



Due to the COVID-2019 State of Emergency, the City Council will be holding its meetings remotely using the web-based program, Zoom. City Councilors will be participating in this meeting remotely. Members of the public will be able to access this public meeting through a variety of options, described below. If you encounter any issues accessing this meeting, please call 603-757-0622 during the meeting.

To view the City Council meeting, please navigate to www.zoom.us and enter the Meeting ID# 878 5899 4233. To listen via telephone call 877-853-5257 and enter the Meeting ID # 878 5899 4233.

City of Keene

New Hampshire

KEENE CITY COUNCIL
Council Chambers, Keene City Hall
March 4, 2021
7:00 PM

Roll Call
Pledge of Allegiance

MINUTES FROM PRECEDING MEETING

- February 18, 2021

A. HEARINGS / PRESENTATIONS / PROCLAMATIONS

B. ELECTIONS / NOMINATIONS / APPOINTMENTS / CONFIRMATIONS

1. Confirmation
Energy & Climate Committee

C. COMMUNICATIONS

1. Representative Joe Schapiro - Urging the City of Keene to Take a Position on HB 266
2. Granite Roots Brewing - Requesting Permission to Sell Alcohol at the Farmers' Market of Keene
3. Councilor Ormerod - Regarding In-Person Committee Meetings
4. Councilor Filiault - Requesting Minutes be Kept of Meetings Between the Mayor, the Charter Officers and the Committee Chairs

D. REPORTS - COUNCIL COMMITTEES

1. Presentation – Annual ESCO Cost Avoidance Report Year 8 – 2020
2. Introducing a New Citizen Reporting System - City Engineer
3. NH Resolution for Fair Nonpartisan Redistricting
4. Downtown Re-Opening Committee and Keene Young Professionals Network - Keene Food Festival – Request to Use City Property
5. Presentation – Commission to Study the Environmental and Health Effects of Evolving 5G Technology
6. Acceptance of Donation - Bee City Application
7. Keene Young Professional Network Summer Food Festival Funding Request
8. Sale of Tax Deeded Property- 62 Elm Street

E. CITY MANAGER COMMENTS

F. REPORTS - CITY OFFICERS AND DEPARTMENTS

G. REPORTS - BOARDS AND COMMISSIONS

H. REPORTS - MORE TIME

1. Kevin Leary – Request for Property Access – Old Gilsum Road and Use of Old Gilsum Road
- Public Works Director/Emergency Management Director
2. Continued Discussion - Evaluation Process for Charter Employees

I. ORDINANCES FOR FIRST READING

1. Relating to Chapter 18 Building Regulations
Ordinance O-2021-01

J. ORDINANCES FOR SECOND READING

K. RESOLUTIONS

Non Public Session
Adjournment

A regular meeting of the Keene City Council was held on Thursday, February 18, 2021. The Honorable Mayor George S. Hansel called the meeting to order at 7:00 PM. Mayor Hansel read into the record the Emergency Order #12, issued by the Governor of the State of New Hampshire pursuant to Executive Order #2020-04. He continued that the members of the City Council would be participating remotely. The Mayor asked that during the roll call for attendance, each Councilor identify their online presence and whether there are others with them in the room. Roll called: Michael J. Remy, Janis O. Manwaring, Michael Giacomo, Randy L. Filiault, Robert C. Williams, Philip M. Jones, Gladys Johnsen, Raleigh C. Ormerod, Bettina A. Chadbourne, Catherine I. Workman, Mitchell H. Greenwald, Kate M. Bosley, and Thomas F. Powers. Stephen L. Hooper arrived at 7:33 PM. Ward Three Council seat vacant. A motion by Councilor Powers to accept the minutes from the February 4, 2021 regular meeting was duly seconded by Councilor Bosley and the motion passed on a roll call vote with 13 Councilors present and voting in favor. The Mayor led the Pledge of Allegiance.

ANNOUNCEMENTS

Mayor Hansel announced that the filing period for the Ward Three City Councilor Vacancy would start at 8:00 AM on Wednesday, February 24, 2021 and extend until 4:30 PM on Tuesday, March 9, 2021. The new Ward Three Councilor would be elected by the City Council during the March 18, 2021 regular meeting, at which time each candidate would have their video and audio turned on and be provided five minutes to address the Council relative to their candidacy. As provided for in Section 37 of the Rules of Order, City Councilors would not be permitted to ask questions of the candidates. There would be an initial “primary” vote of the City Council to narrow the field to two candidates. Voting would occur by roll call, with each City Councilor stating the name of his or her choice. In the event that a City Councilor does not wish to vote for one of the candidates, the Councilor should vote "no." The two candidates receiving the highest number of votes following this primary vote would be declared the finalists from the primary election. A second vote would then be taken between the two finalists and the candidate receiving the majority of votes from the *elected* City Council – totaling a minimum of eight votes in favor – would be declared the winner. In the event that no candidate for the vacancy receives a “majority vote” of the elected City Council, Mayor Hansel would establish an additional 14-day period for candidates to file. The candidate who is elected ultimately would be sworn in via Zoom and commence their duties immediately as a panelist of the City Council meeting.

CONFIRMATION

The Mayor nominated to the Energy & Climate Committee, Denise Thomas to serve as a regular member with a term to expire December 31, 2023. A motion by Councilor Powers to confirm the nomination was duly seconded by Councilor Bosley and the motion passed unanimously on a roll call vote with 12 Councilors present and voting in favor. Councilor Jones was not present for this vote.

NOMINATION

The Mayor submitted the following nomination for consideration. To the Energy & Climate Committee, Councilor Raleigh Ormerod, with a term to expire December 31, 2021. Mayor Hansel tabled the nomination until the next regular meeting.

COMMUNICATION – TERRI O'RORKE – NH RESOLUTION FOR FAIR NONPARTISAN REDISTRICTING

A communication was received from Ms. Terri O'Rorke recommending that the City adopt the NH Resolution for Fair Nonpartisan Redistricting. Mayor Hansel referred this communication to the Planning, Licenses and Development Committee.

COMMUNICATION – KEVIN LEARY – REQUEST FOR PROPERTY ACCESS

A communication was received from Mr. Kevin Leary requesting access to the City's right-of-way along Old Gilsum Road. Mayor Hansel referred this communication to the Municipal Services, Facilities and Infrastructure Committee.

MSFI REPORT – ROXBURY STREET FLOOD IMPROVEMENT PROJECT – PROJECT UPDATE

Municipal Services, Facilities and Infrastructure Committee report read recommending to accept the Roxbury Street Flood Improvement Project update as informational. Mayor Hansel filed the report.

PLD REPORT – WESTON LIU – NEW ENGLAND AEROBATIC CLUB – REQUEST TO USE CITY PROPERTY

Planning, Licenses, and Development Committee report read recommending that the City Council authorize the use of the Dillant-Hopkins Airport by Chapter 35 of the International Aerobic Club from the date of issuance through December 31, 2021, subject to the execution of a Revocable License and Indemnification Agreement, the receipt of an insurance certificate in the amount of at least \$1 million naming the City as an additional insured and all other requirements of City staff including but not limited to the following restrictions: compliance with any requirements of the FAA, limit practice sessions to not more than 5 for the year, there will be no Sunday practice sessions, aerobic activity shall not occur below 1,500 MSL, limit aerobic activity to the southern portion of the aerobic box established by the FAA, restrict use of the aerobics box until after 10:00 AM, and invite neighbors to the mandatory safety briefings held on practice days. A motion by Councilor Bosley to carry out the intent of the report was duly seconded by Councilor Greenwald. The motion passed unanimously on a roll call vote with 13 Councilors present and voting in favor.

PLD REPORT – COUNCILOR JOHNSEN – REQUEST OF GOVERNOR SUNUNU THAT TEACHERS BE MOVED UP IN PHASE 1B FOR COVID-19 VACCINE

Planning, Licenses, and Development Committee report read recommending that the Mayor send a letter to the Governor, our State Senator and State Representatives requesting that teachers be moved up to phase 1B for Covid-19 vaccinations. A motion by Councilor Bosley to carry out the intent of the report was duly seconded by Councilor Greenwald. Discussion followed with

Councilor Johnsen and several other Councilors speaking in support of the motion. The motion passed unanimously on a roll call vote with 13 Councilors present and voting in favor.

PLD REPORT – HB 315 – RELATIVE TO THE AGGREGATION OF ELECTRIC CUSTOMERS – ENERGY AND CLIMATE COMMITTEE

Planning, Licenses and Development Committee report read recommending that the City Council take a formal position in opposition to House Bill 315 and communicate such to the Governor, our State Senator and the State Representatives. A motion by Councilor Bosley to carry out the intent of the report was duly seconded by Councilor Greenwald.

Councilor Giacomo commented as the City Council representative to the Ad Hoc Community Power Committee, stating how much work the Committee, Staff, and hired consultants dedicated to developing the Keene Community Power Plan. He urged the Council to support the motion on the floor, noting that HB 315, "would effectively kneecap" the efforts put forward to-date and make it virtually unfeasible to progress the Community Power Plan as it exists currently. While Councilor Giacomo thought the public comment period had passed for HB 315, he thought this letter would be a great formal gesture by the City. Mayor Hansel stated that a letter would still be useful as this moves forward to the Senate. The City Manager noted that the public hearing for HB 315 was continued and she had not yet been able to testify. She said it would be helpful to have this letter for reference when she has her opportunity to comment, which would likely be on February 22. There was still time for public comment through the State's website and Councilor Giacomo encouraged his fellow Councilors and constituents to take the opportunity to submit their comments for the public record.

The motion passed unanimously on a roll call vote with 13 Councilors present and voting in favor.

FOP REPORTS – ACCEPTANCE OF DONATIONS – PARKS, RECREATION & FACILITIES

Finance, Organization and Personnel Committee report read recommending that the that the City Manager be authorized to do all things necessary to accept a donation of \$687.98 from the Friends of Open Space in Keene for the care and maintenance of the Church Street pocket park.

A second Finance, Organization and Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to accept a donation of \$10,000 for the construction of a pergola in the Ashuelot River Park from the Keene High School Interact Club and the Monadnock Regional High School Interact Club, and to award a contract to Bensonwood for the design and materials. A motion by Councilor Powers to carry out the intent of both reports was duly seconded by Councilor Remy.

Councilor Hooper joined the meeting at 7:33 PM.

The motion passed unanimously on a roll call vote with 14 Councilors present and voting in favor.

FOP REPORT – ROXBURY STREET SEWER REPLACEMENT – FUNDING REQUEST – CITY ENGINEER

Finance, Organization and Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to reallocate \$215,000 of unspent project balance from the Sewer Improvements Project (08055) to the Roxbury Street Flood Improvement Project for the replacement of sewer mains on Roxbury Street between Central Square and Beaver Brook. A motion by Councilor Powers to carry out the intent of the report was duly seconded by Councilor Hooper. The motion passed unanimously on a roll call vote with 14 Councilors present and voting in favor.

FOP REPORT – CONTINUED DISCUSSION – EVALUATION PROCESS FOR CHARTER EMPLOYEES

Finance, Organization and Personnel Committee report read recommending to continue moving forward with the evaluation process for charter employees. A motion by Councilor Powers to carry out the intent of the report was duly seconded by Councilor Hooper. The motion passed unanimously on a roll call vote with 14 Councilors present and voting in favor.

CITY MANAGER'S COMMENTS

The City Manager began with Covid-19 updates. At the February 17 weekly meeting, she heard good news from the hospital that the statewide positivity percentage was dropping and had been in the 2% range. Local percent positives dropped from 6% early last week to 4.1% at the end of last week. Covid-19 related hospitalizations also continued to drop. Keene's waste water testing results indicated that levels of Covid-19 in the waste water system had drop to pre-Thanksgiving levels. Keene was still awaiting anxiously the addition of more vaccines from other vendors like Johnson & Johnson.

Keene State College (KSC) had a successful move-in and initial process to screen students. Out of 3,486 samples there were 21 positives, or a 0.6% positivity rate, which was much lower than what Plymouth State University and University of NH were seeing. KSC reported that the uptick had been with off-campus students. KSC would move to testing students twice per week beginning February 22.

The City Manager concluded on Covid-19 stating that the SAU reported their target goal of mid-March to bring kindergarten and first grade back to four days weekly in-person. The Superintendent reported that this group of students had struggled most with remote learning.

The City Manager reported on an upcoming City Council workshop, likely during the third or fourth week of March, which Police Chief Steve Russo was working to schedule with our accreditation agency, the Commission on Accreditation for Law Enforcement (CALEA). Paul McMillan, CALEA's Northeast Regional Program Manager, would discuss how CALEA accreditation relates to standards and compliance on implicit bias, ethics, de-escalation, and hiring practices. In addition to policy and procedures, CALEA also reviews Police Department activity to determine compliance. Mr. McMillan would review the type of data that is collected to prove, assess, and finally determine Keene's compliance with the nationally accepted

standards. This would be a great opportunity for the Council and public to understand and ask questions about the level of scrutiny involved in this voluntary accreditation process. The Governor's Commission on Law Enforcement (LEACT) recommended voluntary CALEA accreditation. Keene is one of the few departments in NH that is accredited. Chief Russo also hoped to include someone from LEACT to discuss the Commission's recommendations on accreditation and why it is important. Specifically, LEACT's 15th recommendation was that, "All NH law enforcement agencies should be encouraged to pursue CALEA accreditation. In the absence of CALEA accreditation, agencies should continually review and maintain policies consistent with nationally accepted best practices," and the 31st recommendation was that, "NH Police Standards Training Council should maintain and publish a list of all currently CALEA accredited law enforcement agencies." The City Manager concluded requesting two things from the City Council: please inform her if there is something specific that you would like covered beyond this and please help share the meeting date/time once set. The City Manager would love to see great attendance from the public because she feels this is valuable and timely information.

Next, the City Manager discussed the Flight Deck restaurant at the Keene Dillant Hopkins Airport. The City lease for the Flight Deck was expiring and they had decided to not renew. Even before Covid-19, the restaurant was unfortunately only open 20 hours weekly, and those hours were adjusted several times making it difficult for visitors flying-in or driving by to know what to expect. Given Covid-19, the Flight Deck was offered a six-month extension of the current lease terms to allow the owner to see how the business might start to rebound post-Covid-19 before negotiating a longer lease with the City. Staff had reached out once more the morning of this meeting to ensure that was something they were still not interested in. While a follow-up phone call was scheduled for February 23 with the owner, Tracy Keating-Gunn, she had stated that she would not change her mind about ending the lease. The next step for the City would be a request for proposals (RFP). At least one other current restaurant owner had expressed interest if a RFP were issued, so the City Manager was hopeful to have another restaurant in the space soon. The RFP would go out in the few weeks and Staff had encouraged the Flight Deck to submit new proposed terms if they change their mind.

