

A regular meeting of the Keene City Council was held Thursday, September 5, 2019. The Honorable Mayor Kendall W. Lane called the meeting to order at 7:00 PM. Roll called: Carl B. Jacobs, Janis O. Manwaring, Thomas F. Powers, Terry M. Clark, Randy L. Filiault, Kate M. Bosley, Robert J. O'Connor, Robert B. Sutherland, George S. Hansel, Gary P. Lamoureux, Bettina A. Chadbourne, Philip M. Jones, David C. Richards and Mitchell H. Greenwald were present. Stephen L. Hooper was absent. Councilor Chadbourne led the Pledge of Allegiance. A motion by Councilor Greenwald to accept the minutes from the August 1, 2019 regular meeting was duly seconded by Councilor Powers. The motion passed with a unanimous vote in favor.

#### ANNOUNCEMENTS – MAYOR

The Mayor announced that Fire Prevention Parade is October 6, 2019 at 1 PM starting at 350 Marlboro Street. The annual Firemen's Dinner will be on October 10, 2019 at the Keene Fire Department.

#### PROCLAMATION – SWAMPBATS

The Mayor presented a proclamation to Kevin Watterson of Keene recognizing the Keene Swampbats for their championship win for the 2019 season.

#### PRESENTATION – VETERANS FIRST TRANSITIONAL HOUSING – DAVE TILLE, HUD NEW ENGLAND REGIONAL ADMINISTRATOR

The Mayor recognized Dave Tille, HUD New England Regional Administrator. Mr. Tille commented that the need to help veterans with housing is extremely important. New Hampshire is very close to ending the homelessness for veterans based upon meeting certain standards. Having programs to help push the veterans into the programs specifically related to their situations is the key. Mr. Tille noted he was extremely grateful to have the City of Keene and thanked the Mayor for his continued support with this needed effort.

#### CONFIRMATIONS

A motion was made by Councilor Greenwald and duly seconded by Councilor Powers to confirm the following nominations: Jeffrey Murphy to serve as a regular member on the College City Commission with a term to expire December 31, 2020 and Andrew Dey to serve as a regular member on the Energy and Climate Committee with a term to expire December 31, 2021. On a roll call vote, with 14 Councilors present and voting in favor, the nominations were confirmed. Councilor Stephen L. Hooper was absent.

#### NOMINATIONS

The following nominations were received from the Mayor: Jane Pitts to serve as a regular member on the Library Board of Trustees with a term to expire June 30, 2022 and Zach Luce to serve as a regular member on the Energy and Climate Committee with a term to expire December 31, 2020. The nominations were tabled until the next regular meeting.

**COMMUNICATION – DR. FRED WARD – SUSTAINABLE ENERGY GOALS**

A communication was received from Dr. Fred Ward, suggesting that the Energy and Climate Committee investigate what sources of electric power are “renewable” and how much of each source are necessary to meet the 100 % goal and where might those resources be physically located. The communication was filed into the record as informational.

**COMMUNICATION – COUNCILOR HANSEL – CONFLICT OF INTEREST - MEDC**

A communication was received from Councilor Hansel, requesting that he be allowed to recuse himself from any discussions or decisions relating to financial transactions or agreements between the City of Keene and the Monadnock Economic Development Committee. Councilor Hansel currently serves as Vice Chair of the Board of Directors and as such, has fiduciary responsibilities, associated with that role. A motion by Councilor Greenwald to grant the request was duly seconded by Councilor Jones. The motion passed with ten Councilors voting in favor and 4 opposed. Councilors Jacobs, Clark, Filiault and Richards opposed. Councilor Hooper was absent.

