



City of Keene

New Hampshire

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

Due to the COVID-2019 State of Emergency, the City Council will be holding its meeting 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. To view the webinar visit the following link <https://us02web.zoom.us/j/93450635288>. To listen via telephone, call 877 853 5257 and enter the meeting webinar ID # 934 5063 5288. If you encounter any issues accessing this meeting, please call 603-757-0622 during the meeting.

Roll Call
Pledge of Allegiance

MINUTES FROM PRECEDING MEETING

- April 16, 2020

A. HEARINGS / PRESENTATIONS / PROCLAMATIONS

B. ELECTIONS / NOMINATIONS / APPOINTMENTS / CONFIRMATIONS

C. COMMUNICATIONS

1. Gary Boes - Offer of Sale - 0 Old Gilsum Rd
2. Nancy Sporborg - Ammi Brown Trail Entrance
3. Edgar Hastings/Summit Ridge Association - Ammi Brown Trail Entrance
4. Debra and Mike Hart - Ammi Brown Trail Entrance
5. Lori Schreier - In Support of Ordinance O-2019-18-A
6. Bethanne Cooley/CTIA - In Opposition to Ordinance O-2019-18-A
7. Fred Leuchter and Barbara Jansen - In Opposition to Ordinance O-2019-18-A
8. Councilor Clark - Federal Legislation that Would Negatively Hinder Net-Metering in New Hampshire

D. REPORTS - COUNCIL COMMITTEES

1. Brickstone Land Use Consultants, LLC - Request to Discontinue Easement for Possible Future Road Extension, Black Brook Road - Public Works Department
2. Cheshire Housing Trust - Application for a Lodging House License
3. Anthony and Fanella Levick – Granite Roots Brewing – Request to Serve Alcohol on City Property
4. Acceptance of a State Drug Forfeiture - Police Department
5. Acceptance of a Donation - Police Department
6. Acceptance of a Donation - Police Department
7. Life Insurance and Long Term Disability Insurance - Human Resources Department

E. CITY MANAGER COMMENTS

F. REPORTS - CITY OFFICERS AND DEPARTMENTS

G. REPORTS - BOARDS AND COMMISSIONS

H. REPORTS - MORE TIME

1. Ashley Sheehan/Modestman Brewing – Request to Serve Alcohol on City Property

I. ORDINANCES FOR FIRST READING

J. ORDINANCES FOR SECOND READING

1. Relating to Small Wireless Facility Deployments in the Public Rights-of-Way
Ordinance O-2019-18-A

K. RESOLUTIONS

1. In Appreciation of Timothy I. Read Upon His Retirement
Resolution R-2020-13
2. Relating to the FY 2021 Proposed Fiscal Budget
Resolution R-2020-22
3. Relating to the Establishment of a Road Infrastructure Capital Reserve; Relating to the Establishment of an Emergency Communication Capital Reserve; Relating to the Establishment of a Reappraisal Capital Reserve; Relating to the Establishment of an Information Technology Systems and Infrastructure Capital Reserve
Resolution R-2020-14
Resolution R-2020-17
Resolution R-2020-18
Resolution R-2020-19
4. Relating to an Appropriation to the Road Infrastructure Capital Reserve
Resolution R-2020-15
5. Relating to the Establishment of a Police Special Detail Revolving Fund Pursuant to RSA 31:95-h for the Purpose of Receiving Revenues and Expending Funds Relative to Police Special Details
Resolution R-2020-20
6. Relating to the Reallocation of Bond Proceeds from the Rose Lane Wastewater Treatment Plant Cleanup Project (08094) to the Waste Water Treatment Plant Generator Replacement Project
Resolution R-2020-23

Non Public Session
Adjournment

A regular meeting of the Keene City Council was held Thursday, April 16, 2020. The Honorable Mayor George S. Hansel called the meeting to order at 7:00 PM. Mayor Hansel read into the record the Emergency Order #12, issued by the Governor of the State of New Hampshire pursuant to Executive Order #2020-04. He continued the members of the City Council would be participating remotely. The Mayor asked that during the roll call for attendance, each Councilor identify their on-line presence and if there are others with them in the room. Roll called: Stephen L. Hooper, Michael J. Remy, Janis O. Manwaring, Michael Giacomo, Randy L. Filiault, Robert C. Williams, Philip M. Jones, Gladys Johnsen, Terry M. Clark, Raleigh C. Ormerod, Bettina A. Chadbourne, Catherine I. Workman, Mitchell H. Greenwald, Kate M. Bosley and Thomas F. Powers were present. A motion by Powers to accept the minutes from the April 2, 2020 regular meeting was duly seconded by Councilor Bosley. The motion passed on a roll call vote with 15 Councilors present and voting in favor. The Mayor led the Pledge of Allegiance.

ANNOUNCEMENTS – MAYOR

Mayor Hansel announced that the Municipal Services, Facilities and Infrastructure Committee for next week would start at 5:30 PM. The other committees will meet at their normal time.

COMMUNICATION – ERIN BENIK – RESIGNATION – HISTORIC DISTRICT COMMISSION

A communication was received from Erin Benik, resigning as a member of the Historic District Commission. A motion by Councilor Powers to accept the resignation with regret and appreciation of service was duly seconded by Councilor Bosley. The motion passed on a roll call vote with 15 Councilors present and voting in favor.

COMMUNICATION – COUNCILOR WILLIAMS – LIBRARY UNSPENT PERSONNEL FUNDS

A communication was received from Councilor Williams, expressing his opposition to the use of surplus personnel funds for the acquisition of printer management software and more specifically, the use of surplus personnel funds resulting from furloughed City employees. The Councilor is looking for the issue be referred back to the committee for further discussion. The Mayor tabled the communication to later in the meeting.

COMMUNICATION – ASHLEY SHEEHAN/MODESTMAN BREWING – REQUEST TO SERVE ALCOHOL ON CITY PROPERTY

A communication was received from Ashley Sheehan, Modestman Brewing, requesting permission from the City Council for the service of alcohol on city property immediately in front of their business at 100 Main Street. The communication was referred to the Planning, Licenses and Development Committee.

FOP REPORT – ACCEPTANCE OF DONATIONS – TRUSTEES OF THE KEENE PUBLIC LIBRARY

Finance, Organization and Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to release any interest that the City may have in a certain private right-of-way over real property currently owned by Keystone America Inc., d/b/a DiLuzio, Foley & Fletcher Funeral Homes, located at 49 Court Street, obtained by the City through a Tax Collectors Deed dated April 27, 1922, and recorded in Volume 498, page 45, of the Cheshire County Registry of Deeds. A motion by Councilor Powers to carry out the intent of the report was duly seconded by Councilor Hooper. The motion passed on a roll call vote with 15 Councilors present and voting in favor.

FOP REPORT – LEASE AGREEMENT – 12 GILBO AVENUE – PARKS, RECREATION AND FACILITIES

Finance, Organization and Personnel Committee report read recommending the City Manager be authorized to do all things necessary to negotiate and execute a lease renewal with Konstantinos Georgiadis for space located at the 12 Gilbo Avenue. A motion by Councilor Powers to carry out the intent of the report was duly seconded by Councilor Hooper. The motion passed on a roll call vote with 15 Councilors present and voting in favor.

REMOVED FROM THE TABLE – COMMUNICATION – COUNCILOR WILLIAMS – LIBRARY UNSPENT PERSONNEL FUNDS AND FOP REPORT – REQUEST FOR USE OF PERSONNEL FUNDS – KEENE PUBLIC LIBRARY

Finance, Organization and Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to allow the Library use of \$4,346 from the current fiscal year's unused personnel funds (#01100-61303) to acquire print management software and supporting equipment of scanners and receipt printer. A motion by Councilor Powers to carry out the intent of the report was duly seconded by Councilor Hooper.

Councilor Williams was given an opportunity to address his letter in opposition to using unspent personnel money for this purpose. The Councilor suggested that unspent personnel funds be used to bolster the City's workforce as needed during this uncertain time rather than spending it in this way. Lengthy discussion occurred. The City Manager reminded the Council that what is being proposed here is software that will allow the City to collect the revenue from the printing, resulting in a wash. While she can understand the sentiment being shared today, she does not think this is going to make the difference the Council members are looking for. She continued if we are not collecting the revenue, then we lose that revenue from the copier, but if we invest in the software we collect 100% of the revenue that we should be collecting when people are printing. The Manager noted staff is cognizant of watching the bottom line while also making certain that we take advantage of any opportunities as they arise. Opportunities are going to arise at different times, such as doing a project like this, which was intended to do anyway. We have the opportunity to do this now, while the library facility is closed.

In addition, the work that we do when managing contracts and purchasing, invests in the local economy. We are a stable force in the community, and the work that we do on roads, buildings, and other infrastructure projects are important, and we need to think about how this affects the economy. If we are thinking about shutting down our services, that will have a negative effect

on the economy and the people that are doing those jobs. This is part of a larger conversation, but what is before the Council this evening will be offset by the revenue collected.

The Mayor added that these can be two separate conversations. We obviously recognize the challenges that many in our community are facing, from business owners to individuals who are trying to pay their taxes. That needs to be a separate conversation. The Mayor cautioned conflating that with our economic development efforts and efforts to provide better services to the City. They are not necessarily linked at the hip, and they need to be two separate, distinct conversations. Discussion continued.

In response to a question from Councilor Clark, the City Manager noted that there are currently 23 furloughed employees. She also noted there has been no change in policy with the exception of the action by Council at their last meeting to allow the use of personnel funds for non-personnel purposes during the COVID-19 emergency. That flexibility was given to the City Manager at that meeting, however this particular request did not qualify, which is why it came through the regular process. Normally if we want to use personnel funds for non-personnel related expenditures the City Council must approve. In response to a question from Councilor Bosley, the Mayor asked the City Manager to put together a memorandum to the City Council explaining what happens to unexpended personnel funds. The Manager briefly explained that any funds not used drop to the bottom line and become part of the City's fund balance at the end of the year. Discussion continued. With reference to the motion on the floor to carry out the intent of the report, the motion passed on a roll call vote with 10 Councilors voting in favor, and Councilors Filiault, Williams, Clark, Workman and Greenwald opposed.

FOP REPORT – ACCEPTANCE OF LOCAL SOURCE WATER PROTECTION GRANT – PUBLIC WORKS DEPARTMENT

Finance, Organization and Personnel Committee report read recommending the City Manager be authorized to do all things necessary to accept a Local Source Water Protection grant from the New Hampshire Department of Environmental Services (NHDES) in the amount of \$20,000 for the installation of security fencing at Babbidge Reservoir. A motion by Councilor Powers to carry out the intent of the report was duly seconded by Councilor Hooper. The motion passed on a roll call vote with 15 Councilors present and voting in favor.

FOP REPORT – BLOSSOM STREET SEWER REPLACEMENT PROJECT – REQUEST FOR ADDITIONAL PROJECT BUDGET – PUBLIC WORKS DEPARTMENT

Finance, Organization and Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to authorize the reallocation of \$200,000 of unspent project balances within the Sewer Improvements project (08055) to the Blossom Street Sewer Replacement Project (08055-20). A motion by Councilor Powers to carry out the intent of the report was duly seconded by Councilor Hooper. The motion passed on a roll call vote with 15 Councilors present and voting in favor.

FOP REPORT – BLOSSOM STREET SEWER REPLACEMENT PROJECT –
CONSTRUCTION CHANGE ORDER FROM WINCHESTER COURT – PUBLIC WORKS
DEPARTMENT

Finance, Organization and Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to authorize the reallocation of \$136,175 of unspent project balances within the Sewer Improvements project (08055) to the Blossom Street Sewer Replacement Project (08055-20) be authorized to fund the replacement of the Winchester Court Sewer Main; and further recommends that the City Manager be authorized to do all things necessary to negotiate and execute a Construction Change Order with SUR Construction West, Inc. in an amount not to exceed \$136,175 for the replacement of the Winchester Court Sewer Main, and that funding for this work come from the Blossom Street Sewer Replacement Project balance (08055-20). A motion by Councilor Powers to carry out the intent of the report was duly seconded by Councilor Hooper. The motion passed on a roll call vote with 15 Councilors present and voting in favor.

CITY MANAGER COMMENTS

The City Manager began her comments about the fire at the Transfer Station. She explained that not related to the recently granted Covid emergency authority to use personnel funds, the City Code allows emergency repairs and purchases without meeting the purchasing requirements. This authority was used to make both temporary and permanent repairs to the City's Transfer Station as a result of a fire in the building. Costs were estimated to be between \$100,000 - \$300,000 depending on extend of structural damage. A claim was filed with the City's insurance carrier with a \$1,000.00 deductible.

The City Manager stated that a three-year land lease extension was executed on April 15, 2020 for the Corner News. The current land lease expires on July 31, 2020 and has a three renewal clause. It is the last renewal clause in the current agreement. Before the COVID-19 emergency, the City had been working with the property owner regarding purchase of the land. There were communications regarding several challenges, such as the building overhang being located on a separate parcel encumbered by restrictions due to the funding the City used to construct the bike path. The last meeting was on March 3, 2020.

The City Manager communicated that the City has been busy awarding contracts and keeping the important business of the City moving forward. A reminder to the contractors and revised the notice to all organizations bidding on City contracts: that a business providing essential service they shall develop strategies, procedures and practices to allow for social distancing protocols consistent with guidance provided by the CDC and Division of Public Health.

The City Manager continued with a few miscellaneous items, starting with the Roxbury Bridge replacement, which was awarded. The bridge closure and construction is scheduled to start July 1, 2020 and reopening late September 2020. The BDM sweeper services resumed roadwork this week and is scheduled to be completed by June 30, 2020. DEW Construction will begin work on the Drummer Hill Tank. Finally, the Public Works Department will be replacing water main gate valves throughout the City beginning the Week of April 27, 2020.

The City Manager highlighted a fun note from the Parks and Recreation Department. This department recently engaged with the families from the afterschool program CATCH. The families have not been able to go there since early March. To our registered CATCH kids, we provided Easter Egg Hunt at home packages and the Police Department helped deliver these packages. The kids and families loved it. Parks and Recreation Department also created a virtual egg hunt on their Facebook page. They are also working on a chalk sensory hopscotch and hoping to have the Police Department join in the chalking various streets in neighborhoods connected to schools. The idea is to have school physical education teachers promote the activity for kids to walk to, and then take a photo and tag us. She was pleased to see the City's departments taking efforts to remain engaged with the community.

MEMORANDUM – PUBLIC WORKS DIRECTOR/EMERGENCY MANAGEMENT
DIRECTOR - 2020 FARMERS MARKET LICENSE FOR USE OF CITY PROPERTY

A motion by Councilor Bosley to call from Planning, Licenses and Development Committee the communication from the Farmer's Market of Keene for consideration and action by the City Council in order to facilitate their requested opening date of April 25, 2020 was duly seconded by Councilor Greenwald. The motion passed on a roll call vote with 15 Councilors present and voting in favor. A motion by Councilor Bosley was duly seconded by Councilor Greenwald, to recommend that the Farmers Market of Keene be granted permission to use 22 parking spaces along Gilbo Avenue as well as an additional 18 spaces on the other side of the median strip in the Commercial Street parking lot on Saturdays from April 25, 2020 to October 31, 2020 and 22 parking spaces along Gilbo Avenue on Tuesdays from April 28, 2020 to October 27, 2020. Said permission is granted subject to the following conditions: compliance with the customary licensing requirements of the City Council; the receipt of a total rental fee of \$932.00 (payable on the first day of every month at \$155.00 per month); and obtainment of a City food license from the Health Department. In addition, it is recommend that the Farmer' Market of Keene be allowed to erect sandwich board signs on City property prior to the start of sales, subject to review and approval by City staff with respect to the number and location. The signs must be removed immediately after the sales have concluded. Access to City electrical shall be provided at a fee of \$60.00 for the season.

As part of the license conditions during and following the State of New Hampshire Emergency Declaration due to the Novel Coronavirus (COVID-19) and as amended, the Farmer's Market of Keene shall:

- Follow, maintain and monitor social distancing of at least six feet for customers and vendors,
- Provide adequate space for vendor and patron flow to maintain social distancing practices,
- Prohibit the use of reusable bags,
- Prohibit product sampling,
- Use non-porous tables that can be easily disinfected,
- Discontinue the use of display items that cannot be cleaned and sanitized,
- Have access to and utilize hand sanitizer for use between transactions,
- Disinfect surfaces between customers, and

- Any other requirements that may be issued by the City and/or the State for health and safety of the vendors, customers, and public.

With respect to the concern over short-term parking, the City Manager is authorized to do all things necessary to work with the Farmers Market to create a solution to resolve their stated problem relative to short-term visits as the City has with parking on Main Street. A motion by Councilor Johnsen to waive the fees for 2020 was duly seconded by Councilor Greenwald. The amendment passed on a roll call vote with 15 Councilors present and voting in favor. On a roll call vote, the amended committee report passed with a 15 Councilors present and voting in favor.

COVID 2019 UPDATE FROM THE CITY MANAGER

The City Manager began her comments regarding the COVID-19 pandemic. She stated that the hospitalizations in the southwestern part of the state (Manchester west) have been flat since April 9, 2020. There has not been a large number of suspected "COVID-19" calls on the ambulance. In fact, our EMS calls are down overall. Tracking hospitalizations and what is happening on the ambulance is a much better community wide indicator than testing. Testing capacity has been "hit or miss" throughout the state. Right now, things may be leveling off. All the credit goes to the people who live in Keene and in this region. These people have taken the Governor's Order to stay at home seriously and are closely following the CDC's recommendations. She encourages the public to continue to be vigilant though because things could change very quickly.

The City Manager continued that discussions have taken place towards what happens when we see some of the restrictions like the Stay At Home Order modified or lifted. The question remains will we see a surge in cases at that time. Testing capacity will be key when things begin to open up. In particular, the widespread availability of 15 minute tests, so that we can quickly identify COVID-19 positive patients and prevent/reduce community spread. The hospital feels having that kind of testing capacity is probably still a month away. They have a limited amount now, but the State is waiting for more cartridges from the Federal government.

The Manager went on to note that the Governor announced that our schools would not be reopening for the remainder of the school year. She continued that it seems clear from what we are hearing, that when restrictions begin to be lifted it will be gradual and social distancing and group size limits will likely continue for months – not weeks. That will effect community events and licensing likely for most if not all of the summer. We will monitor and adjust accordingly as the Governor puts out more orders and the CDC puts out more guidelines.

The City Manager explained that right now staff in all departments are spending a lot of time monitoring potential grants and other funding sources becoming available through the State and Federal government. We anticipate very quick turnaround times for all these. We will move quickly to take advantage of any available stimulus or grant funds that become available for any of our infrastructure projects that may qualify.

In addition, the Manager noted she has asked all departments to review their facilities and procedures and determine if there are things we should be purchasing which would qualify for

FEMA reimbursement – such as restocking face masks, cleaning supplies etc. and creating a central stock room for city wide use. We have also made some physical changes – like adding some glass in the Clerk’s office to create a barrier when interacting with clients. She has asked all departments to look at their spaces and procedures to evaluate now if there things we should be doing, adding or changing. Some of these things we can get FEMA reimbursement for and so we should be taking advantage of that opportunity right now. We are not only preparing for a gradual opening to more public contact at some point, but we are also preparing for the future. We do not know if we will be faced with something like this again next year or the year after. Ms. Dragon noted that FEMA reimbursement is typically at 75% however there is a lot interest in increasing that to 100%

The Manager updated the status of the Alternative Care site at KSC, noting it has come a long way and she is feeling much more comfortable that it is ready to perform as intended if needed now or a few months from now. The costs to set up and run the Alternative Care site will be reimbursed at 100%.