Before concluding, the City Manager wanted to recognize Ms. Keating-Gunn and the Flight Deck for their part in bringing life and vitality back to the space and the Airport. The City Manager understood that the space had been vacant for some time before Ms. Keating-Gunn took this lease. Ms. Keating-Gunn is a successful, ambitious business owner who exudes an entrepreneurial spirit. Over the last few years, the City Manager had seen her expand her business ventures both here in Keene and beyond, and the City Manager expressed appreciation for Ms. Keating-Gunn's work, which the City Manager planned to share during their upcoming call.

Mayor Hansel referred to the Police Department and CALEA and stated his hope that the whole City Council would recognize the importance of this workshop. He said this community conversation would ideally build upon and focus what began at the initial broader public hearing. He urged Councilors to think about how the issue could be refined further, to work hard

02/18/2021

disseminating this information to constituents if possible, and to urge participation; the Mayor said this is the City Council's responsibility given that it is a top constituent concern.

MORE TIME – BODY WORN CAMERAS – POLICE CHIEF

Finance, Organization and Personnel Committee report read recommending that any decision on the Body Worn Camera program be delayed until current legislation is voted upon and proposed State or Federal funding sources are identified. Mayor Hansel granted more time.

RELATING TO "BEE CITY USA" – RESOLUTION R-2021-06

Municipal Services, Facilities and Infrastructure Committee report read recommending the adoption of Resolution R-2021-06. Mayor Hansel filed the report. A motion by Councilor Manwaring to adopt Resolution R-2021-06 was duly seconded by Councilor Giacomo. Discussion followed. Councilor Remy inquired about the process for acceptance of a donation offered by Mr. Therriault to pay the \$200 application fee noted in the Resolution. Mayor Hansel stated that the fee could be paid from the Conservation Commission budget and when the actual donation is provided, it would be accepted using our typical process. In response to Councilor Chadbourne, the City Attorney offered that rather than sending the donation through a separate process, it could be added to the Resolution language at this point. The Mayor indicated his preference not to link the offered donation to the Resolution language annually and suggested instead to let this be a Conservation Commission matter and Mr. Therriault could choose to donate to their budget.

The motion passed unanimously on a roll call vote with 14 Councilors present and voting in favor.

ADJOURNMENT

Hearing no further business, Mayor Hansel adjourned the meeting at 8:01 PM.

A true record, attest:


City Clerk



City of Keene, N.H.
Transmittal Form

February 17, 2021

TO: Mayor and Keene City Council

FROM: Mayor George S. Hansel

ITEM: B.1.

SUBJECT: Confirmation

COUNCIL ACTION:

In City Council February 18, 2021.

Tabled to the next regular meeting.

RECOMMENDATION:

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

Energy & Climate Committee

Councilor Raleigh Ormerod, slot 4
4 Monadnock Court

Term to expire Dec. 31, 2021



City of Keene, N.H.
Transmittal Form

February 16, 2021

TO: Mayor and Keene City Council

FROM: Representative Joe Schapiro

THROUGH: Patricia A. Little, City Clerk

ITEM: C.1.

SUBJECT: Representative Joe Schapiro - Urging the City of Keene to Take a Position on HB 266

ATTACHMENTS:

Description

Communication - Schapiro

HB266

BACKGROUND:

Representative Joe Schapiro is urging the City of Keene to take a position on HB 266, relative to enforcement of immigration laws and prohibition of sanctuary policies. He is also requesting to have a relevant staff member testify or otherwise communicate that position.

February 10, 2021

Mayor George Hansel
Keene City Council
3 Washington Street
Keene, NH 03431

RECEIVED
CITY OF KEENE

FEB 16 2021

OFFICE OF
CITY CLERK

Mayor Hansel and Keene Councilors,

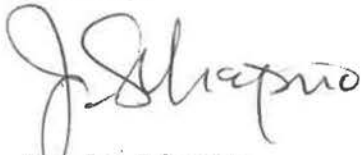
I am writing to bring your attention to HB 266, relative to enforcement of immigration laws and prohibition of sanctuary policies. This bill requires municipalities and local law enforcement to cooperate in the most zealous fashion with federal immigration enforcement entities. It also proposes investigation by the Attorney General when a lack of compliance is alleged and penalties in the form of withholding state funds.

This bill is problematic for many reasons. It interferes with local control. It has financial implications, as Keene police would be obligated to do work currently beyond their prevue. In addition, it would likely create conflicts regarding the constitutional protections that the KPD ordinarily adheres to.

HB 266 will first be heard in the House Municipal and County Government Committee. As of this writing it has not been scheduled, but it will be in the very near future. I urge the City to take a position on this bill and to have a relevant staff member testify or otherwise communicate that position. Not only does this bill have financial and legal implications for municipalities; it has moral implications as well. It is based upon false assumptions and seeks to further demonize immigrants.

Please let me know if I can be of further assistance.

Sincerely,



Rep. Joe Schapiro
Cheshire 16, Keene
Health, Human Services and Elderly Affairs
603-852-5039

HB 266-FN-LOCAL - AS INTRODUCED

2021 SESSION

21-0196
06/05

HOUSE BILL

266-FN-LOCAL

AN ACT relative to enforcement of immigration laws and the prohibition of sanctuary policies.

SPONSORS: Rep. Potucek, Rock. 6; Rep. Binford, Graf. 15; Rep. L. Turcotte, Straf. 4; Rep. Gorski, Hills. 7; Rep. Dolan, Rock. 5; Rep. Layon, Rock. 6; Rep. Hough, Belk. 3; Rep. DeLemus, Straf. 24; Rep. Abramson, Rock. 37; Sen. Gannon, Dist 23

COMMITTEE: Municipal and County Government

ANALYSIS

This bill establishes the New Hampshire anti-sanctuary act, which requires state and local government entities to comply with federal immigration detainer requests. The bill also prohibits state and local government entities from adopting policies that prohibit, restrict, or discourage the enforcement of federal immigration law.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 266-FN-LOCAL - AS INTRODUCED

- Page 2 -

1 VI. "Policy" includes but is not limited to a formal, written rule, directive, policy, procedure,
2 regulation, motion, order, ordinance, resolution, or amendment and an informal, unwritten policy,
3 practice, or custom.

4 VII. "State government entity" means any public agency, bureau, commission, council,
5 department, or other office, body, or entity established under the laws of the state, including law
6 enforcement agencies. The term includes officials, officers, representatives, agents, and employees.
7 state police, the department of corrections, the division of motor vehicles, the fish and game
8 commission, the liquor commission, and campus police. The term includes officials, officers,
9 representatives, agents, and employees.

10 103-A:3 Immigration Detainer Requests; Sanctuary Policies Prohibited.

11 I. A state or local government entity that has custody of an individual who is subject to an
12 immigration detainer request shall:

13 (a) Fully comply with, honor, and fulfill any instruction or request made in the detainer
14 request and in any other legal document provided by a federal agency; and

15 (b) Inform the individual that the individual is being held pursuant to an immigration
16 detainer request issued by the Department of Homeland Security.

17 II. A state or local government entity shall not adopt or enforce a policy or take any other
18 action in violation of 8 U.S.C. section 1373. Nor shall a state or local government entity adopt or
19 enforce a policy or take any other action to prohibit, limit, or in any way restrict or discourage, a
20 state or local government entity from doing any of the following with respect to information
21 regarding the immigration status, lawful or unlawful, of any individual:

22 (a) Sending such information to, or requesting or receiving such information from, the
23 Department of Homeland Security or any other federal agency;

24 (b) Maintaining such information;

25 (c) Exchanging such information with any other federal, state, or local government
26 entity;

27 (d) Inquiring about the immigration status of any individual;

28 (e) Determining eligibility for any public benefit, service, or license provided by federal
29 law or a law of this state or its political subdivisions;

30 (f) Verifying a claim of residence or domicile if a determination of residence or domicile
31 is required under federal law or a law of this state or its political subdivisions or under a judicial
32 order issued pursuant to a civil or criminal proceeding in this state; or

33 (g) Confirming the identity of an individual who is detained by a law enforcement
34 agency.

35 III. A state or local government entity shall not adopt or enforce a policy or take any other
36 action to prohibit, limit, or in any way restrict or discourage the enforcement of federal immigration
37 law, including, but not limited to:

HB 266-FN-LOCAL - AS INTRODUCED

- Page 3 -

1 (a) Prohibiting, limiting, restricting, or discouraging a state or local government entity
2 from honoring, cooperating with, or complying with immigration detainer requests;

3 (b) Requiring the Department of Homeland Security, or other federal agency, to obtain
4 or provide a judicial warrant or other court order, or to demonstrate probable cause, before a state or
5 local government entity will honor, cooperate with, or comply with an immigration detainer request;

6 (c) Prohibiting, limiting, restricting, or discouraging a state or local government entity
7 from providing a federal immigration official access to an inmate for an interview;

8 (d) Prohibiting, limiting, restricting, or discouraging a state or local government entity
9 from assisting or cooperating with a federal immigration officer as reasonable or necessary,
10 including providing enforcement assistance;

11 (e) Prohibiting, limiting, restricting, or discouraging a state or local government entity
12 from permitting a federal immigration officer to enter and conduct enforcement activities at a jail or
13 other detention facility to enforce a federal immigration law;

14 (f) Prohibiting, limiting, restricting, or discouraging a state or local government entity
15 from initiating or conducting an immigration status investigation;

16 (g) Prohibiting, limiting, restricting, or discouraging a state or local government entity
17 from providing a federal immigration official with the incarceration status or release date of an
18 inmate in custody of a state or local government entity; or

19 (h) Prohibiting, limiting, restricting, or discouraging a state or local government entity
20 from negotiating, entering into, or modifying a memorandum of agreement between a state or local
21 government entity and the Department of Homeland Security, or any other federal agency or official,
22 as provided in 8 U.S.C. section 1357(g), or any similar agreement, concerning the enforcement of
23 federal immigration laws.

24 103-A:4 Complaint Process; Penalties.

25 I. The attorney general shall receive complaints regarding alleged violations of RSA 103-A:3.
26 Any person, including a federal agency, may file such a complaint. The person shall include with the
27 complaint any evidence the person has in support of the complaint. Such complaints shall be
28 submitted in writing in such form and manner as prescribed by the attorney general. In lieu of
29 submitting a complaint, any member of the legislature may request, at any time, that the attorney
30 general investigate whether a state or local government entity has violated RSA 103-A:3.

31 II. Upon receiving a complaint or request, the attorney general shall investigate and
32 determine whether a violation of RSA 103-A:3 has occurred. The attorney general shall issue an
33 opinion stating whether the state or local government entity, which is the subject of the complaint or
34 request, has intentionally enacted or adopted a policy that is in violation of this chapter. If a state or
35 local government entity has intentionally adopted a policy in violation of RSA 103-A:3 and has failed
36 to repeal or rescind such policy within 60 days of the issuance of the attorney general's opinion, the
37 state or local government entity shall become ineligible to receive any moneys that would otherwise

HB 266-FN-LOCAL - AS INTRODUCED

- Page 4 -

1 be remitted to it by any other state or local government entity. Such ineligibility shall continue until
2 such time as the attorney general certifies that the policy has been repealed, rescinded, or is
3 otherwise no longer in effect.

4 III. The attorney general shall send to the state or local government entity that was the
5 subject of the investigation and to the state treasurer a copy of any opinion issued pursuant to this
6 section and any certification by the attorney general that a violation of RSA 103-A:3 is no longer in
7 effect.

8 103-A:5 Implementation; Discrimination Prohibited; Severability.

9 I. This chapter shall be implemented in a manner consistent with federal laws and
10 regulations governing immigration, protecting the civil rights of all persons, and respecting the
11 privileges and immunities of United States citizens.

12 II. In complying with the requirements of this chapter, a state or local government entity
13 may not consider an individual's race, color, religion, language, or national origin, except to the
14 extent permitted by the Constitution of the United States, the constitution of the state of New
15 Hampshire, or federal law.

16 III. It is the intent of the legislature that every provision of this chapter, and every
17 application thereof to any person or entity, are severable from each other. If any part or provision of
18 this chapter is in conflict or inconsistent with applicable provisions of federal law, or otherwise held
19 to be invalid or unenforceable by any court of competent jurisdiction, such part or provision shall be
20 suspended and superseded by such applicable laws or regulations, and the remainder of this chapter
21 shall not be affected thereby.

22 2 Effective Date. This act shall take effect upon its passage.

**HB 266-FN-LOCAL- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to enforcement of immigration laws and the prohibition of sanctuary policies.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
<i>Funding Source:</i>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable

LOCAL:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

This bill includes the following provisions:

- Prohibits the State, its political subdivisions, and law enforcement agencies from adopting and enforcing policies that:
 - Prohibit or discourage state or local government entities from, among other things, inquiring about a person’s immigration status, sending or requesting information from federal agencies, or exchanging information with other federal, state, or local governmental units
 - Prohibit state and local government entities from cooperating with or complying with immigration detainer requests or efforts by the Department of Homeland Security to detain an undocumented immigrant in the custody of a state or local governmental unit.
- Establishes a complaint process that would require the Department of Justice to investigate and determine whether violations of this bill’s prohibitions have occurred. The consequences for being in violation of the bill’s provisions include prohibiting the state or local government entity from receiving “any moneys that would otherwise be

remitted to it by any other state or local government entity.” This creates a new form of offense that the Department of Justice would be responsible for investigating and enforcing.

This bill would likely increase the workload for the Department of Justice. The current number of State and local agencies that have or would retain policies that violate the bill’s provisions is unknown. This means that the increased workload is similarly unknown. Therefore, the fiscal impact is indeterminable.

AGENCIES CONTACTED:

Department of Justice



City of Keene, N.H.
Transmittal Form

February 19, 2021

TO: Mayor and Keene City Council

FROM: Fenella and Anthony Levick/Granite Roots Brewing

THROUGH: Patricia A. Little, City Clerk

ITEM: C.2.

