aggressive as they are shutting down these activities. He is fine with this ordinance as it is.

Chair Bosley stated that she has been thinking about enforcement, too, and if you have a big gathering with people packed in shoulder to shoulder and it is not in a business where the business is supposed to be managing that type of activity, does that go back to the social host ordinance that they have been looking at? They will see more about that as they continue that discussion. Also, she continued, at what point does the individual become responsible for their own mask-wearing, instead of the business being held responsible? If a business says “No, you cannot come in,” but the mask-less person is having a hard time understanding that, does the business owner call the police and have the KPD address it with the individual?

The City Attorney replied that this is a criminal ordinance, as Councilor Jones said. He continued that first the expectation is that most people will do the right thing. If there is an issue and the person will not leave, it is up to the business owner to decide what to do. If the person becomes belligerent and there starts to be some altercation, which has been happening around the country, at that point the KPD would be able to respond. They would not be responding with respect to the mask ordinance, per se, it would be because the person would be violating some other law, such as trespass or disorderly conduct. Businesses do have rights to allow

people in or out and to keep people out, like the signs that say “We reserve the right to refuse service to anyone.” There are qualifications to that he will not get into, but businesses do have rights.

Chair Bosley asked for clarification: if a person enters a business and refuses to comply with this ordinance and the business does not confront or eject them or call the KPD, and a fellow patron contacts the KPD, the business would be fined? The City Attorney replied that the first time would be a verbal reminder. If it happened a second time, the business would get a written warning. If it happened a third time, the business would get a fine. To Councilor Greenwald’s question, it will not happen five times in a day, but it would be day sequential. If the KPD have to go back day after day after day, those would be successive. They are not anticipating multiple fines in one day.

Chair Bosley stated that she does think this ordinance will cause confrontation. She has heard anecdotes about businesses that currently require masks have had difficult interactions with customers. She is concerned with, for example, a 16 year old employee put in the position of enforcing this ordinance so their boss does not get fined. If an employee is in an uncomfortable situation she thinks they could call the police. The City Attorney replied that the first thing would be for the teenaged employee to get the manager. Chair Bosley replied that YOLO, for instance, has young workers working alone at night. The City Attorney replied that part of the requirement is for the businesses to put together internal policies and procedures. But yes, in that situation the teenage employee alone could call the police.

Chair Bosley asked if the committee members had more questions or comments. Hearing none, she asked for questions or comments from members of the public. She reiterated that comments will be limited to the language in the ordinance, and not about whether or not a person agrees with having a mask ordinance. The City Attorney stated that the usual process is to first have the petitioners speak to the changes. Chair Bosley agreed.

Councilor Filiault stated that he applauds the City Attorney for doing a fantastic job with this. He continued that this ordinance is very enforceable. It is not heavy-handed. He read the State orders from VT, ME, and MA. These bordering states all have State-mandated mask ordinances. Keene’s proposed ordinance is “light” compared to those. He thinks it is not heavy-handed; it is just enough. They wanted to just educate the public, and have a little enforcement behind it. It is about public safety. He personally cannot stand wearing a mask, but, he is content with the wording of this and gives kudos to the City Attorney.

Councilor Clark stated that he has a question about paragraph “h).” Will the City provide some sort of uniform wording for the signs they are requiring businesses to display or will businesses write their own and maybe the city will have 15 or 20 different versions? The City Attorney replied that they did not require specific wording, similar to when they increased the tobacco age, they did not require specific wording for businesses to use in that context. He continued that they can probably put together suggested language. Councilor Clark replied that he has no problem with that; he just wanted to bring it forward. He did not want businesses who are against this ordinance to water down their warnings. He continued that he is glad this new version has come forward and the reaction he has gotten from people. Just today the World Health Organization (WHO) reported that COVID-19 is spreading like one big wave. That is sort of good news because they do not think the virus is affected by seasonal spreads, but it is also bad news, because it means the spread of the virus is dependent more on personal responsibility and human behavior. It is more important than ever that they mandate mask-wearing.

Councilor Williams stated that he echoes the sentiment that this is a well-written ordinance and the City Attorney did a very good job. He continued that it covers what it needs to cover and, as Councilor Filiault said, is not heavy-handed. It is a “light touch but a firm touch” and he appreciates that. Maybe they will have to tighten it up later if house parties become an issue, as Councilor Greenwald was talking about, but for now, in the current environment, this is a good measure to take and he supports it.

Opening it up to public comment, Chair Bosley called on Tiffany Matthews.

Tiffany Matthews, of 85 Nims Road, thanked the committee for the work they have been doing. She asked about children under 10 not being required to wear masks. She continued that NH has had 6,513 cases of COVID-19 and 6% of those people have died. She wants that to be clear, because she heard Councilor Greenwald say “we’re in this bubble.” She also wants to bring up that regarding children ages 0 to 9, there have been 127 cases and 4 hospitalizations (in NH). Children are likely to transmit the virus if they get it. For several months children have been out of school, with daycares and camps closed, and parents at home, so we do not really know the true number for children. While she appreciated that last week someone said the children could be having major psychological problems from wearing masks, she does not think that is true. She coordinates an SAU 29 parents’ group focused on COVID-19 safety. These parents talk about how their children have been doing low-risk activities for several months, but also learning about how to live with [the risk of] this virus and how to wear masks. Her children have severe asthma issues, and they wear masks. She would love for that [topic of children under 10 not being required to wear masks] to be revisited. It is not based in science. They know that masks work and can prevent transmission.