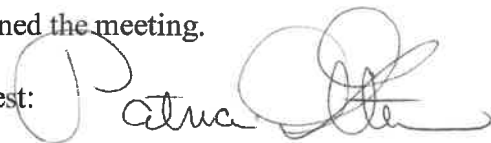
Ms. Dragon explained that FEMA does not cover loss of revenue. Over the last few days, the City has gathered information to submit to NH Municipal association. A survey from all towns and cities was completed to help with their conversations with the Governor’s Committee (GOFFR) currently charged with allocating funds from the Federal government through the State to towns/cities. She noted our push is for consideration of loss of revenue as part of any formula they (or the legislature) may come up with because we recognize most COVID-19 related expenses will be covered through FEMA.

Lastly, the Manager stated she wanted to continue to remind people that although our buildings have limited access we are still here Monday through Friday regular hours performing city functions.

ADJOURNMENT

At 8:43 PM, there being no further business, the Mayor adjourned the meeting.

A true record, attest:



City Clerk



City of Keene, N.H.
Transmittal Form

April 27, 2020

TO: Mayor and Keene City Council

FROM: Gary Boes

THROUGH: Patricia A. Little, City Clerk

ITEM: C.1.

SUBJECT: Gary Boes - Offer of Sale - 0 Old Gilsum Rd

ATTACHMENTS:

Description

Communiation - Boes

BACKGROUND:

Mr. Boes is offering to sell property that he owns to the City at 0 Old Gilsum Road.

Gary . Boes

652 Old Homestead Hwy.

Swanzey ,N.H. 03446

4/27/2020

Hello, Andy Bohannon

Thank you for all your help with the Goose Pond Land sale. Would you be so kind to ask if the City or Park & Rec would have an interest in our other piece of land. The Location

0 OLD GILSUM RD.

Map/Lot # 218/ / 004/000 000/000

We are willing to sell it to them for \$4,000. it is assessed for \$4,500.

Please let me know your thoughts and you are more then welcome to call me at 352-3609.

Best regards, Gary A. Boes



0 OLD GILSUM RD.

Location 0 OLD GILSUM RD.

Map/Lot # 218 / 004/000 000/000

Acct# 218004000000000

Owner BOES GARY A.

Assessment \$4,500

Appraisal \$4,500

PID 5502

Building Count 1

Current Value

| Appraisal | | | |
|----------------|--------------|---------|---------|
| Valuation Year | Improvements | Land | Total |
| 2019 | \$0 | \$4,500 | \$4,500 |

| Assessment | | | |
|----------------|--------------|---------|---------|
| Valuation Year | Improvements | Land | Total |
| 2019 | \$0 | \$4,500 | \$4,500 |

Parcel Addresses

| Additional Addresses |
|---|
| No Additional Addresses available for this parcel |

Owner of Record

Owner BOES GARY A.
Co-Owner BOES LAURIE J.
Address 652 OLD HOMESTEAD HWY.
 EAST SWANZEY, NH 03446

Sale Price \$2,600
Book & Page 2077/0910
Sale Date 10/20/2003

Ownership History

| Ownership History | | | |
|-------------------|------------|-------------|------------|
| Owner | Sale Price | Book & Page | Sale Date |
| BOES GARY A. | \$2,600 | 2077/0910 | 10/20/2003 |
| KENT HARRY S. JR. | \$0 | 0791/0248 | 01/01/1900 |

Building Information



City of Keene, N.H.
Transmittal Form

April 30, 2020

TO: Mayor and Keene City Council

FROM: Nancy Sporborg

THROUGH: Patricia A. Little, City Clerk

ITEM: C.2.

SUBJECT: Nancy Sporborg - Ammi Brown Trail Entrance

ATTACHMENTS:

Description

Communication - Sporborg

BACKGROUND:

Nancy Sporberg is recommending the City reconsider its planned upgrade to the Ammi Brown Trail and instead use the path off of Summit Road, just up from the planned parking lot and divert traffic away from the Summit Ridge neighborhood.

April 30, 2020

Dear Mayor and City Planning Department and City Council:

I am asking for you to reconsider the planned upgrade to the Ami Brown Road because I believe it will irrevocably change the neighborhood and the trail from a quiet neighborhood and a beautiful natural trail. You have a clear option which is to develop the path off of Summit Road, just up from the planned parking lot that would divert traffic AWAY from the neighborhood instead if into the neighborhood.

I wrote a letter to Rhett Lamb, Will Schoefmann and the City of Keene Planning Department on Feb. 19, 2017 stating my concerns about the project to grade and hard-pack Ami Brown Road off of Summit Ridge Drive and asking to be put on a list to receive updated information about this project in 2017. I have received nothing from the City, although I have been a Keene taxpayer all my life, and now find out the project is going forward.

This project is a mistake for the following reasons:

1. The Ami Brown Road is a beautiful natural resource. It is why many of us live here, so we can have access to the woods. The path is well-used by bikers, dog walkers and families. To grade it and stone-pack it will take away its natural beauty.

2. Adding a parking lot, and "improving" the trailhead and the trail will lead to more use; more noise, more cars parking where they shouldn't be parking, more garbage and more traffic. I believe that these proposed improvements will easily triple the number of people using that resource, way more than would be comfortable for anyone looking for a quiet walk or ride in the woods. And you have an alternative — use the path off of Summit Road, just up from the planned parking lot and DIVERT traffic away from the neighborhood instead of into the neighborhood.

3. Whether you have a parking lot on Summit Road or not, people will continue to park near the trailhead.

4. There are many bikers that use this path. They come down the Ami Brown Road fast and I have had a few close calls with bikers going too fast and not realizing that there were people and dogs on the path in front of them. Can you imagine the increase in speed if the path is graded and hard-packed?

5. The City is proposing a stone dust overlay on the trail. How do you propose to keep the stone dust overlay on the trail which happens to be a steep hill? Rain, snow and use will erode the overlay within a few short years.

My questions to you:

1. Who wants this project done besides people who work for the City of Keene who probably want to win an award for their city bike-path and want to complete a bike path loop that is already complete? How many taxpayers in the City of Keene have requested this path be "improved"?

2. Have you talked with the people who walk on this trail? The vast majority of them do not want increased use and do not feel the need to "improve" the path. The walkers don't want more bikers. How can you assure the safety of the walkers when you are inviting the world to your new bike

path?

3. Have you talked with the bikers who use the path? The vast majority of them realize how lucky they are to have access to these beautiful woods and do not want the increased traffic either.

4. Have you considered the possibility of a biker hitting a pedestrian because they would be able to go full speed down a graded, stone-dust overlay path?

5. Have you talked to the land owners who own land near the trail and along the railroad bed? Many have allowed the bikers to build paths through their woods under the condition that there is no mapping, so that only the few who know the area would use them. And you think that bikers won't access those paths once they get on the Ami Brown Road? The land owners will not be happy with the increased traffic.

6. Have you told Summit Ridge Condo Association that this "improvement" to the path, and the parking lot on Summit Road will bring in more bikers and more people and more garbage and more noise and will, in fact, not solve their current problem of people parking at the trail head, but will make it worse?

7. Why not use the path off of Summit Road, just up from where the parking lot is planned, diverting traffic away from the Summit Ridge neighborhood?

The Ami Brown Road (the path leading to the rail trail) is a community resource BECAUSE it is natural, beautiful, quiet and cared for by its travelers. I, for one, want to keep it that way.

Respectfully,



Nancy S Sporborg
Stone House Commons
8 Sugar Maple Lane
Keene, NH 03431

603-903-3858



City of Keene, N.H.
Transmittal Form

April 24, 2020

TO: Mayor and Keene City Council

FROM: Edgar Hastings/Summit Ridge Association

THROUGH: Patricia A. Little, City Clerk

ITEM: C.3.

SUBJECT: Edgar Hastings/Summit Ridge Association - Ammi Brown Trail Entrance

ATTACHMENTS:

Description

Communication - Summit Ridge

BACKGROUND:

The Summit Ridge Association is raising the issue of trail users of the Ammi Brown Trail parking on private property near the entrance to the trail and the use of private driveways to turn around. The Association is asking for enforcement of no parking at the entrance to the Ammi Brown Trail to relieve the situation.

24 April 2020

Councilor Philip V. Jones, Councilor Randy Filiault, Councilor Thomas F. Powers
c/o City Clerk
3 Washington St.
Keene, NH 03431


Dear Councilors,

The Summit Ridge Association is a 26 unit condominium association made up of 9 buildings in Keene. Eighteen units are located on Skyline Drive and 8 units are located on Summit Ridge Drive. All units are in Ward 5. One 2-unit building is located directly across the trail entrance of the Ammi Brown Road (also located on Summit Ridge Drive) and another 2-unit building is 60 feet further. The residents of these 4 units are affected, often on a daily basis, by trail users who park vehicles at or near the trail entrance. It is important to note that this trail entrance is widely used throughout the year. Our Board receives regular complaints from these unit owners of trail users routinely parking their vehicles on their lawns and using their driveways as turn arounds. They report some vehicle owners choosing not to pull off to the side of the trail entrance but choosing to park fully on the road. This is a great safety concern especially in the winter, when our unit owners notice more vehicles parked in the road because of snow banks. Also, these unit owners have complained about increased noise, at all hours of the day, from trail users using automatic door locking devices and the subsequent horn warning that follows.

Our Board of Directors has been working with the City Engineer, Don Lussier, and others since February 2019 with regard to the proposed conversion of the Ammi Brown Road to a Class A Trail. As you may know, we have been asked to grant an easement to the City to improve the trail, maintain the entrance and regulate its use as part of the Cheshire Rail Trail expansion.

In general, our Board has been in support of this project, however, as discussions have continued with our unit owners, the Board is increasingly concerned with the parking issues mentioned above. Without doubt, trail use (and the need for parking) will increase following completion of this phase. We are well aware of the proposed signs and parking area at the entrance of Summit Ridge Drive that is part of this project. A parking area exists now but trail users continue to park at the trail entrance. The Board feels City enforcement of 'No Parking' at the trail entrance is crucial to insure that the quality of life of the above mentioned unit owners and the value of Summit Ridge Association property remains unaffected as this project is completed.

The Summit Ridge Association respectfully requests that you raise our concern with the appropriate departments with the objective of including parking enforcement as part of the suite of documents so our Board feels comfortable granting the requested easement.

Sincerely, 

Edgar T. Hastings, President
Summit Ridge Association
44 Skyline Drive
Keene, NH 03431



City of Keene, N.H.
Transmittal Form

May 5, 2020

TO: Mayor and Keene City Council

FROM: Debra and Michael Hart

THROUGH: Patricia A. Little, City Clerk

ITEM: C.4.

SUBJECT: Debra and Mike Hart - Ammi Brown Trail Entrance

ATTACHMENTS:

Description

Communication_Hart

BACKGROUND:

Debra and Michael Hart who live directly opposite the trail entrance of the Ammi Brown Road are requesting that the City design the entrance so no cars can park at the entrance, that no parking signs be installed, that a sign explaining where parking is available be erected and that the Police Department enforce a no parking policy.

Debra J Hart
Michael E Hart
42 Summit Ridge Drive
Keene, N.H. 03431
4/30/2020

Councilor Philip V. Jones, Councilor Randy Filiault, Councilor Thomas F. Powers

Dear Councilors,

Deb and I are part of the Summit Ridge Association. We are one of the units directly across from the trail entrance of the Ammi Brown Road so our neighbors and ourselves are the most affected. I have been hiking this trail for 45 years and it was one of the reasons we chose to live where we are. We are in full support of people using the trail for non-motorized recreation and enjoying its rustic wilderness as I have for all these years. I have met many people on these trails that are friendly and respectful. Many of these people are the ones that park in the lot on Summit Road. We have also had to endure the arrogant, nasty entitled people who believe they have a right to park in front of no parking signs (please see attached pictures from this week), with their whole car parked in the road, parking on the associations lawn or parking on our front lawn. When you try to explain to them that there is parking on Summit Road, they usually respond that they pay Keene taxes and can park where they want or that the state owns the property so they have every right to park there. They steal the no parking signs and litter the area. Last winter there were multiple cars parked one behind the other, fully in the road on a corner of Summit Ridge Drive before the trail head. People had to walk around the cars into oncoming traffic to get around them. When the police were notified they drove right past doing nothing. I am not sure anyone from the City of Keene realize the amount of pedestrians that walk around this neighborhood. I have only called the police 4 time since I moved here, all related to cars parked fully in the road creating a hazard for both pedestrians and other drivers trying to go around the vehicles in the road. All the vehicles were using the trail system. In the winter time with the road narrowed because of snowbanks and cars parked in the road this is an accident waiting to happen. For some reason this hazard is not a ticket offence to the Keene Police department.

As I said previously, we are in full support of people using the trail. We support the proposed conversion of the Ammi Brown Road to a Class A Trail, for the Association to grant an easement to the City to improve the trail, maintain the entrance and regulate its use as part of the Cheshire Rail Trail expansion. All we ask is that the City of Keene designs the entrance so no cars can park at the entrance, no parking signs are installed, a sign explaining that parking is at the lot on Summit Road (many people I talk to have no idea that is where they are to park) and the Keene Police enforce a no parking policy on Summit Ridge Drive before and after the trailhead.

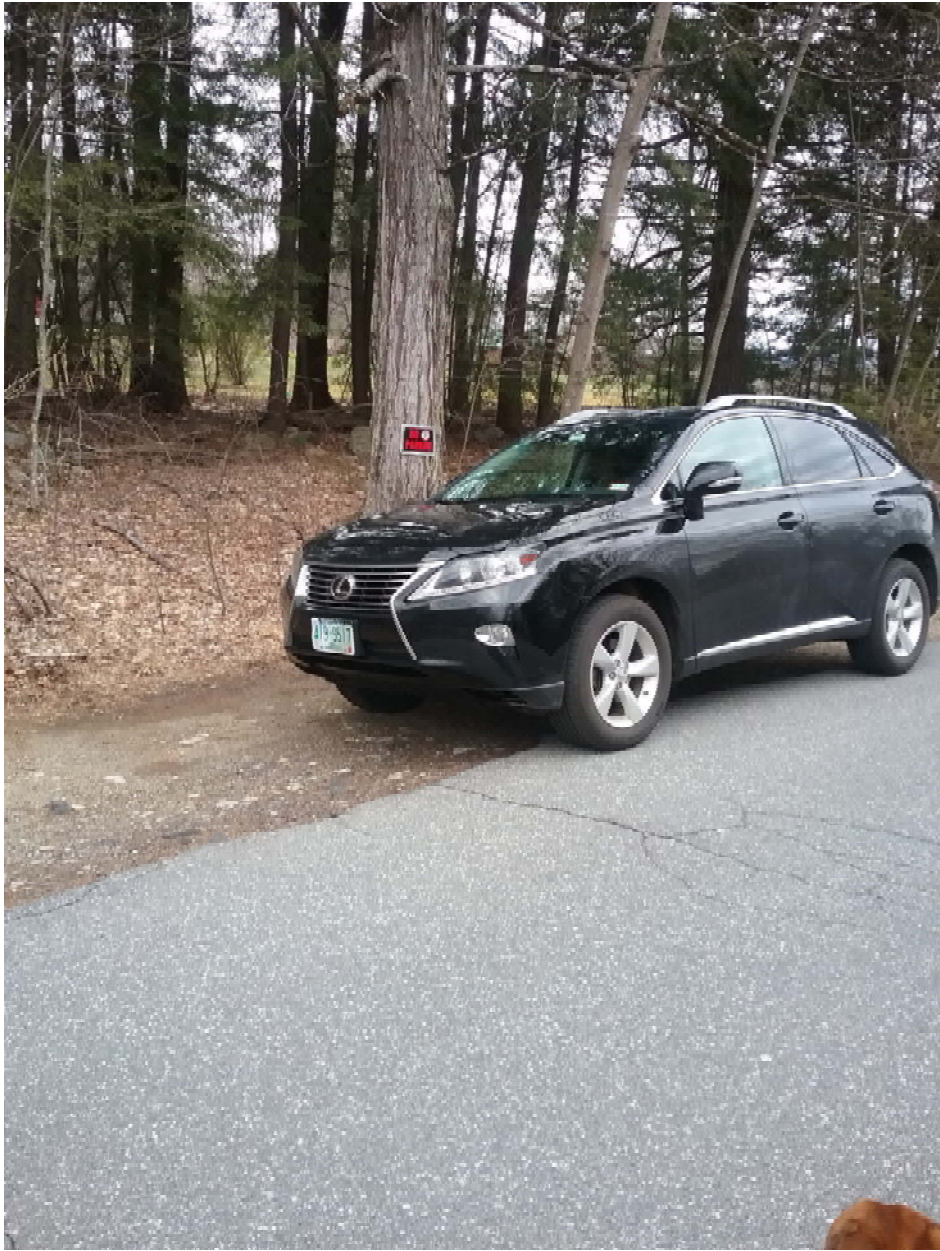
Sincerely,

Debra J Hart

Michael E Hart

Michael Hart

05/05/2020









External Communication
Transmittal Form

April 30, 2020

TO: Mayor and Keene City Council

FROM: Lori Schreier

THROUGH: Patricia A. Little, City Clerk

ITEM: C.5.

SUBJECT: Lori Schreier - In Support of Ordinance O-2019-18-A

ATTACHMENTS:

Description

Communication - Schreier

BACKGROUND:

Lori Schreier is expressing her recommendation that the City Council support Ordinance O-2019-18-A. Ms. Schreier included links to recent lawsuits scientific studies, articles and websites relating to 5G and radio frequencies generally.

To: Mayor Hansel and City Council members

From: Lori Schreier, Westmoreland, NH, Member of NH for Safe Technology

Re: Relating to Small Wireless Facility Deployments in the Public Rights of Way Ordinance 0-2019-18-A

May 7, 2020



It has been three months since the public hearing on this topic so I thought this meeting would be a good time to share some updates on lawsuits, scientific studies, articles and webinars related to 5G and radio frequencies generally, before your vote on this Ordinance.

Thank you all for your commitment to keeping the city of Keene safe during this pandemic and for your continued support of the moratorium on applications above 4G until the safety issues are further defined by the NH 5G Commission in its report. I wanted to point out that my understanding that increased internet use during the pandemic is in no way hindered by the lack of 5G. From what I know most people are using a home internet service, not a mobile data connection (which 4GLTE and 5G are) such as cable internet fiber or DSL. Even cell phones are (or should be) connected to home wifi and if configured optimally, will not use mobile data, unless used to make a phone call in some cases. Phone (voice) calls use a trickle of bandwidth. Home, mostly wired, internet infrastructure, then should be the conduit for most internet data that is being used. What would be of actual benefit would be to improve wired internet infrastructure to the premises (cable, fiber, DSL), and that is exactly what Westmorland and Chesterfield NH recently voted for with the help of SB 170 bond legislation. (thanks to Gabe Wallace for some insights here).

I also want to thank you for your support and changes to the Small Wireless Facility Deployments Ordinance that already had a hierarchy with residential areas as a last resort for small cells and now has additional safety standards with distance buffers for schools and daycares, increased spacing between small cell facilities, a sunset clause and compliance monitoring for small cell antennae above 4G, if applications are to come later on. The only issue I wasn't clear on was whether the buffer of 750' would also apply to residences and not just to distance between small cells in residential districts.

It is appreciated that the City of Keene is taking the stance as City Attorney Thomas Mullins expressed at the last PLD meeting, saying officials have tried to balance the city's needs with expectations from higher levels of government and that the ordinance is ready to proceed, and if any issues come up, the city will "deal with those issues as they arise." I am confident the City of Keene will take all appropriate views into consideration and legally support the Ordinance if that arises, to continue its efforts in protecting the citizens of Keene and the public rights of way.

Below is an update on four lawsuits relating to these topics.

