

City of Keene
New Hampshire

MUNICIPAL SERVICES, FACILITIES, AND INFRASTRUCTURE COMMITTEE
MEETING MINUTES

Wednesday, August 26, 2015

6:00 pm

City Hall, 2nd Floor, Council
Chambers

Members Present:

Philip M. Jones, Vice Chair
Janis O. Manwaring
Sheryl A. Redfern
Robert J. O'Connor

Mayor Kendall Lane

Members Absent:

James P. Duffy, Chair

Staff Present:

City Attorney Thomas Mullins
Planning Director Rhett Lamb
Assistant Public Works Director Donna
Hanscom
Assistant City Manager Elizabeth Fox
Police Chief Brian Costa
Parks, Recreation, & Cemeteries Director
Andrew Bohannon

Others Present:

Councilor Carl B. Jacobs
Councilor Emily Hague
Councilor Bettina A. Chadbourne
Councilor David R. Meader
Councilor Randy L. Filiault

In Chair Duffy's absence, Vice Chair Jones called the meeting to order at 6:00 PM and explained the procedures of the meeting. He stated that they will change the order of the agenda items and address #6 first.

**6. REPORT – Conservation Commission – Petition for Scenic Road Designation –
Nims Road**

Vice Chair Jones stated that this requires a public hearing before the Conservation Commission and the City Council, which is scheduled for September 3, 2015 at 7:00 PM. He asked if members of the public had questions or comments about this. Hearing none, he asked for a motion.

Councilor Manwaring made the following motion, which was seconded by Councilor O'Connor.

On a vote of 4-0, the Municipal Services, Facilities, and Infrastructure Committee placed this item on more time.

1. PRESENTATION - New Hampshire Department of Transportation – Construction of a New Multi-use Trail Bridge Over NH Route 12/101 – aka South Bridge

Ron Grandmaison, Project Manager from the New Hampshire Department of Transportation (NHDOT), stated that he is here with Jason Tremblay, a Bridge Engineer from NHDOT, to present the infamous South Bridge. He continued that the bypass project has been around for a long time. NHDOT did interim improvements, such as the two-lane roundabout at Winchester Street, and improvements on West Street, the Ash Swamp Brook area, and Base Hill Road. This project is part of the overall bypass improvements.

Mr. Grandmaison continued that South Bridge was slated to advertise as part of the Ten Year Plan in 2021 but there are surplus Transportation Enhancement (TE) funds, which allow NHDOT to do improvements for bicycle and pedestrian paths, and the South Bridge project was one of the only eligible candidates for that lapse in money. Thus, NHDOT accelerated the project. They knew the City would love to see it happen faster than 2021. This pedestrian bridge will mirror North Bridge more or less. It will of course be shorter, and will connect the Ashuelot Rail Trail from south of Route 101 into the city of Keene. They have about \$2 million in TE funds for this. South Bridge is one of the thirteen structures that are part of the bypass project.

He continued that there are some outstanding issues he needs to address with Public Works Director Kürt Blomquist and the City Council regarding maintenance, ownership issues, and possibly aesthetics. He hopes to bring this to the City Council next month.

Jason Tremblay, from NHDOT's Bureau of Bridge Design, showed a map of the area on the easel. He explained that the Ashuelot Rail Trail is just west of the Route 12/101 over the Ashuelot River Bridge and also west of Main Street. Right now there is no connection between the north and south portions of the trail. That is where the bridge will go. Currently there is no bridge but there are 10-foot wide dirt paths on either side. The area is relatively flat. The proposed bridge is a contractor-designed superstructure similar to North Bridge. He continued that shown here are the existing plans from North Bridge, which their South Bridge proposal will mimic, as much as possible. The piers and abutments will be designed. The piers will be on piles and the abutments will be on spread footings. The span configuration will be three simple spans, of 70 feet, 200 feet, and 70 feet, for a total length of 340 feet. The reason is for 200 foot span: there are 48 feet of existing width with NH 12 and 101. There is an interim project, and there will possibly be a future widening that adds about seven feet, but then there is the "ultimate widening" – which Mr. Tremblay stated he does not know what the lane configuration will be, but it will be 130 feet long. This bridge will accommodate all of the forthcoming projects, if and when they happen.

Mr. Tremblay continued that they will still maintain a 10-foot wide dirt path up to the bridge. The bridge will also be 10 feet wide to accommodate bikes and pedestrians. They need 18 feet of clearance over the road, so to do that they need to raise the grade of the bridge, starting with a 7.9% approach to the crest of the bridge, then leveling out, then having a 7.9% grade back down the other side, to clear the road. The path will still be on a horizontal alignment straight across so it will tie in at both ends, but it does extend the length of the fill work. They will put up a

chain link fence where they have slopes up the side and the fence will stop when it gets flat. They will catch water that is coming off the bridge, in a couple catch basins at the end.

Mr. Tremblay continued that all of the work stays within the State-owned right-of-way so they do not have to impact anyone's property. There are overhead utility lines belonging to Eversource. There will be a slight bit of fill underneath but not at a height that would encroach upon the lines. A sewer line runs about 17 feet away from a pier, and that will not be impacted, either. The piles will be driven below the sewer line. The project will impact some delineated wetlands. They have applied for a wetlands permit and anticipate receiving it mid-September. Regarding traffic control, currently pedestrians can walk up to a certain point before reaching a gate that is intended to stop them from crossing, although some people still cross. NHDOT intends to shut down the path from Krif Road to the south where it intersects, with a sign indicating construction. To the north there is the parking lot to the northwest and tennis courts to the northeast, and they will have another sign to stop pedestrian traffic there. Pedestrians will have a detour and can cross underneath the road.

Mr. Tremblay continued that all the work takes place outside of the roadway so they do not anticipate impacting the 23,000 vehicles per day that travel on Route 12 and 101. When they place the 200-foot span, they will have to close the road for about half an hour, which they anticipate doing at night. It is possible they would have to detour traffic. They will talk with City staff about the possibility of using Winchester Street and Main Street as a detour. When they pour the concrete deck, which will be done during times with lower traffic volumes, he anticipates that there would be some lane shifts and possibly one-way traffic shifting from side to side and directed by a Police Officer. But the majority of the work takes place outside of the main road.