Trevor Gardner, of 54 Kennedy Drive, stated that this feels really weak. He continued that he thinks they should be fining people as well as businesses and cannot fathom why that is not happening. We know masks are so important. The City needs to enforce it as much as they can. Just having the fine in the ordinance will convince a lot of people to wear a mask. What if a person walks into a business without a mask and is asked to leave - they could be asymptomatic and easily get people in that business sick. It spreads so easily. We also see countries using weak mask policies, like Spain and Belgium, having relapses. Keene is relatively fine now but it is a quick problem that could happen if we slip up. He continued that he was thinking that Main Street should have a particular ordinance, if that is legal and possible, from the KSC circle to the circle at the end. There are so many people walking close together. Someone could so easily spread it. It would not be that restrictive to require people to wear a mask on that section of Main Street, where most people are just running into a shop, not exercising or hanging out there.

Mr. Gardner continued that regarding section “g),” he was wondering – there are a lot of people making fake medical cards. How should people in the community handle those if they see them? These cards look like they are from the government and say that the HIPAA (Health Insurance Portability and Accountability Act) allows the card-carrier to not wear a mask, but they are fake. How will these cards be enforced or what will the penalty be?

Councilor Ormerod stated that he is seeking a clarification regarding the definition of “businesses” - what about churches and schools? Public schools have their own mask policy. But there is an election day coming up with school facilities used by the public. Do we need clarification on that?

The City Attorney stated that he did not include churches, on purpose. He continued that there are lots of executive orders and guidance that apply to all kinds of things, including churches. There is not a religious exemption in the ordinance. That triggers difficult questions under First Amendment rights. It is up to the committee; he could make this ordinance shorter, or longer, but he wants it to pass muster with places, so he did not include churches because of the concern with the First Amendment overlay. Schools are a separate governmental entity. They have their own statutory rights and obligations and they do what they need to do. That is also true for the County. Regarding Election Day, City staff is trying to get clarification from the State about elections and locations and what requirements are in place and what authority the City has with respect to that day. The City Council can stay tuned for that information.

Rebecca Montrone, of 75 Winter Street, stated that she is a citizen and a health practitioner and she understands a lot about this that probably other people do not. She continued that this is an unwarranted intrusion into people’s lives. She will not comply. She wants whoever is going to enforce this ordinance to know that her (business) address is: 103 Roxbury Street, Suite 300, and she will not be wearing a mask, so

“come on up and see [her.]”

Chair Bosley stated that comments need to be kept specifically to the language of the ordinance. Ms. Montrone stated that she is commenting on section “i),” about the penalties.

Dr. John Walter, of 38 Felt Road, stated that he is a family physician and has been practicing in the county for 30 years. He continued that he feels strongly that this ordinance needs to pass. It will reduce the spread of this virus. It is not a big deal to wear a mask. People are claiming it is dangerous, because levels of carbon dioxide builds up, but surgeons wear masks hour after hour in the operating room, so masks are perfectly safe. This is a well written ordinance. He is concerned that there is a lot of anti-science bias from people testifying or speaking to this issue. He strongly encourages the committee to recommend the City Council pass this ordinance.

D’Vorah Kelly, of 9 Sugar Maple Lane, thanked Councilor Filiault, Councilor Clark, the City Attorney, and the whole committee. She continued that her comment/suggestion is regarding section “h)”, about signage. She wonders if there could be a brand - something that as soon as people saw it they would know what it meant without having to read the whole sign, such as an image, maybe a circle with a mask in it. It would be something that would designate that “This is a place that follows the mask ordinance,” without having to have a big sign or a lot of signage. Portland, ME has little blue stickers saying “We proudly serve Maine water” so you knew just walking up to it, recognizing the blue sticker, what you were going to get when you went in there. She continued that she gives kudos to the City Council for pursuing this. She strongly supports this ordinance. Her suggestion is to brand this ordinance.

Chair Bosley stated that she has thought about a public education campaign to accompany the ordinance.

Joseph Mirzoeff, of 641 Park Ave., stated that firstly, at the last meeting Chair Bosley mentioned she was concerned about locked businesses that the public was not able to just walk into, and thinking they should be exempt. He agrees. But that is not in this ordinance as far as he could tell. Second, He continued that, this is illegal for the City Council to do. NH is not a home rule state. The City Council is acting illegally and oppressively. Last is the sunset clause. The one they have here is that it sunsets “when the emergency is over.” But last time it was suggested that the ordinance might be sunset after two or three months. There might still be an emergency in NH because of cities like Manchester and Nashua, whose problems are very different than Keene’s. Keene has very few cases. That may change with the schools opening. But the sunset should be scheduled automatically two or three months from now. It might still be an emergency in the state but “we might find out that this really isn’t working for us” even though the State still thinks we should be in emergency.

Councilor Chadbourne asked the City Attorney – how are we addressing restaurants? She continued that people congregate in small or large groups. Servers wear masks but not the people eating. There is nothing the City can really do about that, right? She knows someone who just ate at The Stage and was informed that they were exposed to COVID-19 and had to self-quarantine. The City is taking all of these positive measures and trying to protect public safety, but the spread will still occur when there are groups in restaurants, if the City allows restaurants, which it should.

The City Attorney replied that nothing in this ordinance is expected to change, except with respect to the obligation to wear masks as defined by the ordinance in certain places, any executive orders or guidance from the State. There is extensive guidance from the Governor’s Office with respect to how restaurants operate. The City’s Health Inspector is here tonight, if anyone has questions for him. Restaurants are still supposed to comply with the requirements from the State, and one is to not allow people to congregate without being seated at tables.

Chair Bosley stated that the person Councilor Chadbourne spoke of who was exposed to COVID-19, and everyone else, should know that there is still a testing site available on Krif Road if they need it. Tests are

available by appointment. Anyone who has concern of exposure, she encourages them to get tested. She believes it is free of charge.