Irregulars, et. al, v. FCC, heard on March 13, 2020, determined that the states and cities have the right to sue utilities to recoup fees that were collected from decades of bills to customers that were meant for fiber optics to the premises for broadband but were and are instead used for wireless infrastructure. <http://irregulars.org/irregulars-big-win-we-freed-the-states-from-the-fcc/>

A new lawsuit was filed in early February by Children's Health Defense asking for review of an FCC Order for its refusal to review their 25 year old guidelines, and to promulgate scientific, human evidence-based radio frequency emissions ("RF") rules that adequately protect public health from wireless technology radiation. The Petition contends the agency's actions are capricious and not evidence-based. The Petition was filed on 2/2/2020 in the U.S. Court of Appeals for the Ninth Circuit.

<https://childrenshealthdefense.org/seeking-justice/legal/chd-v-federal-communication-commission-fcc/>

City of Eugene Oregon (local gov.) v. FCC was argued in the 9th Circuit Court of Appeals on February 10, 2020. The case argues that the FCC overreached in pre-empting and limiting municipalities police power over the placement and fees for 5G infrastructure, among other things.

https://news.bloomberglaw.com/tech-and-telecom-law/5g-infrastructure-fight-between-cities-fcc-to-continue-in-2020?fbclid=IwAR0poA27jbqasL6hqBkK_iIC3srXGGRdFfooWdGuMOgLQmLXUkP1MkDir6o

These two links below are videos from the oral arguments for the case.

https://www.ca9.uscourts.gov/media/view_video.php?pk_vid=0000017033
https://www.ca9.uscourts.gov/media/view_video.php?pk_vid=0000017034

The **Environmental Health Trust** and a coalition of other commentators also filed a court appeal **challenging the FCC's order** terminating its evaluation of the adequacy of FCC RF radiation limits. <https://ehtrust.org/action-alert-lawsuit-against-the-fcc/>

Below are recent, reports, studies and articles and a webinar on the topic of radio frequencies, 5G and immune function that came out since the public hearing on February 6, 2020.

Stop 5G International's 5G Global Protest Day Webinar Panel Presentation. This was timed for earth day and includes two legal presenters which may interest Keene, Julian Gresser from the U.S. and Christian F. Jensen from Denmark. https://www.youtube.com/watch?v=Hc45Lky_30k&t=545s

5G and COVID 19

<https://magdahavas.com/is-there-an-association-between-covid-19-cases-deaths-and-5g-in-the-united-states/>

Radio Frequency and immune function

<https://magdahavas.com/wp-content/uploads/2020/04/Sage-2020.-Final-Published-Studies-Reporting-Disrupted-Immune-Function-from-Low-Intensity-Exposure-to-Radiofrequency-Radiation.pdf>

Physicians for Safe Technology on immune system and Radio Frequency

<https://mdsafetech.org/immune-system/>

Fibergate: Telecom spends our money on wireless that was meant for fiber optic

https://ed84ae68-328e-42f4-847a-66fb863ac9df.filesusr.com/ugd/2cea04_505a68aa27c945368da75ca15542227d.pdf?fbclid=IwAR3v_vdOIHmzDp3dWz93RJgW3DS_V9R5p0s_LfYE8dbJM5k1GnHlbM2IU

Video

Close Proximity Residential Cell Tower EMF impact

<https://www.facebook.com/watch/?v=185145869132266>

5G consumes up to 200% more energy than 4G

<https://www.mtnconsulting.biz/product/operators-facing-power-cost-crunch/>

Electromagnetic Radiation Due to Cellular, Wi-Fi and Bluetooth Technologies: How Safe are We?

<https://ieeexplore.ieee.org/document/9016183>

Electromagnetic hypersensitivity (EHS, microwave syndrome)- Review of Mechanisms

<https://www.sciencedirect.com/science/article/abs/pii/S0013935120303388?fbclid=IwAR0FNp9z5w5ZhpPIFrw1DmQZeCPXUdb0litfpRfa907vfrWtYptRSXLT2A>

Environment, 5G Technology, LED Lighting - Unintended Consequences

<https://mahb.stanford.edu/library-item/environment-5g-technology-and-led-lighting-unintended-consequences/?fbclid=IwAR3uNtV0BK3HX8yf5YjvzjT6RjAxpTak4K-a9l14TKcsgt5fXYOPTzK9z2A>

Testimony at Thousand Oaks on 5G microwave sickness and wifi in schools

https://www.youtube.com/watch?time_continue=266&v=LwlcORorYak&feature=emb_t

Glastonbury Calls for further 5G Inquiry after Commission issues report

<https://glastonbury.gov.uk/2020/04/29/glastonbury-calls-for-5g-inquiry/>



City of Keene, N.H.
Transmittal Form

April 30, 2020

TO: Mayor and Keene City Council

FROM: Bethanne Cooley/CTIA

THROUGH: Patricia A. Little, City Clerk

ITEM: C.6.

SUBJECT: Bethanne Cooley/CTIA - In Opposition to Ordinance O-2019-18-A

ATTACHMENTS:

Description

Communication_Cooley

Background Information

BACKGROUND:

Bethanne Cooley, Assistant Vice President of State Legislative Affairs of CTIA (the trade association for the wireless communication industry) is asking that the City Council defeat Ordinance O-2019-18-A because they believe it violates both state and federal law and it will hamper the wireless industry's ability to provide enhanced wireless services and deploy the latest technology to the citizens of Keene.



April 30, 2020

The Honorable George S. Hansel
Mayor, Keene, New Hampshire
3 Washington St.
Keene, NH 03431

Sent via email

RE: Opposition to Ordinance O-2019-18-A, Related to Small Wireless Facilities

Dear Mayor Hansel,

On behalf of CTIA, the trade association for the wireless communications industry, I am writing to respectfully oppose Ordinance O-2019-18-A (“Ordinance” hereafter) pertaining to the installation, alteration & relocation of small wireless facilities in the public rights-of-way. CTIA also respectfully opposes the proposed moratorium on the deployment of 5G wireless facilities. As drafted, the Ordinance violates both state and federal law and will hamper the wireless industry’s ability to provide enhanced wireless services and deploy the latest technology to the citizens of Keene. For all the reasons outlined herein, CTIA respectfully asks that you reject the proposed Ordinance.

An overarching problem with the proposed Ordinance is the fact that it attempts to regulate facilities on utility poles, in violation of state statute, RSA 12-K:10 regarding the deployment of personal wireless facilities.¹ 12-K:10, IV states “Notwithstanding anything to the contrary in this chapter, an authority may not mandate, require or regulate the installation, location, or use of PWSFs [wireless facilities] on utility poles,” including those owned by a municipality.

Furthermore, numerous sections of the Ordinance violate federal law. For example, Sec. 82-205.2 establishes a blanket prohibition on attachments to new wooden poles as well as City-owned decorative poles. As there are no similar restrictions imposed on other rights-of-way users, imposing such a restriction on small wireless facilities appears to be discriminatory, violating Sections 253 and 332 of the Communications Act of 1934. By imposing a blanket ban on new wireless infrastructure to provide service to the residents and businesses of Keene, the proposed Ordinance would flatly violate the Communications Act’s restrictions on local regulations that prohibit or have the effect of prohibiting service.

Specifically, Section 253(a) of the Communications Act, 47 U.S.C. § 253(a), provides that “no State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of

¹See RSA 12-K, <https://www.nh.gov/osi/resource-library/planning/documents/sb101-statute-changes.pdf>, last accessed 4/24/2020.



prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.” Similarly, Section 332(c)(7)(B), 47 U.S.C. § 332(c)(7)(B), states in part that “the regulation of the placement, construction and modification of personal wireless services facilities by any State or local government . . . shall not prohibit or have the effect of prohibiting the provision of personal wireless services.” As drafted, Sec. 82.205.2 violates these provisions of federal law.

In addition, the Federal Communications Commission (FCC) has declared that state or local moratoria on deployment of facilities that would provide wireless services are clearly unlawful.² It concluded that “moratoria limit the provision of service, harm competition, and impose significant costs that impede the deployment of telecommunications infrastructure and thereby exacerbate the digital divide.” The proposed Ordinance thus violates the Communications Act and the FCC’s implementing provisions, and is therefore unlawful.

Further, provisions of Sec. 82-206 also violate federal law. Sec. 82-206.9, accessory equipment volume, directly conflicts with the volumetrics provided for in the FCC’s State and Local Wireless Infrastructure Declaratory Ruling and Third Report and Order (“Order” hereafter).³ The Order specifically notes antenna equipment associated with the small wireless facility shall be no more than 28 cubic feet. The proposed Ordinance’s restrictive volumetrics propose 9 cubic feet in residential areas and 17 cubic feet in nonresidential areas. Sec. 82-206(8)(b) similarly limits cumulative antenna volume to 3 cubic feet in residential areas and 6 cubic feet in nonresidential areas. The Order imposes no such cumulative limits, requiring only that each antenna be no more than 3 cubic feet.

Finally, we are also concerned about the recently-adopted amendment that proposes a complete moratoria on 5G applications until January 2021. In addition to violating federal law and recent FCC actions, implementing a moratorium on the deployment of wireless communications facilities will hurt the City’s ability to attract investment and realize the benefits of 5G. 5G networks will provide increased capacity to accommodate growing consumer demands and will connect 100 times more devices. Towns and cities will be able to leverage wireless technology and the Internet of Things to enable smart cities, allowing them to monitor public infrastructure and conditions and operate more cleanly and efficiently.

Accenture has found that 5G and small cell deployments will provide tremendous economic benefits. Specifically, Accenture estimates that wireless operators will invest as much as \$275 billion nationwide over seven years creating up to three million jobs and adding approximately \$500 billion

² See: Third Report and Order and Declaratory Ruling, FCC 18-111 (Aug. 3, 2018)

³ See <https://docs.fcc.gov/public/attachments/FCC-18-133A1.pdf>; last accessed 4/24/2020.



to the U.S. GDP through direct and indirect potential benefits.⁴ In Keene specifically, 5G deployment may create over 200 jobs and increase GDP by \$35 million.⁵

The Planning, Licenses and Development Committee stated at their April 22nd, 2020 meeting that the 5G moratorium was passed under the pretenses of alleged health effects from 5G wireless facilities. Such action is expressly prohibited under federal law. As outlined in Section 332(C)(7)(B)(iv), “No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the [FCC]’s regulations concerning such emissions.” In December 2019, the FCC unanimously reaffirmed its existing limits for radio frequency exposure noting, “After reviewing the extensive record submitted in response to that inquiry, we find no appropriate basis for and thus decline to propose amendments to our existing limits at this time”⁶ In addition, we note that the consensus among health experts, including the American Cancer Society, the World Health Organization, and the U.S. Food and Drug Administration, is that the weight of scientific evidence shows no known adverse health effects to humans from exposure to wireless antennas or devices. (See attached).

In closing, it is important to note that the wireless industry wants to meet the needs of its customers – who are also your constituents. However, in order to ensure that the wireless industry can continue to meet this demand, the industry’s investment must be met with forward-looking infrastructure regulations that promote rapid and efficient deployment. Ordinance O-2019-18-A does not reflect such forward-looking regulation. As such, CTIA respectfully asks that you reject Ordinance O-2019-18-A.

Sincerely

Bethanne Cooley
Assistant Vice President, State Legislative Affairs

Encl: “Protecting Health and Safety”

⁴ “How 5G Can Help Municipalities Become Vibrant Smart Cities,” Accenture Strategy, Jan 12, 2017, https://newsroom.accenture.com/content/1101/files/Accenture_5G-Municipalities-Become-Smart-Cities.pdf, last accessed 4/24/2020.

⁵ *Ibid.*

⁶ See <https://docs.fcc.gov/public/attachments/FCC-19-126A1.pdf>, last accessed 4/24/2020

Protecting Health and Safety

The health and safety of consumers is the wireless industry's first priority. Here's what you should know about radiofrequency (RF) energy and wireless devices.

Read what the experts say:

- World Health Organization
- American Cancer Society
- National Institutes of Health – National Cancer Institute
- Federal Communications Commission (FCC)
- Food and Drug Administration

What is RF Energy?

Many devices we use every day—baby monitors, Wi-Fi routers, and garage door openers—transmit information using radio waves. These radio waves emit energy commonly referred to as RF energy.

Experts agree that wireless devices have not been shown to pose a public health risk.

Overwhelming scientific evidence shows no known health risk to humans from RF energy emitted by wireless devices, including smartphones. This evidence includes numerous, independent analyses of peer-reviewed studies conducted over several decades by national and international organizations.

Federal government statistics show the number of brain tumors has remained unchanged since mobile phones were widely introduced in the 1980s while the number of mobile phones and sites has increased significantly, by a factor of 325 and 140, respectively.

Cellular equipment operates within safety limits.

RF energy from antennas used in cellular transmissions, including 5G small cells, result in exposure levels well below FCC safety limits. These limits are based on recommendations from the scientific community and expert non-government organizations. The widely accepted scientific consensus is that towers, small cells, antennas, and other cellular infrastructure pose no known hazard to nearby residents—and as the FCC notes, “the possibility that a member of the general public could be exposed to RF levels in excess of the FCC guidelines is extremely remote.”

FCC regulations protect health and safety.

All wireless devices sold in the U.S. must go through a rigorous approval process to ensure they meet the science-based guidelines set by the FCC. These guidelines—based on internationally-recognized scientific organizations—set limits for the maximum amount of RF exposure from wireless devices and include a significant margin of safety (Christopher C. Davis Testimony, 2018). Wireless devices and antennas operate well under FCC thresholds (Christopher C. Davis Testimony, 2018).

5G and safety

The scientific consensus is that there are no known health risks from all forms of RF energy at the low levels approved for everyday consumer use. The FCC regulates RF emissions, including millimeter waves from 5G devices and equipment. In December 2019, the FCC adopted the recommendations of expert organizations that have reviewed the science, including from the IEEE, and reaffirmed—on a unanimous and bipartisan basis—that its safety standards “ensure the health and safety of workers and consumers of wireless technology,” and that “no scientific evidence establishes a causal link between wireless device use and cancer or other illnesses.”

Typical exposure to 5G devices—such as small cells attached to phone poles or the sides of buildings—is far below the permissible levels and comparable to Bluetooth devices and baby monitors. The FCC continues to monitor the science to ensure that its regulations are protective of public health.

Expert voices

“Based on our ongoing evaluation of this issue and taking into account all available scientific evidence we have received, **we have not found sufficient evidence that there are adverse health effects** in humans caused by exposures at or under the current radiofrequency energy exposure limits. Even with frequent daily use by the vast majority of adults, we have not seen an increase in events like brain tumors.”

– Director of the FDA’s Center for Devices and Radiological Health (2018)

“[T]he RF waves given off by **cell phones don’t have enough energy to damage DNA directly or to heat body tissues**. Because of this, it’s not clear how cell phones might be able to cause cancer.”

– American Cancer Society (2018)

“We have relied on decades of research and hundreds of studies to have the most complete evaluation of radiofrequency energy exposure. This information has informed the FDA’s assessment of this important public health issue, and given us the confidence that the **current safety limits for cell phone radiofrequency energy exposure remain acceptable for protecting the public health**. . . .

[T]he totality of the available scientific evidence continues to not support adverse health effects in humans caused by exposures at or under the current radiofrequency energy exposure limits.”

– Director of the FDA’s Center for Devices and Radiological Health (2018)

More information is available at [wirelesshealthfacts.com](https://www.wirelesshealthfacts.com).

Agencies and organizations that shape U.S. regulations:

- Institute of Electrical and Electronics Engineers (IEEE)
- National Council on Radiation Protection and Measurements
- International Commission on Nonionizing Radiation Protection



...there is no evidence to support that adverse health effects in humans are caused by exposures at, under, or even in some cases above, the current RF limits. Indeed, no scientific evidence establishes a causal link between wireless device use and cancer or other illnesses.”

—FCC Order reaffirming existing safety standards, Dec 2019



City of Keene, N.H.
Transmittal Form

May 1, 2020

TO: Mayor and Keene City Council

FROM: Fred Leuchter and Barbara Jansen

THROUGH: Patricia A. Little, City Clerk

ITEM: C.7.

SUBJECT: Fred Leuchter and Barbara Jansen - In Opposition to Ordinance O-2019-18-A

ATTACHMENTS:

Description

Communication - Leuchter

BACKGROUND:

Fred Leuchter and Barbara Jansen are expressing their opposition to Ordinance O-2019-18-A.

Ms. Kate Bosley
Chairwoman City Council
City of Keene
3 Washington Street
Keene, NH 03431
May 1, 2020

5G Report/Research Introduction Letter

Dear Ms. Bosley,

We are sending you these resources to examine:

Due to the current health crisis pertaining to COVID-19, it is our understanding that these health issues surrounding it can be traced back to 5G military style technology using increased cellular tower expansion. Please check this out and share this with your members, friends, and general public, as it affects health and the environment.

We are working on a project to raise awareness of 5G Technology and how it will impact the world. Much of its use is associated with use for greater surveillance and tracking of our citizens, thus restricting Privacy and Constitutional Freedom. In areas where 5G is being employed there is widespread research being done on health concerning this technology which is not being sufficiently recognized nor researched. Scientists, engineers, and doctors are questioning the detrimental effects of 5G because it is 100 times faster using millimeter waves that will require more towers to penetrate homes and businesses. These waves when checked on an RF Meter show bursts of radio waves that are higher than the previous generation of 4G, in order to provide faster uploads and downloads. These require more cell towers placed more closely together. These health concerns MUST be addressed. It was originally implemented as a military offensive technology, but is now made main stream, being deployed WITHOUT FULL TESTING of long term health issues before its deployment. These health issues may include: Anxiety, sleeplessness, headaches, and general fatigue. More serious issues may include immune system dysfunction, brain pattern disruption, and cell damage causing flu-like symptoms, all possible deleterious mutations of genetic alteration that increases an individual's susceptibility or predisposition to a certain disease or disorder.

We support the Keene City Council in its efforts to protect the citizens of Keene by formally investigating the safety of 5G before deployment. We ask that you forward this letter to all government authorities, health officials, and all local utilities. We request that we be allowed to testify before the Keene City Council.

This letter contains two attachments:

One is on Report on the Necessity of Testing 5G Before Deployment

The other is: Electromagnetic Radiation Research References

We hope that you find this information useful in raising awareness of technology that is not being reported to the general public through main stream news reports.

Thank you for your concern,
Citizens Against 5 G

Fred Leuchter

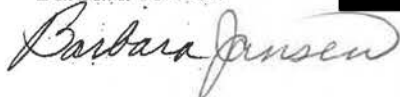
[Redacted]

Phone: 781-322-0104

Barbara Jansen

[Redacted]

Phone: 774-279-4608



Report on the Necessity of the Testing of 5G before Deployment

By: Fred A Leuchter, Electrical Engineer, Retired

Barbara Jansen, Investigative Data Researcher

Background: The Electric/Electronic Age started in the last two decades of the Nineteenth Century, with Tesla, Marconi and Edison. The development of Three Phase Alternating Current by Tesla was the actual beginning of the Concept of Electrical/Electronic Frequency. Prior to that everything was Direct Current from either a battery or generator. Alternating Current (electricity) changes polarity + and – several times per second. This change is called Hertz (named after Heinrich Hertz, German Physicist). One change per second is 1 Hz. Now followed the advent of Radio Waves with Marconi, and later AM and FM radio.

Questions have been raised about the effect of Radio Waves on human and animal life since the Spanish Flu of 1918 with the spread of Radio Frequency (RF). When an electric current is generated, either in a wire or an antenna it produces a magnetic field around a wire or antenna. This magnetic field will cause (induce) another electric current in different wire or Coil (a wire wrapped on a spindle). This is called transmission or propagation. Since 1918 Radio Frequency has been used for many purposes including Radar and data transmission. We have found that the effect on the human body or animal tissue has been deleterious to people and animals. We have killed people, animals, insects, fish and birds as a bi-product of the use of RF. The natural frequency of animal tissue is 7.5 Hz as is the earth. The Earth's natural frequency is called the **Schumann Resonance**, which pulsates at a rate of **7.83 hertz**. It surrounds and protects all living things on the planet. It resonates in the stratosphere where lightening, the earth's electricity, begins. Other frequencies damage and interfere with the earth's resonance and that of living things.