Mr. Tremblay concluded that the project is scheduled to advertise at the end of September and be complete in the fall of 2016. It will cost about \$2 million.

Mr. Grandmaison stated, in closing, that this has been around for a while. He continued that they did a little work in 2005 and 2006. From the drawings it looks like a big bridge, but that was because NHDOT was requested to make sure it did not preclude them doing the bypass in the future. NHDOT was able to accelerate this project to utilize the funding that became available.

Vice Chair Jones asked, for the record, if this is funded entirely by NHDOT and will not cost the citizens of Keene anything. Mr. Grandmaison replied that it is 80% TE funds and 20% State match. He continued that for the most part, they are using turnpike toll credits.

Vice Chair Jones asked if Keene State College's (KSC's) intent is to use this as a connector from campus to the athletic fields. Mr. Grandmaison replied that allowing more convenient access was the original intent. He continued that where the parking lot, tennis courts, and bridge was over the Ashuelot River, that was a straight shot down the rail trail, but now they have to go underneath Route 101 at the river crossing. The intent was to allow that and equestrians. He is not sure if they are allowed in the city limits. They also were not sure if the City allows snowmobiles on the trail. The bridge would accommodate a groomer. The bridge is meant to allow unimpeded access for KSC and the other trail users.

Vice Chair Jones asked if it would be okay for KSC's golf carts to use South Bridge. Mr. Grandmason replied that motorized vehicles are not allowed on any part of the trail from where we are south. He would have to check with the Rail Bureau, but he thinks the right-of-way agreement means they are not allowed. He received a call from someone at KSC who wants to bring lawnmowers across South Bridge once a week, and he is checking to see if that is allowed.

Vice Chair Jones asked if the public had questions or comments.

Charles (Chuck) Redfern, of 9 Colby Street, stated that this project started in about 2002. He continued that that it was part of the bypass improvement project that was to be started at about that time. They were going to have a series of bike trails outside and inside the bypass as well as this bridge, and maybe North Bridge, but he is not sure. The State of NH was taken to court by the Law Conservation Foundation. What they were challenging: a lot of the roadways that were being improved or upgraded would have fairly extensive improvements (and that is subjective). There was an active group of people who wanted roundabouts to be an alternative consideration. The case was settled and part of the settlement was that South Bridge would be included – South Bridge was court-mandated as part of the interim improvement process.

Mr. Redfern continued that there was an ad hoc committee set up to work between NHDOT and the City. Members included employees and elected officials from the City, interested members of the public, and NHDOT staff. That process lasted a few years. The committee received public input, and the opportunity to give input was well publicized in newspapers and on the radio. A coalition of members of Pathways for Keene (PFK); members of the Bicycle Pedestrian Path Advisory Committee (if it was formed at that time, which he is not sure of); equestrians; snowmobilers; bicyclists; and pedestrians were all advocating this trail infrastructure and that was well known by the public. They were there to ensure that the trail system remained multi-use. That needs to be considered by NHDOT. NHDOT gave assurances that it would be a multi-use bridge. He does not know what that means for the surface of the bridge, to accommodate snow if the City Council allows snowmobiles – that would probably take an action by the City Council.

Mr. Redfern continued that members of the public and PFK expressed support for South Bridge at many of NHDOT's public hearings about the Ten Year Plan. South Bridge was the settlement feature that survived the court challenge. The snowmobile clubs in Keene have supported this. The City Council has expressed support for this in past years, specifically to request that the design be modified. A citizen gave input into the process with State officials and was able to identify cost saving measures that approximately cut the cost of the bridge in half. That is why Mr. Tremblay referred to the sewer line – it would have to be relocated if they use the grasshopper design, but no relocation is needed with the North Bridge design concept.

Mr. Redfern continued that money for this project comes from lapsing TE funds from other areas of the state and maybe the country. TE funds are a small percentage of the general highway revenue that comes in, mostly from gas taxes. They have to put a small amount aside for TE projects. This is part of that bucket of funds that other communities were not able to utilize. The State realizes that this location in Keene is a safety issue with pedestrians crossing Route 101.

He has noticed at least three near collisions, caused when a car stops to let a pedestrian cross. It is great to see that the city has this opportunity to use these funds that would lapse otherwise.

Mr. Redfern asked if there is a date for going out to bid for the initial process. Mr. Grandmaison replied yes, September 29, 2015. He continued that they will advertise to the contracting community and receive bids with a deadline of three weeks later.

Mr. Redfern stated that Jay Kahn, former Interim President of KSC, wrote a letter in support of South Bridge, recognizing that it would allow students to access KSC's athletic fields and use the trail system. He continued that South Bridge might also make KSC's maintenance work more convenient. Currently employees transport maintenance equipment through Winchester Street and Krif Road and that increases traffic. South Bridge will be wide enough to allow them to transport maintenance equipment across it and he encourages that. Mr. Redfern concluded that getting to where they are now with South Bridge is the result of about 100 people.

Mayor Kendall Lane stated that he was the longtime chair of the Transportation Advisory Committee of the Southwest Regional Planning Commission (SWRPC), which assists in the development of the Ten Year Plan. He continued that it is an understatement to say that this is welcomed by Keene – they have been waiting for South Bridge for a long time, and very much want to see it happen. The City strongly supports, encourages, and recommends going forward with it. He expects that the MSFI Committee strongly supports this proposal. It would be a benefit to the extension of the trail, which has a major impact on the quality of life in this region, and it would have a significant impact on KSC.

The Mayor continued that he would prefer KSC bring their golf carts and maintenance equipment across South Bridge instead of using the roads. Many people find the existing bridge under the Ashuelot River on Route 101 somewhat unsafe, and dislike using it. It is unsuitable for golf carts because it has stairs. The ownership of that bridge is in question; whether it is owned by the City, State, or KSC is not clear. Maintenance of it has always been questionable. Being able to use South Bridge would be a major improvement. Mr. Redfern is correct that many people cross Route 101. He continued that he was there today and saw people crossing from one side to the other in the midst of heavy traffic.