**MSFI REPORT – PETITION – REQUEST FOR LOWER SPEED LIMITS AND TRAFFIC CALMING DEVICES – SKYLINE DRIVE AND MORGAN DRIVE**

Municipal Services, Facilities and Infrastructure Committee report read recommending staff be directed to draft an Ordinance to change Stonehouse Lane, Skyline Drive, and Summit Ridge Drive to a 25 MPH zone. A motion by Councilor Manwaring to carry out the intent of the report was duly seconded by Councilor Filiault. A motion by Councilor Jones to amend the Committee Report to request a 3-way stop sign at the intersections of Stonehouse Lane, Skyline Drive and Summit Ridge Drive was duly seconded by Councilor Richards. A brief discussion took place. Councilor Sutherland moved to question was duly seconded by Councilor Powers. The Chair ruled that the discussion concluded. The motion to amend the Committee Report to request a 3-way stop failed with one in favor and 13 opposed. Councilors Jacobs, Manwaring, Powers, Clark, Filiault, Bosley, O’Connor, Sutherland, Hansel, Lamoureux, Chadbourne, Richards and Greenwald opposed. A motion by Councilor Sutherland to send this item back to Committee was duly seconded by Councilor Lamoureux. A brief discussion took place. The motion to send this item back to Committee failed with four in favor and 10 opposed. Councilors Jacobs, Manwaring, Powers, Clark, Filiault, O’Connor, Hansel, Jones, Richards and Greenwald opposed. The original motion to direct staff to draft an Ordinance to change the speed limit on Stonehouse lane, Skyline Drive and Summit Ridge Drive to 25 mpg passed with twelve Councilors voting in favor and 2 opposed. Councilors Sutherland and Lamoureux were opposed.

**PLD REPORT – ATTORNEY HEATHER CARLISLE/TILSON TECHNOLOGIES – REQUESTING THE CITY MANAGER’S SIGNATURE ON CONDITIONAL USE PERMIT APPLICATION**

Planning, Licenses and Development Committee report read recommending that the City Manager be authorized to sign the conditional use permit application submitted by Tilson Technologies to install small wireless facilities in various locations in the City right-of-way. A

motion by Councilor Jones to carry out the intent of the report was duly seconded by Councilor Hansel. The motion passed with a unanimous vote in favor.

**PLD REPORT – DISCUSSION: PERIODIC UPDATE – ENERGY AND CLIMATE COMMITTEE**

Planning, Licenses and Development Committee report read recommending accepting the report on the activities of the Energy and Climate Committee as informational. The report was filed into the record as informational.

**PLD REPORT – 2019 FIRE PREVENTION PARADE – FIRE DEPARTMENT**

Planning, Licenses and Development Committee report read recommending that the Fire Department be granted permission to use City property for the 2019 Annual Fire Prevention Parade to be held on Sunday, October 6, 2019. A motion by Councilor Jones to carry out the intent of the report was duly seconded by Councilor Hansel. The motion passed with a unanimous vote in favor.

**PLD REPORT – KEENE KIWANIS CLUB – REQUEST TO USE CITY PROPERTY – 2019 TREE LIGHTING EVENT**

Planning, Licenses and Development Committee report read recommending the Keene Kiwanis Club be granted permission to use downtown City rights-of-way on November 29, 2019 for the Tree Lighting Festival from 5pm to 8pm conditional upon the customary licensing requirements of the City Council, and that the petitioner complies with any recommendations of City staff. In addition, the petitioner was granted permission to erect a holiday tree on the Main/Marlborough/Winchester Street roundabout. The petitioner agrees to absorb the cost of any City services over and above any amount of City funding allocated in the FY 20 Community Events Budget. Said payment made within 30-days of the date of invoicing. The report further recommended the issue of decorating the light poles year-round be placed on more time. A motion by Councilor Jones to carry out the intent of the report was duly seconded by Councilor Hansel. The motion passed with a unanimous vote in favor.

**PLD REPORT – KEENE ELM CITY ROTARY – REQUEST FOR EVENT LICENSE – CLARENCE DEMAR MARATHON**

Planning, Licenses and Development Committee report read recommending that the Elm City Rotary Club be granted permission to sponsor the Clarence DeMar Marathon on September 29, 2019, subject to the customary licensing requirements of the City Council, and compliance with any recommendations of City staff. The petitioner agrees to absorb the cost of any City services over and above any amount of City funding allocated in the FY 20 Community Events Budget, and agrees to remit said payment within 30-days of the date of invoicing. A motion by Councilor Jones to carry out the intent of the report was duly seconded by Councilor Hansel. The motion passed with a unanimous vote in favor.