Two things are important: Frequency and Amplitude (volume). In the past we have used a relatively low frequencies and low amplitude in our devices. Since WWII we have expanded both killing birds, insects, fish, dolphins, plants and anything else that happened to be in the way. Recently it has been reported that the bee population has been diminished, which is largely responsible for pollenization and food supply. This has been in the name of progress by our Military and business people who do not care for anything else but power and money!

The Military has sent personnel into Atomic blasts to make measurements, scheduled atomic tests at time when the prevailing winds have taken radiation into Las Vegas, with wanton disregard for **human life**. The radiation from cell phone use is dangerous and no real testing has been done to determine how deleterious this is. Those in charge do not care. They are about instituting a global communications system using 5G (Fifth Generation) with RF exceeding 60 Giga Hertz. This system will start with Cell Towers and will end with satellites encompassing the globe. No testing has been done even there is sufficient proof to show it may kill all life on our planet. The testing that has been done is insufficient because it only included the carrier frequency and not data.

Effects of 5G: I think we have a more than general idea of what is happening with 5G exposure to humans and our earth. Our cells are oscillated at a high frequency (perhaps somewhat lower in frequency due to damping). The vibration causes heat in the cells and this heat will cause internal as well as membrane damage. When a cell is internally damaged or ruptured it weeps and this weeping exits the body through the nose, lungs and other orifices. Thus, flu like symptoms made manifest. The fluid settles in the lungs and fills the aveoli in the air sacks causing pneumonia. Looks like FLU! People will drown in their own secretions. A fellow researcher, Barbara Jansen's, made an analogy of an egg in the microwave, and is right on target! We are rupturing cells. It may also be depriving us of oxygen and causing one to drown in their own fluid.

There appears to be an issue with 60 Giga Hz plus being the proper frequency to damage the oxygen molecule (O₂). A molecule of oxygen is made up of two oxygen atoms bonded together. A frequency somewhat in excess of 60GigHZ may split the Oxygen molecule into 2 atoms of Oxygen (O). The chemistry of the hemoglobin in the human body requires a molecule of oxygen and not an atom of oxygen and this may not permit bonding thus suffocating a person similar to what happens in an Execution Gas Chamber, a very difficult way to die.

Additional to this, the synapses (electrical circuitry) in the brain are electro-chemical, and are being scrambled with spurious frequencies causing headaches. These are the short term issues. The long term we will not know for many years. The only real testing I know of was done by the Russians on the 1960's, when dealing with aggressive behavior of technicians installing high voltage alternating current (40-60 Hz) transmission lines in Siberia. This resulted in work times of 2 months on and 7 months rest and recreation at Odessa.

Causes: Between the U. S. Government and the U.S. Industrialists it seems that no one cares about the people because no testing has been done and no one is inclined to test. The military's testing is primarily for weaponry and is not testing for safety. It

appears the globalists, supported by the United Nations and W.H.O. have an ulterior motive. They want 5G deployed immediately to enhance telecommunications for medical, surveillance and control. Having read the 5G Patent, which is sufficient enough to issue, but doesn't supply functional details. It establishes a total grid over the entire planet, first with 5G towers and soon thereafter with Satellites above the earth, allowing no place for humans to live without total exposure, with the potential ability to selectively kill large numbers of people.

Doctor Shiva Ayyanduri, a medical doctor and a expert on Life Sciences, makes a very interesting point. The alleged Covid Pandemic is not really a pandemic at all. It is a cover for those who wish to rule us with 5G as well as the implementation of the new rules of the global agenda. The one world government globalists want a world with a decreased population that they can manage. Artificial intelligence is the key, with androids to run their planet totally under their control. Artificial Intelligence in robots is expensive and perhaps not fully achievable on a large scale. Carbon based androids with brains (people) are less expensive and more expendable. We know people can be controlled with RF energy capable of creating a **Society of Cognizant Zombies**, where artificial intelligence is inserted into humans, that can be employed as human robots. This is known as Transhumanism, the theory that the human race can evolve beyond its current physical and mental limitations, especially by means of science and technology. As frightening as it sounds, this is currently being researched.

Fortunately, there is an alternative technology that transmits high speed data on a low frequency carrier that is not harmful to people, animals or this planet. More information will be provided at a later date as it is being developed.

It is very important that we raise the consciousness of the general public that these are the things that are happening which may eventually affect all of us and may **not** be reversible unless we address these issues and take appropriate action **now**.

Fred Leuchter

Malden, Massachusetts

Under Medical Lockdown

Barbara Jansen

Framingham, MA

April 10, 2020

Resources

Rudolf Steiner on the Effects of Radiant Electricity and

Electromagnetic Technology <https://neoanthroposophy.com/2018/02/08/rudolf-steiner-on-the-effects-of-radiant-electricity-electro-magnetic-radiation-and-electric-technology/>

RUDOLF STEINER'S SYSTEM OF ANTHROPOLOGY HAS A UNIQUE TAKE ON THE

CONNECTION BETWEEN 5G AND VIRUSES

<https://www.sgtreport.com/2020/03/rudolf-steiners-system-of-anthroposophy-has-a-unique-take-on-the-connection-between-5g-and-viruses/>

Adverse health effects of 5G mobile networking technology under real-life conditions

EXCLUSIVE: DR. SHIVA EXPOSES FAUCI, BIRX, GATES, AND THE W.H.O. COVID-19 ENDGAME

5G Patent

https://patentimages.storage.googleapis.com/5d/13/e8/fe207c40f68b75/US10461421.pdf?fbclid=IwAR2vF7oFkWBv2xWK7df4pzPVQNQA4lgYkQV_oNNpbwIzulz1DEfCv6h_3rc

Photo next page:

<https://vertassets.blob.core.windows.net/image/eac387f4/eac387f4-2cc2-11d5-a770-00d0b7694f32/041001akembedded1.gif>

1. Dirty Electricity: Electrification and the Diseases of ... What is Dirty Electricity? | Protect Your Family from EMF ...
www.emfanalysis.com/what-is-dirty-electricity

Typical causes of "Dirty Electricity" include: Solar System Inverters (converting DC power to AC power). EV chargers (SMPS converting high current AC power to DC power). PLC Smart Meters (sending data over the powerlines by adding additional frequencies). Wireless Smart Meters that add pulsed ...

2. www.amazon.com/Dirty-Electricity-Electrification-Diseases-Civilization/dp/...
Dirty electricity is a term for microsurgs and noise riding on the standard electrical waveform. It can be caused by electrical appliances and devices, fluorescent bulbs, and many other issues. Upon submitting his findings to the superintendent, he received a threatening letter from the school attorney.
3. **What Is Dirty Electricity? Is EMF Pollution Affecting Your ...**
greenwavefilters.com/dirty-electricity
Common Sources of Dirty Electricity Fluorescent light bulbs and tubes. Light dimmer switches. Desktop computers and laptops. Televisions. Cordless phone systems. Multi-Speed Fans. Solar power systems.
4. **"Dirty electricity": what, where, and should we care ...**
www.nature.com/articles/jes20108
The name 'dirty electricity' originates from the term 'dirty power' used in industry for the high frequency voltage transients that are caused by interruptions in the electrical current flow from...
5. **Dirty Electricity - Image Results**



More Dirty Electricity images

6. **What is Dirty Electricity? See 8 Ways to Detoxify Your ...**
blog.biotrust.com/dirty-electricity-detox-home
What is Dirty Electricity? The term most often associated with dirty electricity is "EMF," short for electromagnetic field, which is a low-energy, non-ionizing radiation. This occurs when the electric and magnetic fields are joined together to act as one.
7. **What Is Dirty Electricity? Is Dirty Electricity Dangerous ...**
emfacademy.com/dirty-electricity-dangerous
How is Dirty Electricity Created? Converting the 60 Hertz AC (alternating current) into a low-voltage DC (direct current) or. Higher voltage AC. Drawing power intermittently in short bursts by turning the electrical current on and off,... A transformer to change the voltage. A rectifier which ...
8. **Dirty Electricity - No Radiation For You**
www.norad4u.com/knowledge/dirty-electricity
Dirty Electricity(DE) is actually a Mid-high frequency (100Hz-100000KHz) electric noise that make it's way over the house electric wires and that is created because of the way that electronics and none linear electric consumers works (electric consumers like switched power supply, computers, CFLs, other electronics) and also from external sources (like RF sources next to power lines).
9. **What Causes Dirty Electricity in a Home? | Radiation ...**
www.radiationhealthrisks.com/causes-dirty-electricity-home
Dirty Electricity is a form of Radio Frequency (RF) Radiation. It is irregular surges and spikes of electric energy moving along power lines and building wiring where only standard 50 Hz to 60-Hz AC electricity should be. It is of a high enough frequency that it becomes airborne and radiates through the walls into the rooms of buildings.
10. **Dirty Electricity Filters - A Complete Guide - EMF Academy**
emfacademy.com/dirty-electricity-filter-guide
Dirty electricity, or sometimes called dirty power, electrical pollution, or a few other names, is a description of essentially unusable power that gets stuck in your electrical wiring. The wiring in your home and most buildings are designed to use 60 hertz AC electricity (or 50 hertz in Europe).

The Invisible Rainbow: A History of Electricity and Life

Book by Arthur Firstenberg

Description

"The story of the invention and use of electricity has often been told before, but never from an environmental point of view.

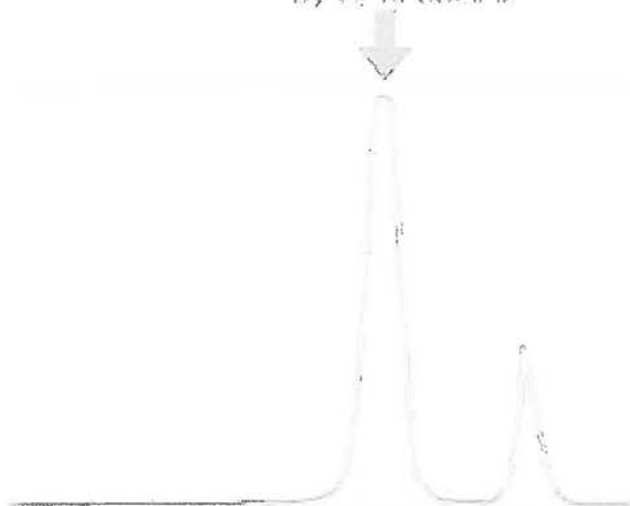
... [Google Books](#)

[Columbia University](#): July 2016

[Project Gutenberg](#)



93% of Energy Absorbed
by CO₂ at 60°C or 142





External Communication
Transmittal Form

May 5, 2020

TO: Mayor and Keene City Council

FROM: Councilor Terry M. Clark

THROUGH: Patricia A. Little, City Clerk

ITEM: C.8.

SUBJECT: Councilor Clark - Federal Legislation that Would Negatively Hinder Net-Metering in New Hampshire

ATTACHMENTS:

Description

Communication_Clark

BACKGROUND:

Councilor Clark is submitting a communication that requests that the City Council instruct the Mayor to write a letter to the Federal Regulatory Commission to oppose a petition that would hinder net-metering in New Hampshire.

May 6, 2020

To Mayor and Council,

Re: Letter from the Mayor and Suspension of the Rules

I request that the Council instruct the mayor to write a letter to the Federal Regulatory Commission to oppose a petition that would hinder net-metering in New Hampshire. I also ask that the rules be suspended so the Council may act upon my request without going through the committee process.

Thank you,

A handwritten signature in black ink, appearing to read "Terry Clark". The signature is fluid and cursive, with the first name "Terry" being more prominent than the last name "Clark".

Terry M. Clark
Keene City Councilor
Ward 3
14 Barrett Ave.
Keene, NH 03431
(603)661-8347



City of Keene, N.H.
Transmittal Form

April 22, 2020

TO: Mayor and Keene City Council

FROM: Municipal Services, Facilities and Infrastructure Committee

ITEM: D.1.

SUBJECT: Brickstone Land Use Consultants, LLC - Request to Discontinue Easement for Possible Future Road Extension, Black Brook Road - Public Works Department

RECOMMENDATION:

On a vote of 5-0, the Municipal Services, Facilities & Infrastructure Committee recommended that the City Manager be authorized to do all things necessary to release and discharge a certain easement granted to the City for the possible future extension of Black Brook Road, being 60 feet in width located on the north side of the existing cul-de-sac, and as more particularly described in the Subdivision and Easement Plan recorded at the Cheshire County Registry of Deeds in Cabinet 12, Drawer 3, #90 and #91, the Warranty Deed recorded in Volume 1659, page 276, and in the Return of Layout, recorded in Volume 1687, page 855; and further that the City Manager be authorized to negotiate and execute an amendment to a certain Cross Easement Agreement recorded in Volume 3001, page 450, necessary to provide for continued emergency access to properties located on Wyman Road and on Black Brook Road.

BACKGROUND:

The Public Works Director, Kurt Blomquist, summarized this item, which was on more time. He said that Jim Phippard, who is representing Ametek, came to the MSFI Committee requesting the release of an easement for a second connection at the end of Black Brook Road. Black Brook Road was laid out in 1998 as part of a development proposal from Keene Economic Development and Revitalization Corporation, which is now known as Monadnock Economic Development Corporation. At the time, a 1400' linear road was proposed as a part of the subdivision of five lots, one of which was owned by Ametek. To satisfy Keene's Dead End Road Standards, the developer had to propose a secondary access. They proposed a connection across the southern end of Ametek's lot and to the property line with the idea of continued development there and another road constructed in the future. As such, the developer met Keene's standards.

The Public Works Director said that Ametek recently appeared before the Planning Board with the intent to expand their building and parking area south toward Keene, but in that process learned that this work was impossible due to the existing easement across the property. Today, there is a cross-easement from Wyman Road, through Hillside Village to the Ametek property, and then to Black Brook Road. Ametek proposed to utilize that cross-easement as a substitute for the extension across the southern portion of their property and therefore to provide a secondary access to Black Brook Road for emergency access if it were blocked from the Wyman Road entry point. Staff requested more time from this Committee to determine if the request was possible with this cross-easement.

Staff determined that the cross-easement constructed for Hillside Village is adequate from a construction standpoint but part of the easement language was restrictive by allowing City and other emergency agencies only to cross the easement to access the Hillside Village and Ametek properties. If this were proposed as a general

emergency access to the remaining properties on Black Brook Road, then staff recommended that Mr. Phippard work with the property owners to amend the easement language allowing general access for emergency response.

The Public Works Director reported that Mr. Phippard did work with Ametek and Hillside Village and proposed amendments to the easement language. Staff reviewed the changes, which seem to meet the purpose of allowing City and other emergency agency access between Wyman Road and Black Brook Road. Additionally, the new language allows emergency support for any of the properties on Black Brook Road. As such, staff recommended that the MSFI Committee authorize the City Manager to release the 1998 easement for secondary access and to negotiate and execute a revised cross-easement from Hillside Village to Wyman Road and then to Black Brook Road.

Councilor Chadbourne expressed concern that this access could increase traffic on Wyman Road or nearby neighborhoods. The Public Works Director said the access would be for emergency traffic only and therefore would not increase traffic on either Wyman or Black Brook Roads.

There were no public comments.

Councilor Giacomo made the following motion, which Councilor Filiault seconded. Chair Manwaring called roll and members announced their unanimous passage of this motion.

On a vote of 5-0, the Municipal Services, Facilities & Infrastructure Committee recommended that the City Manager be authorized to do all things necessary to release and discharge a certain easement granted to the City for the possible future extension of Black Brook Road, being 60 feet in width located on the north side of the existing cul-de-sac, and as more particularly described in the Subdivision and Easement Plan recorded at the Cheshire County Registry of Deeds in Cabinet 12, Drawer 3, #90 and #91, the Warranty Deed recorded in Volume 1659, page 276, and in the Return of Layout, recorded in Volume 1687, page 855; and further that the City Manager be authorized to negotiate and execute an amendment to a certain Cross Easement Agreement recorded in Volume 3001, page 450, necessary to provide for continued emergency access to properties located on Wyman Road and on Black Brook Road.



City of Keene, N.H.
Transmittal Form

April 22, 2020

TO: Mayor and Keene City Council
FROM: Planning, Licenses and Development Committee
ITEM: D.2.

SUBJECT: Cheshire Housing Trust - Application for a Lodging House License

RECOMMENDATION:

By a roll call vote of 5-0, the Planning, Licenses, and Development Committee recommends that a lodging license be issued to Cheshire Housing Trust for property located at 86 Winter Street for a period of one year from the date of issuance. Said license is conditional upon the following:

1. No more than 20 persons may reside on the premises.
2. Compliance with all applicable laws, ordinances, codes, and rules and regulations.
3. The continuation of the license is subject to and conditioned upon the successful passage of an inspection to be conducted by the City.
4. Continued violation of any parking ordinances by residents of the premises or their guests, may be grounds for suspension or revocation of the license, as determined by the Police or the Community Development Departments.
5. Access to the common areas of the licensed premises shall be granted to the Police, Community Development, and Fire Departments at all reasonable times
6. The owner shall notify City staff of any change in the building operator; failure to do so may be grounds for suspension or revocation of this license.

This license expires on the 17th day of May, 2021, and may be revoked by the City Council in accordance with Sec. 46-590 "Suspension or Revocation."

It was noted that the license term will extend out to July 1, 2021 when Ordinance O-2020-03 becomes effective on July 2, 2020. Ordinance O-2020-03 established a consistent license expiration date for all lodging house licenses to be July 1st of the year subsequent to its issuance date.

BACKGROUND:

Chair Bosley stated that they do not have a petitioner present. She asked staff to speak.

Rhett Lamb, Community Development Director/Assistant City Manager stated that he will give a quick background, with the intent of making sure everyone knows where this property is. He continued that it has been a lodging house for several years and it has now come to light that they need a license. It is the Hampshire House property owned and operated by Cheshire Housing Trust. It is at the corner of Winter and School Streets and has been a lodging house for a number of years, and that has only recently come to light as a function of the work the City has been doing on the Social Services and Congregate Care ordinance. The City did a comprehensive look at all lodging houses and other uses under the larger category of congregate care to see what existed in the community. What was revealed is that the Hampshire House falls under the definition of

a lodging house, even under the current Chapter 46 standards. Staff let the Hampshire House know that they need to come forward to the City Council for a lodging house license. That is why the Council are seeing this now.

Chair Bosley asked if they have been operating unlicensed. Mr. Lamb replied yes, because no one in the City had placed them in the category of “lodging house.” He continued that they had not been aware that they needed a license. They are trying to correct that through this process today.

Chair Bosley stated that they heard that Hampshire House had all their inspections. Mr. Lamb replied that Fire Chief Mark Howard or Zoning Administrator John Rogers can speak to that.

Chair Bosley asked for Mr. Rogers to speak.

Mr. Rogers stated that he and John Bates from the Fire Department conducted an inspection. They have no concerns and recommend granting the license.

Chair Bosley asked if Chief Howard had comments to add.

Chief Howard stated that what Mr. Rogers reported is accurate. He continued that both departments have completed inspections of the location and they are active. That location, from a Fire standpoint, has been active under prior inspections and services. Even though this is new coming to the City Council, from a Fire Code point of view it is not new to get them up to Code.

Chair Bosley asked if the committee had questions or comments.

Councilor Workman stated that her personal experience with Cheshire Housing Trust is that she is not surprised they are in compliance with codes and ordinances now. She continued that she used them when she was a case manager, placing clients there as tenants. The Cheshire Housing Trust is diligent and take precautions on who they rent to and follow all necessary guidelines.

Councilor Johnsen stated that she would like to know: is this in relationship to the meeting the City Council had with folks who did not want to have 20 people in this area? If so, how many people are in this dwelling?