The Mayor continued that when traffic volumes call for it, there is a proposal for widening Route 101 between Winchester Street and Main Street to four lanes. The ultimate plan is a width of 130 feet. Part of the reason he is here tonight, other than to speak strongly in favor of South Bridge, is to make sure the design includes a span wide enough to allow for that ultimate construction to take place when traffic volumes require it. It appears that that is part of the consideration. He is in favor of moving forward as fast as possible. A major part of the reason those TE funds became available is that the TE program was discontinued. Now it is lumped in with several other programs, into a catchall fund, by the United States Department of Transportation (USDOT). Part of the problem is that the Federal Reauthorization has been awaiting approval for 6 or 7 years, and they are still operating on continuing resolutions. Reliance on federal funds has become problematic. He continued that moving the South Bridge project from 2021 to 2016 is a tremendous benefit to the city and the City of Keene strongly welcomes it.

Vice Chair Jones stated that Mr. Grandmaison said that it is against the policy of the trail system for golf carts to go across the highway. He asked if they can address that. The Mayor replied yes, by working with the New Hampshire Bureau of Trails. He continued that a representative from that agency was present this morning at the ribbon-cutting ceremony for the new phase of the trail going from Whitcomb's Mill Road to Hurricane Road. Andrew Bohannon, Parks, Recreation, & Cemeteries Director, and other City staff, will be happy to work with USDOT to try and address that issue.

Thom Little, of 1 Central Square, stated that this an absolutely fantastic design. He continued that it will be around for 100 to 150 years and will make a positive statement about the community. He could not tell from the original plan where the property line was. He is happy to hear it is all on NHDOT property and there will not be any delays in getting approval. That is one thing North Bridge did not have. North Bridge had a narrower footprint they had to stay within and that drove the cost up. It is great that South Bridge is all going to be inside the NHDOT right of way.

Mr. Little continued that when he first came to Keene, he noticed that the underpass was very brightly lit, and asked why. The Police Department told him that it was because it is the biggest crime area in the City. North Bridge's design did not include a future plan for lighting. He asked if the South Bridge design has a lighting plan. Not necessarily initially, but sometime in the future, lighting could be added to that entire section. It would make sense, considering the location, to have the path lit all the way back to KSC's main campus, for when there are night events at the athletic fields, for example.

Mr. Grandmaison replied that currently NHDOT was not making accommodations for lighting, and in fact they are turning lights off in the state, but that is something they can accommodate in the future, possibly putting piping or conduit for lighting there attached to the bridge if necessary. Vice Chair Jones stated that the City can discuss lighting when they are negotiating with NHDOT. He thanked Mr. Little for all of the input and energy he put into this project.

Mr. Little stated that it is curious that the span between piers of North Bridge and South Bridge designs are identical, both at 200 feet. He continued that it is kind of unusual, based on the expected weights. South Bridge will be concrete, which will be much heavier than North Bridge, which is wood. He wonders about the identical 200 foot width.

Mr. Tremblay replied that they talked with fabricators to make sure what they can do, and they can do timber decks or concrete decks. He continued that NHDOT made sure they had the proper depth to get the 18 feet of clearance, so they have enough clearance to maintain the profile and also vary the depth to accommodate the extra weight. It is not "extra" weight – if it were a timber deck, yes, the members would be slightly smaller because it is lighter weight. They will put wording into the proposal that it has to maintain a concrete deck and it will be designed appropriately by the fabricators.

Mr. Little stated that South Bridge has to carry snowmobiles and they would shred the timber, if the surface were wood. Mr. Grandmaison replied that accommodating snowmobiles was a

prerequisite. He continued that if the City would not allow snowmobiles, NHDOT could modify the design and use a timber deck instead. But maintenance is considerably less with a concrete deck.

H. Gregory Johnson, of 329 Sawyer's Crossing, Swanzey, stated that he was invited tonight by a letter from NHDOT. He continued that his first issue is aesthetics - North Bridge is "an eyesore" for someone who grew up in this area. Over the years they have all worked hard to maintain a beautiful landscape, mountains, foliage, etc., and to him these bridges do nothing for the aesthetics of the community.

He continued that his next issue is: he walks the trail almost every day, south of Rt. 101, for health reasons and to enjoy nature and wildlife. He can count on one hand the number of people he sees walking the trail that comes over Rt. 101, other than the people who come through the current bridge that KSC students use. That bridge already gives access across the highway. Why build another "eyesore" bridge? He thinks trying to have a common working relationship with KSC, and upgrading the bridge that goes under the highway, which comes directly from campus, would be something to look at. South Bridge would hit the border of KSC but not be right in the middle of it the way the current one is.

Mr. Johnson continued that his other concern is: he believes that someday, maybe in 50 or 100 years, the rail will return to this community. We talk about our forefathers' [planning for the future], but we are in that position now – thinking about how to transport people and product 50 or 100 years from now. He is in the commercial real estate business and works with people in the Department of Resources and Economic Development (DRED). He was working with an industry that was thinking of purchasing property in Keene but chose not to because there was no rail and it would have cost too much to get their product to Brattleboro, where there is rail. Another industry, too, chose to go to Claremont instead of Swanzey because of access to rail. He cautions then to not rule out the fact that someday they will have rail again.

Mr. Johnson continued that in 1986 he was a commercial real estate broker when the City and Guilford Industries sold the railroad land. A chunk went to the City and the other pieces went to the private sector. He received a letter from a man who was, back then, with the New Hampshire Railroad Department in Concord. This letter says to make sure that whomever he (Mr. Johnson) works with on the sale of the land that the City is clear that they would always maintain a rail corridor for future use. The letter references RSA 228:60-A, which states: "No railroad right-of-way in this state shall be used for any purpose that would unreasonably limit the ability to restore rail service over the right-of-way at minimum cost if such service were to be required in the future." He continued that then it went on to say, "No railroad right-of-way that existed prior to the year 1969, except those that are in present use or have been in use by the railroads at any time since 1969, shall be subject to the provisions of this section."

Mr. Johnson continued that he received a letter from a local historian who said that his records show that the last freight shipment to Keene was in November 1982 and Green Mountain Railroad formally discontinued service in November 1983. They are supposed to follow the State statute. He does not think the MSFI Committee can tell him there is a railway right-of-way set aside in the downtown area of Keene. The State can come in and take land. They should

look at Section 216-F:1, “Acquiring a Statewide Trail System,” in Chapter 216-F about the Multi-Use Statewide Trail System. There is a lot of information they should not throw out just to forget about railroads and focus on bicycles.