PLD REPORT – REPORT OUT: DARON FRIEDMAN – REQUEST TO ACQUIRE  
PROPERTY – WASHINGTON STREET

Planning, Licenses and Development Committee report read recommending accepting the report as informational. The report was filed into the record as informational.

FOP REPORT – ACCEPTANCE OF GRANT – VERMONT YANKEE – PUBLIC WORKS  
DEPARTMENT

Finance, Organization and Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to accept \$1,000 Vermont Yankee Emergency Planning funding allotment from the New Hampshire Department of Homeland Security and Emergency Management. A motion by Councilor Greenwald to carry out the intent of the report was duly seconded by Councilor Powers. The motion passed with a unanimous vote in favor.

FOP REPORT – ACCEPTANCE OF DONATION - FIRE DEPARTMENT

Finance, Organization and Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to accept a donation of \$1000.00. A motion by Councilor Greenwald to carry out the intent of the report was duly seconded by Councilor Powers. The motion passed with a unanimous vote in favor.

FOP REPORT – ACCEPTANCE OF FY 2019 BYRNE JUSTICE ASSISTANCE GRANT  
(JAG) – POLICE DEPARTMENT

Finance, Organization and Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to co-apply with the County of Cheshire, and to accept, the U.S. Department of Justice FY2019 JAG grant in the amount allocated to the City of \$6,427. A motion by Councilor Greenwald to carry out the intent of the report was duly seconded by Councilor Powers. The motion passed with a unanimous vote in favor.

FOP REPORT – ACCEPTANCE OF DONATION – PARKS, RECREATION AND  
FACILITIES DEPARTMENT

Finance, Organization and Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to accept a donation of \$2,000.00 from C & S Wholesale Grocers, Inc. and \$2,500.00 from the Gallup Fund of the Goldman Sachs Philanthropy Fund and that the money is used for the Human Rights Committee collaboration with the Keene International Festival. A motion by Councilor Greenwald to carry out the intent of the report was duly seconded by Councilor Powers. The motion passed with a unanimous vote in favor.

FOP REPORT – DISCUSSION – REQUEST TO PURCHASE CITY PROPERTY – ADJACENT TO BICYCLE/PEDESTRIAN

Finance, Organization and Personnel Committee report read recommending the matter be referred to the Bicycle Pedestrian Path Advisory Committee. A motion by Councilor Greenwald to carry out the intent of the report was duly seconded by Councilor Powers. The motion passed with a unanimous vote in favor.

FOP REPORT – RFP 02-20-01 AERIAL FLYOVER, PHOTOGRAMMETRY AND BASE MAPPING – COMMUNITY DEVELOPMENT DEPARTMENT

Finance, Organization and Personnel Committee report read recommending the City Manager be authorized to do all things necessary to negotiate and execute a contract with the selected firm, Kucera International Inc. for their professional services; and should negotiations fail, allow for negotiations with the next highest ranked firms in order. A motion by Councilor Greenwald to carry out the intent of the report was duly seconded by Councilor Powers. The motion passed with a unanimous vote in favor.

FOP REPORT – SPONSORSHIP UPDATE – PARKS, RECREATION AND FACILITIES DEPARTMENT

Finance, Organization and Personnel Committee report read recommending accepting the report as informational. The report was filed into the record as informational.

FOP REPORT – PROJECT SHARE – PARKS, RECREATION AND FACILITIES DEPARTMENT

Finance, Organization and Personnel Committee report read recommending that Project Share be allowed to use and occupy the Recreation Center space under the current terms and conditions without payment of rent through June 30, 2020 subject to further negotiation with the City Manager on the terms and conditions of a lease. A motion by Councilor Greenwald to carry out the intent of the report was duly seconded by Councilor Powers. The motion passed with a unanimous vote in favor.

FOP REPORT – PRIMEX3 CONTRIBUTION ASSURANCE PROGRAM – PROPERTY & LIABILITY

Finance, Organization and Personnel Committee report read recommending the City Manager be authorized to do all things necessary to enter into and execute an agreement extending participation with Primex3 in a multiyear Contribution Assurance Program through FY23 that has provided predictable contributions and stable property and liability insurance coverage. A motion by Councilor Greenwald to carry out the intent of the report was duly seconded by Councilor Powers. The motion passed with a unanimous vote in favor.