Nancy Little, of 606 Marlboro St., stated that she has a question. She works with people with disabilities. She understands that “people with a medical or developmental condition, to whom the wearing of the face covering would pose a threat to their health and safety do not have to wear a mask,” however, it says below that businesses can still deny entry to those people. She is not an attorney but she works with people with disabilities and knows that that might cause a serious problem, if a person with a disability chooses to not wear a mask because they have a disability. If they are still denied entry to a business that might cause a problem down the road.

The City Attorney replied that the language says that this ordinance does not interfere, affect, change, alter, or amend any other requirement that may be imposed on a business by federal, state, or local law, and that includes the Americans with Disabilities Act (ADA). A business that decides to do that against a person with a developmental disability, who is in a protected group, will do so at their own risk. They did not want the City’s ordinance to require masks for medically compromised people. Businesses still have to comply with the laws.

Ben Robertson asked where the ordinance can be found, because he wants to read it. Chair Bosley replied that there is a copy attached to this meeting’s agenda on the City’s website.

Tracy Desteph, of 110 Church St., asked if there is language that will include private clubs. She continued that she sees them have events, one just a couple weeks ago, with 50 or more people in the building and she does not think they are requiring masks. Those are large groups of people gathering and then going out into the community. As medical professionals say, we need to stay ahead of the game and be proactive instead of reactive. Can the ordinance include wording to include these private clubs? They are required to follow CDC and Governor’s orders, correct?

Chair Bosley stated that that is sort of a bridge between what Councilor Greenwald was talking about earlier, and public establishments. She would like to hear from the City Attorney. Is there any language in the ordinance that would refer to the private establishments that are buildings but not residences that are inviting the public in? Would they fall under the ordinance?

The City Attorney replied that if they are inviting the public in, the answer from his perspective would be yes, the ordinance applies. He continued that if it is strictly a private club and you cannot get in without being a member, then the language does not apply to that. He does not know off hand whether or not there is guidance from the Governor’s Office about private clubs. The problem will arrive when it is a hybrid: something that is supposedly a private club, but you can get in if you sign in at the door and pay \$5. His point of view would be that the ordinance does apply then. If such clubs want to make a claim that it does not, they would have to establish that. For a purely private club, no, the ordinance would not apply.

Sean O’Mara stated that he thinks the proposed mask ordinance is good; it is based on common sense and science. He continued that on the issue raised by a speaker earlier: he does not see anything in it that is illegal or unconstitutional. He thanks the City for doing this. Two points on enforcement: one, individuals who refuse to comply should be fined in some way, if individuals refuse and are making things difficult for business owners. Two, he was walking around downtown and noticed that the bars were opening, and there is a small bar on Main Street near the college that is packed with people and no one is wearing a mask. A bar like that might just eat the fine over and over because of the amount of business they do. They might still be very profitable just eating the fine every night. If a business continues to violate the ordinance after several fines, would there be another step? Would a bar like that have to close down?

The City Attorney replied that it is important to keep in mind distinctions among public invitation places. He continued that as Councilor Greenwald pointed out, there is technically no strict “bar” in NH; bars have to



provide some type of food. Those entities are still subject to the Health Code and HHS rules, which can be more stringent than the City ordinance. There are potentially options outside of this ordinance.

Chair Bosley asked if a restaurant/bar falls under the same Emergency Order requirements that if anyone is not seated at a table they should be wearing a mask. The City Attorney replied yes, and they also fall under the Executive Orders and guidance that exists with respect to those. He continued that when the openings happened the City did have to go and remind an entity that was subject to a food and liquor license that there are other mechanisms, if an entity does not comply with the requirements of the Executive Orders, in a public health context, and there were consequences, which could include shutting down the business.

Chair Bosley asked who a patron with concerns about compliance should contact. The City Attorney replied that they should always contact the KPD first.

Chair Bosley asked if there were members of the public wishing to speak for the first time. Hearing none, she called on Trevor Gardner again.

Mr. Gardner stated that he agrees with the people who say the City should be proactive instead of reactive. He continued that they should keep that in mind if they edit the ordinance. It is so easy to slip up and then suddenly they are reacting and not able to catch up. If you need examples, look abroad – Europe, Hong Kong, and Singapore are really struggling. They loosened [the restrictions] and now they are paying the price in lives and businesses. Also, someone said this is an intrusion. Look at Article 4 of the NH Constitution - this is totally legal.

The City Attorney informed Chair Bosley that Mr. Gardner's comments are getting away from the topic of the ordinance language. Chair Bosley asked if Mr. Gardner had comments on the ordinance language. Mr. Gardner replied that he encourages the committee to make sure any edits are proactive instead of reactive.

Sarah Franklin, of 95 Adams St., stated that she applauds the committee for putting this together. She continued that regarding the language, she suggests one little detail about the "mask" definition: it is important that a mask be two-ply or preferably three-ply to really do the most good for people. She suggests that be added or researched. She also wants to back up Councilor Greenwald - the social host ordinance would help a lot with the other problems. That is the next thing to tackle. She thanked the committee.

Tiffany Matthews stated that she failed to mention that she is a college health practitioner in the area. She continued that regarding the mask language, she wants to make sure it includes that the mask (whether cloth or surgical) needs to cover the nose and mouth, especially since there is new scientific information about studies of the nose. She also wants to speak to Councilor Johnsen's point about deaf people and other people who benefit from reading lips – you can sew clear vinyl panels right into a cloth mask, which is very effective. Face shields are not effective. They are open. COVID-19 can go up and around the mask, kind of like the plexi-glass shields at some businesses, where employees are not wearing masks while standing behind them. She appreciates the last caller talking about different types of face coverings. Even a bandana or buff is better than nothing. Lastly, she is sensitive to people who cannot wear masks. We are lucky that there are different options in Keene, like deliveries and curbside pick-up.