SUBJECT: Granite Roots Brewing - Requesting Permission to Sell Alcohol at the Farmers' Market of Keene

ATTACHMENTS:

Description

Communication _Granite Roots Brewing

BACKGROUND:

Fenella and Anthony Levick, Granite Roots Brewing, are requesting permission to sell alcohol at the Farmers' Market of Keene for the 2021 season. This is an annual request.

Granite Roots Brewing
244 N Main St
Mailing address 545 West Hill rd, Troy, NH 03465
Troy, NH 03465

The City of Keene
City Hall
Attention Heather Fitz-Simon
Keene, NH 03431

February 15, 2021

To Whom it may concern,

Granite Roots Brewing is writing once again to request permission to sell our beer at the Farmers Market of Keene for the 2021 season.

We will have 16 oz cans for sale this year.

The State of NH Liquor Commission has been informed of our request to sell our beer at the farmers market for this season 2021.

Please find enclosed the new Farmers Market Application . I have filled in what I can. Please fill in what you can and then forward the form to the NH Liquor Commission.

If you need anything further or need to contact me my cell number is 603 801 5444.

Sincerely yours,



Fenella D Levick
Anthony D Levick

RECEIVED
CITY OF KEENE

FEB 19 2021

OFFICE OF
CITY CLERK



**State of New Hampshire
Liquor Commission
Division of Enforcement & Licensing**

Date Petition Received: _____

Date Petition Approved: _____

CFS: _____ Approved By: _____

FARMERS' MARKET

Type: BREWERY Submitted by: FENELLA LAVIDA

Trade Name: GRANITE ROOTS BREWING LLC Email: graniteroots.fenella@gmail.com

License Number: 293018 Phone: 603-801-5444

Address: 545 W. Hill RD, TROY, NH Date: 02/15/2021

Location/Name of Market: THE FARMERS MARKET OF KEENE

Address: #5 GILBO AVE City/Town: KEENE

Day(s) of Week: SATURDAYS ONLY Date from 05/0/21 to 10/3/21

Time from 9 ^{AM}/_{PM} to 1 ^{AM}/_{PM}

Approved by Department of Agriculture Yes No

Attach Diagram (Required Only for Tastings)

Print this form and have it signed by City/Town Official where the Farmers' Market is being held.
Once signed, please email form to: audit@liquor.nh.gov.

-----City/Town Use Only Below-----

The _____, Governing Body or other Appointed Designee, hereby approves _____ to attend the Farmers' Market for

Retail Tasting Retail/Tasting.

Print Name/Title

Signature

Date



City of Keene, N.H.
Transmittal Form

February 24, 2021

TO: Mayor and Keene City Council

FROM: Councilor Raleigh Ormerod

THROUGH: Patricia A. Little, City Clerk

ITEM: C.3.

SUBJECT: Councilor Ormerod - Regarding In-Person Committee Meetings

ATTACHMENTS:

Description

Communication - Councilor Ormerod

BACKGROUND:

Councilor Ormerod is urging the return of in person meetings.

24 February 2021

Councilor Raleigh Ormerod
4 Monadnock Ct.
Keene, NH 03431

To the Honorable Mayor Hansel and City Council,

This communication illustrates the critical need to resume the City Council Finance, Organization, and Personnel (FOP) Committee meetings in person immediately. I understand that we have been meeting by Zoom since March of 2020 as a precaution to mitigate the pandemic personal health and safety effects by slowing the person-to-person indoor spread of the Covid-19 virus. I also understand that several other local public bodies which are larger than the FOP Committee have been meeting with social distancing and masking precautions in place for quite some time.

The benefits of meeting only via Zoom have now been eclipsed by negative fallout from not having regular, direct, and in-person communication on the FOP Committee. Not being able to meet in person as a committee has materially contributed to a serious incident between Councilor Remy and Councilor Clark. The incident arose due to lack of communication between two FOP members who would normally sit next to each other on a regular basis and would have had the opportunity to discuss and work out their differences. Let me illustrate how we used to sit together with the diagram, labelled Exhibit A.

***Finance, Organization, and Personnel
Committee***

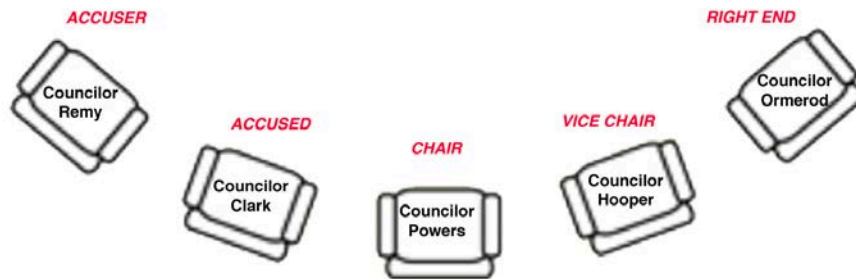


Exhibit A

On or about the date of February 19, 2021, the majority of City Councilors learned of the accusations by Councilor Remy towards Councilor Clark from the Keene Sentinel or the Manchester Union Leader. That should never have been the case, which in itself suggests another communication issue other Councilors have already expressed. I align my recommendation with the science of industrial psychology that suggests the original complaint may have been resolved more amicably if Councilor Remy and Councilor Clark had not been spatially and geographically discouraged to interact on a

regular basis. The other FOP committee members, including even me out on the “right end” of the seating configuration, would certainly have noticed growing tensions among ourselves and worked to resolve those tensions before they escalated to the involvement of the New Hampshire State Police. As a result of not meeting in person, we can mark it as a substantial loss for the FOP Committee, for the City Council, and for the entire City of Keene.

I urge the City Manager and City Staff to immediately and safely reinstate in-person Committee Meetings so we don't have another FOP tragedy on our hands.

To support my request for in-person meetings that will enable better communication and more civility to return, I submit two (2) additional exhibits as attachments. One is my Letter to the Editor (LTE) which appeared in the Keene Sentinel advocating for more civility and empathic listening in our community. It mentioned the good example demonstrated by our Chief of Police. The other exhibit is a note from among our constituency expressing their agreement with that LTE.

Sincerely,



Councilor Raleigh Ormerod
City Council, Ward 1

Exhibit B – Councilor Ormerod Letter to the Editor of the Keene Sentinel dated June 27, 2020

Exhibit C – Note of thanks for the above published letter from a constituent, used with permission



https://www.sentinelsource.com/opinion/letters_to_the_editor/we-need-a-little-more-empathy-in-keene-by-raleigh-ormerod/article_35c8c358-3fe7-53d7-b930-06f658a8c02f.html

We need a little more empathy in Keene, by Raleigh Ormerod

Jun 27, 2020

People ask me, "How is it going on the Keene City Council? How does it compare to when you were on the Keene school board?"

My business instincts immediately search for comparisons on the relative size of the two bodies, budgets, tax rate impacts, operating processes and election cycles. As a city leader, the word "compare" cues me to consider complex relationships and discern underlying themes when making decisions and ordinances that impact the entire city of Keene.

Previously focused on education, I am now learning from the mayor, other councilors and the city staff. Perhaps more importantly, I'm learning from constituents. I actively seek out and listen to the serious concerns and legitimate interests of residents and all community members.



I see a concerning theme among some reactions to current issues. Let me illustrate with helicopter training and college student unruliness. Certain recurring statements delivered from stakeholders in public forums and reinforced in other communications indicate beliefs that undermine the sense of civility we need in these challenging times.

"They moved next to an airport. They have no right to complain about excessive aircraft noise."

"They moved to a college town. They have no right to complain about unruly college students."

Perhaps too many of us suffer from a condition known as "lack of empathy." Like with COVID-19, we may experience no apparent symptoms, but can unknowingly inflict harm on others. I imagine that it's pretty tough to hear fellow citizens falsely position you as someone with poor judgment in choosing a home, and further demonstrate they have no interest in learning of the negative impact of their behaviors. For COVID-19 we need masks; for other issues we need empathy.

Maybe it's tough to listen, show empathy and develop practical solutions that may not incorporate all the talking points of certain higher political directives. However, this is the work that is most worthwhile, and it's what we need most right now.



I am encouraged by emerging themes of empathy displayed by our citizens and local law enforcement officers during the recent Black Lives Matter demonstrations.

“We are listening.”

“We hear you.”

I want to live in a community that recognizes change is inevitable, and that personal growth is the preferable response. This starts with listening behaviors, and continues by growing into higher beliefs that value empathy at least as much as promoting only our positions on issues.

RALEIGH ORMEROD

4 Monadnock Court

Keene

(This writer represents Ward 1 on the Keene City Council.)

Tues.

Hi Robb,

This SHD thing has been an eye-opening experience for sure. But the thought is about your letter to the editor on the common good. I've saved it as it speaks volumes of good, I subscribe to the same thoughts. Thank you for stepping up for everyone.

Best,
Dale McMan



City of Keene, N.H.
Transmittal Form

March 2, 2021

TO: Mayor and Keene City Council

FROM: Councilor Randy Filiault

THROUGH: Patricia A. Little, City Clerk

ITEM: C.4.

SUBJECT: Councilor Filiault - Requesting Minutes be Kept of Meetings Between the Mayor, the Charter Officers and the Committee Chairs

ATTACHMENTS:

Description

Communication_Filiault

BACKGROUND:

Councilor Filiault is requesting that a minute taker be present at the bi-weekly meetings of City staff and the Committee Chairs.

TIME RECEIVED

March 2, 2021 at 7:58:09 PM PST

REMOTE CSID

11 Fax

DURATION

32

PAGES

1

STATUS

Received

MAR 02 2021 TUE 07:58 PM Monodnock Ford

FAX NO. 609.651.1193

P.001/001

To: Mayor Hunsel and Keene City Council

From: City Councilor Randy L. Filiault

Re: Minute Taker

Date: March 2, 2021

As many of you may remember, last year I requested the City of Keene provide a minute taker to be present at the bi-weekly meeting of City staff and committee chairs. I am again respectfully requesting this to be implemented. Every city councilor is equally elected and we all have an equal vote. We should all have equal access to information discussed by City staff and the three committee chairs.

Recent events highlight the need for *all* elected city councilors have access to pertinent information being discussed. Currently, such transparency doesn't exist. With no minute taker, the remaining twelve city councilors have no formal access to what was discussed at these meetings.

This is not acceptable. Transparency in government is a must. I look forward to discussing this matter at our next week of committee meetings.

Respectfully Submitted,
Randy Filiault



City of Keene, N.H.
Transmittal Form

February 24, 2021

TO: Mayor and Keene City Council

FROM: Municipal Services, Facilities and Infrastructure Committee

ITEM: D.1.

SUBJECT: Presentation – Annual ESCO Cost Avoidance Report Year 8 – 2020

RECOMMENDATION:

On a roll call vote of 5-0, the Municipal Services, Facilities and Infrastructure Committee recommends that the City Council accept the presentation on the annual ESCO Cost Avoidance Report as informational.

BACKGROUND:

Chair Manwaring welcomed the director of Parks, Recreation & Facilities, Andy Bohannon, who introduced consultants from Honeywell, Jonathan Kumi and James Lucy – the Measurement and Verification Specialist and Senior Business Consultant, respectively. Mr. Kumi and Mr. Lucy were present to share the eighth annual Honeywell post-construction report on cost avoidance. Mr. Bohannon stated that during the last year, the City continued taking proactive measures to enhance this program's two goals to reduce the City's energy use and carbon emissions. He said that investments made by City Council on recent projects for which energy conservation measures were taken would be demonstrated at this meeting and he said these measures were a reflection of work by various City employees. Mr. Bohannon credited Facilities Manager, Scott Martin, who has worked closely with Honeywell to achieve the greatest results for all projects.

Mr. Lucy shared a presentation describing this eighth annual report for activities during the October 2019—September 2020 period. Mr. Lucy recalled that in December 2010, the City executed a \$1.9 million contract with Honeywell to implement comprehensive energy efficiency improvements, with Honeywell guaranteeing a minimum annual energy cost savings to the City of \$160,373, which would offset the contract cost over a 15-year contract term. Honeywell committed to demonstrating how they would meet that amount to the City through this annual reporting process. If Honeywell could not meet that amount, they would write the City a check for the difference. Mr. Lucy said that this had been a successful collaborative effort between the two organizations, which has resulted in exceeding the guarantee annually thus far. Mr. Lucy credited the determination of City Staff to curb energy costs across City facilities.

Mr. Lucy recalled the project's scope of work by presenting a list of the buildings included in the project: Airport Terminal, Airport SRE, Recreation Center, City Hall, City Hall parking garage, Public Library, Library Annex, Public Works Department, Police Department, Fleet Services, Martell Pumping Stations, Wastewater Treatment Plant, and Water Treatment Plant. Through this program, each of those buildings was to be improved with one or more of the following energy conservation measures: lighting upgrades, building envelope upgrades, energy management systems improvements, heating plant improvements, destratification fans for the Recreation Center gym, variable frequency drives, chiller replacement for City Hall, propane storage systems, and the solar PV for City Hall.

Next, Mr. Lucy discussed cumulative savings, saying that the annual report to the City includes a running

scorecard of how Honeywell is doing compared to the guaranteed contractual savings amount of \$160,373, which was established as a baseline during Honeywell's audit. The cumulative savings report is to evaluate conditions compared to the contract in terms of weather, energy usage, and associate costs. Each of the eight years to date the City has had a better return on its investment totaling \$889,146 above the guarantee. In this most recent year, cumulative savings totaled \$218,818 compared to the guarantee of \$160,373.

Mr. Lucy discussed cost avoidance – or savings – stating that energy usage would never be the same annually in reality because variables changes, like weather. Before the contract was executed in 2010. Honeywell compiled multiple years' energy usage, modeled with weather projections, to create a baseline. Mr. Kumi continues collecting energy bills from the City and then uses a third party software, Metrix, to normalize the data based on heating degree days adjusted for changes in building use, to determine how much the City would be spending on electricity, propane, and fuel oil without this Honeywell contract. Mr. Lucy said that they account for things that they deserve credit for and if the City does their own initiatives, those savings are not counted in the Honeywell savings report.