## FOP REPORT – PRIMEX3 CONTRIBUTION ASSURANCE PROGRAM – WORKERS COMPENSATION

Finance, Organization and Personnel Committee report read recommending the City Manager be authorized to do all things necessary to enter into and execute an agreement extending participation with Primex3 in a multiyear Contribution Assurance Program through calendar year 2022 providing for mitigation in the event of adverse experience, and assurance of predictable contributions for future workers' compensation insurance. A motion by Councilor Greenwald to carry out the intent of the report was duly seconded by Councilor Powers. The motion passed with a unanimous vote in favor.

### CITY MANAGER COMMENTS

The City Manager introduced and welcomed the new Library Director, Marti Fiske. Ms. Fiske served as a Library Director most recently in Williston, Vermont. She was there for fourteen years and before that she worked six years in Shelburne, Vermont. She holds a Masters of Library and Information Science and Bachelors of Arts in History & Secondary Education. She is active in American Library Association and New England Library Association and has been active in the Vermont Library Association.

The City Manager congratulated Public Works Department employees, Bill Byrne and Will Dourdounas. Both of these employees recently achieved the status of Master Roads Scholar in the University of New Hampshire Technology Transfer Center Program.

The City Manager recognize Meghan Doucette in the Public Works Department. Ms. Doucette was highlighted in the UNH T2 Road Business Magazine and website. There is a great photo of Meghan assembling road barricades as well as an excellent interview. She talks about working here first part time and now full time for a total of just about a year. She finds it rewarding to live in the City she works in and see how clean the downtown area is and how roads look when they are done making repairs. She clearly takes a lot pride in not only her work but in her team and in the City. Ms. Doucette encourages more women to consider a public works career and the City Manager echoes that statement.

The City Manager announced the "Source to the Sea" river clean up event is happening in Keene on Friday, September 27, 2019 between 9:00 AM to 11:00 AM at the Ashuelot River Park on West Street and Beaver Brook on Water Street. Volunteers and canoes are in need. For more information, contact the Cheshire County Conservation District at (603) 756-2988, ext. 116.

The City Manager continued that staff is planning to introduce an Ordinance dealing with small wireless facilities, including 4G and future 5G installations, within the public right-of-way. The Ordinance would establish licensing procedures and criteria for such installations. Staff anticipates receiving a higher volume of applications for these types of installations, including a current application, and they see a need to address changes established in a recent Federal Communications Commission ruling. Staff intends to submit the Ordinance for a first reading on September 19, 2019.

The City Manager announced the dedication of the Peace Pole will be held on Wednesday, September 11, 2019 at 3:30 PM at the Mount Monadnock Labyrinth at the Dillant-Hopkins Airport. The Mayor will offer remarks and an opportunity to reflect and remember the victims of 9/11.

The City Manager updated the Council on various other projects. She expressed there are many projects and initiatives occurring for varying lengths of time. As part of the new Councilor orientation, she prepared a list describing some of these projects and have placed them on the Councilors' desks. She plans to update the list monthly as a way to enhance communication normally provided during her manger's comments and make it easier for tracking these initiatives.

The City Manager provided a detailed timeline regarding the Kingsbury project as of September 5, 2019. The property was sold at auction for \$50,000.00 to Kingsbury Acquisition, LLC on May 7, 2013. Kingsbury Acquisition, LLC is a New Hampshire Limited Liability Company formed in 2013 by Brian J. Thibeault. The property transferred with taxes and interest due for the 2019 & 2010 tax years. This portion of the taxes has been accruing substantial interest charges and is now in excess of \$670,000.

In 2014, the City received a letter from Mr. Thibeault's attorney offering to sell 5 acres of the parcel for flood storage to the City for \$1 million and requested partnering with the City to develop the remaining portion while retaining the right to any final decisions.