Mr. Johnson continued that he has two trail bikes, an ATV, and a snowmobile. He loves biking and walking and nature trails. Every year he registers his trail bikes and snowmobile and pays substantial money. He was told a portion goes to maintenance of rail trails. He read aloud from Section 216-F:2, which states, in part: “The trails within the system shall be held, developed and administered under this chapter primarily as recreational trails for hiking, nature walks, bird watching, horseback riding, bicycling, ski touring, snowshoeing, snowmobiling, mushing, and off-highway recreational vehicles and the natural scenic beauty thereof shall be preserved insofar as is practical.”

Mr. Johnson continued that tonight’s meeting is a formality and South Bridge will probably be built. A 12-year-old was killed trying to cross Route 12 on an ATV a few years ago. He hopes that if this does get built it will accommodate motorized vehicles. It is only fair. Bicyclists pay nothing, but motorized vehicles are taxed and also require the purchase of fuel.

Arthur (Bud) Windsor, of 28 Bush Hill Road in Swanzey, stated that he is the Director of the Physical Plant and Grounds at KSC. He continued that KSC is excited about South Bridge. Most of their maintenance equipment lives on Krif Road but some smaller pieces of equipment do go back and forth. He talked with Mr. Grandmaison and let him know that KSC is interested in being able to travel back and forth on South Bridge with maintenance equipment. Right now they take tractors through the roundabout, which is dangerous. They would be very interested in using South Bridge probably daily.

Jay Kahn, of 135 Darling Road, stated that he is the Vice President of Finance and Planning at KSC. He continued that from his perspective, safety is most important. Safety should guide decision making. He hopes safety guides NHDOT’s sense of priority. Anyone who has tried to cross the road has found that it is very dangerous and not easy, throughout the day. Traffic speeds are not conducive [to pedestrians crossing]. He compliments NHDOT and applauds everyone who has put their dedication and minds to this. It has been a long time coming.

Mr. Kahn continued that when he first came to KSC about 30 years ago, the underpass access was explained to him as a temporary solution. Sometimes it becomes the easiest course to preserve that temporary solution instead of doing what is right. It has been a safety hazard for a long time and is not a permanent solution. With regards to the entry point to the main body of the campus, that is as peripheral as the rail trail. There are students who cross the rail trail on a daily basis because of the Winchester Street parking lot.

They have as many people crossing the rail trail on the west side of the campus across the Ashuelot River as there would be using the underpass. It is one edge of the campus versus another. He does not see that as an issue, with all due respect to Mr. Johnson.

He continued that regarding Mr. Little’s question about lighting, in regards to KSC’s and the City’s participation in improving the trail between Route 101 and Winchester Street onto Emerald Street, they have had a strong need for lighting along that path. It is heavily populated.

It has been a gruesome task, quite discouraging, on the part of State officials, to put lighting along that path. At any time it has been requested in the past it was a matter of inappropriateness to suggest that anyone else put it there or that the State consider the safety that might be associated with adding light along the trail. It is a byway for pedestrian and other alternative transportation and the lack of lighting is not in the best interest of the primary goal of safety. Think of the safety that is needed between Krif Road and Emerald Street. As much as they can do to try and correct the lack of lighting will improve one's use and safety.

Vice Chair Jones stated that Mr. Kahn and Mr. Winsor presented to the City a couple years ago about a walkway along the river. He asked if they had South Bridge in mind then. Was there a connection? Mr. Kahn replied that that probably included PFK, the City, and KSC. He continued that they partnered with that. KSC contributed staff and funding to that collaborative effort. They erected lights on both sides of the bridge there so that they could at least light the pathway that crosses the college into the parking lot on the other side, but they cannot light the walkway. The lighting is outside of NHDOT's easement. It was a work-around, the best that they could do, given the resistance to installing lighting. He continued that Vice Chair Jones is correct: they did anticipate that they were contributing to a future path.

Mr. Johnson asked if there was any research done about putting South Bridge underground. He continued that the elevations and slopes could allow for that. Mr. Grandmaison replied that all of Keene is in a floodplain. They would not be digging in any way, shape, or form due to that fact. Any large storm event tends to cause flooding and this would be underwater and impassable.

Susan Thielen, of 45 Kelleher Street, stated that she loves this project and has been waiting for it for years. She continued that regarding safety issues, she is on the path fairly often, and has seen many students and other citizens cross Route 101. She holds her breath every time she sees it. Once she saw an older man get hit by a car. He had minor injuries. It is a real safety issue. They owe it to KSC and the community. It is interesting to be out there when the lights go out. Lighting would be helpful.

Ms. Thielen continued that she has a real hesitation with allowing motorized vehicles on South Bridge. She thinks KSC should be able to bring their necessary maintenance vehicles across, but she is not sure about snowmobiles and ATVs. She recalled that when she was cross-country skiing on the trail, she was hit by a snowball due to a passing snowmobile. There are so many pedestrians, and snowmobiles "sound like chainsaws." ATVs are dangerous and a ten-foot trail is not wide enough for ATVs to safely pass pedestrians. It is dangerous to walk a dog in the presence of snowmobiles. Electric bikes are appropriate. Snowmobiles and ATVs are inappropriate. This is an important safety issue. It would improve the quality of alternative transportation in the city.

Toby Tousley, of 499 Washington Street, stated that this is a great project. He continued that he thinks North Bridge is ugly but serves a good purpose, and the same would be true of South Bridge. He asked if the underpass will stay or go away. Will it still be a liability? Will it just deteriorate?

Mr. Grandmaison replied that the original intent was to discontinue that underpass when building South Bridge. He continued that if he walked under there now, he would have to duck down. Both NHDOT and the public see that it is a safety issue. NHDOT does not currently have a plan. Discontinuing the underpass was not part of their plan. That needs further conversation between NHDOT and the City.

Mr. Redfern stated that he has answers to some of Mr. Johnson's questions. He continued that in regards to the eventuality of rails coming back for transporting freight and passengers, the whole idea behind the federal government giving money to use these as rail trails is to make sure they stay intact in case rail comes back. That way they do not have to spend hundreds of billions of dollars to try and reacquire rail beds. Mr. Johnson is correct - maybe after our lifetime it is a possibility. They will be preserved for the most part. The tricky part is around the hotel.