Mr. Lucy explained that when Honeywell measures and verifies savings, they follow an international protocol. He summarized the annual cost avoidance breakdown for this past year: electric savings, which are not weather dependent – \$83,406; propane and fuel oil savings – \$101,904; annual adjustments post-construction at the airport of \$3,363; annual operational cost avoidance, primarily due to the large propane tank procurement that allowed buying bulk propane at a cheaper cost – \$30,146. Total past year cost avoidance of \$218,818. He used graphs to compare this year's usage savings to the prior years of the contract to demonstrate that the City's energy consumption and carbon emissions have been on the decline from the pre-construction baseline. Mr. Lucy noted that in the 2010 contract, Honeywell guaranteed a baseline energy consumption based on fixed rates agreed upon by the City.

Vice Chair Giacomo said it was great to see the City exceeding the plan. He referred to figures presented for these first eight years and said during all but two years, savings were declining against a base year, which was interesting to him. He said he would understand if it were a year-over-year reduction change, but asked why the consultants thought the actual savings had declined since the base year, despite overall savings. He agreed it was great to be above the goal. Mr. Kumi referred to the figures for cumulative savings results for each year and said that annually, weather and other variables impact energy consumption, which he said impacted the baseline during the first two years, with net results of \$112,000-\$120,000 that started dipping year three he thought due to weather or adjustment variables. Mr. Lucy added that there are ebbs and flows based on rates and in early years the City was in a higher energy cost profile than recent years. He also recalled working with Staff in early years to ensure building schedules aligned to control occupied times, for example. In general, Mr. Lucy thought it was demonstrated that the program had to date accomplished what it set out to. Mr. Lucy offered to provide a more detailed written response. Vice Chair Giacomo seemed to indicate that a written response was unneeded, stating that the City was still saving anything and that it was more than anticipated, which overall was good. He was curious about the trend and appreciated the explanation.

Chair Manwaring said she was a new Councilor when this contract was initiated and it was exciting to see annual progress.

Mr. Bohannon thanked Mr. Lucy, who had consulted on this effort since the beginning to help the City work toward these cost savings and avoidances by advising on facility management changes as a part of this contract; he said it had been a pleasure working with him. Mr. Bohannon thanked Mr. Kumi as well for his help in recent years.

The City Attorney, Tom Mullins, said this was one of the first major projects he worked on with the City and he was pleased to see these positive results. He also thanked Mr. Lucy and Mr. Kumi for all of their work.

Vice Chair Giacomo made the following motion, which Councilor Filiault seconded.

On a roll call vote of 5-0, the Municipal Services, Facilities and Infrastructure Committee recommends that the City Council accept the presentation on the annual ESCO Cost Avoidance Report as informational.



City of Keene, N.H.
Transmittal Form

February 24, 2021

TO: Mayor and Keene City Council

FROM: Municipal Services, Facilities and Infrastructure Committee

ITEM: D.2.

SUBJECT: Introducing a New Citizen Reporting System - City Engineer

RECOMMENDATION:

On a roll call vote of 5-0, the Municipal Services, Facilities and Infrastructure Committee recommended that the City Council accept the report on the New Citizen Reporting System as informational.

BACKGROUND:

Chair Manwaring welcomed the City Engineer, Don Lussier, and Public Works Department Administrative Assistant, Andrea Madaglia, who reminded everyone that his system is not for emergency use and that it is not monitored at all times. Until recently, Ms. Madaglia said that residents and visitors of Keene had been able to report non-emergency problems and maintenance needs using a cellular phone application (app) called "YourGov". This app is no longer supported, and so the City is launching a replacement reporting system. The new system is called "See-Click-Fix" and is available for both the Apple and Android operating systems. You can also submit requests on your computer directly from the City's website (<https://ci.keene.nh.us/>) or at <https://seeclickfix.com/keene>.

Ms. Madaglia used photos to demonstrate to the Committee how the new app works. When the app first opens on iPhone or IOS (it could differ slightly between the two), she said that the user would be prompted to sign-in or register. Once an account is created, the user could see the number of active and completed requests throughout the City, links to the City website and online services, as well as announcements that apply to one's location. If there is a complaint, users would first be asked if they want to submit a photo of the problem. They would then be prompted to provide the issue location (using the phone's services or entering the address manually), select the category of the request, and provide a brief description of the issue. Depending on the category selected, the user could be asked to answer more questions, such as whether there is a hazard to pedestrians. Users could choose to hide their identity from the request details that are visible to other members of the public, but City Staff would still see user names. After submitting a request, the user would be able to see the active request in their profile and would receive emails confirming when the request was received, closed, and whether there were public comments. Users would always have access to a map that displays open and closed requests across the City.

The public were encouraged to download the See-Click-Fix app, which was live the date of this meeting, and is a great tool that Mr. Lussier hoped the City Council would promote as much as possible. There would be additional publicity through press releases and City social media.

Mr. Lussier reminded that this is for non-emergency issues. For immediate needs, like an overflowing sewer, the public should call the Public Works Department or the Police Department non-emergency afterhours line.

Chair Manwaring asked whether this was a free service and Mr. Lussier said yes. He continued that once resolved, the completed requests remain visible to all users for approximately 10 days before being archived for Staff records. Ms. Madaglia added that users could comments on others' open issues that they are familiar with too. Chair Manwaring asked whether it would be visible to users how City Staff resolved the issue. Mr. Lussier said that would not be available publically in the app but that the information would be stored for Staff access should there be a future public question. If an issue cannot be resolved right away, Staff might write an update in the issue's public comments.

Councilor Chadbourne asked why the switch and Mr. Lussier said it was a forced situation because the YourGov software was no longer supported. Staff sought an alternative that would still interface with the City's same work management system, which this would seamlessly.

Councilor Williams said nice work to Staff for this app that he looked forward to using.

Vice Chair Giacomo made the following motion, which Councilor Filiault seconded.

On a roll call vote of 5-0, the Municipal Services, Facilities and Infrastructure Committee recommended that the City Council accept the report on the New Citizen Reporting System as informational.



City of Keene, N.H.
Transmittal Form

February 24, 2021

TO: Mayor and Keene City Council
FROM: Planning, Licenses and Development Committee
ITEM: D.3.
SUBJECT: NH Resolution for Fair Nonpartisan Redistricting

RECOMMENDATION:

On a vote of 4-0, the Planning, Licenses, and Development Committee recommends that the Mayor submit a letter to the Governor, to Senator Kahn, and to the City of Keene legislative delegation in support of fair non-partisan redistricting legislation pending before the State Legislature.

BACKGROUND:

Chair Greenwald asked Terri O'Rorke to speak.

Terri O'Rorke of 34 Hillside Avenue read the following statement:

"Good evening committee members,

My name is Terri O'Rorke, and I reside at 34 Hillside Ave. Every 10 years, every state uses the new Census data to reapportion its voting maps, which is a process called redistricting. The NH Constitution requires one representative for every 3,290 citizens. Redistricting is supposed to be a fair, transparent, nonpartisan process. When those maps get manipulated to benefit one political party over another, that process becomes known as 'gerrymandering.'

Gerrymandering is what happened to many NH voting districts in 2011. A small handful of people created the maps behind closed doors. There was no public input, because no maps were shown. In 2011, many NH towns of 3,290 citizens or more did not get their own representatives as constitutionally required. An independent analysis later discovered 24 towns had been gerrymandered.

In 2019 and again in 2020 bills for an independent redistricting commission were passed by the NH House and Senate but were repeatedly vetoed by the Governor.

Bipartisanship is imperative. An equal number of Democrats, Republicans and Independents would be a fair representation. They would also need to listen to their constituents, who would need to view the different versions of the maps as they are drawn, allowing for transparency. These maps should reflect common interests such as schools and businesses, while not showing favor or disfavor to any racial or language groups.

The NH Resolution for Fair Nonpartisan Redistricting is a nonbinding measure being proposed in more than 100 cities and towns throughout NH. The Resolution will send a message from our city to our elected officials in Concord that NH voters want the redistricting process to be fair, transparent and nonpartisan.

*I urge all members here to give this Resolution serious thought and consideration to formally adopt it along with the full council.
Thank you."*

Councilor Jones thanked Ms. O'Rorke for her letter. He continued that he knows Ms. O'Rorke knows this, but for the benefit of others: this does not really pertain to Keene because Keene's legislative districts fall within the wards. He sees where Ms. O'Rorke is coming from, as there are other communities with that type of population around the state that are being gerrymandered. He wants to make sure the public understands that is where Ms. O'Rorke is going with this. Ms. O'Rorke replied yes, she wants Keene to stand in solidarity with all the towns and cities to show that NH as a whole will not stand for gerrymandering.

Councilor Jones stated that pretty soon, Mayor Hansel will appoint a committee to do the districts in Keene and Ms. O'Rorke could consider volunteering to join that committee. Ms. O'Rorke replied that she might do that.

Chair Greenwald stated that he served on the Redistricting Committee last time. He continued that it was very intense, to keep all of the wards balanced and to keep some common sense to it. There was a lot of representation from different corners watching and making sure the numbers added and it all made sense. Absolutely, in Keene it made sense; there was no monkey business. He hopes the rest of the state keeps going with that.

Chair Greenwald asked if there were any further questions from the committee. Hearing none, he asked if members of the public had any questions.

Councilor Williams stated that he is in favor of this. He continued that gerrymandering undermines people's faith in democracy and leads to higher levels of partisanship. He would like to see maps drawn to encourage more competitive districts, but gerrymandering does the opposite. When politicians run in competitive districts it means that they have to work to reach out to all their constituents, but with gerrymandered districts, all the action is in the primary and the voters of the other party get shut out. He is very opposed to gerrymandering and in favor of writing this letter.

Chair Greenwald asked if there was any further comment. Hearing none, he asked if the City Attorney had anything to add. The City Attorney replied no, this is a policy question for the committee and the City Council to move forward on.

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

On a vote of 4-0, the Planning, Licenses, and Development Committee recommends that the Mayor submit a letter to the Governor, to Senator Kahn, and to the City of Keene legislative delegation in support of fair non-partisan redistricting legislation pending before the State Legislature.



City of Keene, N.H.
Transmittal Form

February 24, 2021

TO: Mayor and Keene City Council
FROM: Planning, Licenses and Development Committee
ITEM: D.4.

SUBJECT: Downtown Re-Opening Committee and Keene Young Professionals Network - Keene Food Festival – Request to Use City Property

RECOMMENDATION:

On a vote of 4-0, the Planning, Licenses, and Development Committee recommends the Keene Young Professionals Network be granted permission to use downtown City rights-of-ways including the Common on Saturday, June 5, 2021 to conduct a Food Festival conditional upon the following:

- The furnishing of a certificate of liability insurance in the amount of \$1,000,000 naming the City of Keene as an additional insured;
- The signing of a standard revocable license and indemnification agreement;
- The Petitioner is responsible for compliance with the Governor’s COVID-19 Pandemic Emergency and Executive orders and any City Ordinance that addresses the COVID-19 Pandemic Emergency that maybe in place at the time of the event.
- That the Petitioner agrees to absorb the cost of any City services over and above the amount of City funding allocated by the City Council to the event, and agrees to remit said payment within 30-days of the date of invoicing;
- That the agreed upon footprint and layout for the event shall encumber Central Square, including the traveled portion of the road requiring the following road closures: Central Square, West Street from Federal Street to Central Square, Roxbury Street from Roxbury Plaza to Central Square, Washington Street from Vernon Street to Central Square, and Court Street from Winter Street to Central Square;
- That the Petitioner is permitted to place porta-potties in City parking spaces located at the base of Washington Street from Friday, June 4, 2021 to Monday June 7, 2021, which will be chained together and affixed to ensure they are not vandalized while unattended overnight;
- That the actual event will be held from 12:00 PM to 5:00 PM with the times for set up and clean up to be established with City staff;
- That free parking be granted under the provisions of the free parking policy for City parking spaces on Washington Street needed for storage of equipment from Friday, June 4, 2021 to Monday June 7, 2021, and spaces within the event footprint on the day of the event;
- Other licenses issued or granted within the event foot print or in the downtown maybe suspended for the period of the event if determined appropriated by City staff.
- The submittal of signed letters of permission from any private property owners for the use of their property; and
- Said permission is granted subject to obtainment of any necessary licenses or permits and compliance with all laws; and compliance with any recommendations of City staff.

BACKGROUND:

Chair Greenwald asked to hear from Kurt Blomquist.

Kürt Blomquist, Public Works Director/Emergency Management Director, stated that he and Councilor Remy will both be addressing this item tonight.

At 7:12 PM, Chair Greenwald noted that Councilor Johnsen had arrived. The Councilor requested her vote in favor be recorded for the previous motion – which she heard, but was unable to unmute her microphone to verbally state her vote.

Mr. Blomquist stated that the City has been working with the Keene Young Professionals Network (KYPN), looking at the food festival, which is being proposed for June 5. They are at a point where they can make a recommendation to the committee and the full City Council for the various permissions that the group needs to move forward with their event. They are looking to close down Central Square, which Councilor Remy can talk about in more detail. The group plans on having the event open to the public between 12:00 PM to approximately 5:00 PM, but there will be additional time on either end for setup and breakdown. He asked Councilor Remy to share more information about the event.

Councilor Remy stated that the KYPN is excited and thinks this will be a great event for a reopening for downtown. They have space to hold 15 different restaurants, spaced out with two parking spaces per restaurant with one in between. He continued that these are all Keene restaurants. They are prioritizing the restaurants whose traffic will be impacted by the event, right around Central Square. They want to make sure that those restaurants have first right of refusal on participation. After that, the KYPN will be reaching out to some other restaurants, to fill in the additional spaces. On private property they intend to have a beer-tasting area with small samples, so they can include some of the local breweries as well. Keene is being spotlighted for having some of the best breweries in NH. They want to recognize and include these breweries as well. In the gazebo area they would be doing food and cooking demonstrations. People could come watch Chef Luca or other local chefs. There will also be a hot pepper-eating contest, so he hopes people bring their brave friends.

Councilor Remy continued that the food festival would operate based on tokens. There would be three check-in areas. People would buy, for example, a token for \$2, or 15 tokens for \$20, or whatever the pricing ends up being. People would trade in those tokens for food at the booths. At the end of the event, all profits from the food would be returned to the food vendors. Any bracelet sales for access to the breweries would be returned to the breweries. The intent for KYPN is to walk in with \$10 and hopefully walk out with \$10. It will be net neutral to KYPN. The (idea of this) event originally came out of the City Manager's Reopening Committee. It was Chef Luca's idea. The City did not want to run it themselves so the KYPN stepped up to run it as the event management.