Chair Bosley stated that people who did the inspections could speak up with corrections if needed, but the application is for 18 rooms and 20 people. She continued that this dwelling has been active for years. She, through Comfort Keepers, has served tenants who have been there for years. She asked if anyone knows how long it has been operating.

Mr. Lamb stated that it has been at least 25 years in that location, with the same activity and the same use.

Chair Bosley stated that regarding Councilor Johnsen’s question, she thinks that may give them grounds for having a grandfathered situation, when it comes to the stipulations they are discussing at the Joint Planning Board/Planning, Licenses, and Development Committee level for the new ordinance.

Councilor Johnsen stated that she understands that they have been there for a long time. She continued that she remembers saying she was not comfortable with approving that many people in that area because she heard what the people who live in that area said. Wouldn’t this slip them in and defeat the whole purpose of not having more than five or six?

Chair Bosley replied that she understands what Councilor Johnsen is saying. She continued that the Joint Committee has had lengthy conversations about this. She thinks that because of the length of time this facility has been in operation, some of the people who came before the Joint Committee with feedback had purchased

their homes well after this lodging house was established, moving into the neighborhood knowing that the facility was there already. The ordinance the Joint Committee has been discussing will prevent future buildings being put together in this manner, limiting occupancy at least to 16, which was the initial point they had discussed, and then they talked about lowering that number even more. She continued that Councilor Johnsen needs to look at what her position would be, regarding this particular lodging license. But it has been there for 25 years. Many people who moved in and out of that area were aware that it was already constructed.

Councilor Johnsen asked the City Attorney to address this so she better understands. She continued that she wants to make sure they are not slipping something in that would defeat what they had discussed in the Joint Committee.

Tom Mullins, City Attorney, stated he is not prepared to address the long-term implications. He continued that when the land use development ordinance is in place it will deal with a lot of these uses. This use has been in place for quite some time. When the new ordinance goes into play it will address uses that will be coming into effect after the time that the ordinance is enacted. A better person to answer this question of the interplay between this particular use and the upcoming land use code change would be the Community Development Director or the Zoning Administrator.

Mr. Lamb stated that as it relates to the proposed Social Services and Congregate Care ordinance, the only reason they referenced it tonight is that in doing the preparation for that ordinance they tried to identify all possible lodging houses, group homes, and other categories of land uses that might be affected in the future. He continued that they identified the Hampshire House as a preexisting lodging house, which is why it is coming forward under Chapter 46. In terms of the future ordinance, this is a preexisting use, an allowed use today, and the Hampshire House is there with all the appropriate approvals. The changes associated with the Social Services and Congregate Care ordinance, if it is adopted in the future, would not affect this use, because it is preexisting. The discussion about the ordinance and how they manage congregate care uses in this part of the city is still up for discussion. It will be coming back in front of the PLD Committee and the full City Council for discussion how to move forward with the issues raised as concerns here tonight.

Councilor Johnsen asked if this is for one year. Mr. Lamb replied yes, it is a one-year license.

Chair Bosley stated that they have an ordinance that will come into play that will level out the dates for all lodging houses to July 1 so this one will be a year and a month.

Councilor Johnsen stated that she remembers people coming and saying, "We don't want this many people in this area." She continued that she is being cognizant of the citizens. If this is grandfathered and that is the consensus of the committee, she will be in support, but she does not want that support to weigh on what will be coming after January 2021.

Chair Bosley asked Chief Howard if he had anything to add.

Chief Howard stated that the proposed number of 20 residents includes two people who reside there, as managers of the property, so there would be 18 lodging house residents.

Councilor Jones stated that something that he keeps bringing up in Joint Committee meetings, regarding the Social Services and Congregate Care ordinance, is that things like what Councilor Johnsen brought up will be taken away from the City Council. For example, the six contingencies they will be making tonight as part of the motion - they would not be able to do that anymore. There is nothing they can do about this tonight, but it is a point he has been making at the Joint Committee meetings. Chair Bosley replied that it is a valid point.

Chair Bosley asked if any attendees or members of the public had comments.

Councilor Clark stated that the Hampshire House has been a resident house for much longer than 25 years, for he remembers it from his youth. He continued that it has always had a reputation of having very strict rules for its residents. He recalls that during a discussion for one of their license renewals maybe 7 or 8 years ago, the Police said they have never had a call there. Maybe that will calm people's fears about there being too many people there. It has never been a problem.

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

By a roll call vote of 5-0, the Planning, Licenses, and Development Committee recommends that a lodging license be issued to Cheshire Housing Trust for property located at 86 Winter Street for a period of one year from the date of issuance. Said license is conditional upon the following:

1. No more than 20 persons may reside on the premises.
2. Compliance with all applicable laws, ordinances, codes, and rules and regulations.
3. The continuation of the license is subject to and conditioned upon the successful passage of an inspection to be conducted by the City.
4. Continued violation of any parking ordinances by residents of the premises or their guests, may be grounds for suspension or revocation of the license, as determined by the Police or the Community Development Departments.
5. Access to the common areas of the licensed premises shall be granted to the Police, Community Development, and Fire Departments at all reasonable times
6. The owner shall notify City staff of any change in the building operator; failure to do so may be grounds for suspension or revocation of this license.

This license expires on the 17th day of May, 2021, and may be revoked by the City Council in accordance with Sec. 46-590 "Suspension or Revocation."

It was noted that the license term will extend out to July 1, 2021 when Ordinance O-2020-03 becomes effective on July 2, 2020. Ordinance O-2020-03 established a consistent license expiration date for all lodging house licenses to be July 1st of the year subsequent to its issuance date.



City of Keene, N.H.
Transmittal Form

April 22, 2020

TO: Mayor and Keene City Council

FROM: Planning, Licenses and Development Committee

ITEM: D.3.

SUBJECT: Anthony and Fanella Levick – Granite Roots Brewing – Request to Serve Alcohol on City Property

RECOMMENDATION:

By a roll call vote of 5-0, the Planning, Licenses, and Development Committee recommended that Granite Roots Brewing be granted permission to sell alcohol at the 2020 Keene Farmer's Market on City property licensed to the Farmer's Market of Keene. Said permission is contingent on the following: submittal of a signed letter of permission from the Farmer's Market of Keene, obtainment of all necessary permits and licenses and compliance with all laws.

During and following the State of New Hampshire Emergency Declaration due to the Novel Coronavirus (COVID-19) and as amended, Granite Roots Brewing shall be subject to, and shall comply with the licensing conditions applied to all vendors participating in the Farmer's Market of Keene; provided, however, that the City Manager is authorized to allow Granite Roots Brewing to offer individual product samples to patrons in accordance with the requirements of the State Liquor Commission, either at the conclusion of the State of Emergency as declared by the Governor, or at such time thereafter as determined to be appropriate by the City Manager.

BACKGROUND:

Chair Bosley asked if Mr. or Ms. Levick was available to speak. Anthony Levick, majority owner of Granite Roots Brewing in Troy, NH and participating via phone, stated that they are seeking approval to once again sell alcohol at Keene Farmer's Market on Tuesdays and Saturdays.

Chair Bosley asked if they have already spoken with the Farmer's Market to get approval. Mr. Levick replied yes.

Chair Bosley asked if he understands that there are issues with doing samples while there are emergency orders in place. Mr. Levick replied yes, and they agree not to give free samples while these regulations are in place. He continued that when COVID-19 finally goes away they will reapply to give samples. Chair Bosley replied that the way the committee would be looking at this tonight is: the City Manager, once emergency orders are lifted, would have the discretion to say when that would be appropriate.

Kürt Blomquist, Public Works Director, stated that Chair Bosley is correct. He continued that Granite Roots Brewing is requesting their annual permission to sell beer at the Farmer's Market. A requirement of the Liquor Commission is that the legislative body on an annual basis must also grant permission. Currently under the Governor's Executive Order 2020-04 providing samples is not permitted. The recommended motion covers

that issue. Granite Roots Brewing would be subject to other conditions the City Council set for the Farmer's Market, involving other restrictions, social distancing, how they sell their wares, and so on and so forth, as a member of the Farmer's Market.

Chair Bosley asked if the committee or public had comments or questions.

Councilor Clark stated that he got a text from Councilor Greenwald that he needs to be unmuted. Chair Bosley noted that Councilor Greenwald is in the list of attendees and asked for staff's assistance in bringing him back as a panelist. She continued that in the meantime, she would entertain a motion.

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

By a roll call vote of 5-0, the Planning, Licenses, and Development Committee recommended that Granite Roots Brewing be granted permission to sell alcohol at the 2020 Keene Farmer's Market on City property licensed to the Farmer's Market of Keene. Said permission is contingent on the following: submittal of a signed letter of permission from the Farmer's Market of Keene, obtainment of all necessary permits and licenses and compliance with all laws.

During and following the State of New Hampshire Emergency Declaration due to the Novel Coronavirus (COVID-19) and as amended, Granite Roots Brewing shall be subject to, and shall comply with the licensing conditions applied to all vendors participating in the Farmer's Market of Keene; provided, however, that the City Manager is authorized to allow Granite Roots Brewing to offer individual product samples to patrons in accordance with the requirements of the State Liquor Commission, either at the conclusion of the State of Emergency as declared by the Governor, or at such time thereafter as determined to be appropriate by the City Manager.



City of Keene, N.H.
Transmittal Form

April 23, 2020

TO: Mayor and Keene City Council

FROM: Finance, Organization and Personnel Committee

ITEM: D.4.

SUBJECT: Acceptance of a State Drug Forfeiture - Police Department

RECOMMENDATION:

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept a state drug forfeiture in the amount of \$123.98.

BACKGROUND:

City Manager Elizabeth Dragon was the first speaker. Ms. Dragon stated these funds are from a drug forfeiture of \$123.98 because of a drug investigation in September 2018.

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

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept a state drug forfeiture in the amount of \$123.98.



City of Keene, N.H.
Transmittal Form

April 23, 2020

TO: Mayor and Keene City Council
FROM: Finance, Organization and Personnel Committee
ITEM: D.5.
SUBJECT: Acceptance of a Donation - Police Department

RECOMMENDATION:

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept a donation in the amount of \$100.

BACKGROUND:

Ms. Dragon stated this is an annual donation from Ed and Krishni Pahl. This donation is in memory of the late Police Chief Brian Costa.

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

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept a donation in the amount of \$100.
Councilor Hooper made the following motion, which was seconded by Councilor Clark.

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept a state drug forfeiture in the amount of \$123.98.



City of Keene, N.H.
Transmittal Form

April 23, 2020

TO: Mayor and Keene City Council
FROM: Finance, Organization and Personnel Committee
ITEM: D.6.
SUBJECT: Acceptance of a Donation - Police Department

RECOMMENDATION:

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept a monetary donation in the amount of \$100.

BACKGROUND:

Ms. Dragon stated the next donation is from Robert Deverill in the amount of \$100.00.

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

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept a monetary donation in the amount of \$100.



City of Keene, N.H.
Transmittal Form

April 23, 2020

TO: Mayor and Keene City Council
FROM: Finance, Organization and Personnel Committee
ITEM: D.7.

SUBJECT: Life Insurance and Long Term Disability Insurance - Human Resources Department

RECOMMENDATION:

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to enter into and execute a new multi-year contract with Symetra to administer the City's Life and Long Term Disability Insurance program.

BACKGROUND:

Asst. City Manager/Human Resources Director Beth Fox stated this item is for the City to enter into a new multi-year contract with Symetra to administer the City's Life and Long Term Disability Insurance program. Ms. Fox stated the city has been with Anthem Life since 2015 and was able to procure a favorable multi-year rate in 2018. That rate expires in June. The city went out to bid and received three strong responses; they were from City's current provider Anthem Life, Mutual of Omaha and Symetra. If the city were to renew with Anthem there would be a premium increase of 8% with only a one-year guaranty. Mutual of Omaha was less than Anthem but provided a two-year guaranty. Symetra provided a rate reduction of 5% compared to the current rate with a three-year guaranty, they have an AA rate and an A rating from the Better Business Bureau.

Councilor Clark asked for the premium amounts offered by the three vendors. Ms. Fox stated the total for this line item is about \$72,000 for this fiscal year, the area where the greatest savings was achieved was in Long Term Disability – Symetra was at \$.26 cents versus Anthem's rate of \$.27.3 cents. Councilor Clark note if the nation was to go with Healthcare For All this \$72,000 would disappear from the budget. Ms. Fox noted because this is Long Term Disability, Accidental Death and Disability Insurance, even if the city was to move to universal healthcare, the savings would be true. However, in the short term we are required to provide this coverage by the city's collective bargaining agreements, and recommended moving forward with this item,

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

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to enter into and execute a new multi-year contract with Symetra to administer the City's Life and Long Term Disability Insurance program.



City of Keene, N.H.
Transmittal Form

April 22, 2020

TO: Mayor and Keene City Council

FROM: Planning, Licenses and Development Committee

ITEM: H.1.

SUBJECT: Ashley Sheehan/Modestman Brewing – Request to Serve Alcohol on City Property

RECOMMENDATION:

By a roll call vote of 5-0, the Planning, Licenses, and Development Committee placed the item on more time.

BACKGROUND:

Chair Bosley asked staff to comment. Mr. Blomquist stated that this is Modestman Brewing's request to sell alcohol on City property, in connection with a future license to utilize the sidewalk area for a café. He continued that the license is typically issued administratively, but alcohol permission must be given by the City Council. The permission will be renewed annually unless something changes. Staff recommends this item be placed on more time, due to the COVID-19 executive order. The City is waiting for guidance from the State and the Governor about how the reopening will go. Then they will have guidance for the issuance of the license.

Chair Bosley asked if anyone had comments, or a motion.

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

By a roll call vote of 5-0, the Planning, Licenses, and Development Committee placed the item on more time.



City of Keene, N.H.
Transmittal Form

April 22, 2020

TO: Mayor and Keene City Council
FROM: Planning, Licenses and Development Committee
ITEM: J.1.

SUBJECT: Relating to Small Wireless Facility Deployments in the Public Rights-of-Way

RECOMMENDATION:

By a roll call vote of 5-0, the Planning, Licenses, and Development Committee recommends that City Council adopt Ordinance O-2019-18-A Relating to Small Wireless Facility Deployments in the Public Rights of Way, with the condition that the City Manager or her designee be directed to accept only applications for antenna and transmission equipment of up to a maximum of 4G until January 2, 2021.

ATTACHMENTS:

Description

Ordinance O-2019-18-A

Ordinance O-2019-18-A_redlined

BACKGROUND:

Chair Bosley stated that they will be taking additional public comment tonight, limited to new information or conversation about the amendments to Ordinance O-2019-18 only. She continued that they have already had a public hearing about this topic and talked about it at several meetings.

Councilor Greenwald stated that they are not talking about the merits of 5G tonight, they are just discussing this ordinance which says 'If and when 5G ever comes to Keene, this is how it will be dealt with.' That is the only thing the City can control.

Councilor Jones stated that he loves the red line version of the ordinance; he is much happier with this than the other version. He thanked staff. He continued that his question is: there was a part about 5G coming into effect [being possible starting] January 2. What would the process be for that? A new ordinance, or an amendment to this ordinance?

Chair Bosley replied that the PLD Committee had made a motion to hold off on 5G applications, per Councilor Jones's letter, until January 2, 2021. They could issue 4G licenses under these standards but all 5G licenses would be held until January 2021.

Councilor Jones stated that his question is whether that would be a new ordinance or an amendment to this ordinance. Chair Bosley replied that she thinks it would be the same ordinance that just sunsets. She continued that they will go through the amendments with staff tonight and have further discussion if Councilor Jones thinks it needs to be changed. She asked Mari Brunner to speak.

Mari Brunner, Planner, introduced herself and gave a PowerPoint presentation about the revised ordinance

proposal. She stated that the original version was introduced in November and establishes a license that would be issued by the Public Works Director that would include location, siting, and design standards for small wireless facilities (SWFs). The Ordinance also establishes application intake and review procedures. She continued that they have since heard many public comments, mostly concerning potential health impacts of 5G, as well as concerns related to aesthetics and public safety. At the February 26 Planning, Licenses and Development Committee meeting this committee made a motion directing staff to craft a revised ordinance based on those comments, and the motion also included a recommendation to City Council that if this ordinance is adopted staff would be directed to hold off on accepting any 5G applications until January 2, 2021. The reason for that date is it is after the date when the report from the State's commission to study the environmental and health impacts of 5G is due. That was established by HB 522 last year.

Ms. Brunner continued that there are a few introductory provisions to the ordinance, including purpose and intent, applicability, required licenses and approvals, and exemptions. There were two changes made to these sections. The first, under the "Applicability" section, is a clause that was added, stating that if there are amendments, any such amendments will apply to future applications. Also, under "Required Licenses and Approvals," they added a "sunset clause," saying that if the FCC order gets overturned, this license becomes null and void and all licenses issued under this ordinance shall be revoked. It gives a time frame of 90 days for equipment and attachments to be removed, and if they are not, they will be deemed abandoned.

Ms. Brunner continued that the next section, "Location Preferences" establishes where the facilities can be located. A few highlights are: the section gives an ordered hierarchy of preferences, from most to least preferred locations. An applicant is required to demonstrate with clear and convincing evidence that higher preference locations are not technically feasible in order for the director to approve SWFs in a lesser preferred location. There were two changes made to this list: previously they just had the 400-foot spacing requirements, and now they added a 750-foot spacing requirement for residential districts. It will still be 400 feet in non-residential districts. They also added a 750-foot buffer from K-12 schools, preschools, and daycare centers, established as of the enactment of this ordinance.

Ms. Brunner continued that in addition this section lists some prohibited support structures: new wooden poles, unless they are replacements for existing structures; and existing, City-owned, decorative poles. Highlights from this section: the "Additional Requirements" subsection has a provision that states that SWFs shall be placed as close as possible to the property line between two parcels that abut the public right-of-way. The purpose is to place them between properties as much as possible, instead of right outside someone's window. There is also a provision geared toward public safety saying that SWFs shall be placed to not obstruct a 200-foot, all-season sight distance at any intersection so they are not a hazard to drivers. Also, it says SWFs shall be placed at least five feet from any driveway and 50 feet from any driveway for police stations, fire stations, or other emergency responder facilities.

Ms. Brunner continued that the ordinance also lists a number of design standards. This is a pretty large section. It includes standards for many items, such as height, colors and finishes, lights, trees and landscaping, signs and advertisements, and so on and so forth. There were no changes made to this section.

Ms. Brunner continued that what is new in the "Application Requirements and Review Procedures" is as follows: staff removed language, which stated that separate radio frequency (RF) reports are not required for batched applications when the same small cell wireless facility equipment is proposed for each location. This change was made in response to a comment they received from the public, asking why separate reports would not be required. It was a valid point so they decided to remove that language. Now, an RF report will be required for each facility, even if it is a batched application.

Ms. Brunner continued that the next section is "Decisions." This outlines the process for issuing a decision on a license application, including the deadlines by which decisions need to be made. It is an important section, because the City has very short timeframes, which have been set for the City at the State and Federal level to

act on these applications. In particular, for applications to locate SWFs on an existing structure. From the date someone applies, the City has to issue a decision within 45 days. That is a quick turn-around time, and it has driven some of the ways that this ordinance is set up. The “Decisions” section also includes required findings for approval. The Public Works Director has to be able to go through the list and make a finding on each item in order to issue a license.

Ms. Brunner continued that the “Conditions of Approval” section includes a list of 16 standard conditions that would apply to all licenses issued under this ordinance. It also includes a provision called “Modified Conditions,” which authorizes the Director to modify, add to, or remove any of those 16 standard conditions for any SWF license as may be necessary to ensure compliance with the City of Keene Code of Ordinances, this Article, or other applicable law.