In September of 2014, the City sent a letter indicating our interest in an easement along Beaver Brook and an extension of Victoria Street and offered a potential credit towards property taxes but discussed the need to determine market value for these easements. In November of 2014, Mr. Thibeault responded stating he agreed and reduced his price from \$1 million to \$950,000. In March of 2015, the City outlined a process to proceed to determine value of easement. A few more letters went back and forth until September of 2015. The sticking point remained the value of the easement to be credited towards taxes. No further communication was received from Mr. Thibeault from September of 2015 until January 2018.

In January 2018, Mr. Thibeault indicated that he wanted to reopen negotiations. April 26, 2018, Mr. Thibeault called the City Manager and stated he was going to pay all back taxes in the following week and asked that any information on development incentives be sent to him. The City Manager sent the requested information. The payment for back taxes was never received. The City Manager learned that he had a deal that fell through. She did not hear anything further for almost a year.

On March 11, 2019, the City Manager called Mr. Thibeault to let him know there was a letter from three City Councilors recommending the City move forward with tax deeding. The tax deeding question was referred to the March 7, 2019 Finance, Organization and Personnel Committee Meeting. On March 21, 2019, Council voted to table the item and at the following meeting tabled indefinitely with the expectation that progress would be periodically reported on. On May 16, 2019, the Council took the matter from the table and referred it back to FOP. In June 2019, Jim Phippard and Mr. Thibeault came before the FOP and presented a concept plan.

Brownsfield testing, easements, the demolition of the building and a payment plan to address back taxes was discussed at this meeting. This report was accepted as informational.

On June 20, 2019, the City received a letter from Mr. Thibeault's attorney (Sulloway & Hollis) offering to pay the taxes due if the Council would abate the penalty and interest due from 2019 & 2010 tax years. At that time that amount totaled \$416,996.49. At the end of the City Council Meeting on June 20, 2019, the City Council authorized the City Manager to negotiate the terms of easement and other land acquisitions on this property with Mr. Thibeault.

On June 27, 2019, the City Manager sent a counter offer that in return for the almost \$417,000 credit, Mr. Thibeault would grant the City an easement/land fee necessary for the Victoria Street Extension, as well as an easement for the multi-use trail along the brook, and that Mr. Thibeault would move forward with the Phase II Assessment on the east side of the brook. The City Manager also expressed that this was time sensitive in the letter and requested a timeline for demolition of the buildings. The Manager also requested agreement that he will not subdivide the property until the environmental issues have been remediated across the entire parcel. This was important, given the modification of Phase II to only test on the east side of the brook.

On August 23, 2019, the City of Keene received a copy of letter sent to Mr. Thibeault from Southwest Region Planning Commission, stating that the grant, due to the low level of activity, the balance of remaining grant funds assigned to the Kingsbury property, and that they would not be eligible to apply for another grant in this next round. Due to these circumstances, they are considering forfeiting the remainder of the grant. The Brownsfield Committee would discuss this at their September 4, 2019 meeting and they requested the authorization form back from Mr. Thibeault prior to the meeting. The City Manager also forwarded the correspondence to Mr. Thibeault's attorney.

On August 29, 2019, the City received a response from Mr. Thibeault's attorney. In summary, Mr. Thibeault will not agree to a restriction on the subdivision and was unable to give a timeline on the demolition of the building. He added that the requested easement for the multi-use path was too extensive. It states an interest in continuing the Brownsfield work and a willingness to work together to discuss development of the property however, stands by the offer made on June 20, 2019, which requests abatement of interest in penalties from 2019 & 2010 if he pays all other taxes due.

On September 5, 2019, the City Manager sent an email to Mr. Thibeault's attorney stating that she attended the Brownsfield Committee meeting and the lack of progress on this grant was discussed as well as there is a great deal of concern about hindering the Commission's ability to apply for additional funds. The letter to the attorney stated that the August 29<sup>th</sup>'s letter made no progress forward on any of the outstanding issues and simply stands by the original proposal for resolution of tax issues laid out in the June 20<sup>th</sup>'s letter.