Councilor Johnsen stated that she is excited to see this, and she congratulates the people who have put this together. She continued that Keene has done a lot of this in the past, and it is exciting to see the KYPN put this together.

Councilor Jones thanked Councilor Remy for finding a sponsor. He continued that he served on the Reopening Committee and is thus very aware of this festival. He noted that initially the event was proposed to occur in May, and there was a concern about the construction on Roxbury Street. Now that the event is pushed back until June, will Roxbury Street be an issue.

Mr. Blomquist replied that from a construction standpoint, it will be deeper into it. He continued that the City will be having the contractor secure the area so that it is passable by pedestrians for that weekend. The contract requires that by the end of Fridays, each week, the area is passable.

Councilor Remy stated that they were originally looking at May 15 and shifted it to June 5 for a couple of reasons, the primary one being that Keene State College (KSC), because of its late start, will be in session until May 29 and they thought it would be good to have the festival a little bit after that for folks coming in and out of

town. He continued that also, having the event three weeks later than originally planned gives three more weeks to get more people vaccinated. No one knows, of course, what the situation will look like in June and they would not want to try and guess, but three more weeks is three more weeks.

Chair Greenwald asked if there were any further questions from committee members, other City Council members, or the public.

Mr. Blomquist stated that this evening the committee will be recommending approval with the standard conditions that go with all licenses dealing with insurances and indemnification, and they will be authorizing the closure of Central Square, and authorizing Central Square to be in the control of KYPN. The City will be requiring them to comply with whatever conditions are in place regarding the current State of Emergency, and there are other miscellaneous things. They will also be authorizing free parking within the footprint, during the event. Chair Greenwald asked if that includes the parking lots. Mr. Blomquist replied no, the free parking is just within the footprint area of the event. They want to encourage people to come, certainly, using the City's facilities to support those activities. Chair Greenwald asked if the free parking will be on all of Main Street, or just Central Square. Mr. Blomquist replied just Central Square.

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

On a vote of 4-0, the Planning, Licenses, and Development Committee recommends the Keene Young Professionals Network be granted permission to use downtown City rights-of-ways including the Common on Saturday, June 5, 2021 to conduct a Food Festival conditional upon the following:

- The furnishing of a certificate of liability insurance in the amount of \$1,000,000 naming the City of Keene as an additional insured;
- The signing of a standard revocable license and indemnification agreement;
- The Petitioner is responsible for compliance with the Governor's COVID-19 Pandemic Emergency and Executive orders and any City Ordinance that addresses the COVID-19 Pandemic Emergency that maybe in place at the time of the event.
- That the Petitioner agrees to absorb the cost of any City services over and above the amount of City funding allocated by the City Council to the event, and agrees to remit said payment within 30-days of the date of invoicing;
- That the agreed upon footprint and layout for the event shall encumber Central Square, including the traveled portion of the road requiring the following road closures: Central Square, West Street from Federal Street to Central Square, Roxbury Street from Roxbury Plaza to Central Square, Washington Street from Vernon Street to Central Square, and Court Street from Winter Street to Central Square;
- That the Petitioner is permitted to place porta-potties in City parking spaces located at the base of Washington Street from Friday, June 4, 2021 to Monday June 7, 2021, which will be chained together and affixed to ensure they are not vandalized while unattended overnight;
- That the actual event will be held from 12:00 PM to 5:00 PM with the times for set up and clean up to be established with City staff;
- That free parking be granted under the provisions of the free parking policy for City parking spaces on Washington Street needed for storage of equipment from Friday, June 4, 2021 to Monday June 7, 2021, and spaces within the event footprint on the day of the event;
- Other licenses issued or granted within the event foot print or in the downtown maybe suspended for the period of the event if determined appropriated by City staff.
- The submittal of signed letters of permission from any private property owners for the use of their property; and
- Said permission is granted subject to obtainment of any necessary licenses or permits and compliance with all laws; and compliance with any recommendations of City staff.



City of Keene, N.H.
Transmittal Form

February 24, 2021

TO: Mayor and Keene City Council

FROM: Planning, Licenses and Development Committee

ITEM: D.5.

SUBJECT: Presentation – Commission to Study the Environmental and Health Effects of Evolving 5G Technology

RECOMMENDATION:

On a vote of 3-1, the Planning, Licenses, and Development Committee recommends that the City Council accept the presentation from Commission to Study the Environmental and Health Effects of Evolving 5G Technology as informational. Councilor Johnsen was opposed.

BACKGROUND:

Chair Greenwald stated that this has been open for discussion numerous times and they are looking for a balanced discussion. He continued that this is informational. The PLD Committee needs to be educated on the subject. There are different parties who will be speaking tonight. The initial presentation will be ten minutes in favor, ten minutes opposed, and followed up by any additional questions at three minutes per speaker. He asked speakers to remain on point, adhering to the philosophy of “the longer a conversation goes on, the less likely the focus of absorbing the information is.” As part of the 5G conversation, they are discussing 5G or 4G technology installations on public ways. It really is not a discussion of 5G or 4G as such. It would be helpful if presenters kept that in mind.

Rhett Lamb, Community Development Director/Assistant City Manager, stated that the first two speakers are members of the State Commission that issued its report fairly recently. First is Kent Chamberlin.

Kent Chamberlin stated that he is following up on his January 21 letter to the PLD Committee, in which he gave an outline of the majority report for the Commission to Study the Environmental and Health Effects of Evolving 5G Technology. He continued that the PLD Committee asked him for more information. The people who signed the majority report included two physicians, two PhDs, and people who study toxicology and epidemiology, and they concluded that 5G should be treated very carefully. The question he has been asked is how they came to that conclusion. On the screen, he is showing six peer-reviewed articles, and he will briefly show the title of each and a quote from each, and share the conclusions he draws from it.

Dr. Chamberlin continued he is a professor at the University of New Hampshire (UNH), has a PhD, and his specialty of study is electromagnetic fields. He has done research for more than 20 research sponsors and has been an associate editor for IEEE, the premiere publication in this discipline. He is familiar with and has done a lot of work with referee publications and believes that is probably the only way they are going to not run into problems with fake news.

Dr. Chamberlin continued that the following articles are representative of the types of articles the Commission has run into to come to the conclusions they came to. First is “*Exposure to Nonionizing Electromagnetic*

Fields Emitted from Mobile Phones Induce DNA Damage in Human Ear Canal Hair Follicle Cells.” The quote from the article highlights that yes, you can get damage to the human ear as a result of exposure to cell phone radiation. He can make it available to anyone who wants it, because anyone can go and find the entire article to read. The second article is “*Exposure to GSM Cell Phone Communications Alters Gene Expression, Proliferation, and Morphology of Human Skin Fibroblasts.*” Fibroblasts are the cells that help you make more skin, and obviously, you do not want to be interfering with that. The quote from the article is: “*Findings show that electromagnetic fields have significant biological effects.*” This is in the publication *Oncology, Research, and Anti-Cancer Drug Design*. He is getting these articles from a range of publications. There are thousands of publications that talk about the deleterious health effects of exposure to cell phone radiation. The third article is “*Microwave Frequency Electromagnetic Fields Produce Widespread Neuropsychiatric Effects, Including Depression.*” The important thing about this article is it gives a mechanism showing how small or low-level electromagnetic fields, like the fields generated by cell phones, can affect your brain. These are called the voltage-gated calcium channels. Article four, which is part of just a smattering of a selection of articles, is “*Low-intensity Microwave Radiation Induced Oxidative Stress, Inflammatory Response, and DNA Damage in Rat Brains.*” They expose rats to cell phone radiation 24/7 and see significant neurological effects. The fifth article is “*Radiation and Male Fertility.*” This one says that from currently-available studies it is clear that electromagnetic radiation has deleterious effects on sperm count, morphology, and motility. It affects cell metabolism. This is a study looking at biological effects due to exposure to cell phone radiation. The sixth article, which was convincing to the (signers of the majority report) is “*Radiofrequency Radiation Injures Trees Around Mobile Phone Base Stations.*” This means that if you install a cell tower where there is surrounding vegetation, it will impact that vegetation. The reason this was so impactful to the Commission members was thinking about how if cell phone radiation will damage trees and vegetation, what will it do to humans?

Dr. Chamberlin continued that conclusions the majority drew from this research is that cell phone radiation, including 5G, poses a significant threat to human health and the environment. Thousands of papers support that. He does not see how anyone could come to the conclusion that cell phone radiation will not hurt you.

The papers he showed are indications and documentation showing that it can cause harm. The relative risk is not clear and more research will be necessary to determine what that is. What relative risk is all about is how risky exposure to cell phone radiation is compared to, say, smoking. We know that smoking is a problem, and at this point we have identified how much of a problem, but what we do not know at this point is how risky exposure to cell phone radiation is.

Dr. Chamberlin continued that they (the Commission members who signed the majority report) are not anti-5G. They would like to see it rolled out. They would like to see it rolled out safely. They need to determine what the level of risk is before they can do a cost/benefit analysis. As an example, we know that we lose about 35,000 people to traffic fatalities each year, but we feel like it is worth it, obviously, because we keep driving. It may be that rolling out 5G makes sense, from a cost/benefit standpoint, but we do not know what the downside is at this point without more research. One of their findings is: before we move forward with a rollout of 5G, we should find out more about the risks that are involved. We know there are risks; we just do not know how severe those risks are.

He continued that another conclusion they came to, which he thinks the PLD Committee needs to hear, is that this is not a scientific issue. He is a scientist and he came to the Committee acting as a scientist, but the Commission found out that this is not a scientific issue but a political one. A question that arises is: where are the regulatory agencies? If we have something that would harm the public, how come the regulatory agencies are not involved? The answer is given in a report by Harvard. Even the title of that report indicates what is going on: “*Captured Agency: How the Federal Communications Commission is Dominated by the Industries It Presumably Regulates.*” A quote from that report is that “*Industry controls the FCC through a soup to nuts stranglehold that extends from its well-placed spending in Congress to its control of the FCC’s Congressional oversight committees, to its persistent agency lobbying.*” We are dealing with a political issue, and that is why one of the recommendations of the report is for our federal delegation to do something to help

get the FCC to re-do its policies. Fortunately, things seem to be happening on that front. There has been a suit, which seems to be successful – the FCC was sued for dismissing the evidence of serious health impacts on wireless technology. It says the FCC summarily dismissed 1,700 findings of evidence, including peer-reviewed studies that show radiation contributes to cell damage, DNA damage, infertility, and so on and so forth. Apparently the judges are responding, with one of the judges to saying, *“I’m inclined to rule against you.”*

Dr. Chamberlin stated that he would encourage any town to try and postpone what is going on with regards to the rollout of 5G, because he thinks there are going to be changes in the rulings from the FCC regarding radiation threshold limits. He thinks they will become more realistic in the future and cause the cell towers to provide less of a hazard in the near future.

City Attorney Tom Mullins asked if Dr. Chamberlin could provide the case citation with respect to the quotation on the case he was talking about. He continued that it does not have to be right now, but it would be great if he could get that information to the City. Dr. Chamberlin replied absolutely.

Councilor Johnsen asked: if this becomes a political issue, how can they be assured that politics does not play games, so that for sure, the scientists truly support what they believe in? Dr. Chamberlin replied that they have to go back to the science. He continued that they need more science. He thinks their recommendation to bring our federal delegation in to putting pressure on the FCC to have more realistic radiation thresholds is probably the number one thing that can be done at this point. At that point, once they have realistic radiation thresholds in place it will lessen the possibility of games being played.

Councilor Workman stated that one thing she kept coming back to while listening to Dr. Chamberlin’s presentation was the generalization of the articles referenced seemed to be about the dangers of cell phone radiation in general, not specific to 5G. She continued that she thinks he may have answered that when he answered Councilor Johnsen’s question. Does that have to do with the lack of research done specifically on 5G right now, or is there another reason? Her second question is whether Dr. Chamberlin has a ballpark figure for a threshold on what would be realistic, in his professional opinion.

Dr. Chamberlin stated that regarding the first question, it turns out that cell phone radiation in general is the concern, not 5G necessarily. He continued that 5G is kind of a marketing term, because companies can do 5G in very different ways involving a wide range of frequencies. When he talks about the concerns that addresses not only 5G, but also 2G, 3G, and 4G. Regarding the second question, other countries have come up with their own thresholds. The US has some of the highest thresholds in the world, thus, they can look to other countries. Russia, for example, has a threshold 100 times lower than what the US has. It would take additional research before there were definitive answers about what is safe. He has a lot to say about that but not does not have enough time right now, but they can look to other countries and they have to look at the research to come up with realistic values.

Chair Greenwald stated that he will open the floor up to further questions after the other presenter has presented. He asked David Maloney, representing the Commission’s minority report, to present.

David Maloney stated that he is the Director of Local Affairs with CTIA. He continued that CTIA is the trade association for the wireless communications industry. His colleague, Beth Cooley, has appeared before the PLD Committee in the past. On November 1, 2020, the Commission to Study the Environmental and Health Effects of Evolving 5G Technology issued its final report. In the report, the Commission’s majority makes 15 recommendations. Those recommendations have no basis in scientific fact, are irresponsible, and will subject the state and any localities implementing these recommendations to needless and expensive challenges that will drain time and resources from the more important and credible priorities. As an initial matter, contrary to the position taken by the Commission’s recommendations, the science related to radiofrequencies, wireless devices, and health is well studied and well known. CTIA is not a scientific agency, however, the consensus of

the US and international scientific community is that there are no known adverse health risks from the levels of radiofrequency energy emitted at the frequencies used by wireless devices, including cell phones, and facilities, including small cells.

He continued that in 2019, the FCC reassessed the available science, including studies related to the safety of 5G networks and based on the relevant scientific research, and concluded that wireless devices and small cells are safe when they adhere to the FCC's current radiofrequency exposure limits, as required by law. Numerous independent analyses of peer-reviewed studies conducted over several decades by national and international organizations support the safety of the FCC's radiofrequency exposure limits, concluding that there are no known health risks to humans from radiofrequency energy emitted by wireless devices and infrastructure. Thus, the scientific consensus, as evaluated by experts, international standard-setting bodies, and federal health and safety agencies, is that wireless devices and base stations at the FCC's exposure levels are safe. Given this scientific consensus, the recommendations in the majority report exceed what a reasonable response should be to the evidence on this issue.