Ms. Brunner continued that lastly, this ordinance creates the opportunity for the Public Works Director to establish Preapproved Designs. If someone submits a design to the Director and he is able to find that that design meets or exceeds the design standards in this Article, he can adopt it as a pre-approved design and make it publically available. The purpose of that is to streamline the review and reduce the burden on staff in reviewing these applications. If someone is going to propose several facilities and they use a pre-approved design, then when the Director is making those findings of approval, if the applicant is using a pre-approved design he can presume that the design standards are satisfied and he will only have to go through and make a finding on the other items.

Chair Bosley thanked Ms. Brunner and asked if other staff members wanted to speak to this.

Mr. Lamb stated that staff is in support of the ordinance and Ms. Brunner’s presentation and he did not have specific comments but was available to answer questions.

Councilor Jones stated that he understands why the decision would come from the Public Works Director, because it would not make it through the City Council with the 45-day deadline, but he would like to know what the process is if an applicant wants to appeal the Public Works Director’s decision. Ms. Brunner replied that the appeal would go to “a court of competent jurisdiction.”

The City Attorney stated that there are two potential courts of competent jurisdiction, depending on which part of the ordinance is appealed, keeping in mind that the ordinance melds the FCC Order and State law. If there was an issue with regard to the FCC Order it would go to the Federal District Court, but if it was something that arose under State law only it would probably go to the Superior Court. There is a possibility that the Federal Court would take jurisdiction of it but if it were strictly a State law question under RSA 12-K it would probably go to the Superior Court.

Councilor Jones stated that he is happy with the change to 750 feet in residential areas. He continued that the 400-foot requirement was one of the things he did not like about the ordinance, and he appreciates that change being made.

Chair Bosley stated that she agrees. She continued that she thinks staff has done a great job listening to public and committee comments. She likes the way this has shaped up.

Chair Bosley asked for comments from the public.

Beth Cooley, Assistant Vice President of State Legislative Affairs at CTIA, stated that CTIA is the trade association for the wireless communications industry. She continued that she has been asked to express concerns about the City of Keene’s proposed ordinance, on behalf of the wireless industry. As drafted, the ordinance violates both State and Federal law. CTIA also has concerns that the proposed ordinance “will deprive the residents of Keene of enhanced wireless services.” Connectivity as we can see today is imperative

for the world that we live in, from work to school to play, and the provisions of this ordinance will hinder wireless providers' ability to deploy and upgrade their networks.

Ms. Cooley continued that she will not go line by line but she wants to highlight a few things in the ordinance that are problematic in the CTIA's view. First, the ordinance violates State statute, RSA 12-K. That is an overarching problem, to the extent that the ordinance attempts to regulate facilities on utility poles, which violates that State statute. That was Senate Bill 101 in 2013, for reference. Section 82-205 of the proposed ordinance discusses prohibited support structures and this is, in effect, a prohibition. It flatly prohibits SWFs on new, non-replacement wooden poles. There appear to be no similar restrictions on other rights-of-way users, so imposing this restriction only on SWFs is discriminatory and violates Sections 253 and 332 of the Federal Communications Act.

Ms. Cooley continued that also, under 82-206-9, the "accessory equipment volume" definition conflicts with Federal law. The FCC order says that accessory equipment volume is 28 cubic feet for all antenna equipment, whereas this ordinance's language says 9 cubic feet in residential and 17 cubic feet in nonresidential. That is a conflict.

Ms. Cooley continued that finally, she would be remiss not to point out that although it is not in the ordinance, she heard reference to a moratorium on 5G applications being in effect until January 2, 2021. She is familiar with and sits on the NH 5G Commission; however, a moratorium on applications also violates Section 253 of the Federal Communications Act and recent FCC affirmations reaffirming that moratoriums are unlawful. She concluded that the CTIA respectfully requests that the ordinance not pass in its current form.

Chair Bosley thanked Ms. Cooley for her comments. She continued that they have made some decisions as a committee with the understanding that there could be ramifications, based on what they think is right for the citizens of Keene. There were some good points that were made. She asked the Community Development staff and/or the City Attorney if they have information or if those points have been looked into.

The City Attorney replied that the short answer is, yes, they have looked into those points. He continued that they are trying to balance what the City and City Council needs and expects, with the State law and FCC Order. He does not want to get into a debate with Ms. Cooley tonight, but staff believes they have crafted the ordinance in a manner that they are going to proceed on. If there are issues that arise from it, they will deal with the issues if they arise.

Councilor Clark stated that to comment to Ms. Cooley, they are all aware of the ramifications of the City Council's decision but they have decided that the health and safety of the Keene citizenry is more important and they are willing to take due diligence to protect them from harm. He continued that it is not unreasonable to craft the ordinance around the State commission's work. That commission was unanimously created by the legislature and the Governor so it is a prudent step to take and he thinks what the City Council is doing is right.

Chair Bosley stated that the City Council as a whole has been progressive in the decisions it has made throughout time. She continued that if the City Attorney feels they have crafted an ordinance that does keep them on this side of legal and they understand moratorium issues, they are all definitely aware of the sensitivity around these topics.

Mr. Lamb stated that part of the reason for this ordinance is that there has been interest on the part of developers of SWFs but he also wants to point out, when City staff have spoken to those folks, none of them have spoken about installing 5G. They say it is potentially several years away. So studying 5G, evaluating it, and putting it into the ordinance when they are ready to do that is prudent. No one has made applications for 5G installations in the City of Keene. All applications have been for 4G using the SWF concept in the public right-of-way.

Councilor Jones stated that he thanks the committee and the City Council – he could not be at the February meeting as he was out of state. He thanks them for addressing his letter considering the moratorium until they can hear from the State committee. He thinks that was the right thing to do and he thanks them for their support.

Chair Bosley replied that he is welcome and everyone heard his point. She continued that she believes what Mr. Lamb was saying. They do not see immediate applications so there is no reason to not take the time with this process and have safety be a consideration.

Hearing no additional comments, Chair Bosley stated that she would entertain a motion.

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

By a roll call vote of 5-0, the Planning, Licenses, and Development Committee recommends that City Council adopt Ordinance O-2019-18-A Relating to Small Wireless Facility Deployments in the Public Rights of Way, with the condition that the City Manager or her designee be directed to accept only applications for antenna and transmission equipment of up to a maximum of 4G until January 2, 2021.



CITY OF KEENE

Ordinance O-2019-18-A

Nineteen

In the Year of Our Lord Two Thousand and

AN ORDINANCE Relating to Small Wireless Facility Deployments in the Public Rights of Way.....

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

That the City Code of the City of Keene, New Hampshire, as amended, is hereby further amended by adding the text in the following article to Chapter 82 of the City of Keene Code of Ordinances as follows:

ARTICLE VIII. SMALL WIRELESS FACILITY DEPLOYMENTS IN THE PUBLIC RIGHTS OF WAY

Section 82-201. Purpose and Intent

1. The purpose of this article is to establish reasonable standards and procedures for the siting, construction, installation, collocation, modification, operation, relocation and removal of SWFs (SWF) in the city's public rights-of-way, consistent with and to the extent permitted under federal and state law.
2. The standards and procedures of this Article are intended to protect and promote public health, safety and welfare. They are also intended to reflect and promote the community interest by:
 - a. protecting and preserving the city's public rights-of-way and municipal infrastructure;
 - b. maintaining the balance between public and private interests;
 - c. protecting the city's visual character from potential adverse impacts;
 - d. protecting and preserving the city's environmental resources; and,
 - e. promoting access to high-quality, advanced wireless services for the city's residents, businesses and visitors.
3. This Article is intended to establish procedures for application intake and completeness review, and encourage applicants to timely respond to incomplete notices.

Section 82-202. Applicability

1. Except as expressly provided otherwise, the provisions in this Article shall be applicable to all SWFs constructed and in operation as of the date of the adoption of this Article, and to all applications and requests for authorization to construct, install, attach, operate, collocate, modify, reconstruct, relocate, remove or otherwise deploy SWFs within the public rights-of-way after the date of the adoption of this Article.
2. To the extent that other infrastructure deployments involve the same or substantially similar

PASSED

structures, apparatus, antennas, equipment, fixtures, cabinets, cables or improvements within the public rights-of-way, the Director or other official responsible to review and approve or deny requests for authorization in connection with such other infrastructure deployment shall apply the provisions in this Article, unless specifically prohibited by applicable law or ordinance.

3. Any license issued pursuant to this Article may be subject to retroactive modification in the event of changes in applicable federal or state law or rule requiring such modification, or in the event of revisions to this Article necessitated for the protection of public health, safety and welfare. Any license issued subsequent to such change, or revision to this Article shall be required to conform to the requirements of such change or revision.

Section 82-203. Required license and approvals

1. **SWF License.** A “SWF License,” subject to the Director’s review and approval in accordance with this Article, shall be required for all SWFs and other infrastructure deployments located in whole or in part within the public rights-of-way.
 - a. **Indemnification Requirement.** The SWF License shall contain the City’s usual and customary indemnification provisions.
2. **Other Licenses and Approvals.** In addition to a SWF License, an applicant must obtain all other licenses, permits and regulatory approvals as may be required by any other federal, state or local government agencies, which includes without limitation any approvals issued by other city departments or divisions.
3. In the event that FCC Order WT Docket No. 17-79 and/or WC Docket No. 17-84 are rescinded, or determined by legal authority to be invalid or unenforceable, then this Article shall be deemed to be null and void, and any licenses issued under the terms and conditions of this Article shall be revoked upon written notice to Licensee effective 90 days after the effective date of such rescission or determination, and all equipment or appurtenances thereto shall be removed prior to the revocation date of the license. The failure to remove all equipment or appurtenances thereto prior to the revocation date of the license shall be deemed an abandonment under section 82-210(1)(m).

Section 82-204. Exemptions.

1. Notwithstanding anything in this Article to the contrary, a SWF License shall not be required for the following:
 - a. Wireless facilities or other infrastructure deployments owned and operated by the city,
 - b. Over-the-air reception device (OTARD) facilities.
 - c. Requests for approval to collocate, modify, replace or remove transmission equipment at an existing wireless tower or base station submitted pursuant to 47 U.S.C. § 1455(a).
2. An exemption from the SWF License requirement under this Section does not exempt the SWFs or other infrastructure deployments from any other permits or approvals as may be

required by any other federal, state or local government agencies, which includes without limitation any approvals issued by other city departments or divisions.

Section 82-205. Location standards

1. **Location Preferences.** To better assist applicants and decision makers in understanding and responding to the community's aesthetic preferences and values, this section sets out listed preferences for locations to be used in connection with SWFs in an ordered hierarchy. An applicant is required to demonstrate with clear and convincing evidence that the higher priority locations are not technically feasible in order for the Director to approve a SWF in a lesser-preferred location.
 - a. The order of preference for locating SWFs from most preferred to least preferred is as follows:
 - i. locations within non-residential districts;
 - ii. any location within 400 feet from an existing small cell in a non-residential district;
 - iii. any location within 750 feet from an existing small cell in a residential district;
 - iv. any location within 750 feet from a K-12 school, pre-school, or daycare provider, established as of the enactment of this ordinance; and
 - v. any location on Central Square or on Main Street between Central Square and the Marlboro Street/Winchester Street intersection.
2. **Prohibited Support Structures.** SWFs shall not be permitted on the following support structures:
 - a. new wood poles, unless it is a replacement for an existing wood pole
 - b. existing City-owned decorative poles
3. **Encroachments Over Private Property.** No SWF antennas, accessory equipment or other improvements may encroach onto or over any private or other property outside the public rights-of-way without the property owner's written consent.
4. **No Interference with Other Uses.** SWFs and any associated antennas, accessory equipment or improvements shall not be located in any place or manner that would physically interfere with or impede access to any:
 - a. above-ground or underground infrastructure;
 - b. street furniture;
 - c. fire hydrant or water valve; or
 - d. doors, gates, stoops, fire escape, windows, or other ingress and egress points to any building appurtenant to the rights-of-way.
5. **Replacement Pole Location.** All replacement poles must:
 - a. be located within five feet of the removed pole; and
 - b. be aligned with the other existing poles along the public rights-of-way.
6. **Additional Placement Requirements.** In addition to all other requirements in this Article, SWFs, other infrastructure deployments and all related equipment and improvements shall:

- a. be placed as close as possible to the property line between two parcels that abut the public rights-of-way;
- b. be placed so as to not obstruct a 200 foot all-season safe sight distance at any intersection;
- c. be placed at least 5 feet away from any driveway;
- d. be placed at least 50 feet away from any driveways for police stations, fire stations or other emergency responder facilities.

Section 82-206. Design standards

1. **Height.** New support structures for SWFs shall not be more than 35 feet in height, or 10% taller than nearby structures within the public right of way, whichever is greater. In no instance shall the overall height of an existing or new structure, including any antennas, exceed 50 feet.
2. **Colors and Finishes.** All exterior surfaces shall be painted, colored and/or wrapped in muted, non-reflective hues that match the underlying support structure and blend with the surrounding environment; provided, however, that SWFs located on Central Square or Main Street between Central Square and the Marlboro Street/Winchester Street intersection shall be black in color. All surfaces shall be treated with graffiti-resistant sealant. All finishes shall be subject to the Director's prior approval.
3. **Lights.** All lights and light fixtures must be fully shielded, dark skies compliant, and directed downwards so that their illumination effects are confined entirely within the public rights-of-way in a manner consistent with specifications by the Director. All antennas, accessory equipment and other improvements with indicator or status lights shall be installed in locations and within enclosures that mitigate illumination impacts visible from publicly accessible areas.
4. **Trees and Landscaping.** SWFs and other infrastructure deployments shall not be installed (in whole or in part) within any tree drip line. SWFs and other infrastructure deployments may not displace any existing tree or landscape features unless:
 - a. such displaced tree or landscaping is replaced with native and/or drought-resistant trees, plants or other landscape features approved by the Director, and
 - b. the applicant submits and adheres to a landscape maintenance plan.
 Replacement trees must be installed under the supervision of a NH licensed arborist. Any replacement tree must be substantially the same size as the damaged tree unless approved by the Director.
5. **Signs and Advertisements.** All SWFs and other infrastructure deployments that involve RF transmitters must include signage that accurately identifies the site owner/operator, the owner/operator's site name or identification number and a toll-free number to the owner/operator's network operations center. SWFs and other infrastructure deployments may not bear any other signage or advertisements, including logos, unless expressly approved by the city, required by law, or recommended under FCC or other United States governmental agencies for compliance with RF emissions regulations.
 - a. RF warning signs, if required, shall be located as close to the antenna as possible

and must face towards the street. Unless otherwise required by law or regulation, the background color of the sign must match the color of the pole or surface to which it is attached.

6. **Site Security Measures.** SWFs and other infrastructure deployments may incorporate reasonable and appropriate site security measures subject to approval by the Director. All exterior surfaces on SWFs shall be constructed from or coated with graffiti-resistant materials.
7. **Compliance with State and Federal Regulations.** All SWFs and other infrastructure deployments must comply with all applicable State and federal regulations, including without limitation all applicable regulations for human exposure to RF emissions and the federal Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 et seq.). In the event that applicable federal or State laws or regulations conflict with the requirements of this ordinance, the applicant shall comply with the requirements of this ordinance to the maximum extent possible without violating federal or State laws or regulations.
8. **Antennas.** The following provisions in this subsection are generally applicable to all antennas.
 - a. **Shrouding / Concealment.** All antennas and associated equipment, including but not limited to cables, jumpers, wires, mounts, masts, brackets and other connectors and hardware, must be concealed from view within a single shroud or radome that is finished to match the color of the support structure.
 - i. For pole-top antennas, the shroud shall not exceed one and half-times the median pole diameter and must taper down to pole.
 - ii. For side-arm antennas, the shroud must cover the cross arm and any cables, jumpers, wires or other connectors between the vertical riser and the antenna.
 - b. **Antenna Volume.** Each individual antenna associated with a single SWF shall not exceed 3 cubic feet. The cumulative volume for all antennas on a single small SWF shall not exceed:
 - i. 3 cubic feet in residential districts; or
 - ii. 6 cubic feet in nonresidential districts.
 - c. **Overall Antenna Height.**
 - i. Antennas placed on new structures may not extend more than 5 feet above the support structure, plus any minimum separation between the antenna and other pole attachments required by applicable health and safety regulations.
 - ii. Antennas placed on existing structures that meet the definition of a collocation or modification application as defined in NH RSA 12-K shall not increase the height of the structure by more than 10% or 5 feet, whichever is greater.
 - d. **Horizontal Projection.** Side-mounted antennas, where permitted, shall not project:
 - i. more than 18 inches from the support structure;
 - ii. over any roadway for vehicular travel; or

- iii. over any abutting private property.
- iv. If applicable laws require a side-mounted antenna to project more than 18 inches from the support structure, the projection shall be no greater than required for compliance with such laws.

9. **Accessory Equipment Volume.** The cumulative volume for all accessory equipment for a single SWF or other infrastructure deployment shall not exceed:
- a. 9 cubic feet in residential districts; or
 - b. 17 cubic feet in nonresidential districts.

The volume limits in this subsection do not apply to any undergrounded accessory equipment.

10. **Undergrounded Accessory Equipment.**

a. **Where Required.**

- i. For proposed facilities on Central Square or on Main Street between Central Square and the Marlboro Street/Winchester Street intersection, accessory equipment (other than any electric meter emergency disconnect switch, where permitted) shall be placed underground.
- ii. In all other locations, accessory equipment shall be placed underground unless the applicant demonstrates by clear and convincing evidence that compliance with this section would be technically infeasible.

- b. **Vaults.** All undergrounded accessory equipment must be installed in a vault that is load-rated to meet the city's standards and specifications.

11. **Pole-Mounted Accessory Equipment.** The following provisions in this subsection are applicable to all pole-mounted accessory equipment in connection with SWFs and other infrastructure deployments.

- a. **Minimum Vertical Clearance.** The lowest point on any pole-mounted accessory equipment, which does not project over the travel way, shall be a minimum of 10 feet above ground level adjacent to the pole.

- b. **Horizontal Projection.** All pole-mounted accessory equipment shall be mounted flush to the pole surface. Pole-mounted accessory equipment shall not project:
 - i. more than 18 inches from the pole surface; or
 - ii. over any abutting private property.

- c. **Orientation.** Unless concealed in a manner approved by the Director, all pole-mounted accessory equipment shall be oriented so as to reduce visibility from the nearest abutting properties. In general, the proper orientation will likely be toward the street to reduce the overall profile when viewed from the nearest abutting property. If more than one orientation would be technically feasible, the Director may select the most appropriate orientation.

12. **Ground-Mounted or Base-Mounted Accessory Equipment.** The following provisions in this subsection are applicable to all ground-mounted and base-mounted accessory equipment

in connection with SWFs and other infrastructure deployments.

- a. **Concealment.** Where permitted, ground-mounted accessory equipment shall be completely concealed/shrouded or placed in a cabinet substantially similar in appearance to existing ground-mounted accessory equipment cabinets. Exterior colors shall be muted, non-reflective, and blend with the colors of the surroundings.
- b. **Visibility.** No individual ground-mounted accessory equipment cabinet may exceed a height or width of 4 feet. Ground-mounted and base-mounted equipment cabinets shall not have any horizontal flat surfaces greater than 1.5 square feet.

13. **Support Structure Attachments.** The following provisions in this subsection are applicable to all support structure attachments (other than pole-mounted accessory equipment) and other related improvements that serve SWFs and other infrastructure deployments.