Mr. Redfern continued that regarding the design of South Bridge not being to Mr. Johnson's preference, the City had conducted a vision process for what the bridge would look like. The preferred design had more votes than the North Bridge design but would have cost twice as much to build. That is why one of the City committees decided not to use the preferred design. A design like North Bridge's was the most efficient for purposes of cost and safety. It has ample railings and it serves a safety purpose; there is more to it than just the look of it. It looks historically sort of like a railroad bridge.

Mr. Johnson stated that he was involved in the sale of the railroad property 30 years ago. He read aloud from the letter he received from John R. McAuliffe, Railroad Administrator from the Bureau of Railroads in 1986: *"I would like to call your attention to the fact that a statute (RSA 228:60-A) which [sic] precludes the development of railroad right-of-way in such a manner as to prevent its future use as a railroad. Previous discussions with interested parties in Keene, NH and former Commissioner John Clements agreed that in the event the railroad property was to be developed in such a manner as to prevent its being used as a railroad, a substitute corridor would be provided."*

He continued that Keene never came up with that. He remembers those meetings from 30 years ago. When this railroad land was sold on the east side of Main Street they did not take that into consideration. They said they could always run the rail tracks down Cypress Street and Emerald Street; it was all "goofy talk" back then. He is submitting this document for the record.

Planning Director Rhett Lamb stated that he wants to remind the MSFI Committee that many of the rights-of-way, including the railroad property, included provisions in the deeds (because they were owned as easements) that at the time the railroad no longer was using the property the deeds would revert back to the adjoining owners. So, there are probably conflicting circumstances between the statutes referenced and the actual rights of adjacent property owners. They might remember the reversionary rights associated with some of the land as they were acquiring and then developing on the railroad property. He would also argue that with the exception of the area that crosses right in front of the Monadnock Food Co-op and the development at the Marriott, that is still an open corridor, preserved by the use of the trail.

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Vice Chair Jones stated that he wants the background notes to include the issue of addressing the lighting, even if that means putting in a conduit to begin with and doing lighting further down the road, and Mr. Johnson's question about aesthetics. He continued that North Bridge looks like an old railroad bridge. Some people call it a "rusty erector set." People say "build a bridge people will remember when they go over it." He is not asking for an answer now.

Councilor O'Connor asked, if that underpass was to be given up, would KSC be interested in keeping it open? Mr. Winsor replied that he has discussed that with Mr. Kahn. He continued that the other issue is the bridge that goes over Martell Court to the fields. It is in bad disrepair. In discussions with Mr. Kahn, they thought that when South Bridge goes up, the Martel Court bridge would probably go away and then there would be no need for the foot bridge underneath to get to the fields. That is not etched in stone but that was Mr. Kahn's feeling at the time.

Vice Chair Jones stated that as part of the discussion they would ask the City to talk with NHDOT about what the Mayor was talking about – the possibility of allowing the college to use South Bridge with motorized vehicles. Mr. Grandmison replied yes, he does not have an answer yet; they are working on that.

Councilor O'Connor made the following motion, which was seconded by Councilor Redfern.

On a vote of 4-0, the Municipal Services, Facilities and Infrastructure Committee accepted the report from New Hampshire Department of Transportation as informational.

The MSFI Committee recessed from 7:11 to 7:14 PM.

2. **COMMUNICATION - Southwestern Community Services – Requesting Assistance of Public Works in Performing the Necessary Site Work to Install a Fire Line for Sprinkler System**
3. **MEMORANDUM - Human Services Manager – Request for Assistance – Sprinkler System**

Vice Chair Jones stated that they will address agenda items #3 and #4 together.

Tyler McGrath stated that he is the Emergency Planner for Southwestern Community Services (SCS). He explained that he runs the shelters during the day.

Vice Chair Jones asked what the location of the sprinkler system is. Mr. McGrath replied 32 Water Street, where the emergency homeless shelter is.

Councilor Redfern asked if there is no sprinkler system there at all. Mr. McGrath replied that the shelter on Roxbury Street has one, but the shelter on Water Street does not.

Vice Chair Jones asked if this sprinkler system is required by the City Code, or if it is a safety precaution. Mr. McGrath replied that it is a safety precaution.

Councilor Redfern asked how many people are at the Water Street shelter. Mr. McGrath replied that there are five bedrooms with 20 beds total.

Elizabeth Sayre, Human Services Manager for the City of Keene, introduced Sandy Clark from the Keene Housing Authority (KHA), which owns the property at 32 Water Street. She continued that she is asking that the MSFI Committee recommend the request from SCS to authorize the Public Works Department to perform the site work necessary to install a fire line at the shelter facility at 32 Water Street be approved. In 2010 the City provided this service to the Roxbury Street shelter and to Hundred Nights shelter. These agencies have worked with Public Works to come up with a plan. The City of Keene's labor cost would be \$2,300. The project would be complete before the end of the construction season. It is a safety issue. Maybe the Fire Chief would speak to code issues. It is always in their best interest, when there are large groups of people in a building, to have a sprinkler for safety purposes.

Ms. Sayre continued that SCS has been providing shelter for more than 30 years. There were more than 3,700 bed nights to Keene residents in 2014 alone in the two shelters. Human Services works with SCS very closely to make sure that when people hit bad times they have a place to go. SCS also provides case management and works with Human Services, meeting with the same shelter residents that Human Services meets with, to come up with plans to end people's homelessness and become permanently financially self-sufficient. The Fire Department says that a sprinkler system would be a benefit. They would like the committee to consider this recommendation.

Vice Chair Jones stated that they would call this an in-kind service for two non-profits that provide vital services to the city. Ms. Sayre replied absolutely. Vice Chair Jones added that they would not be setting a precedent, because this is something they have done before.

Councilor O'Connor asked if the building is hard-wired for smoke detectors. Sandy Clark, of 631 Plain Road in Hinsdale, Facilities and Asset Manager for KHA, replied that it is. She continued that it has a fire panel system that was upgraded to an addressable system to match the fire suppression system. They had Tattersall Electric do that work. There are hard-wired smoke detectors throughout. They will get the water line put in and the sprinkler system will follow. It is connected to a phone system that notifies in case of emergencies.