Mr. Maloney continued that moreover, courts have consistently rejected efforts by states to regulate wireless devices or equipment based on alleged health effects from radiofrequency emissions. Specifically, federal preemption bars state or local efforts to require modifications to devices, additional warnings or disclosures, or zoning or placement decisions of towers or equipment, based on perceived safety concerns. Congress has long exercised federal authority over radio waves, through the 1934 Communications Act, its creation at the FCC, the Telecommunications Act of 1996, and its delegation of authority to the FCC to regulate all technical aspects of wireless communication. Because of the need for an efficient and effective national telecommunications system, Congress and the FCC have emphasized the importance of uniformity in the regulation of wireless phones and equipment, such that the same phone that works in NH works in every other state. National uniformity ensures accessibility and compatibility. In contrast, state-by-state regulation would disrupt that system, place burdens on industry, and make phones and service more expensive for consumers.

He continued that radiofrequency emissions are critical to wireless communication. Congress instructed the FCC to regulate radiofrequency emissions to ensure a proper balance between an effective communications system and consumer protection. Based on recommendations from blue chips standard-setting organizations and based on a consensus of the federal health and safety agencies, such as the FDA, EPA, and OSHA, in 1996 the FCC adopted a radiofrequency emissions standard that protects consumers at 50 times below the level at which adverse biological effects were observed in laboratory animals. In reality, wireless devices and equipment operate at well below the FCC limit. In 2019 the FCC and the FDA, after reevaluating the standard, confirmed the adequacy of the standard in protecting consumers and workers. The standard applies to radiofrequency emitted from 5G systems. The FCC and FDA have declared that phones and equipment compliant with the FCC standards are safe for use by all workers and consumers, including children. Courts have repeatedly upheld the preemptive effect of the FCC's regulations which bar state regulation in the form of legislation, rules, or court cases that are based on claims that FCC-compliant phones are unsafe. Courts have also banned state or local disclosure requirements, holding that the FCC disclosure are adequate to inform the public without over-warning.

Mr. Maloney continued that finally, the majority report runs counter to what NH and Cheshire County residents say they want. In a Harris Poll survey conducted late last year, 89% of residents said access to reliable, fast wireless is critical, and nearly 8 in 10 support wireless infrastructure upgrades to increase connectivity. Additionally, a majority of Cheshire County residents stated that access to 5G is important. Unfortunately, these viewpoints are absent from the recommendations in the majority report.

Chair Greenwald asked if there were any questions from the committee. Hearing none, he asked if members of the public had any questions or comments.

Lori Schreier, of 916 River Rd, Westmoreland, member of NH for Safe Technology, stated that she has

spoken at the previous meeting and other meetings. She continued that she submitted the proposed amendments to the Ordinance and the accompanying memorandum on January 22. She still hopes that the PLD Committee and the City Council will consider amendments to the Ordinance to further protect public welfare and interests, including the economic interests of property values and things of that nature when small cells are placed next to homes. There are a series of recommendations in the report from the Commission, which include increased insurance protections for the City and its citizens, and increased setbacks and spacing of small cells from each other and from residences and schools and other vulnerable populations. There are other things that can be done, including the letting the public know where the small cells are, having notices written, having warning labels on the small cells, and also having regular testing of the radiofrequencies from these small cells. There is nothing that she is aware of that would prevent the City from doing these things and still having 5G in the community. It is simply balancing the needs for telecommunications and protection of the public.

Ms. Schreier continued that she urges the Committee and the City Council to continue to review these proposed amendments and other changes that can enhance the benefits to the citizens of Keene and to continue to look at the science. The science is clear, as Dr. Chamberlin expressed. It is just a matter of whether they are going to believe the science from the non-biased scientist or the science from the industry, which has financial gain as a big priority for the information, and the FCC, which is pretty much a captured agency as Dr. Chamberlin expressed. She thanks the Committee for taking this up and continuing to look at this. There is a lot of information in the Commission report and she encourages them to look carefully at it.

David Juvet stated that he is the Senior Vice President with the Business and Industry Association, NH statewide Chamber of Commerce. He continued that his business address is 122 North Main St, Concord. He was a member of the Commission, along with Dr. Chamberlin. They were on different sides of this issue. Dr. Chamberlin was a part of the majority report, and he was a signer to the minority report. He wants the PLD Committee to understand that one of the frustrations of the minority was that this Commission and its work was short-circuited by the COVID-19 pandemic. They lost months and months of work and time that could have been used to allow more diverse opinions from different sources. He thinks Dr. Chamberlin is correct, but he slightly disagrees; he thinks it is both a scientific and a political issue. It is certainly a political issue and he ventures to say that if this Commission were reorganized under the current House and Senate leadership the members of the Commission would probably look far different than the ones that were on the previous Commission. He thinks the best thing the Commission could have done, recognizing the many months' time that was lost and the inability to present opposing perspectives from equally credible scientists, would have been to extend the life of the Commission beyond the November deadline date, but that was not done. Much of the minority's frustration was over the information that the minority members of the committee felt they never had the chance to present.

Chair Greenwald asked if there were any questions from Committee members. Hearing none, he asked for further public comment.

Jennifer Friedman, of 7 Allen Ct, stated that her husband Paul Friedman is present with her. She continued that they were surprised by a letter right after Thanksgiving saying that a cellular company wanted to put a 5G tower basically on their neighbors' front lawn. It is 30 feet from their neighbors' house and less than 100 feet from their house. She and Mr. Friedman bought their home in August and the company is putting a 40-foot tower in front of it. She has a lot of concerns health-wise. From the political point, how will she ever sell this house, should she ever want to, with a giant cell phone tower out in front of it? She contacted Mr. Blomquist and expressed her concerns to him. She and her husband live across the street from the hospital. There is a huge amount of frontage over there in front of a commercial parking lot. There are certainly other places where they

felt that this tower could have gone, that was not literally in someone's front lawn. After her conversation with him, Mr. Blomquist went back to the cellular company and they came up with a bunch of reasons why that was not the best spot for it. Thus, here she is at this meeting, and is hearing [Mr. Maloney] say that there is absolutely no recourse that she and her husband have and there is nothing they can do about this. That is a horrible position to be put in. It is very frustrating and upsetting, and the FCC has basically tied their hands by saying the companies can put the towers wherever they want and there is nothing they can do. She does not understand how that can be.

Councilor Giacomo stated that the tower that is going in the yard near the Friedman's is not 5G. He continued that regarding Ms. Schreier's comments about their being nothing in these amendments that would prevent 5G from going in, as a matter of fact, there is. The setbacks that have been established in the amendments are 1,500 feet. It just so happens that 1,500 feet is the maximum range of a 5G cell tower, assuming that there are no obstructions. Here in Keene there are trees and houses. A neat fact about 5G is it does not penetrate those things, for the same reason it does not penetrate human bodies. Thus, the 1,500 feet that is put in there absolutely precludes 5G small cells from going in, because it actually undermines the technology and the technological limits of this.

He continued that lastly, he wants to consider how cellular towers actually work. People think of them as radio towers, pumping out radio waves all the time, which are going out to your house. In reality, if there is actually any damage that could be caused by electromagnetic radiation – which, again, the studies on are very spurious; there are some real sketchy publications being referenced – it is coming from your phone handset that you hold next to your head. This is the reason your phone dies so quickly when you do not have cell service. The phone has to try harder and harder, pumping out more and more to reach these towers. The towers are not completely passive, but mostly passive. If you do not want any cell waves in your life, he recommends making a personal choice to get rid of your cell phone.

Councilor Giacomo continued that the problem here is that these recommendations from the state go in a lot of different directions, not just 4G or 5G. As Dr. Chamberlin said, they are about 2G, 3G, and even wifi. There is a recommendation to remove wifi from schools. This recommendation comes in the middle of a pandemic, and they are recommending removing the one thing, wireless connectivity, that is keeping schools able to do things. It is a phase-out plan over five years, granted, but still, it is a part of this report. The report has a lot of items and he feels like a few of them were cherry-picked for Keene. Those actually effectively ban this technology for Keene. 2G and 3G are more dangerous – those are the longer wavelengths that actually can penetrate your body. The shielding effect prevents that, and he is surprised that an electrical engineering professor does not recognize that. These 2G and 3G technologies have been around for several decades and yet we have not seen increases in brain cancer, despite the phones being next to people's heads with the more dangerous waves. There is a lot of science and he thinks they should look to the science and stop blaming 'captive agencies' and believing disinformation.

Terry Clark stated that he opposes the expansion of 4G technology into 5G technology. He continued that at the County level they are advocating for towns in Cheshire County to move toward fiber optic cable agreements instead of high frequency wireless. That is exactly one of the recommendations from the State Commission to the schools – to get off wireless and go back to fiber optic cables, because first, fiber is much safer than high frequency wireless. As he told the Committee several months ago, the US military once considered using high frequency wireless as a weapon. Second, fiber consumes much less energy than high frequency wireless, and energy conservation is a major goal in this city. Third, property values decrease with high frequency wireless installations. Conversely, property values increase under fiber technology. And considering the state's regressive tax structure, our tax base in Keene and that in other towns really depend upon an increasing property

value. Our current, new Ordinance allowed five 4G wireless permits that can be easily upgraded to 5G once they want to. Two of them are at the ends of residential driveways in the Medium Density neighborhoods in Ward 3; he is really sorry for them. It seems like it is water over the dam now. The residents of Keene need the PLD Committee's help in the future. They are facing danger from powerful people that they should not have to face alone. All City Council members took oaths to protect the health and safety of citizens. He asks them to please recraft this Ordinance and give citizens the protections that they deserve.

Kyle Orangio stated that he is calling on behalf of the nonprofit, nonpartisan organization Global Disinformation Index (GDI). He continued that he is in Miami, FL. It came to the GDI's attention that the City was considering a ban on 5G technology and they wanted to give their nonpartisan opinion on the matter. As global experts on disinformation they felt compelled to weigh in with background on the malicious manipulation of this issue by state and other actors. They would hate for residents of Keene, NH to be deprived of this important technological development at the hands of malicious state and other disinformation actors seeking to hamper innovation and deepen the digital divide. Since the organization's inception in 2018, the GDI has worked to track, disrupt, and defund disinformation. They pride themselves on being nonpartisan and therefore able to provide objective views on contentious topics, including the disinformation campaign surrounding fifth generation telecoms known as 5G.

Mr. Orangio continued that one of the ways GDI classifies and tracks disinformation is "adversarial narratives." Those are intentionally distributed narratives that seek to enrage, divide, or erode trust in institutions and are intentionally misleading and often carrying a risk of harm to vulnerable individuals or groups. As is often the case with adversarial narratives, there is some kernel of truth involved that is twisted or misrepresented. This is very much the case with 5G. The GDI has been mapping disinformation campaigns about 5G since they emerged in 2016 and the five themes upon which they were founded: health, which seems to be the biggest concern for the City Council and the community; environment; big government; national security; and the economy. The GDI has done a report on this, which he is happy to share with the Committee if there is an email address he can send it to. They discovered that this anti-5G movement has been propped up for years by a series of half-truths and has received amplification, foreign and domestic, in order to generate long-term conflict, slow progress, and try and further hamper innovation in the US and Europe. In the GDI's view, it would be highly detrimental to the citizens of Keene to restrict access to advanced digital technology based on unfounded claims and the malicious actions of state-sponsored disinformation actors. They sincerely urge the PLD Committee to consider the information they have laid out in their report to assess the Committee's and community's concerns about the issue.

Chair Greenwald stated that he is not aware of any other call-ins. Mr. Lamb replied that there is no one else with their hand raised to speak. Chair Greenwald asked if anyone who has already spoken wants to speak again.

Councilor Johnsen stated that this is mind-boggling, and what she would really like to see, as a professional researcher, is a debate where they have solid questions and where each side can answer the questions based on scientific evidence, because she trusts the science.

David Maloney stated that to the point about the science, as you look at this, the majority report relies on these individual studies rather than the thousands of studies that have been done on these issues over the course of decades. He continued that they have chosen to cherry-pick a small assortment of these studies to hold up and say "This is the direction you should go in." The science does not support it. On top of that, other states have investigated this issue, and they have come to a different conclusion. Vermont, Hawaii, Oregon, and Louisiana

have come to a different conclusion than the New Hampshire Commission has. That is an important point to make. [The minority signers] are talking about decades of research going back decades, regarding the health issues. If you go through the minutes of the Commission's meetings, so much time was dedicated to the health and safety of wireless devices or the concentration of conversation around five or six studies, rather than the preponderance of evidence that exists around these issues. Thus, to Councilor Johnsen's point, the science on this is settled.

Kent Chamberlin stated that [the majority signers] looked at the body of evidence. He continued that yes, there is contradictory evidence, contradictory articles. There are some articles that say there are no problems, but a lot of the articles show that there are significant problems, as he outlined and showed. They did not focus on a narrow band of articles; they looked at the whole body of evidence, which suggests that there is a problem. When they were first trying to determine whether or not smoking was a problem, there was a lot of conflicting information. The fact that five out of six smokers do not contract lung cancer is contradictory evidence. Right now there is a strong body of evidence that the Commission looked at and followed in coming to the majority report's conclusion.

Jennifer Friedman stated that to reiterate, she understands that technology is advancing and that there are needs in the community that this is going to address, but she feels very strongly that those needs have to be met while also considering the health and safety and property values of individual citizens. She continued that it is very hard to understand how people can be putting these towers right in someone's front yard in the middle of a neighborhood. It does not seem to make sense. There have to be some parameters and guidelines that protect people, both physically and financially, from these unsightly 40-foot towers with [emissions unknown], and from having large corporations place these directly in front of people's homes. She understands that the towers need to be some place, but they do not need to be 30 feet from somebody's house. It is ridiculous that nothing stops a company from coming in and doing that. If there is any way that a Planning Board can put some guidelines around that, she would strongly [suggest that]. She thinks it may be too late for her and her neighbors, but there are lots of other people in town that this is going to come to. She understands that any cellular company can come in and do this. They can all put their own towers all over town, wherever they want. It just seems unfair.

Lori Schreier stated that to underscore what the Friedmans are saying, and to go back to the recommendations she made about the setbacks, apparently if you read the setbacks carefully there are no setbacks for how far or how close the small cells can be to residences. She continued that she understands that the City Council has every legal right to put in a reasonable setback, based on aesthetics and economic reasons, to protect property values and the aesthetics of the community, to have some distance between the small cells and homes and vulnerable populations. It does not have to be 1,500 feet as the Commission recommends for health reasons, but certainly they can find a reasonable setback, and that is what she truly hopes the PLD Committee will look at very carefully.