- a. **Overhead Lines.** The Director shall not approve any new overhead utility lines in areas within which wires, cables, cabinets and other equipment associated with SWFs or infrastructure deployment are primarily located underground. In areas with existing overhead lines, no new overhead utility lines shall be permitted to traverse any roadway used for vehicular transit.
- b. **Vertical Cable Risers.** All cables, wires, conduit attachments and other connectors must be routed through conduits within the support structure to conceal from public view. If this is technically infeasible, applicants shall route through a single external conduit or shroud that has been finished to match the underlying pole.
- c. **Spools and Coils.** To reduce clutter and deter vandalism, excess fiber optic or coaxial cables shall not be spooled, coiled or otherwise stored on the pole outside equipment cabinets or shrouds.
- d. **Electric Meters.** The Director shall not approve a separate ground-mounted electric meter pedestal. If the proposed project involves a ground-mounted equipment cabinet, an electric meter may be integrated with and recessed into the cabinet.
- e. **Existing Conduit or Circuits.** To reduce unnecessary wear and tear on the public rights-of-way, applicants shall use existing conduits and/or electric circuits whenever available and technically feasible. Access to any conduit and/or circuits owned by the city shall be subject to the Director's prior written approval, which the Director may withhold or condition as the Director deems necessary or appropriate to protect the city's infrastructure and/or prevent interference with the city's municipal functions and public health and safety.

Section 82-207. Application Requirements

1. **All Applications.** All applicants for a SWF License must include the following information and materials as part of a formal SWF License application to the city:

- a. **Application Form.** The applicant shall submit a complete, duly executed SWF License application on the then-current form prepared by the city.
- b. **Application Fee.** The applicant shall submit the applicable SWF License application fee established in Appendix B of City Code. Batched applications must include the applicable SWF license application fee for each SWF in the batch.
- c. **Project Narrative and Justification.** The applicant shall submit a written statement that explains in plain factual detail whether and why the proposed facility qualifies as a “SWF” as defined in this Article. A complete written narrative analysis will state the applicable standard and all the facts that allow the city to conclude the standard has been met. As part of the written statement, the applicant must also include the following:
 - i. Whether and why the proposed support is a “structure” as defined by this Article.
 - ii. Whether and why the proposed wireless facility meets each required finding for a SWF License as provided in Sec. 82-209, subsection (2), “Required Findings for Approval.”
- d. **Construction drawings.** The applicant shall submit true and correct construction drawings, prepared, signed and stamped by a New Hampshire licensed engineer that depict all the existing and proposed improvements, equipment and conditions related to the proposed project. This includes without limitation any and all poles, posts, pedestals, traffic signals, towers, streets, sidewalks, pedestrian ramps, driveways, curbs, gutters, drains, handholds, manholes, fire hydrants, equipment cabinets, antennas, cables, trees and other landscape features. The construction drawings must:
 - i. contain cut sheets that contain the technical specifications for all existing and proposed antennas and accessory equipment, which includes without limitation the manufacturer, model number and physical dimensions;
 - ii. identify all potential support structures within 400 feet from the proposed project site and call out such structures’ overall height above ground level; and
 - iii. depict the applicant’s preliminary plan for electric and data backhaul utilities, which shall include the anticipated locations for all conduits, cables, wires, handholes, junctions, transformers, meters, disconnect switches, and points of connection.
- e. **Photo Simulations.** The applicant shall submit site photographs and photo simulations that show the existing location and proposed SWF in context from at least three vantage points within the public streets or other publicly accessible spaces, together with a vicinity map that shows the proposed site location and the photo location for each vantage point. At least one simulation must depict the SWF from a vantage point approximately 50 feet from the proposed support structure or location.
- f. **Radio Frequency Compliance Report.** The applicant shall submit a Radio Frequency (RF) exposure compliance report that certifies that the proposed SWF

presubmittal conference with the Director and other City staff. This presubmittal conference does not cause the FCC Shot Clock or NH Shot Clock to begin and is intended to streamline the review process through collaborative, informal discussion that includes, without limitation, the appropriate project classification and review process; any latent issues in connection with the proposed project and/or project site, including compliance with generally applicable rules for public health and safety; potential concealment issues or concerns (if applicable); coordination with other city departments implicated by the proposed project; and application completeness issues.

- a. To mitigate unnecessary delays due to application incompleteness, applicants are encouraged (but not required) to bring any draft applications, plans, maps or other materials so that city staff may provide informal feedback and guidance about whether such applications or other materials may be incomplete or unacceptable in their then-current form.

2. **Application Submittal Date.** All applications must be submitted to the city on the monthly application submittal date, which shall generally be the second Tuesday of every month unless specified otherwise by the Director. Prospective applicants may submit up to 5 individual applications at one time as a batch. Any purported application received on a date other than the application submittal date, whether delivered in-person, by mail or through any other means, will be considered filed as of the next applicable application submittal date.

3. **Additional Administrative Requirements and Regulations.** The City Council authorizes the Director to develop, publish and from time to time update or amend license application requirements and technical standards that the Director finds necessary, appropriate or useful for processing any application governed under this Article, not otherwise inconsistent with the requirements of this Article. The City Council further authorizes the Director to establish other reasonable rules and regulations for duly filed applications, which may include without limitation regular hours for appointments and/or submittals without appointments, as the Director deems necessary or appropriate to organize, document and manage the application intake process. All such requirements, materials, rules and regulations must be in written form, on file with the Director, and publicly released, to provide all interested parties with prior notice.

4. **Incomplete Applications.**

- a. **Initial Completeness Review.** Within fifteen (15) calendar days following the application submittal date, the Director shall complete an initial review of each application to evaluate whether the submission requirements set forth in Sec. 82-207 have been met. If the Director determines that an application is incomplete, the Director shall notify the applicant in writing of the application's nonconformance, including the specific deficiencies in the application, which, if cured, would make the application complete.

b. **Shot Clock Extensions**

- i. *Collocation Applications.* Applicants proposing to collocate a SWF on an existing structure shall have fifteen days to cure all deficiencies in the application.

1. If the applicant submits all information required for an application to

- be deemed complete by the Director within 15 days, the shot clock shall not be suspended.
2. If the applicant submits all information required for an application to be deemed complete after fifteen days, the shot clock shall be extended by the number of days beyond the 15-day period that it takes for the applicant to submit this information in accordance with NH RSA 12-K:10.
 - ii. *Applications to install a SWF on a new structure.* Applicants proposing to install a SWF on a new or replacement structure shall have fifteen days to cure all deficiencies in the application. On the date of the issuance of a written incomplete notice, the shot clock shall be suspended until the applicant submits all information required for an application to be deemed complete by the Director.
 - c. **Incomplete Application Deemed Denied.** Any application governed under this Article shall be automatically denied when the applicant fails to submit a substantive response to the Director within 60 calendar days after the Director deems the application incomplete by written notice. A “substantive response” must include, at a minimum, the complete materials identified as incomplete in the written incomplete notice.
5. **Application Submittal Notice for SWFs Proposed on New Structures.** Within 15 calendar days after a complete application is received and prior to any approval, conditional approval or denial, the city shall mail public notice to all persons entitled to notice, including all owners of record and legal occupants of properties within a 300-foot radius of the proposed SWF. The notice must contain:
- a. A general project description;
 - b. The applicant’s identification and contact information as provided on the application submitted to the city;
 - c. Contact information for the Director for interested parties to submit comments; and
 - c. The date by which comments must be submitted to the Director.
6. **Application Decision Notice.** Within five calendar days after the Director acts on a SWF License application, the Director shall provide written notice to the applicant. If the Director denies an application (with or without prejudice) for a SWF, the written notice must also contain the reasons for the denial.

Section 82-209. Decisions

1. **Decision Deadlines.**
 - a. The Director shall make a final decision to approve, approve with conditions, or deny a completed application to collocate a SWF on an existing structure within 45 days of application submittal, unless the NH Shot Clock was extended according to Sec. 82-208 subsection (4)(b).
 - b. The Director shall make a final decision to approve, approve with conditions, or deny an application to place or install a SWF on a new support structure within 90 days after the application is determined to be complete.

2. **Required Findings for Approval.** The Director may approve or conditionally approve a complete application for a SWF License when the Director finds that the proposed project:
 - a. meets the definition for a “SWF” as defined in this Article, if it involves a wireless facility,
 - b. complies with all applicable location standards in this Article;
 - c. complies with all applicable design standards in this Article;
 - d. would not be located on a prohibited support structure identified in this Article; and
 - e. will be in planned compliance with all applicable FCC regulations and guidelines.
3. **Conditional Approvals / Denials Without Prejudice.** Subject to any applicable federal or state laws, nothing in this Article is intended to limit the Director’s ability to conditionally approve or deny without prejudice any SWF License application as may be necessary to ensure compliance with this Article.
4. **Appeals.** Any decision by the Director shall not be subject to any administrative appeals, but may be appealable to a court of competent jurisdiction.

Section 82-210. Conditions of Approval

1. **Standard Conditions.** Except as may be authorized in subsection (2) of this section, all SWF Licenses issued under this Article shall be automatically subject to the conditions in this subsection (1).
 - a. **License Term.** This license will automatically renew 1 year from its issuance, and each year thereafter, conditional upon receipt of the annual license fee established in Appendix B of City Code prior to the date of license expiration.
 - b. **Post-Installation Certification.** Within 60 calendar days after the final inspection for any building permit associated with a SWF, the applicant shall provide the Director with documentation reasonably acceptable to the Director that the SWF or other infrastructure deployment has been installed and/or constructed in strict compliance with the approved construction drawings and photo simulations. Such documentation shall include without limitation as-built drawings, GIS data and site photographs.
 - c. **Build-Out Period.** This SWF License will automatically expire 12 months from the approval date (the “build-out period”) unless the applicant obtains all other permits and approvals required to install, construct and/or operate the approved SWF or other infrastructure deployment. Upon written request, the Director may grant up to three extensions to the build-out period in 90-day increments if the applicant demonstrates justifiable cause. If the build-out period and any extension finally expires, the license shall be automatically revoked.
 - d. **Site Maintenance.** The applicant shall keep the site, which includes without limitation all licensed improvements, in a safe condition in accordance with the approved construction drawings and all conditions in the SWF License. The applicant, at no cost to the city, shall remove and remediate any graffiti or other vandalism at the site within 48 hours after the applicant receives notice or otherwise

becomes aware that such graffiti or other vandalism occurred.

- e. **Compliance with Laws.** The applicant shall maintain compliance at all times with all federal, state and local statutes, regulations, orders, permits or other rules (“laws”) applicable to the applicant, the subject property, the SWF or other infrastructure deployment or any use or activities in connection with the use authorized in this SWF License. The applicant expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the applicant’s obligations to maintain compliance with all laws. No failure or omission by the city to timely notice, prompt or enforce compliance with any applicable law shall be deemed to relieve, waive or lessen the applicant’s obligation to comply in all respects with all applicable laws.
- f. **Adverse Impacts on Other Properties.** The applicant shall avoid, or immediately remedy if necessary, any adverse impacts on nearby properties that may arise from the applicant’s or its authorized personnel’s construction, installation, operation, modification, maintenance, repair, removal and/or other activities on or about the site.
- g. **Inspections; Emergencies.** The applicant expressly acknowledges and agrees that local, state, and federal officers, officials, staff, emergency personnel, agents, contractors or other designees may inspect the licensed improvements and equipment to disable or remove any licensed improvements or equipment in emergencies or when such improvements or equipment threatens actual, imminent harm to property or persons.
- h. **Applicant’s Contact Information.** Within 10 days from the date of approval of the SWF License, the applicant shall furnish the city with accurate and up-to-date contact information for a person responsible for the SWF or other infrastructure deployment, which includes without limitation such person’s full name, title, direct telephone number, mailing address and email address. The applicant shall keep such contact information up-to-date at all times and promptly provide the city with updated contact information if either the responsible person or such person’s contact information changes.
- i. **Performance Security.** Before the city issues any permits required to commence construction in connection with this license, the applicant shall post a security in a form acceptable to the Director in an amount reasonably necessary to cover the cost to remove the improvements and restore all affected areas based on a written estimate from a qualified contractor with experience in wireless facilities or other infrastructure removal. The preferred forms of security are certified checks made out to the City of Keene and letters of credit.
- j. **Truthful and Accurate Statements.** The applicant acknowledges that the city’s approval relies on the written and/or oral statements by applicant and/or persons authorized to act on applicant’s behalf. In any matter before the city in connection with the SWF License or the SWF or other infrastructure approved under the SWF

License, neither the applicant nor any person authorized to act on applicant's behalf shall, in any written or oral statement, intentionally provide information that is materially and/or factually incorrect or omit any material information necessary to prevent any material factual statement from being incorrect or misleading. Failure to comply with this condition shall be grounds for license revocation.

- k. **License Revocation.** The Director may revoke a license granted under this Article when the Director finds substantial evidence that the facility is not in compliance with the requirements of this Article, and with any applicable laws, which includes without limitation, any license or permit issued in connection with the facility and any associated conditions required by such license(s) or permits.
 - i. Before any decision to revoke a license granted under this Article, the Director must issue a written notice to the applicant that specifies the facility, the violation(s) to be corrected, the timeframe within which the applicant must correct such violation(s), which shall be a minimum of 30 days, and that the Director may revoke the license for failure to correct such violation(s).
 - ii. If the applicant does not correct the violations as specified in the written notice within the timeframe stated, the Director may issue a decision to revoke the license. Within five (5) business days after Director makes a decision to revoke a license, the Director shall provide the applicant with a written notice that specifies the revocation and the reasons for such revocation.

- l. **Records.** Any and all documentation or data submitted to the City in connection with a SWF License application and license is a public record subject to the requirements of NH RSA 91-A, unless otherwise claimed to be confidential by the applicant and agreed to by the City in accordance with state law. In the event of a public record request for confidential information, the city shall notify the Licensee within 5 calendar days of receipt of the request, and the Licensee may, at its sole cost and expense, seek an immediate protective order from the NH Superior Court. In the event that the Licensee does not take such action within 30 days of notification, the city shall release the record subject to redactions required by law.

- m. **Abandoned Facilities.** The SWF or other infrastructure deployment authorized under this SWF License shall be deemed abandoned if not operated under a valid license for any period of time that is 90 days or longer. The City shall notify the applicant in writing of the abandonment. Once deemed abandoned, the applicant and/or SWF owner shall completely remove the SWF or other infrastructure deployment and all related improvements and shall restore all affected areas to a condition substantially similar to the condition at the time the license was initially granted. In the event that neither the applicant nor the SWF owner complies with the removal and restoration obligations under this condition within a 30-day period after the notice by the City, the city shall have the right (but not the obligation) to perform such removal and restoration without further notice, and the applicant and SWF owner shall be jointly and severally liable for all costs and expenses incurred by the city in connection with such removal and/or restoration activities.

- n. **Trees and Landscaping.** The applicant shall replace any landscape features

damaged or displaced by the construction, installation, operation, maintenance or other work performed by the applicant or at the applicant's direction on or about the site. If any trees are damaged or displaced, the applicant shall hire and pay for a NH licensed arborist to select, plant and maintain replacement landscaping in an appropriate location for the species. Any replacement tree must be substantially the same size as the damaged tree or as otherwise approved by the city.

- o. **Utility Damage Prevention.** The applicant shall comply with the requirements of NH RSA 374:48 – 56, and any adopted administrative rules.
 - p. **Rearrangement and Relocation.** The applicant acknowledges that the city, in its sole discretion and at any time, may perform any work deemed necessary, useful or desirable by the city (collectively, “city work”) in the City right-of-way. If the Director determines that any city work will require the applicant's SWF located in the public rights-of-way to be rearranged and/or relocated, the Director shall issue written notice to the applicant of the work to be performed, and the action to be taken by the applicant. The applicant shall, at its sole cost and expense, do or cause to be done all things necessary to accomplish such rearrangement and/or relocation within 10 days after the Director's notice. If the applicant fails or refuses to either permanently or temporarily rearrange and/or relocate the applicant's SWF or other infrastructure deployment within 10 days after the Director's notice, the city may (but will not be obligated to) cause the rearrangement or relocation to be performed at the applicant's sole cost and expense.
 - i. The city may exercise its rights to rearrange or relocate the applicant's SWF or other infrastructure deployment without prior notice to applicant when the Director determines that city work is immediately necessary to protect public health or safety.
 - ii. The applicant shall reimburse the city for all costs and expenses in connection with such work within 10 days after a written demand for reimbursement and reasonable documentation to support such costs.
2. **Modified Conditions.** The City Council authorizes the Director to modify, add or remove conditions to any SWF License as may be necessary or required to ensure compliance with the City of Keene Code of Ordinances, this Article or other applicable law. To the extent required by applicable FCC regulations, the Director shall take care to ensure that any different conditions applied to SWFs are no more burdensome than those applied to other similar infrastructure deployments. The Director shall provide written notice to the applicant of any required alteration to the license.

Section 82-211. Preapproved designs

- 1. **Purpose.** To expedite the review process and encourage collaborative designs among applicants and the city, the City Council authorizes the Director to designate one or more preapproved designs for SWFs and other infrastructure deployments. This Section sets out the process to establish or repeal a preapproved design and the expedited review procedures and findings applicable to these applications.
- 2. **Adoption.** The Director may, in the Director's discretion, establish a preapproved design

when the Director finds that a proposed preapproved design meets or exceeds the design standards in this Article. The Director shall make preapproved designs publicly available at the offices of the Director and at the time of application.

3. **Repeal.** The Director may repeal any preapproved design by written notice posted at Keene City Hall and at the offices of the Director. The repeal shall be effective to any application received after the date of the repeal.
4. **Modified Findings.** When an applicant submits a complete application for a preapproved design, the Director shall presume that the findings for approval in Sec. 82-209 subsection (2)(c) of this Article are satisfied and shall evaluate the application for compliance with the remaining findings for approval listed in Sec. 82-209 subsection (2).
5. **Nondiscrimination.** Any applicant may propose to use any preapproved design whether the applicant initially requested that the Director adopt such preapproved design or not. The Director's decision to adopt a preapproved design expresses no preference or requirement that applicants use the specific vendor or manufacturer that fabricated the design depicted in the preapproved plans. Any other vendor or manufacturer that fabricates a facility to the standards and specifications in the preapproved design with like materials, finishes and overall quality shall be acceptable as a preapproved design.

Section 82-212. Definitions

The definitions in this Section shall be applicable to the terms, phrases and words in this Article. If any definition assigned to any term, phrase or word conflicts with any federal or state-mandated definition, the federal or state-mandated definition will control.

“Accessory equipment” means equipment other than antennas used in connection with a SWF or other infrastructure deployment. The term includes “transmission equipment” as defined by the FCC in 47 C.F.R. § 1.6100(b)(8), as may be amended or superseded.

“Antenna” means an apparatus designed for the purpose of transmitting or receiving electromagnetic radio frequency signals used in the provision of personal wireless service and any comingled information services.

“Antenna facility” means an antenna and associated accessory equipment.

“Applicant” means any person who submits an application and is a wireless provider.

“Batched application” means more than one application submitted at the same time.

“Clear and convincing evidence” means the presentation of objective facts which are sufficient to show that it is highly probable, and not merely likely, that the higher priority location is not technically feasible.

“Collocation” means mounting or installing an antenna facility on a pre-existing structure, and/or modifying a structure for the purpose of mounting or installing an antenna facility on that structure, as defined by the FCC in 47 C.F.R. § 1.6102(g) (as may be amended or superseded). “Collocation”

does not include a "substantial modification."

"Decorative pole" means any pole that includes decorative or ornamental features, design elements and/or materials intended to enhance the appearance of the pole or the public rights-of-way in which the pole is located.

"Director" means the Public Works Director or their designee.

"FCC" means the Federal Communications Commission or its duly appointed successor agency.

"FCC Shot Clock" means the presumptively reasonable timeframe, accounting for any tolling or extension, within which the city generally must act on a request for authorization in connection with a personal wireless service facility, as such time frame is defined by the FCC and as may be amended or superseded.

"Height" means the distance measured from ground level to the highest point on the structure, even if such highest point is an antenna. The term "ground level" means the average existing grade or elevation of the ground surface within the footprint of the structure prior to any alterations such as grading, grubbing, filling, or excavating.