Vice Chair Jones stated that Ms. Sayre's letter does not include commentary from the Public Works Department. Ms. Sayre replied that Donna Hanscom would be happy to address the committee.

Donna Hanscom, Public Works Assistant Director, stated that the Public Works Department is capable of doing this work. She continued that they cannot do it in September but they will do it before the asphalt plant closes sometime in November. Materials and actual out of pocket cost is about \$1,300 from the Public Works' operating budget and about \$1,000 in man hours. They can cover this type of work from the operating budget on an occasional basis. They try not to do service work because they have a lot of maintenance work that keeps them busy. However, they can do this if the City Council wants them to.

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Vice Chair Jones asked if any members of the public had questions or comments. Hearing none, he asked for thoughts of committee members.

Councilor Manwaring stated that since The City has done this in the past, she sees no reason not to do it for the Water Street shelter. She continued that they want people to be safe. Vice Chair Jones stated that SCS and KHA provide a vital service to the City.

Councilor O'Connor made the following motion, which was seconded by Councilor Manwaring.

On a vote of 4-0, the Municipal Services, Facilities, and Infrastructure Committee accepted SCS's communication as informational.

Councilor Redfern made the following motion, which was seconded by Councilor O'Connor.

On a vote of 4-0, the Municipal Services, Facilities, and Infrastructure Committee recommends that the City Council approve the request of Southwestern Community Services to authorize the Public Works Department to perform the site work necessary to install a fire line for the shelter facility located at 32 Water Street.

4. COMMUNICATION – Councilor Filiault – Suggested Amendment to the Noise Ordinance

Councilor Randy Filiault stated that the noise ordinance was changed in 2011. He continued that a few weeks ago when he was on a ride with the Keene Police Department (KPD), a noise complaint in the Willow Street area was brought to his attention – there were young people moving back into the neighborhood loudly and without respect for neighbors, at about 10:15 PM. The police pointed this out and asked him why the noise ordinance changed from 10:00 PM to 11:00 PM, because now they do not have the teeth to enforce the ordinance until 11:00 PM. He looked into it and found that no one knows why it was changed in 2011. He looks at this as housekeeping. The officers he was with encouraged the City Council to change the noise ordinance back to 10:00 PM. For people who live next to noisy neighbors, where the police cannot respond until after 11:00 PM, it is difficult to get a good night's sleep. Changing it back to 10:00 PM would benefit these people who have to get up early in the morning. This is not a complex change; it is simple. Time is of the essence. A lot of people are currently moving back into town, and not all of them will be respectful. They have to give the KPD the teeth to enforce the ordinance.

Councilor Redfern asked why the ordinance was changed in 2011. Councilor Filiault replied that no one really knows. He continued that he spoke to the Mayor, the City Clerk's Office, and other City staff members, and no one has a specific answer. He has not heard objections from anyone about moving it back to 10:00 PM. Vice Chair Jones added that he was on the City Council in 2011 and also does not know why the change occurred.

Police Chief Brian Costa stated that he is not sure why it was changed. He continued that he spoke with some folks who were involved at the time that the noise ordinance was re-written. The KPD does not have an issue with changing the time back to 10:00 PM. He wants to draw

the committee's attention to the third paragraph of this ordinance, 66-124, which addresses what they are talking about – audio equipment, sound amplifiers, and other devices which reproduce or amplify sound. These are the noises associated with loud parties, and generally these are the disturbances that the KPD responds to in high numbers. The first paragraph speaks to the hours, and about issues such as loading and unloading, handling of boxes and crates, etc., which are not the type of noise complaints they are talking about. The second paragraph is similar and talks of construction vehicles, and the operation of tools and equipment, graders, dump trucks, etc., and these complaints are also not as frequent as the complaints of loud music that keeps the neighbors up. On occasion there is a situation where someone who works all day is trying to complete a home project when they come home at night because that is the only time they have to do it. Chief Costa continued that he wanted to clarify that there is a distinction between the first two paragraphs and the third, which he believes is the crux of Councilor Filiault's proposal, which he agrees with on behalf of the KPD.

Vice Chair Jones stated that when there was a nightclub in the Center of Keene, there was a noise complaint from residents on School Street, who were bothered by the sound of the drum beat. He continued that the problem was that the ordinance used decibel levels to define a disturbance and the drum did not register. So they changed the ordinance and used a more general description of noise that is an annoyance.

Chief Costa replied that he remembers that. He continued that he remembers that it was cumbersome and challenging to prove noise disturbances in court when they had to use decibel levels. The people involved in re-drafting the ordinance took that into account and simplified the ordinance. The language in the third paragraph is clear and takes away the need for wording about decibel levels. Vice Chair Jones asked if he agrees that the language works. Chief Costa replied yes.

Councilor Redfern asked if Chief Costa feels that homeowners should stop working on their homes at 10:00 PM, even on a Saturday night. She continued that on occasion, she has done a bit of work on her home past 10:00 PM. Chief Costa replied that he wanted to bring it up so it could be discussed. He continued that every situation is different and no ordinance can take every single situation into account. On occasion, people do work on their homes until 11:00 PM, and he thinks that that was the premise in 2011 when people had conversations (that he was not involved in) about changing the ordinance to 11:00 PM. There are two sides to this. He understands that there are more people in neighborhoods that want to go to sleep by 11:00 PM than there are people who want to do work on their homes until 11:00 PM, but it is something to think about. Usually they are able to work it out.

Vice Chair Jones asked if the majority of the noise complaints are regarding music and parties, or people working on their houses. Chief Costa replied mostly music and parties. He continued that the KPD fully supports changing that back to 10:00 PM. It gives them one more tool for addressing the off-campus parties. He just wanted everyone to be aware of why it might have been changed to 11:00 PM in 2011.

Vice Chair Jones stated that there are other calls that take priority over noise complaints. Chief Costa replied yes, depending on the night, there might be calls about assaults, for instance. Vice

Chair Jones asked if that means it might take a while for the police to respond to a noise complaint. Chief Costa replied maybe – usually they have a good response rate but it depends on the activity level of the night.