Ben Robertson stated that he has a couple questions. Is it correct that an employee who is at work but not interacting with the public does not have to wear a mask? Chair Bosley replied that that is correct, if six foot distance can be maintained. The City Attorney replied that this is designed to be about interacting with the public. He continued that if employees in a business are not interacting with the public it is up to the business. The guidance from the Executive Orders applies. The business still needs requirements with respect to its own employees, even if they are not interacting with the public. The City did not want to reach into that context. That "six feet from a co-worker" language was specifically deleted from the proposed mask ordinance because the City did not want to reach too far into the personnel policies and procedures and that was already covered

by the guidance from the Executive Orders.

Mr. Robertson asked where/how the ordinance covers healthcare workers treating patients. He asked if the ordinance is trying to say they have to have plexi-glass shields. The City Attorney replied that this does not apply to hospitals. He continued that people are generally being invited into the hospital for some reason because of medical issues; hospitals are not generally open for people to walk in and out of. Mr. Robertson asked if the ordinance includes or excludes chiropractors and other alternative health practitioners. The City Attorney replied that for a health provider of any kind, you have to make an appointment; you cannot just walk in the door, generally. Staff wrestled with this. There are going to be areas where there are questions. But the thrust of the language is that if you are inviting the general public in, this will apply to you. If you have other restrictions, like requiring appointments, this arguably does not apply to you.

Mr. Roberston asked about bars. He has heard stories and seen that when people are drinking there is a lot of spitting and vocalization going on. Is the City expecting people to take their mask on and off between sips of their beer? How could this work? The City Attorney replied that people are required to be seated at a table. Again, there are already restrictions in place from the Executive Order. If you get up and walk around, under the existing guidance, you are supposed to wear a mask.

Nicholas Germana, of 206 Baker St., stated that he supports the ordinance and agrees that there should be fines; people who choose not to put on a mask for ethical reasons might need a financial reason to do so, unfortunately. He continued that there should be a specific sunset date upon which an extension needs to be granted, instead of leaving it open ended.

Chair Bosley called on Dale Montrone. The audio quality was poor and Chair Bosley stated that she could not hear him and suggested he try calling on the phone.

Jared Goodell, of 39 Central Square, asked if it is correct that the ordinance says that if a person has a medical or psychological condition that prevents them from wearing a mask they are exempt. The City Attorney replied that it says "medical or developmental" and does not specifically reference mental health. Mr. Goodell asked: what right does an employer or business have to ask a patron or employee about their reason for not wearing a mask, and what evidence does the individual need to give, if any? The City Attorney replied that the business would not be asking the question. If a customer comes in without a mask and says they have a medical or developmental condition to which a mask is a threat to their health or safety the business can accept that. He continued that it does not require documentation. Mr. Goodell replied that there is some guidance for service animals; you can ask what training the animal has but you cannot ask about a person's condition. If someone comes in without a mask, should the business just assume they have a condition that prevents them from wearing a mask? Does it violate a person's rights if you ask them to wear a mask? The City Attorney replied that the employee should ask any person coming into the business without a mask to wear a mask, and he strongly encourages businesses to have masks available for people. If the person complies, great. If they say they have a medical or developmental condition that prevents them from wearing a mask, the employee should accept that. A business still has rights and could choose to deny service. If they are denying service to someone who does not qualify under the ADA "public accommodations" they do that at their risk.

Mr. Goodell asked what exposure, if any, a business has if its patrons are coming in and not complying with the mask ordinance, whether it is because the people have medical or developmental conditions or not, but the business has done its due diligence in requesting that people wear masks. What sort of exposure, under this ordinance, would the business have? The City Attorney replied given that hypothetical, if someone says "I have a medical condition that prevents me from wearing a mask," the business has none, under this ordinance. But if someone comes into the business and is not complying and the business allows them to continue coming into the business, the way the ordinance is drafted, the business is subject to a verbal warning for the first offense, a written warning for the second offense, a \$100 fine for the third offense, and a \$250 fine for fourth and subsequent offenses.

Mr. Gardner asked if these penalties would be adjudicated through the district court. The City Attorney replied the circuit court.

Mr. Gardner asked: if employees are alone in the business and there are no customers present, is it correct that the employees do not need to wear masks? The City Attorney replied that this ordinance would not apply in that situation, but the other guidance from the Executive Orders and the Governor's Office might apply.

Rebecca Montrone shared a Ralph Waldo Emerson quote and gave comments not related to the language of the ordinance. Chair Bosley stated that they are keeping comments to the language of the ordinance.

Chair Bosley stated that she does not see anyone from the public still wishing to speak. She asked if the committee had suggested changes to the ordinance or points to review. The City Attorney recommended someone on the committee make a motion first.

Councilor Greenwald made a motion for the Planning, Licenses, and Development Committee to recommend the adoption of O-2020-09-A. Councilor Jones seconded the motion.

Councilor Johnsen asked if Councilors Filiault, Clark, and Williams want to give final feedback. The City Attorney replied that they cannot, now that a motion is on the floor (and they are not committee members), but they will have their opportunity at the full City Council meeting.

Councilor Workman thanked the City Attorney for his work on the document and all the people from the public who spoke. She continued that this has weighed heavily on her mind for the past six weeks. While she recognizes that there is a lot of concern about individual liberties we have to remember that the committee and the City Council as a whole are tasked with the safety of all 23,000+ Keene residents. While she fully supports rights and freedoms she has always said that it is best to be proactive rather than reactive and they have to protect the most vulnerable people of the community. She hopes that with more education and community outreach the issues people brought up today about non-compliance can be mitigated and they can get more collective buy-in. She reminds the public: "If you see something, say something." Address it with the appropriate authorities, who are the KPD in this matter. City staff are always available during business hours to point people in the right direction. She also wants to clarify that they can always revisit this ordinance if it is passed and make amendments to it. It can be a living, breathing document. If the situation and the data changes, they can change the ordinance. She will be voting "yes."