Councilor Giacomo stated that he agrees with Councilor Johnsen's concerns and thinks there is a need for good science to be brought forward on this. He continued that the problem is that all the studies that were brought before this Commission, the Commission brought forward eight experts and of those, seven were anti-5G activists or enthusiasts. The eighth one was cut off and was not allowed to finish what he was speaking about. All the studies that were presented to the Commission were absolutely all on one side of the argument. These are studies that are published in some pretty fringe journals – a lot of them reference each other instead of referencing new data. Of the data that is presented - for instance, the hair follicle cancer one – the hair follicles that had cancerous issues were not even on the side of the head that the cell phones were on. There was an important rat study that is referenced constantly, and for some reason, only the female rats got it, without explanation of why this is the case. The science is out there. The problem is that the Commission was

convinced that the science from the agency that is tasked with doing this is not to be believed. They decided that because [the FCC] is a so-called “captive agency,” this means they are not to be believed and their science is just thrown out. There is good science there. It is done by the correct people who are supposed to be providing that science. The problem is that doubt has been sown. Sowing doubt is the whole function of disinformation campaigns. That is a big problem.

Chair Greenwald stated that he wants to remind everyone that the PLD Committee is not voting yes or no on this. This is an informational discussion. The discussion is about the cell transmitters on the public way. It is still up to the private citizen and homeowner or landowner if they want to locate it. They are talking about City property, basically. The information about potential dangers or lack of dangers is very informative and to him it is very confusing. The science and experts make very serious arguments and are very committed to their positions.

Chair Greenwald asked if there is anyone who has not spoken twice who has more to say. Hearing none, he called again on Kent Chamberlin.

Dr. Chamberlin stated that regarding the term “anti-5G,” he thinks he got lumped into that category and it is absolutely untrue. He continued that when he came onto the Commission he was Chair of the Department of Electrical and Computer Engineering. He is a great advocate, especially in electromagnetic wireless, and became concerned about the health risks of 5G when he started reading the publications. These publications were called “fringe publications,” and that is absolutely untrue. He got together with the librarian to rank the journals in which these appeared. They are rock solid, which high indexes, citation ratings, with high impact factor. They looked through who the reviewers were. Yes, there are not good articles and not good publications out there about 5G, but the ones the Commission looked at and trusted are indeed from very respected publications.

The City Attorney stated that Mr. Maloney referenced a number of states that had considered the issue, and his question is whether any of those resulted in some sort of legislative action, and if so, could Mr. Maloney provide that?

Mr. Maloney replied that these have been issued by the state’s health department agencies. He continued that he thinks this is the first Commission report but states have looked at this, and yes, he can share some of that information with the City Attorney.

Councilor Jones stated that he does not agree with staff’s recommendation to accept this as informational, especially after listening to Councilor Johnsen. He continued that if they accept this as informational, it does not even go on the table to the City Council. He thinks this needs discussion by the full City Council. It means they would not be able to act on this again until the next calendar year, according to their bylaws, unless there is some substantial change. He disagrees with the wording of the recommended motion and he does not know what kind of wording to use; he does not like the idea of placing this on more time, either.

Chair Greenwald stated that for clarification, they have just heard a presentation of information; they are not taking action in support of or opposed to this. To his mind, that would not fall under the category of something they can only act on once a year. This is not an Ordinance or Resolution; this is just a presentation. He asked the City Manager for guidance.

Elizabeth Dragon, City Manager, stated that tonight they were focused on the State Commission’s report and this is really about getting a better understanding of both the majority report and the minority report. She continued that that was something that the City Council said they would do last year when they adopted the Ordinance – they wanted to come back and talk about the report. There is still an item on more time, from Councilor Clark, to talk about the Ordinance and whether or not to amend it. That item will still come back before the Committee and have a conversation with the full City Council. Chair Greenwald stated that would

fall under the once a year concept.

The City Manager stated that she wants to thank Dr. Chamberlin and Mr. Maloney for taking so much time to do this for the City. She continued that it is a very complicated subject, and the City really appreciates them coming here and not only giving them a really great synopsis of both reports, but also sitting with the Committee all night and answering questions. They really appreciate it. Chair Greenwald agreed.

Chair Greenwald asked if members of the public had any further questions or comments.

Mr. Juvet stated that the City Attorney was asking if Mr. Maloney knew of any legislation throughout the rest of the country, and he does not know the answer to that, but he does focus on the NH legislature and can tell him that as he mentioned last month, there is no legislation that has been submitted for this session relating to any of the recommendations coming out of the Commission, which is rather remarkable because one of the ardent, anti-5G voices on the Commission is now a State Senator. He does not know why there has not been some type of legislative proposal.

Councilor Jones stated that he thanks the City Manager for the clarification. He continued that he is looking at the list of more time items and sees that Councilor Clark's is on there, relating to small wireless facility development in the public rights-of-way. He thinks there are some amendments that can be done and that would be the right place. He takes back what he said about this being accepted as informational.

Councilor Johnsen stated that she thinks the Senator would be a good piece of this conversation. She continued that she has really enjoyed listening to Councilor Giacomo and also Dr. Chamberlin. She felt like she heard from both of them very concise statements and she thinks Jay Kahn could be a good person to, in a sense, lead this kind of discussion. She puts that out there for her fellow Councilors. She knows they have heard a lot of this before, but she is completing her first year and she has to hear a lot more.

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

On a vote of 3-1, the Planning, Licenses, and Development Committee recommends that the City Council accept the presentation from Commission to Study the Environmental and Health Effects of Evolving 5G Technology as informational. Councilor Johnsen was opposed.



City of Keene, N.H.
Transmittal Form

February 25, 2021

TO: Mayor and Keene City Council

FROM: Finance, Organization and Personnel Committee

ITEM: D.6.

SUBJECT: Acceptance of Donation - Bee City Application

RECOMMENDATION:

On 4-0 roll call vote, the Finance, Organization and Personnel Committee recommend that the City Manager be authorized to do all things necessary to accept a donation of \$200.00 from John and Claire Therriault for the purpose of submitting a City of Keene Bee City Resolution.

BACKGROUND:

Community Development Director Rhett Lamb addressed the committee and referred to the \$200.00 donation from John Therriault who is a member of the Conservation Commission. Mr. Lamb stated Mr. Therriault has been the driving force behind the City becoming a Bee City and has offered to pay for the first years dues. The Conservation Commission is in favor of this donation.

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

On 4-0 roll call vote, the Finance, Organization and Personnel Committee recommend that the City Manager be authorized to do all things necessary to accept a donation of \$200.00 from John and Claire Therriault for the purposes of submitting a City of Keene Bee City Resolution.



City of Keene, N.H.
Transmittal Form

February 25, 2021

TO: Mayor and Keene City Council

FROM: Finance, Organization and Personnel Committee

ITEM: D.7.

SUBJECT: Keene Young Professional Network Summer Food Festival Funding Request

RECOMMENDATION:

On 4-0 roll call vote, the Finance, Organization and Personnel Committee recommend that unspent funds from the City's FY21 Community Event Budget be used for the cost of City services for the Keene Young Professional Network Downtown Summer Food Festival on June 5, 2021.

BACKGROUND:

Councilor Remy indicated he is on the Board of Keene Young Professionals and stated he wasn't sure if this would cause a conflict for him to be able to vote on this time. He indicated the group won't be making money off the event and the group is not asking for money from the City but are asking not to be charged for City services. Attorney Mullins felt there was no conflict and the committee agreed.

Public Work Director Kurt Blomquist addressed the committee next. He indicated the Keene Young Professional have requested the City cover expenses related to this event. This group went before the PLD last night for a license request and received a positive recommendation.

Mr. Blomquist indicated this event is scheduled for June 5. The plan is to close down Central Square with event being scheduled from 12 pm to 5 pm (there will be time before and after for set up and take down). The group has met with City staff and have gone through the protocol process and there will be other meetings prior to the event. City departments have provided their estimates (Fire, Police, PW and Health) and the cost is estimated to be \$16,953 for the day.

Mr. Blomquist went on to say the City maintains a community events budget for events that qualify for community event funding. He noted that with the exception of the tree lighting ceremony, the other events did not proceed in 2021. The original appropriation for community events was \$30,400, and after taking out the cost for tree lighting, there is still a balance of \$29,600 in that cost center. Staff is recommending money for this event come from that account.

Director Economic Development and Special Projects, Med Kopczynski addressed the committee next. Mr. Kopczynski stated he was also representing City Manager. Mr. Kopczynski stated this event came out of the Keene Rebound meetings and the Manager's Office has been involved with its planning since day one. The intention is to stimulate activity in the city especially in the downtown. Mr. Kopczynski went on to say the continued discussion of staff has been how to activate the streets in the downtown and because of that expanded use of the right of way for that reason is being recommended.

Staff feels this event would be a safe return to Keene events and the Manager's Office is in full support of this event and encouraged the committee's support as well.

Councilor Remy was the next speaker and began by showing the committee the preliminary logo for this event. The Councilor explained Keene Young Professionals is affiliated with the Hannah Grimes Center for Entrepreneurship. The goal of this group is to bring people out into the community. The downtown will be closed from around 9 am to 8 pm on June 5 with the event scheduled between 12 pm and 5 pm.

The Councilor stated 15 Keene restaurants will be set up around the Central Square selling food in exchange for tokens. The profits will be shared between the participating businesses. The bandstand will be setup for cooking demos. The event will culminate with a hot pepper eating contest. There will be live music being performed at the Hannah Grimes Center. Local breweries are being invited to participate. The cost of a wristband will be \$20.

Councilor Ormerod asked about parking and if streets are shut down how people would be able to access the event. Councilor Remy stated Central Square will be shut down, traffic will be able to get as far north as the turnaround on Main Street. Free parking is not being requested from the City for this event as they are looking for turnover in the parking spots; parking maps will be provided in advance of the event. He added there will also be signs posted to provide directions from the parking lots to the event.

Mr. Luca Paris from Luca Paris Restaurant thanked the City for what they have done for the restaurants and businesses throughout the pandemic. Mr. Paris stated this event will celebrate the end of getting through the pandemic. He noted to the many safety measures the Keene Young Professionals are taking to make sure this event is conducted in a safe manner

Councilor Hooper thanked Mr. Paris and the Keene Young Professionals for what they are doing for the downtown and agreed it is time to start celebrating Keene.

Councilor Ormerod thanked staff, Mr. Paris and Keene Young Professionals for this event and stated he anticipates a question from general counsel would be how the City can be sure this event is going to be safe; what are the trigger points and what are the backup plans. Mr. Blomquist replied from his role as the Emergency Management Director and stated the event will be held based on what the guidelines are at that time. He indicated at the present time the State and region are seeing a decrease in COVID even though the Monadnock Region might be lagging behind by a little, it is still seeing a decrease in positive cases. Mr. Blomquist went on to say the State is projecting vaccine for group 2A to begin in April and 2B to begin in May.

Mr. Blomquist stated the Emergency Management team along with Keene Hospital and Keene State not only look at positivity rates, but also they look at the ICU numbers at Cheshire Medical on a weekly basis. There is a weekly meeting with the school district, county, hospital and staff to look over numbers.

Dr. Caruso from the Cheshire Medical provides those numbers and compares Keene to the rest of the State. Councilor Remy indicated one of the requirements from the PLD Committee is that the event will keep in compliance with all CDC Guidelines. Mr. Kopczynski stated the Emergency Management team is very diligent in general, and especially when it comes to an event such as this. Most of this team is involved in the weekly meetings as it relates to COVID 19.

Councilor Ormerod stated he has no doubt this will be a safe event, but HE felt it is important to have firm dates so the event can be properly planned.

Councilor Hooper asked whether the motion should have the specific amount of \$16,953 included in it. Mr. Blomquist stated \$16,953 is only an estimate and the number could change but the city can only spend up to \$30,000 which is what available in the budget; anything over that amount will be up to the Keene Young Professionals.

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

On 4-0 roll call vote, the Finance, Organization and Personnel Committee recommend that unspent funds from the City's FY21 Community Event Budget be used for the cost of City services for the Keene Young Professional Network Downtown Summer Food Festival on June 5, 2021.



City of Keene, N.H.
Transmittal Form

February 25, 2021

TO: Mayor and Keene City Council
FROM: Finance, Organization and Personnel Committee
ITEM: D.8.
SUBJECT: Sale of Tax Deeded Property- 62 Elm Street

RECOMMENDATION:

On 4-0 roll call vote, the Finance, Organization and Personnel Committee recommend that the City Manager be authorized to do all things necessary to do all things necessary to sell the following tax deeded property by sealed bid: 62 Elm Street, Map 554 Lot 24.

BACKGROUND:

City Assessor Dan Langille was the next speaker. Mr. Langille stated this item is for approval to sell a city owned property located at 62 Elm Street. This property was taken by tax deed on November 30, 2020. No taxes have been paid since 2017. Mr. Langille stated A number of communications has been made to the owner in an effort to bring taxes current. Since taking the property, the City has given the owner 90 days to purchase the property back, but the owner has made no effort to pay the taxes.

Mr. Langille stated the City feels it is in the best interest of the City to sell property at this time. The property will be sold by sealed bid to the highest bidder. It will be advertised for about three to four weeks and will be shown to anyone who is interested.

Councilor Ormerod asked whether there was an eviction involved. Mr. Langille stated when the property was taken by the City it was vacant.

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

On 4-0 roll call vote, the Finance, Organization and Personnel Committee recommend that the City Manager be authorized to do all things necessary to do all things necessary to sell the following tax deeded property by sealed bid: 62 Elm Street, Map 554 Lot 24.



City of Keene, N.H.
Transmittal Form

February 24, 2021

TO: Mayor and Keene City Council

FROM: Municipal Services, Facilities and Infrastructure Committee

ITEM: H.1.

SUBJECT: Kevin Leary – Request for Property Access – Old Gilsum Road and Use of Old Gilsum Road -
Public Works Director/Emergency Management Director

RECOMMENDATION:

On a vote of 4-1, the Municipal Services, Facilities and Infrastructure Committee recommended placing this item on more time for one Committee cycle while Staff and all other parties communicate and report back with their results in two weeks. Councilor Giacomo opposed.

BACKGROUND:

Chair Manwaring heard agenda items two and three together, and welcomed Kevin Leary of 27 Meetinghouse Road to speak first.