Vice Chair Jones stated that it sounds like Chief Costa is saying yes, changing it to 10:00 PM would give the KPD a better tool to use. Chief Costa replied yes, specifically to back up paragraph three.

Councilor O'Connor stated that it is his understanding that if an officer responds to a noise complaint, he or she gives the person making the noise a warning, and if there is a second call about that same person, the officer can then issue a ticket.

Chief Costa replied that it used to be that way. He continued that the idea was to develop a relationship with people, and they could tell that worked if the officer does not have to go back. Sometimes the officer does get a second complaint and has to go back. That was the catalyst for changes. With the administration change at the college there has been a lot happening, especially after last October. The warning system worked. For a time there was a zero tolerance policy, with no warnings at all. The reason for the warning system was to provide education on what the expectations were. Over the past year there has been a lot more notification about the expectations, including from the college itself. For the first time this year the college made it mandatory, and attached a monetary fine, for students moving off-campus for the first time to take a course on how to be a good neighbor. The instructors for that course include Police Officers and Code Enforcement people from the City.

Chief Costa continued that the KPD's feeling this year is that they are not going to take full discretion away from officers because every situation is different, but for the most part, there is no longer a need for a warning, because notifications have been made.

Vice Chair Jones asked what they can do if someone complains about a loud party at 9:00 PM. Chief Costa replied that an officer can go see what is happening. If it is just loud, amplified sound, the officer makes contact. If there are other issues, they can use the disorderly conduct statute. The difference between that and the noise ordinance is that in order to charge someone with disorderly conduct, you need a reporting party that is willing to identify him or herself. If it was an obnoxious party but there is no reason to ticket, they would clear out the party.

Debbie Bowie, of 659 Hurricane Road, stated that for the past four or five weeks up until a few days ago she and others at her house have had logging trucks going by their house multiple times between 2:30 AM and 7:00 AM. She continued that they are unable to sleep. They have been talking with the police, who are great, as are the people in the Assessor's Office, but the problem is that the noise ordinance does not seem enforceable. There is lack of clarity about what "noise" is and that the loggers are on private property with a permit to log. Someone made phone calls and it stopped for now but she wants to be sure it does not start up again. She wants the City Council to do something so others in rural streets do not have to go through this.

Vice Chair Jones asked if she is getting her complaints on record. Ms. Bowie replied that she and her husband let it go because they thought it would get better, and shut their windows and

turned on a fan and their next recourse is to put air conditioning in. She continued that an officer came over to speak with them and the police did what they could. A legal question is whether this is enforceable. Trucks come down from Fire Tower Road, go by their house, turn around, pass their house again, fully loaded and shifting gears. They are on a public road and allowed to do that.

Vice Chair Jones asked if she knows the source of the logging. Ms. Bowie replied It is Cersosimo Logging from Brattleboro, VT, with drivers from Cutting Edge out of Marlborough. The logging is on the Fire Tower Road, and she thinks the permit is for Keene, but some property could be in Westmoreland also.

Chief Costa stated that he is aware of this situation, which is unique. He continued that there was logging taking place in that lot, actually in Westmoreland, but the logging road comes out in Keene. They were loading trucks to take them to Brattleboro, beginning at 2:00 AM. He spoke with the officer who responded and with the person in charge of the logging operation. The reason they were transporting so late at night is because there was blasting occurring on the trucking route in Brattleboro and if the driver did not make it there at a certain time, it delayed them for hours. Hurricane Road is a very quiet neighborhood and due to the trucks' size and route, they had to make a multiple-point turn there, which is quite loud. But the noise ordinance does not allow enforcement regarding loud vehicles.

Chief Costa continued that the officers tried to deal with the situation as best they could. He called the person in charge of the logging operation and explained the problem with noise. They told him it would be difficult to start later, due to the reasons already given, but they offered to take a different route. They did that, then offered to start a little later, too. But by that point they only had another two or three nights of work left. To enforce this type of noise disturbance, they would have to write something about noise from large vehicles.

Vice Chair Jones stated that it sounds like the contractor is communicating and is somewhat empathetic. Chief Costa replied yes, he altered the route, and started later, and he thinks the project is finished.

Dwight Bowie, of 659 Hurricane Road, stated that he thinks the noise ordinance as written is incomprehensible and makes distinctions between private property and work sites, construction, etc. He continued that the statute is unenforceable so you have a Keene resident that has no power to stop the noise. The logging is being done in Westmoreland. But all the noise is in Keene, with the trucks moving down the fire road, turning past Hurricane Road homes many times. There are sounds of peeling rubber, transmission changes, etc., but the noise ordinance is not written in any way that gives residents powers. He and his wife contacted Police, the City Council, and others, and there was nothing they as citizens could do. That has to say that the ordinance is written incorrectly. More changes are needed than just changing the time in the ordinance. The Police Chief stated that the drivers went down the road and turned around so they could go back to Brattleboro, but they did not have to, they chose to. They could have driven all the way down Hurricane Road instead of making multiple trips. This type of noise disturbance may be infrequent, but it puts a light on the incompleteness of the ordinance, which needs to be thoroughly rewritten.

Mr. Redfern stated that for the record, he wants to give kudos to Councilor Filiault. He continued that when he was a City Councilor he received noise complaints, about noises anywhere from 9:30 PM to 11:00 PM and beyond. He does not know why the hours changed from 10:00 to 11:00 and feels they should be changed back. When he went on police rides, noise complaints were frequent. It is important to remember that the noise ordinance is complaint driven. He recommends that City Councilors who have not taken a police ride yet should do so.

Councilor Chadbourne stated that she agrees that the language is not clear and the whole thing needs to be re-vamped. She continued that she has heard noise complaints about roosters waking people up at 4:00 or 5:00 AM and she does not know what to tell people. The noise ordinance does not address that. She thinks they could get something clarified and changed in this ordinance to address the issue. She recalls from years ago that there was an incident on Franklin Street – a citizen came to the MSFI Committee regarding someone in a driveway going back and forth on a four-wheeler at all times of day. Police tried to address it, but again, it seemed like the noise ordinance was not adequate. She does not recall what the outcome was when the person came to the MSFI Committee. She would love to see staff directed to change the ordinance.