Councilor Johnsen stated that she again thanks the City Attorney for being so on the money and for being able to clearly answer all the questions about it. It is so well written and she appreciates it.

Councilor Jones stated that he again thanks everyone. He continued that originally he was opposed to the mandate and now that they have made some really good corrections, he is for it. It covers what they wanted to accomplish: it is an opportunity for the businesses to be able to say that it is a City ordinance that people have to wear a mask. The City is being "the bad guy" so individual businesses do not have to. The City Council members have to look out for the health and well-being of the community, because if they do not, who will? He strongly feels that this ordinance should be passed. He wishes they did not have to do an ordinance, but the more they heard people talk, the more informed he became about how uninformed other people are. He looks forward to voting for this ordinance.

Councilor Greenwald thanked the City Attorney for his great work. He praised Chair Bosley for doing a super job listening to the public, managing the discussion, and keeping the train on the tracks. He also thanked the public, and stated that whether they were for or against the ordinance, they were heard. The committee received a lot of feedback. This has probably been the most intense involvement from the public than anything else he can remember, except maybe the topic of cutting down trees at Robin Hood Park years ago. He is

ready to vote.

Chair Bosley stated that they should give the public one more chance to speak. Hearing no further comments, she called for a vote.

On a vote of 5-0, the Planning, Licenses, and Development Committee recommends the adoption of Ordinance O-2020-09-A.



# CITY OF KEENE

Ordinance O-2020-09-A

Twenty

In the Year of Our Lord Two Thousand and .....

## Relating to the Wearing of Face Coverings

AN ORDINANCE .....

*Be it ordained by the City Council of the City of Keene, as follows:*

That the City Code of the City of Keene, New Hampshire, as amended, is hereby further amended by adding a new Article VIII, "Wearing of Face Coverings," to Chapter 66, entitled "PUBLIC CONDUCT" as follows:

Section 66-170. Statement and Intent.

- a) COVID-19 has been determined to be a virulent infectious disease threatening the public health and welfare of the country, and including residents in the City of Keene; and
- b) Infectious diseases such as COVID-19 are caused by germs, such as viruses, bacteria, and parasites; and
- c) Some diseases, including COVID-19, are transmitted from person to person very easily through respiratory droplets produced by sneezing and talking; and
- d) Public Health Officials have determined that it is possible for an infected individual to transmit certain diseases without exhibiting any symptoms; and
- e) The best means of slowing the spread of a virus is through minimizing close personal contact with individuals in a public environment, social distancing, covering the mouth and nose by wearing a **proper** face covering **in a proper manner**, and proper hand washing; and
- f) For optimal protection, the safe use of face coverings also requires the wearer to maintain proper hand hygiene by frequently handwashing with soap and water or hand sanitizer for at least twenty (20) seconds; and
- g) The wearer of the face covering can prevent the spread of disease by not touching the face, nose, or eyes with unwashed hands, not touching the outside of the face covering, and by keeping a distance of at least six (6) feet between from others; and
- h) The City Council for the City of Keene desires to minimize the threat to public health posed by the spread of communicable disease such as COVID-19 within the community.

Section 66-171. RecommendationsRequirements.

- a) Employees of businesses, **while performing their duties**, are ~~encouraged~~ **required** to wear a face ~~covering over~~ **covering completely covering** their mouth and nose **at all times** when interacting with the public, ~~and whenever they are within six (6) feet of a co-worker or a customer~~ **unless a barrier approved by the City Health Official provides sufficient separation.**
- b) Members of the public entering any business **for any purpose**, including any outdoor area where business is conducted, ~~work site, or government building,~~ are encouraged **are required** to wear a face covering, ~~such as a fabric mask, scarf, or bandana over~~ **completely covering** their nose and mouth **while conducting their business;** **provided however, that members of the public shall not be required to wear a face covering while actually seated at a restaurant table.**
- ~~e) Members of the public entering a restaurant for the purpose of picking up food for take-out or any other purpose are encouraged to wear a face covering over their mouth and nose.~~
- c) Residents, visitors, and members of the public entering or present ~~at~~ **within** a ~~commercial building~~ **residential apartment** complex of ~~greater than~~ **containing** ~~two~~ **three or more residential (2)** units are ~~encouraged~~ **required** to wear a face covering over their nose and mouth while in **the interior** common areas, **including but not limited to foyers, stairwells and elevators (“Common Areas”)** **unless social distancing of six (6) feet can be maintained. This requirement shall also apply to any business having such Common Areas, notwithstanding the number of business units within the business complex.**
- d) As used herein, “business” is defined as any place, premises, or location **within a premises (“Premises”), operated either for profit or not for profit, which is generally open to, or accessible to the public, and into which the public is invited for the purpose of conducting any business customarily provided to the public by the business, including but not limited to retail stores, restaurants, banks, fitness centers, personal care facilities, food banks, grocery stores, thrift stores, theaters, City of Keene public facilities, and public conveyances licensed by the City of Keene; provided, however, that “business” shall not include any home occupation or business located ancillary to, or entirely within a private residence.**
- e) As used herein “face covering” means a covering made of cloth, fabric, **paper** or other soft or permeable materials, without holes, **mesh, or exhaust valves**, that covers ~~only~~ the nose, mouth, and surrounding areas of the lower face. A face covering may be factory made or homemade and improvised from ordinary household materials. **The face covering shall be worn in a manner to completely and continuously cover the mouth and the nose of the wearer when required to be worn. Provided, however, that this provision shall not supersede any**