Later in the afternoon, the City Manager received a phone call from Mr. Thibeault stating they were not drawing a line in the sand. The City Manager explained her concern that the letter made no progress forward and simply restated their first position. At 4:00 PM this afternoon, the City Manager received a counter offer from the Mr. Thibeault's attorney on his behalf. The



counter offer agreed to the easements needed for the multi-use path and the property needed for the Victoria Street Extension in exchange for a \$650,000 credit. The restriction on any subdivision is not something they will agree to and they cannot agree to a specific timetable for the building removal due to the need for an environmental assessment. They end with a willingness to sit down and resolve any outstanding issues.

The City Manager opened the conversation to the Council. A brief discussion took place. The Mayor pulled this item off of More Time and recognized Councilor Manwaring for a motion. A motion by Councilor Manwaring to direct the City Tax Collector to proceed to issue a tax deed in accordance with RSA 80:76, III, for property located at 80 Laurel Street, tax map number 589017000000000 was duly seconded by Councilor Filiault. On a show of hands, 12 Councilors were present and voting in favor, two were opposed. Councilors Sutherland and Hansel were opposed.

#### JOSEPH S. HOPPOCK, ESQ. – REQUEST TO PURCHASE CITY PROPERTY

A memorandum was received from the City Attorney along with a request to purchase City Property from Attorney Joseph S. Hoppock, Esq., on the behalf of Roberta Mastrogiovanni. The memorandum was filed into the record. The request was referred by the Chair to the Finance, Organization and Personnel Committee.

#### 79E COMMUNITY REVITALIZATION TAX RELIEF APPLICATION FOR 112 WASHINGTON STREET

A memorandum was received from the Senior Planner, along with the 79E Community Revitalization Tax Relief application submitted by Joshua Gorman for property at 112 Washington Street owned by 112 Washington Street LLC. The memorandum was filed into the record. The application was referred by the Chair to the Finance, Organization and Personnel Committee. The Chair set the Public Hearing for Thursday, September 19, 2019 at 7:00 PM.

#### RESIGNATION – LINDA RUBIN – BICYCLE PEDESTRIAN PATH ADVISORY COMMITTEE

A memorandum was received on behalf of the Bicycle Pedestrian Path Advisory Committee indicated that Linda Rubin had emailed her resignation as a member of the Committee. A motion by Councilor Greenwald to accept the resignation with regret and appreciation of service was duly seconded by Councilor Jacobs. The motion passed with a unanimous vote in favor.

#### 560 MAIN STREET ZONING AMENDMENT – ORDINANCE O-2019-12 – JOINT PLANNING BOARD/PLANNING, LICENSE AND DEVELOPMENT COMMITTEE

The Joint Planning Board/Planning, License and Development Committee report recommending the Mayor schedule a Public Hearing on Ordinance O-2019-12: Relating to Change of Zone – 560 Main Street was received. The Chair scheduled the Public Hearing on Thursday, October 3, 2019 at 7:00 PM.

MORE TIME

More time was granted by the Chair for the following items in Committee: Informational Report – 4-Way Stop Conditions for Arlington Avenue and Dort Street – Public Works; Discussion – Request to Prohibit the Use of Engine Brakes; and Continued Discussion – Campaign Finance Ordinance.

FOP REPORT AND RESOLUTION R-2019-26-A: RELATING TO FISCAL POLICIES

Finance, Organization and Personnel Committee report read recommending the adoption of Resolutions R-2019-26-A. The report was filed into the record. Resolution R-2019-26-A was read for the second time. A motion by Councilor Greenwald for the adoption of the Resolution R-2019-26-A was duly seconded by Councilor Jacobs. On a show of hands vote, 14 Councilors were present and voting in favor. Councilor Hooper was absent. Resolution R-2019-26-A declared adopted.

RESOLUTION R-2019-30: IN APPRECIATION OF WILLIAM M. GREENWOOD UPON HIS RETIREMENT

Resolution R-2019-30: In Appreciation of William M. Greenwood Upon His Retirement was read by title only. A motion by Councilor Greenwald for adoption of the Resolution was duly seconded by Councilor Powers. The motion carried with a unanimous vote in favor.

ADJOURNMENT

At 9:42 PM, there being no further business, the Mayor adjourned the meeting.

A true record, attest:



Deputy City Clerk