Councilor Hague stated that she has a question for the committee and staff about Sec. 66-125, “Exemptions.” She asked if they would consider revising #6 or #9, allowing for entertainment in the Central Business District. She is aware of venues downtown that cannot have live music, which builds vibrancy and culture, after certain hours. She has spoken with many of the owners and they used to have live music but no longer because tenants from above complained. But these are mixed uses in the Central Business District. It could be beneficial to prioritize entertainment in evenings and have landlords do sound-proofing and other strategies to mitigate the sounds. Maybe they could make exceptions for the Central Business District or change the hours of the noise ordinance for a certain zone so evening entertainment is more feasible.

Vice Chair Jones stated that 16 years ago, entertainment noise coming from downtown business was a complaint, so they are going in circles here. He continued that however, she is right, they should look at this. Councilor Hague stated that she is a musician and it is hard to get gigs in town. She continued that bands are constantly shut down at certain times. But there are ways to mitigate the noise for those who consider it a disturbance, which they can look into.

Councilor Jacobs stated that people are talking about the definitions not including everything they can think of, but the wording is “including but not limited to.” He continued that that means that even if it is not listed, it is a question of how disturbing the noise is, not what the source is. It is about the volume, whether it comes from a rooster or a logging truck. He does not see any wording in the ordinance that says when sound rises to the level of being “noise.” There are ways of measuring decibel. Would that be more helpful, to draw a line for the decibel level, rather than trying to list sources? A rooster is not always making noise, nor is a logging truck.

Vice Chair Jones replied that they used to have a decibel limitation but they changed it because it was hard to enforce. Councilor Jacobs replied that he is hearing that it is even harder to enforce now. Vice Chair Jones replied that it can be enforced, but he is hearing about situations that are

not in the present ordinance. Councilor Jacobs replied that the wording of “including but not limited to” seems to mean that if a rooster is annoying it is covered under the ordinance.

Councilor Filiault stated that there are comments from citizens saying that the noise ordinance is not all inclusive, but there is an immediate need to change the ordinance to say 10:00 PM. He asks the MSFI Committee to immediately recommend that change, because there is an immediate need, especially in the college neighborhoods. Residents are begging. Then over the course of the next several months they can look at changing the ordinance beyond that, maybe with a workshop or subcommittee and getting the neighbors involved in making the noise ordinance more efficient and inclusive. Vice Chair Jones replied yes, he was thinking of asking the committee to address that requested change and then place the rest of it on more time.

Mr. Bowie stated that Sec. 66-123, “General Prohibition,” deals with private property and someone allowing or causing the noise to be produced. He continued that the private property was in Westmoreland, but the noise activity was in Keene and on a public road, so there needs to be a different set of eyes look at this to consider that contingency. It is narrowly written.

Vice Chair Jones asked the committee if they want to address Councilor Filiault’s request, by asking staff to draft the change to the ordinance, to make it 10:00 PM. He continued that the other issues can be addressed in a second motion, giving staff direction towards some of the issues brought up by the Bowies, and Councilors Chadbourne, Hague, and Jacobs, if the committee wants and if staff thinks that is appropriate.

City Attorney Thomas Mullins stated that noise ordinances are like sign ordinances – very difficult. He continued that it is appropriate for the MSFI Committee to recommend to the City Council to change the time. In terms of generally reviewing and revamping the ordinance, public notice was not given for that to happen tonight, and there would be other members of the public interested in that. He recommends that tonight they act upon Councilor Filiault’s letter and then recommend to the City Council that staff bring back suggested changes to the ordinance for consideration, then give the public the opportunity to come weigh in. It is too preliminary tonight to have staff draft changes. Vice Chair Jones replied that tonight the only change they would be asking staff to draft is the time change.

Councilor Manwaring asked if they could ask the City Attorney to get information about whether they have the right to regulate roads. The City Attorney replied that he understands that there are concerns. He continued that it might be a good idea to ask the residents from Hurricane Road to write a letter to the City Council and the Mayor to ask the City Council to open the issue of the noise ordinance and put it on the agenda for public discussion. That might generate ideas of changes. In that context they would have to look at the City’s right. Mr. Blomquist had some concerns about regulation of noise in the public way. It implicates a bunch of other rights that would have to be considered.

Vice Chair Jones asked what the committee thought of the City Attorney’s idea. Committee members agreed with it. Vice Chair Jones stated that if they ask for a draft, it will come back as an “A” version with Councilor Filiault’s proposed change.

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Councilor Manwaring made the following motion, which was seconded by Councilor Redfern.

On a vote of 4-0, the Municipal Services, Facilities, and Infrastructure Committee recommends that the City Council direct staff to draft an Ordinance for first reading that would amend the time restriction in the noise ordinance to 10:00 PM.

Vice Chair Jones stated that this motion goes to the full City Council. He continued that if approved the draft will come back to the MSFI Committee.

Vice Chair Jones asked if the committee wants staff to address the issues brought up tonight and report back to the committee. Councilor Manwaring replied that she likes the idea of the Bowies asking the City Council to bring this forth. She continued that she appreciates their feedback and Councilors Chadbourne's and Hague's input and wonders what else is out there. Vice Chair Jones replied yes, then the public would know they can come and weigh in. The public did not know the committee would be addressing the issues tonight. He asked for a motion.

The City Attorney stated that the MSFI Committee cannot force the Bowies with a motion to send the letter. He continued that the Bowies have heard the MSFI Committee's conversation and they can choose whether to send a letter; he does not think a motion would be appropriate. Vice Chair Jones replied that it is up to the committee.

Councilor Chadbourne stated that she and Councilor Hague just discussed this and will bring it forward.

5. CONTINUED DISCUSSION – Public Works Director – Complete Streets Policy

Mr. Lamb stated that this got on the agenda erroneously and he recommends that they put this on the next meeting agenda. He continued that they wanted Mr. Blomquist to be available for the discussion and he is not available tonight.

Councilor O'Connor made the following motion, which was seconded by Councilor Redfern.

On a vote of 4-0, the Municipal Services, Facilities, and Infrastructure Committee placed this on more time.

6. Adjournment

Hearing no other business, Vice Chair Jones adjourned the meeting at 8:05 PM.

Respectfully submitted by
Britta Reida, Minute-taker