**Personal Protective Requirements that may otherwise apply to employees in any employment context, including, but not limited to health care workers emergency service personnel, public works employees, construction employees, and hazard mitigation employees.**

- f) ~~Notwithstanding the above, e~~Children under ten (10) years of age are not ~~generally encouraged~~**required** to wear a face covering, although parents should make their own judgment on such use. ~~A face covering is not recommended for children two (2) years of age or less.~~
- g) A face covering is also ~~not encouraged~~ **required** for any person **with a medical or developmental condition to whom the wearing of 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.** ~~who has been advised that wearing a face covering may pose a risk to the person for health related reasons.~~
- h) **Businesses shall implement adequate measures to notify their employees and the public of the requirements stated by this Ordinance. Such measures may include, but are not limited to the implementation of internal policies and procedures applicable to employees, and the prominent posting of signage both interior and exterior to any Premises subject to this Ordinance that the wearing of a face covering within the Premises is required. Businesses shall deny entry and/or services to any person who declines to wear a face covering after being requested to do so.**
- i) **Notwithstanding any provision 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, after being requested to do so, shall be limited to the denial of entry to, and/or services provided, by the business; provided, however, that any business that violates the requirements of this Ordinance shall be given a verbal warning for a first offense; a written warning for a second offense; a fine of \$100 for any third offense; and a fine of \$250 for any fourth or subsequent offense.**
- j) **Except as otherwise required herein, this Ordinance shall not be interpreted to supersede, alter, revise or amend any requirement, business operation guidance, or recommendations with respect to the public, applicable to any specific business under any Executive Order or guidance issued by the Governor of the State of New Hampshire, or required by any other federal, state, or local government authority having jurisdiction over the business.**
- k) **This Ordinance shall not preclude any business from having requirements to entry, or for the provision of services, related to the COVID-19 State of Emergency that are more restrictive than as stated herein.**

- l) **This Ordinance shall automatically and immediately terminate, without the necessity of further action by the City Council for the City of Keene, upon the termination of the COVID-19 State of Emergency by the Governor of the State of New Hampshire.**
  
- m) Businesses owners in the City of Keene are **also** encouraged to take the #KeeneSafe business pledge to follow the New Hampshire and federal CDC guidelines to prevent and slow the spread of COVID-19. Information about the Keene Safe Pledge may be obtained at [www.keenesafe.com](http://www.keenesafe.com).



---

George S. Hansel, Mayor

PASSED August 6, 2020

A true copy;

Attest:

City Clerk





City of Keene, N.H.  
*Transmittal Form*

August 6, 2020

**TO:** Mayor and Keene City Council

**FROM:** Beth Fox, ACM/Human Resources Director

**THROUGH:** Elizabeth A. Dragon, City Manager

**ITEM:** K.1.

**SUBJECT:** In Appreciation of Dorothy Farrar Howard Upon Her Retirement

---

**COUNCIL ACTION:**

In City Council August 6, 2020.

Report filed as informational. Voted unanimously for the adoption of Resolution R-2020-30.

**RECOMMENDATION:**

That Resolution R-2020-30 be adopted by the City Council.

**ATTACHMENTS:**

Description

Resolution R-2020-30

**BACKGROUND:**

Ms. Howard retired from the Keene Public Library effective June 29, 2020, with over 40 years of service.



# CITY OF KEENE

In the Year of Our Lord Two Thousand and .....Twenty.....

In Appreciation of Dorothy Farrar Howard Upon Her Retirement

A RESOLUTION .....

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

WHEREAS: Dorothy F. Howard began her Keene Public Library career February 19, 1980, as a part-time Librarian I in the Youth Department; added Reference Librarian duties October 15, 1991, in both the adult and youth areas; and formally added a second part-time position of Library Aide effective January 1, 2007; and

WHEREAS: Dottie enjoyment of working with the public was demonstrated by the rapport she developed with people, her concern that each library user receive excellent customer service, her meeting every request in a cheerful and respectful manner, her ethical maintenance of patron confidentiality, her pride in her work, and her firm and calm response to any stressful situation—making her extremely helpful to, and well-liked by, patrons and coworkers of all ages; and

WHEREAS: Using her extensive knowledge of the various in-house and online collections, her excellent listening and interviewing skills, and her invaluable knowledge of local and regional history and authors, she adeptly determined each patron’s exact need and made the best possible choices of reference materials for youth, adults, and businesses; and, for patrons looking for suggestions as to what to read, Dottie provided reader’s advisory services; and

WHEREAS: Keeping well informed of changes in the library field, she regularly reviewed and made available new reference materials; offered appropriate ideas and feedback regarding group efforts to improve overall library services and patron safety; contributed valuable insights to development of the library’s long-range plan and the City’s values program; recommended new books and materials by local authors or that might have particular local appeal; and was a professional who always strove to improve her skills; and

WHEREAS: Believing that something new should be learned daily, Dottie contributed by offering to help before being asked; accepting and adapting to change, assisting to develop workshops to teach adults how to use computers; helping to set long- and short-term Youth Services team goals; learning to process interlibrary loan requests; aiding with summer reading program plans; and working toward her Library Graduate degree; and

WHEREAS: Always “on call” for patron requests, she managed her time well between upstairs and downstairs desks—still taking on with enthusiasm, and managing within deadline, special projects such as building an often-sought local obituary database; using her artistic talents to help with displays; participating on the search committee for Head of Youth & Community Services in 2001, and Citizens’ Appreciation Nights; and

WHEREAS: Dottie retired from the City of Keene June 29, 2020, with almost 40½ years of honorable service;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Keene hereby extends its sincere thanks to Dorothy Farrar Howard for her dedicated service and wishes her the very best through all her retirement years; and

BE IT FURTHER RESOLVED that a copy of this Resolution, properly engrossed, be presented to Dottie in appreciation for her many years of service to the residents of Keene and the Monadnock Region.