Mr. Leary said that he had spoken with the Director of Parks, Recreation & Facilities, Andy Bohannon, about this a few times and had now submitted a formal request. Mr. Leary was new to the Drummer Hill Homeowners Association (DHHA) as of September 2020 and as an outdoorsman, he discovered properties at the top of the DHHA land, including a large private lot that he hoped to access. In spite of Covid-19, Mr. Leary said he contacted town members in an effort to discover the property owner – because nothing was posted identifying the land – to determine their interest in selling or a lease program for private access to those grounds. Ultimately, Mr. Leary discovered that the parcel in question is Lot #9, which was in a trust association for the Fontaine family and managed currently by Mark Fontaine. Mr. Fontaine responded to Mr. Leary's request, granting permission to use the lot as needed with the agreement that Mr. Leary would donate to Mr. Fontaine's favorite children's charity. Mr. Leary thought the DHHA maps dated to the 1930s when Old Gilsum Road was the access to all of the lots in question. He says the original clause says the property owners could continue using Old Gilsum Road as a public right-of-way by motorized vehicles to access their lands, but that does not include his lease with the Fontaine family without formal permission from City Council. Mr. Leary said that there is a different access point at the top of the neighborhood, which he said neighbors agreed would be a better point for Mr. Leary to access the property, there is a utility road associated with a now gated water tower that leads directly to the parcel without interfering with recreation areas. Mr. Leary concluded stating his hope to gain access to the Fontaine property using a motorized vehicle with one or two pieces of equipment for land maintenance. He hoped to avoid Old Gilsum Road if granted permission to use the access from the water tower.

Chair Manwaring welcomed the Director of Public Works/Emergency Management Director, Kürt Blomquist, who shared an image of the area that exhibited the few small lots along the Class V Timberlane Drive. He showed land owned by the Fontaine Trust. Mr. Blomquist explained that when the City Council discontinued Old Gilsum Road in the early 1960s, it was reclassified from a Class V to a Class VI roadway and the Council placed the following additional restrictions on the roadway in §94-238. – Closed Streets. "Old Gilsum Road, a

class VI highway, closed subject to gates and bars, pursuant to the provisions of RSA 47:17(VIII) is closed to vehicular traffic unless otherwise permitted by the city council. Notwithstanding the fact that Old Gilsum Road is closed to vehicular traffic, owners of property abutting on Old Gilsum Road shall not be prohibited from using the right-of-way of such Old Gilsum Road for purposes of gaining access to their respective properties at their own risk."

Mr. Blomquist continued that as a Class VI roadway, any passive recreation is allowed that does not use motor vehicles, with special exceptions granted by City Council for the Keene Sno-Riders to use the upper portion of Old Gilsum Road under utility lines. The Public Works Department and Parks, Recreation and Facilities Department have managed access to Old Gilsum Road over time, with property owners provided access keys to individual locks for use as they please; the City maintains keys in case of emergencies. Mr. Blomquist said that because Mr. Leary is not the owner of the Fontaine Trust parcel, he is required to seek permission from the City Council for use of Old Gilsum Road by a motorized vehicle. If the Council permitted this access, Mr. Leary would be provided keys to access the gates temporarily on the condition that use of Old Gilsum Road by roadway, but not motor vehicles, is only for access to the Fontaine Albert R. Revocable Trust property.

Chair Manwaring heard public comment.

Tad Dwyer of 16 Meetinghouse Road questioned whether the Committee had received letters from the DHHA President, Phil Gaiser, or the Treasurer with their stances. The Chair had not received those letters. Mr. Dwyer deferred to another DHHA member, James Kirby of 12 Meetinghouse Road. Mr. Kirby said he was asked by the DHHA President to speak as their representative and a member of the Board of Directors. Mr. Kirby said the concern was not about Mr. Leary but about continued access to Old Gilsum Road by motor vehicles for the sake of public safety. Mr. Kirby said that if another landowner chose a similar arrangement, then granting access to Mr. Leary could set future precedent, allowing more traffic on a road that is used heavily for passive recreation. Mr. Kirby expressed another concern on behalf of the DHHA that the access gate at Timberlane Drive and Old Gilsum Road is locked typically as it should be. However, since utility work last spring, Mr. Kirby said that the gate had been found unlocked consistently, and as of the day of this meeting, the gate was wide open. Mr. Kirby understood that utility workers need access, as do property owners to work on their land, but the DHHA still hoped that lower Old Gilsum Road would remain safe for passive recreation.

Chair Manwaring recognized Mr. Dwyer again who stated that he liked Mr. Leary and that this had nothing to do with him personally. Still, Mr. Dwyer referenced Mr. Leary's letter to the City Council, questioning Mr. Leary's request to access the property by motorized vehicle only two or three times annually, given that he had already far exceeded that to date without permission. Mr. Dwyer had encountered Mr. Leary using his motorized vehicle two days in a row and others had complained to him about Mr. Leary's use. He said that Mr. Leary had been driving over the curbs and around the locked gate to access Old Gilsum Road. Perhaps Mr. Leary was unaware of the rules, but Mr. Dwyer said that this was still clearly not working before permission was even granted, and he was concerned if Mr. Leary were granted this permission.

Mr. Blomquist spoke to the gate being unlocked, and stated that communication was needed with the utility companies who have permanent access for night work to ensure they are locking the gate properly. He said that sometimes the property owners might forget to lock the gate or in some instances, the gate had been vandalized. He said that minimizing use of Class VI roads for motorized purposes is an ongoing challenge because they are still public ways. The Council closed Old Gilsum Road subject to the property owner's motorized use and public's own recreation risk, because the City does not maintain Class VI roads. Mr. Bohannon and Mr. Blomquist would follow-up to monitor the gate and ensure it remains closed and locked. The City Attorney said he would have a conversation with Mr. Blomquist and Mr. Bohannon about the status of Class VI roads and gates.

Councilor Filiault said it was clear hearing these testimonies from all parties that this matter was nowhere near a resolution, stating that more time should be granted for all involved to talk through this more because too many

questions remained for a vote.

Having walked and biked Old Gilsum Road and the surrounding trails, Councilor Chadbourne said she had a sense of wanting to preserve the area's quality for passive recreation. A few years ago, she was a member of the Greater Goose Pond Forest Stewardship Plan development, which included public sessions that made clear how much those trails systems are used for passive recreation, and that there was what she called a general consensus that the public wanted those trails preserved from vehicles. Councilor Chadbourne noted her experience with vehicles eroding trails, among other impacts. If this matter were put on more time, she suggested that information from that Stewardship Plan process might be helpful for Council review. Councilor Chadbourne concluded that she did not take this matter lightly and she was not in favor. Mr. Bohannon said that the Greater Goose Pond Forest Stewardship Plan is a great document and that per recommendations in that plan, with support and recommendation from the Conservation Commission, Staff would be returning to Council in short order with a motion to establish a Greater Goose Pond Forest Stewardship Committee to execute actions the plan. He agreed that Old Gilsum Road and surrounding trail systems are used heavily for multiple passive recreation purposes.

Mr. Blomquist said that the majority of properties along Old Gilsum Road are private, meaning that there are technically no public trails off most of the roadway. From a trails perspective, he continued that Old Gilsum Road is technically a public highway and not a trail, but is often used as such because it is unmaintained by the City as Class VI.

Vice Chair Giacomo wanted to hear from Mr. Leary about the allegations. The Vice Chair continued that because representatives of the Fontaine Trust already have access to use motorized vehicles on Old Gilsum Road, Mr. Leary would have access if he were a guest of theirs, and there were no stipulations as to how often the Fontaine's could use vehicles on that road. When it came down to what the Committee was voting on, Vice Chair Giacomo said it seemed clear. He understood that people did not want vehicles on Old Gilsum Road and agreed that he would be scared if he encountered one there during recreation, but in terms of legality he did not see an issue granting Mr. Leary the same access that the owner would have.

Although it is a Class VI highway, Councilor Chadbourne said that all the trails around Goose Pond are connected and as a hiker/biker, Old Gilsum Road feels like one of those trails whether it is technically. She said it is very jarring when a motor vehicle suddenly approaches in that wilderness space.

Mr. Leary spoke to the allegations, stating that Mr. Dwyer was correct, and that he attempted to contact the City for more than the past month about access since the property owner granted him full rights; the property owner told him the access was through Old Gilsum Road. Before putting an ATV on Old Gilsum Road, Mr. Leary said he reached out to the City and as many people as possible to ensure he was not upsetting neighbors or recreation areas. He said that his access was not to joyride through the property for recreation but because he had permission to work there and thought winter might be better with Old Gilsum Road less traveled. He did not think Old Gilsum Road was the best way to access the property, citing the water tower access again that would interfere with no recreation. As a father who also uses Old Gilsum Road for recreation with his children and pets, he too did not want dangerous misuse of the road by motor vehicles. Mr. Leary thought there was a miscommunication and he hoped to access the property directly from the safest point – the utility road at the water tower.

Chair Manwaring also suggested putting this item on more time to allow all parties to think and review the Greater Goose Pond Forest Stewardship Plan, not just because of Mr. Leary, but to consider further setting possible precedent.

Vice Chair Giacomo disagreed, stating that he thought the request should move forward and that this had nothing to do with the Greater Goose Pond Forest Stewardship Plan. He would not support more time.

Councilor Filiault made the following motion, which Councilor Chadbourne seconded.

On a vote of 4-1, the Municipal Services, Facilities and Infrastructure Committee recommended placing this item on more time for one Committee cycle while Staff and all other parties communicate and report back with their results in two weeks. Councilor Giacomo opposed.



City of Keene, N.H.
Transmittal Form

February 25, 2021

TO: Mayor and Keene City Council

FROM: Finance, Organization and Personnel Committee

ITEM: H.2.

SUBJECT: Continued Discussion - Evaluation Process for Charter Employees

RECOMMENDATION:

On 4-0 roll call vote, the Finance, Organization and Personnel Committee recommend that the item regarding Evaluation of Charter Employees be put on more time

BACKGROUND:

Chair Powers explained Councilor Manwaring had requested the Committee look at the current system as to how Charter employees evaluated. It was suggested both by the committee and the Council that a survey be undertaken based on the questions raised by Councilor Manwaring. There were 14 responses received – everyone participated. The majority of the responses (six) have chosen the newly suggested process. That process is for the charter employee to meet with the Council, following that the Finance Committee will put together a document which the Chair will present to each of the Charter employees.

An assumption was made that the self-evaluation process will be improved as well. The Chair explained a different form will be formulated for each employee to present to the Council and stressed it is important that all Councilors respond.

Councilor Powers stated there was a question raised about the timeframe for these evaluations – he stated these evaluations will follow the same format as other city employees and will fall on their anniversary date and it is the hope the Mayor will continue to be involved in this process.

The next step would be for the HR Department to assist in getting sample forms from other communities for the three positions. The charters employees will be asked to provide topic areas they feel will be important for each of their positions.

Councilor Hooper asked whether there is a timeframe for keeping this item on More Time. Chair Powers stated his intention is to make progress during each cycle but was open to suggestions. City Attorney Mullins stated his recommendation would be to keep the item on More Time so that collectively a process to move the item forward can be decided. Chair Powers stated there will be an email going out tomorrow. Attorney Mullins cautioned not to respond “Reply To All” on the email, but to reach out to the specific person for a response.

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

On 4-0 roll call vote, the Finance, Organization and Personnel Committee recommend that the item regarding Evaluation of Charter Employees be put on more time



City of Keene, N.H.
Transmittal Form

March 1, 2021

TO: Mayor and Keene City Council

FROM: Tara Kessler, Senior Planner

THROUGH: Elizabeth A. Dragon, City Manager

ITEM: I.1.

SUBJECT: O-2021-01 Relating to Chapter 18 Building Regulations

RECOMMENDATION:

That the attached Ordinance, O-2021-01, relating to Chapter 18 Building Regulations be referred to the Planning, Licenses, and Development Committee for review and recommendation to City Council.

ATTACHMENTS:

Description

Ordinance O-2021-01

BACKGROUND:

In anticipation of the upcoming City Council public hearing on ordinances O-2020-10 and O-2020-11, relating to the proposed Land Development Code and changes to the City's downtown zoning, City staff are recommending that the following language be temporarily removed from Section 18-27(a) of Chapter 18 "Building Regulations" of the City Code of Ordinances:

"Building permits shall not be issued for applications made after the first legal notice of proposed changes in the building code or zoning ordinance has been posted pursuant to the provisions of RSA 675:7; and the proposed changes in the building code or the zoning ordinance would, if adopted, justify refusal of such permit."

It is anticipated that the first legal notice for the City Council public hearing on these ordinances would be posted on April 2, 2021. However, the proposed ordinances, if adopted, would not take effect until July 1, 2021.

Given the extraordinary and substantial nature of the regulatory changes proposed in these ordinances, and the lengthy period of time between the anticipated legal notice of the City Council public hearing (April 2) and the take effect date of these proposed regulations (July 1), it would be burdensome to both permit seekers and city staff reviewing building permits to enforce this section of the regulations during this time period.

City staff are recommending that this section of Chapter 18 be reinstated after the proposed Land Development Code takes effect in July, and will submit an ordinance at that time to restore this language.



CITY OF KEENE

Ordinance O-2021-01

Twenty One

In the Year of Our Lord Two Thousand and

AN ORDINANCE **Relating to Chapter 18 Building Regulations**

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 removing the text that is bolded and stricken below from Section 18-27(a) "Permits Required."

Section 18-27(a) "*Permits Required*. Any person, who intends to erect a building, structure, or sign; alter an existing building, structure, or sign; or construct or demolish any building, structure, or sign; or change the occupancy of a building or structure, shall obtain permits from the code enforcement department and if applicable, the fire department, before the work has begun. This requirement includes any type of work, which is regulated by the building and fire codes enforced by the city. The code enforcement and fire departments may approve minor repair work without the requirement of a permit provided such approval is not in violation of the codes and all permit applications for the code enforcement department and the fire department shall be distributed by the code enforcement department. Incomplete applications shall be rejected. ~~Building permits shall not be issued for applications made after the first legal notice of proposed changes in the building code or zoning ordinance has been posted pursuant to the provisions of RSA 675:7; and the proposed changes in the building code or the zoning ordinance would, if adopted, justify refusal of such permit.~~"

George S. Hansel, Mayor