PASSED August 7, 2020

George S. Hansel, Mayor



City of Keene, N.H.  
*Transmittal Form*

August 6, 2020

**TO:** Mayor and Keene City Council

**FROM:** Beth Fox, ACM/Human Resources Director

**THROUGH:** Elizabeth A. Dragon, City Manager

**ITEM:** K.2.

**SUBJECT:** In Appreciation of Christopher Thomas Milton For His Service

---

**COUNCIL ACTION:**

In City Council August 6, 2020.

Report filed as informational. Voted unanimously for the adoption of Resolution R-2020-31.

**RECOMMENDATION:**

That Resolution R-2020-31 be adopted by the City Council.

**ATTACHMENTS:**

Description

Resolution R-2020-31

**BACKGROUND:**

Mr. Milton gave over 20 years of service before his passing.



# CITY OF KEENE

In the Year of Our Lord Two Thousand and ..... Twenty .....

A RESOLUTION ..... In Appreciation of Christopher Thomas Milton For His Service .....

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

WHEREAS: Christopher T. Milton swore to Chief Thomas F. Powers on 19 June 2000 to *faithfully and impartially discharge and perform his duties, uphold the regulations and standards of the Keene Police Department and to, without fail, respect and abide by the Constitutions of the State of New Hampshire and the United States of America as a Police Dispatcher and, further, within the limits of his position, pledged to enforce the laws of the State and the City of Keene, as well as uphold the standards of conduct of the department and the city;* and

WHEREAS: His stable temperament and performance under stressful conditions produced praise such as *Impressed by his situational awareness during these types of circumstances; helped keep a very chaotic situation very organized; performance was far beyond expected in a fatal fuel tanker accident where he assisted with the accident, coordinated numerous outside agencies, and handled routine day-to-day dispatch functions simultaneously, earning him recognition by people outside the agency, as well;* and he was noted as having *outstanding performance* when a burglary transformed into a motor vehicle pursuit, followed by another incident that *culminated in the apprehension of a group of individuals part of a very sophisticated multistate burglary ring* in April 2012; and

WHEREAS: Known as Milty to his coworkers, he was able to demonstrate his ability to handle the wide range of situations that confront Police Dispatchers using his technical knowledge, administrative proficiency, and wisdom about the area, people, and happenings in the community to perform at a high level—creating informative yet brief log entries, making timely and detailed observations of prisoners in our care; responding quickly and positively to accomplish any challenge, and thinking ahead of each situation to start additional services needed by responding units; thoroughly briefing his relief; and, because he spent time updating himself on happenings prior to his shift, was *right on the ball* to convince a suspect who called to come into the station, where he was arrested; and

WHEREAS: Well-liked and respected by other members of the agency, he was known for his easygoing personality, quick wit, and smile; and coworkers counted on him to brighten their days; yet he was attentive to the public's needs and projected a positive image for KPD, with supervisors and coworkers saying, *I have found Milty extremely helpful and willing to go out of his way when working with him. He is almost always on top of what is happening—not just in Keene but the surrounding towns. He is prompt when called on the radio and brings to my attention things that need to be addressed. I enjoy working with Milty and feel he is a great asset to our dispatch team. He treats the public and officers well and stays on top of the game. He prioritizes calls and, when it comes time to get down to business, does so in a professional and efficient manner;* and

WHEREAS: Milty took pride in his duties—particularly in keeping the officers on the street safe—was instrumental in training many of his coworkers, and made *significant contribution to the overall mission of the Keene Police Department;* and

WHEREAS: Chris passed away 6 July 2020, still in active service, with more than 20 years of honorable service to the City of Keene;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Keene hereby extends its sincere thanks to Christopher Thomas Milton for his dedicated service; and

BE IT FURTHER RESOLVED that a copy of this Resolution, properly engrossed, be presented to Chris's family in appreciation for his many years of service to the residents of Keene and the Monadnock Region.

PASSED August 7, 2020

---

George S. Hansel, Mayor



City of Keene, N.H.  
*Transmittal Form*

August 4, 2020

**TO:** Mayor and Keene City Council

**FROM:** Merri Howe, Finance Director

**THROUGH:** Elizabeth A. Dragon, City Manager

**ITEM:** K.3.

**SUBJECT:** Relating to Funding for the Flowbird Pay Station Color Touch Screens

---

**COUNCIL ACTION:**

In City Council August 6, 2020.

Referred to the Finance, Organization and Personnel Committee.

**RECOMMENDATION:**

That Resolution R-2020-29 relating to an appropriation for the Flowbird Pay Station Color Touch Screens have a first reading in front of the City Council and that it be referred to the Finance, Organization and Personnel Committee.

**ATTACHMENTS:**

Description

Resolution R-2020-29

**BACKGROUND:**

As we have become more directly active with parking operations and as we have been able to discuss operations and equipment with our peers in New England it is clear that some changes and upgrades make sense. One such upgrade is to change out the cabinet front to a color touch screen, which looks and operates like a tablet or mobile phone. Use and research has shown this is a much more visible screen and simple in action. It should resolve much of the concerns and complaints that people have expressed with the pay stations. The upgrade includes a 4G modem (the 3G modems now in the equipment are being de-supported by AT and T), a new Outer Top Door (Stainless Steel), Weather Proof Software Controlled Buttons, a Thermal Graphic Printer, Coin System including Escrow Card Reader, Main Board - Windows OS, and of course the touch display. The CWT features a 9" Color Touch Screen. The color touch screen moves all controls on to the display allowing for very flexible interfaces maximizing the potential of the pay station to do things beyond parking (such as maps, points of interest, advertising).

Last year when we sold Cypress Street lot to the Monadnock Food Co-op the parking fund received \$49,384.00 which rolled up into the parking fund balance and at that time was not earmarked. When we have completed the upgrade, we would still have \$15,339 left in the parking fund balance from this sale that could be used for other parking operations purposes. Resolution R-2020-29 authorizes an appropriation for this project from the Parking Fund unassigned fund balance.





# CITY OF KEENE

R-2020-29

In the Year of Our Lord Two Thousand and .....Twenty.....

A RESOLUTION ..... Relating to an appropriation for the Flowbird Pay Station Color Touch  
Screens .....

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

That the sum of thirty-four thousand forty-five dollars (\$34,045.00) is hereby appropriated in the 2020-2021 fiscal year for the purpose of providing funding for the Flowbird Pay Station Color Touch Screens. Said appropriation to be funded by the Parking Fund unassigned fund balance.

\_\_\_\_\_  
George S. Hansel, Mayor



City of Keene, N.H.  
*Transmittal Form*

August 4, 2020

**TO:** Mayor and City Council  
**FROM:** Merri Howe, Finance Director  
**THROUGH:** Elizabeth A. Dragon, City Manager  
**ITEM:** K.4.  
**SUBJECT:** Relating to the Refunding of Bonds

---

**COUNCIL ACTION:**

In City Council August 6, 2020.  
Referred to the Finance, Organization and Personnel Committee.

**RECOMMENDATION:**

That Resolution R-2020-33 relating to the issuance of up to three-million three-hundred thousand dollars (\$3,300,000) in refunding bonds have a first reading in front of the City Council and that it be referred to the Finance, Organization and Personnel Committee.

**ATTACHMENTS:**

Description

Resolution R-2020-33

**BACKGROUND:**

The City's financial advisors, PFM Financial Advisors LLC, identified a possible opportunity to reduce debt service costs while preparing for the upcoming bond sale through refunding (refinancing) of a series of bonds dated October 15, 2010 and May 1, 2013. Savings would be gained through refinancing due to the availability of lower interest rates in the current market. These bonds, with a current average interest rate of 3.079% were originally issued by the City for the development and construction of the central fire station, Robin Hood Dam, and the Cheshire County Courthouse (balance of bonds not recalled in May 2020). The City's financial advisors recommend the City position itself to advance this refunding through the authorization of Resolution R-2020-33.

By using current market rates to refund these bonds, the City will reduce the remaining term of the courthouse bond by three years and our financial advisors estimate an opportunity for debt service savings of more than \$160,000 or a net present value savings of approximately 5%, exceeding the GFOA (Government Finance Officers Association) recommended new present value savings of at least 3%.





# CITY OF KEENE

R-2020-33

In the Year of Our Lord Two Thousand and Twenty

A RESOLUTION Authorizing the Issuance of up to Three Million Three Hundred Thousand dollars  
~~(\$3,300,000) in Refunding Bonds~~

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

WHEREAS, the City of Keene, New Hampshire (the "City") issued its \$9,295,000 General Obligation Bond, dated October 15, 2010 (the "2010 Bonds"), which 2010 Bonds that mature on October 15 of the years 2021 through 2030, inclusive, in the aggregate principal amount of \$2,800,000 are eligible to be refunded at par on any interest payment date on or after October 15, 2020 (the "2010 Refunded Bonds"); and

WHEREAS, the City issued its \$1,629,000 General Obligation Courthouse Bonds of 2013, Series B, dated May 2, 2013, (the "2013 Bonds"), which 2013 Bonds that mature on May 1 of the years 2027 and 2033, in the aggregate principal amount of \$320,000 are eligible to be refunded at par on any interest payment date on or after May 1, 2020 (the "2013 Refunded Bonds" and together with the 2010 Refunded Bonds, the "Refunded Bonds"); and

WHEREAS, it appears likely that bonds issued today would have a net interest cost less than the net interest cost on the Refunded Bonds; and

WHEREAS, the City may be able to realize debt service savings by issuing certain refunding bonds (the "Refunding Bonds"), the proceeds of which would be utilized to current refund or advance refund the Refunded Bonds and to pay certain other costs relating thereto;

*Now, Therefore, Be It Resolved by the City Council of the City of Keene, as follows:*

- 1) That the City, acting by and through its City Council, hereby authorizes the issuance of up to Three Million Three Hundred Thousand dollars (\$3,300,000) in Refunding Bonds pursuant to the provisions of RSA 33:3-d, the proceeds of which shall be utilized to current refund or advance refund the Refunded Bonds, to pay the redemption premium, if any, applicable thereto, any principal and interest coming due on the Refunded Bonds prior to any redemption date, and to pay the costs of issuance of the Refunding Bonds, including any costs of credit enhancement; and
- 2) That the City Treasurer, with the approval of the City Manager, is hereby authorized to issue the aforesaid Refunding Bonds by entering into a Bond Purchase Contract with such bond purchaser or underwriter as they may deem

appropriate in connection with the issuance of the Refunding Bonds to evidence the City's approval of the terms and conditions of the Refunding Bonds; and

- 3) That an Escrow Contract and such other documents as shall be required in connection with the issuance of the Refunding Bonds shall be signed on behalf of the City by the aforementioned individuals, or such other individuals as may be required by state law or as may be specified by bond counsel; and
- 4) That the City is authorized to enter into such other documents, to engage such other professionals (including a Financial Advisor, Escrow Agent, Verification Agent and Paying Agent), and to do such other things as are necessary to consummate the aforesaid refunding; and
- 5) That all actions heretofore taken by the City consistent with the foregoing are hereby confirmed, ratified and approved.

---

George S. Hansel, Mayor