"NH Shot Clock" means the presumptively reasonable timeframe, accounting for any tolling or extension, within which the city generally must act on a request for authorization in connection with a personal wireless service facility, as such time frame is defined in NH RSA 12-K:10 and as may be amended or superseded.

"Nonresidential district" means any zoning district that is not included in the definition of "Residential district."

"OTARD" means an "over-the-air reception device" and includes all antennas and antenna supports covered by 47 C.F.R. § 1.4000(a)(1), as may be amended or superseded.

"Person" means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization.

"Personal wireless services" means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services. See 47 U.S.C. § 332(c)(7)(C)(i).

"Personal wireless service facilities" means facilities for the provision of personal wireless services as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended or superseded.

"Persons entitled to notice" means the record owners and legal occupants of all properties within a 300-foot radius of the proposed SWF. Notice to the legal occupants shall be deemed given when sent to the property's physical address.

"Public right-of-way" or "Public rights-of-way" means land or an interest in land which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved for or dedicated to or open to the use by the general public for road or highway purposes, or other public access.

“Residential district” means a zoning district that is intended primarily for residential uses. This term includes the following zoning districts:

1. Rural
2. Low Density
3. Low Density-1
4. Medium Density
5. High Density
6. High Density-1
7. Residential Preservation

“RF” means radio frequency or electromagnetic waves.

“Shot clock days” means calendar days counted toward the presumptively reasonable time under the applicable FCC Shot Clock or NH Shot Clock. The term “shot clock days” does not include any calendar days on which the Shot Clock is tolled (i.e., “paused”).

“Small Wireless Facility” or “SWF” means the same as defined by the FCC in 47 C.F.R. § 1.6002(l), as may be amended or superseded, except as modified in this Article. A SWF meets each of the following conditions:

1. The facility is mounted on a structure that:
 - a. is 50 feet or less in height including the antenna; or
 - b. is no more than 10 percent taller than other adjacent structures; or
 - c. does not extend the existing structure on which it is located to a height of more than 50 feet or by more than 10 percent, whichever is greater.
2. Each antenna is located inside an enclosure of no more than three (3) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet.
3. All other wireless equipment attached directly to a structure associated with the facility is cumulatively no more than 28 cubic feet in volume.

“Support structure” means a “structure” as defined by the FCC in 47 C.F.R. § 1.6002(m), as may be amended or superseded. This section states that a “structure” means a pole, tower, base station, or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types of services).

“Technically infeasible” means a circumstance in which compliance with a specific requirement within this Article is physically impossible and not merely more difficult or expensive than a noncompliant alternative.

George S. Hansel, Mayor

Nineteen

Relating to Small Wireless Facility Deployments in the Public Rights of Way

That the City Code of the City of Keene, New Hampshire, as amended, is hereby further amended by adding the text in the following article to Chapter 82 of the City of Keene Code of Ordinances as follows:

ARTICLE VIII. SMALL WIRELESS FACILITY DEPLOYMENTS IN THE PUBLIC RIGHTS OF WAY

Section 82-201. Purpose and Intent

1. The purpose of this article is to establish reasonable standards and procedures for the siting, construction, installation, collocation, modification, operation, relocation and removal of SWFs (SWF) in the city's public rights-of-way, consistent with and to the extent permitted under federal and state law.
2. The standards and procedures of this Article are intended to protect and promote public health, safety and welfare. They are also intended to reflect and promote the community interest by:
 - a. protecting and preserving the city's public rights-of-way and municipal infrastructure;
 - b. maintaining the balance between public and private interests;
 - c. protecting the city's visual character from potential adverse impacts;
 - d. protecting and preserving the city's environmental resources; and,
 - e. promoting access to high-quality, advanced wireless services for the city's residents, businesses and visitors.
3. This Article is intended to establish procedures for application intake and completeness review, and encourage applicants to timely respond to incomplete notices.

Section 82-202. Applicability

1. Except as expressly provided otherwise, the provisions in this Article shall be applicable to all SWFs constructed and in operation as of the date of the adoption of this Article, and to all applications and requests for authorization to construct, install, attach, operate, collocate, modify, reconstruct, relocate, remove or otherwise deploy SWFs within the public rights-of-way after the date of the adoption of this Article.
2. To the extent that other infrastructure deployments involve the same or substantially similar structures, apparatus, antennas, equipment, fixtures, cabinets, cables or improvements within the public rights-of-way, the Director or other official responsible to review and approve or deny requests for authorization in connection with such other infrastructure deployment shall

apply the provisions in this Article, unless specifically prohibited by applicable law or ordinance.

3. Any license issued pursuant to this Article may be subject to retroactive modification in the event of changes in applicable federal or state law or rule requiring such modification, or in the event of revisions to this Article necessitated for the protection of public health, safety and welfare. Any license issued subsequent to such change, or revision to this Article shall be required to conform to the requirements of such change or revision.

Section 82-203. Required license and approvals

1. **SWF License.** A “SWF License,” subject to the Director’s review and approval in accordance with this Article, shall be required for all SWFs and other infrastructure deployments located in whole or in part within the public rights-of-way.
 - a. **Indemnification Requirement.** The SWF License shall contain the City’s usual and customary indemnification provisions.
2. **Other Licenses and Approvals.** In addition to a SWF License, an applicant must obtain all other licenses, permits and regulatory approvals as may be required by any other federal, state or local government agencies, which includes without limitation any approvals issued by other city departments or divisions.
3. In the event that FCC Order WT Docket No. 17-79 and/or WC Docket No. 17-84 are rescinded, or determined by legal authority to be invalid or unenforceable, then this Article shall be deemed to be null and void, and any licenses issued under the terms and conditions of this Article shall be revoked upon written notice to Licensee effective 90 days after the effective date of such rescission or determination, and all equipment or appurtenances thereto shall be removed prior to the revocation date of the license. The failure to remove all equipment or appurtenances thereto prior to the revocation date of the license shall be deemed an abandonment under section 82-210(1)(m).

Section 82-204. Exemptions.

1. Notwithstanding anything in this Article to the contrary, a SWF License shall not be required for the following:
 - a. Wireless facilities or other infrastructure deployments owned and operated by the city,
 - b. Over-the-air reception device (OTARD) facilities.
 - c. Requests for approval to collocate, modify, replace or remove transmission equipment at an existing wireless tower or base station submitted pursuant to 47 U.S.C. § 1455(a).
2. An exemption from the SWF License requirement under this Section does not exempt the SWFs or other infrastructure deployments from any other permits or approvals as may be required by any other federal, state or local government agencies, which includes without limitation any approvals issued by other city departments or divisions.

Section 82-205. Location standards

1. **Location Preferences.** To better assist applicants and decision makers in understanding and responding to the community's aesthetic preferences and values, this section sets out listed preferences for locations to be used in connection with SWFs in an ordered hierarchy. An applicant is required to demonstrate with clear and convincing evidence that the higher priority locations are not technically feasible in order for the Director to approve a SWF in a lesser-preferred location.
 - a. The order of preference for locating SWFs from most preferred to least preferred is as follows:
 - i. locations within non-residential districts;
 - ii. any location within 400 feet from an existing small cell in a non-residential district;
 - iii. any location within ~~750~~400 feet from an existing small cell in a residential district; any structure approved for a residential use;
 - iv. any location within 750 feet from a K-12 school, pre-school, or daycare provider, established as of the enactment of this ordinance; and
 - iv. any location on Central Square or on Main Street between Central Square and the Marlboro Street/Winchester Street intersection.
2. **Prohibited Support Structures.** SWFs shall not be permitted on the following support structures:
 - a. new wood poles, unless it is a replacement for an existing wood pole
 - b. existing City-owned decorative poles
3. **Encroachments Over Private Property.** No SWF antennas, accessory equipment or other improvements may encroach onto or over any private or other property outside the public rights-of-way without the property owner's written consent.
4. **No Interference with Other Uses.** SWFs and any associated antennas, accessory equipment or improvements shall not be located in any place or manner that would physically interfere with or impede access to any:
 - a. above-ground or underground infrastructure;
 - b. street furniture;
 - c. fire hydrant or water valve; or
 - d. doors, gates, stoops, fire escape, windows, or other ingress and egress points to any building appurtenant to the rights-of-way.
5. **Replacement Pole Location.** All replacement poles must:
 - a. be located within five feet of the removed pole; and
 - b. be aligned with the other existing poles along the public rights-of-way.
6. **Additional Placement Requirements.** In addition to all other requirements in this Article, SWFs, other infrastructure deployments and all related equipment and improvements shall:
 - a. be placed as close as possible to the property line between two parcels that abut the public rights-of-way;
 - b. be placed so as to not obstruct a 200 foot all-season safe sight distance at any

- intersection;
- c. be placed at least 5 feet away from any driveway;
- d. be placed at least 50 feet away from any driveways for police stations, fire stations or other emergency responder facilities.

Section 82-206. Design standards

1. **Height.** New support structures for SWFs shall not be more than 35 feet in height, or 10% taller than nearby structures within the public right of way, whichever is greater. In no instance shall the overall height of an existing or new structure, including any antennas, exceed 50 feet.
2. **Colors and Finishes.** All exterior surfaces shall be painted, colored and/or wrapped in muted, non-reflective hues that match the underlying support structure and blend with the surrounding environment; provided, however, that SWFs located on Central Square or Main Street between Central Square and the Marlboro Street/Winchester Street intersection shall be black in color. All surfaces shall be treated with graffiti-resistant sealant. All finishes shall be subject to the Director's prior approval.
3. **Lights.** All lights and light fixtures must be fully shielded, dark skies compliant, and directed downwards so that their illumination effects are confined entirely within the public rights-of-way in a manner consistent with specifications by the Director. All antennas, accessory equipment and other improvements with indicator or status lights shall be installed in locations and within enclosures that mitigate illumination impacts visible from publicly accessible areas.
4. **Trees and Landscaping.** SWFs and other infrastructure deployments shall not be installed (in whole or in part) within any tree drip line. SWFs and other infrastructure deployments may not displace any existing tree or landscape features unless:
 - a. such displaced tree or landscaping is replaced with native and/or drought-resistant trees, plants or other landscape features approved by the Director, and
 - b. the applicant submits and adheres to a landscape maintenance plan.Replacement trees must be installed under the supervision of a NH licensed arborist. Any replacement tree must be substantially the same size as the damaged tree unless approved by the Director.
5. **Signs and Advertisements.** All SWFs and other infrastructure deployments that involve RF transmitters must include signage that accurately identifies the site owner/operator, the owner/operator's site name or identification number and a toll-free number to the owner/operator's network operations center. SWFs and other infrastructure deployments may not bear any other signage or advertisements, including logos, unless expressly approved by the city, required by law, or recommended under FCC or other United States governmental agencies for compliance with RF emissions regulations.
 - a. RF warning signs, if required, shall be located as close to the antenna as possible and must face towards the street. Unless otherwise required by law or regulation, the background color of the sign must match the color of the pole or surface to which it is attached.

6. **Site Security Measures.** SWFs and other infrastructure deployments may incorporate reasonable and appropriate site security measures subject to approval by the Director. All exterior surfaces on SWFs shall be constructed from or coated with graffiti-resistant materials.
7. **Compliance with State and Federal Regulations.** All SWFs and other infrastructure deployments must comply with all applicable State and federal regulations, including without limitation all applicable regulations for human exposure to RF emissions and the federal Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 et seq.). In the event that applicable federal or State laws or regulations conflict with the requirements of this ordinance, the applicant shall comply with the requirements of this ordinance to the maximum extent possible without violating federal or State laws or regulations.
8. **Antennas.** The following provisions in this subsection are generally applicable to all antennas.
 - a. **Shrouding / Concealment.** All antennas and associated equipment, including but not limited to cables, jumpers, wires, mounts, masts, brackets and other connectors and hardware, must be concealed from view within a single shroud or radome that is finished to match the color of the support structure.
 - i. For pole-top antennas, the shroud shall not exceed one and half-times the median pole diameter and must taper down to pole.
 - ii. For side-arm antennas, the shroud must cover the cross arm and any cables, jumpers, wires or other connectors between the vertical riser and the antenna.
 - b. **Antenna Volume.** Each individual antenna associated with a single SWF shall not exceed 3 cubic feet. The cumulative volume for all antennas on a single small SWF shall not exceed:
 - i. 3 cubic feet in residential districts; or
 - ii. 6 cubic feet in nonresidential districts.
 - c. **Overall Antenna Height.**
 - i. Antennas placed on new structures may not extend more than 5 feet above the support structure, plus any minimum separation between the antenna and other pole attachments required by applicable health and safety regulations.
 - ii. Antennas placed on existing structures that meet the definition of a collocation or modification application as defined in NH RSA 12-K shall not increase the height of the structure by more than 10% or 5 feet, whichever is greater.
 - d. **Horizontal Projection.** Side-mounted antennas, where permitted, shall not project:
 - i. more than 18 inches from the support structure;
 - ii. over any roadway for vehicular travel; or
 - iii. over any abutting private property.
 - iv. If applicable laws require a side-mounted antenna to project more than 18 inches from the support structure, the projection shall be no greater than

required for compliance with such laws.

9. **Accessory Equipment Volume.** The cumulative volume for all accessory equipment for a single SWF or other infrastructure deployment shall not exceed:

- a. 9 cubic feet in residential districts; or
- b. 17 cubic feet in nonresidential districts.

The volume limits in this subsection do not apply to any undergrounded accessory equipment.

10. **Undergrounded Accessory Equipment.**

a. **Where Required.**

- i. For proposed facilities on Central Square or on Main Street between Central Square and the Marlboro Street/Winchester Street intersection, accessory equipment (other than any electric meter emergency disconnect switch, where permitted) shall be placed underground.
- ii. In all other locations, accessory equipment shall be placed underground unless the applicant demonstrates by clear and convincing evidence that compliance with this section would be technically infeasible.

b. **Vaults.** All undergrounded accessory equipment must be installed in a vault that is load-rated to meet the city's standards and specifications.

11. **Pole-Mounted Accessory Equipment.** The following provisions in this subsection are applicable to all pole-mounted accessory equipment in connection with SWFs and other infrastructure deployments.

a. **Minimum Vertical Clearance.** The lowest point on any pole-mounted accessory equipment, which does not project over the travel way, shall be a minimum of 10 feet above ground level adjacent to the pole.

b. **Horizontal Projection.** All pole-mounted accessory equipment shall be mounted flush to the pole surface. Pole-mounted accessory equipment shall not project:

- i. more than 18 inches from the pole surface; or
- ii. over any abutting private property.

c. **Orientation.** Unless concealed in a manner approved by the Director, all pole-mounted accessory equipment shall be oriented so as to reduce visibility from the nearest abutting properties. In general, the proper orientation will likely be toward the street to reduce the overall profile when viewed from the nearest abutting property. If more than one orientation would be technically feasible, the Director may select the most appropriate orientation.

12. **Ground-Mounted or Base-Mounted Accessory Equipment.** The following provisions in this subsection are applicable to all ground-mounted and base-mounted accessory equipment in connection with SWFs and other infrastructure deployments.

a. **Concealment.** Where permitted, ground-mounted accessory equipment shall be

completely concealed/shrouded or placed in a cabinet substantially similar in appearance to existing ground-mounted accessory equipment cabinets. Exterior colors shall be muted, non-reflective, and blend with the colors of the surroundings.

- b. **Visibility.** No individual ground-mounted accessory equipment cabinet may exceed a height or width of 4 feet. Ground-mounted and base-mounted equipment cabinets shall not have any horizontal flat surfaces greater than 1.5 square feet.

13. **Support Structure Attachments.** The following provisions in this subsection are applicable to all support structure attachments (other than pole-mounted accessory equipment) and other related improvements that serve SWFs and other infrastructure deployments.

- a. **Overhead Lines.** The Director shall not approve any new overhead utility lines in areas within which wires, cables, cabinets and other equipment associated with SWFs or infrastructure deployment are primarily located underground. In areas with existing overhead lines, no new overhead utility lines shall be permitted to traverse any roadway used for vehicular transit.
- b. **Vertical Cable Risers.** All cables, wires, conduit attachments and other connectors must be routed through conduits within the support structure to conceal from public view. If this is technically infeasible, applicants shall route through a single external conduit or shroud that has been finished to match the underlying pole.
- c. **Spools and Coils.** To reduce clutter and deter vandalism, excess fiber optic or coaxial cables shall not be spooled, coiled or otherwise stored on the pole outside equipment cabinets or shrouds.
- d. **Electric Meters.** The Director shall not approve a separate ground-mounted electric meter pedestal. If the proposed project involves a ground-mounted equipment cabinet, an electric meter may be integrated with and recessed into the cabinet.
- e. **Existing Conduit or Circuits.** To reduce unnecessary wear and tear on the public rights-of-way, applicants shall use existing conduits and/or electric circuits whenever available and technically feasible. Access to any conduit and/or circuits owned by the city shall be subject to the Director's prior written approval, which the Director may withhold or condition as the Director deems necessary or appropriate to protect the city's infrastructure and/or prevent interference with the city's municipal functions and public health and safety.

Section 82-207. Application Requirements

- 1. **All Applications.** All applicants for a SWF License must include the following information and materials as part of a formal SWF License application to the city:
 - a. **Application Form.** The applicant shall submit a complete, duly executed SWF License application on the then-current form prepared by the city.

- b. **Application Fee.** The applicant shall submit the applicable SWF License application fee established in Appendix B of City Code. Batched applications must include the applicable SWF license application fee for each SWF in the batch.
- c. **Project Narrative and Justification.** The applicant shall submit a written statement that explains in plain factual detail whether and why the proposed facility qualifies as a “SWF” as defined in this Article. A complete written narrative analysis will state the applicable standard and all the facts that allow the city to conclude the standard has been met. As part of the written statement, the applicant must also include the following:
 - i. Whether and why the proposed support is a “structure” as defined by this Article.
 - ii. Whether and why the proposed wireless facility meets each required finding for a SWF License as provided in Sec. 82-209, subsection (2), “Required Findings for Approval.”
- d. **Construction drawings.** The applicant shall submit true and correct construction drawings, prepared, signed and stamped by a New Hampshire licensed engineer that depict all the existing and proposed improvements, equipment and conditions related to the proposed project. This includes without limitation any and all poles, posts, pedestals, traffic signals, towers, streets, sidewalks, pedestrian ramps, driveways, curbs, gutters, drains, handholds, manholes, fire hydrants, equipment cabinets, antennas, cables, trees and other landscape features. The construction drawings must:
 - i. contain cut sheets that contain the technical specifications for all existing and proposed antennas and accessory equipment, which includes without limitation the manufacturer, model number and physical dimensions;
 - ii. identify all potential support structures within 400 feet from the proposed project site and call out such structures’ overall height above ground level; and
 - iii. depict the applicant’s preliminary plan for electric and data backhaul utilities, which shall include the anticipated locations for all conduits, cables, wires, handholes, junctions, transformers, meters, disconnect switches, and points of connection.
- e. **Photo Simulations.** The applicant shall submit site photographs and photo simulations that show the existing location and proposed SWF in context from at least three vantage points within the public streets or other publicly accessible spaces, together with a vicinity map that shows the proposed site location and the photo location for each vantage point. At least one simulation must depict the SWF from a vantage point approximately 50 feet from the proposed support structure or location.
- f. **Radio Frequency Compliance Report.** The applicant shall submit a Radio Frequency (RF) exposure compliance report that certifies that the proposed SWF will comply with applicable federal RF exposure standards and exposure limits. The RF report must be prepared and certified by an RF engineer acceptable to the Director. If the applicant submits a batched application, a separate RF report shall

the review process through collaborative, informal discussion that includes, without limitation, the appropriate project classification and review process; any latent issues in connection with the proposed project and/or project site, including compliance with generally applicable rules for public health and safety; potential concealment issues or concerns (if applicable); coordination with other city departments implicated by the proposed project; and application completeness issues.

- a. To mitigate unnecessary delays due to application incompleteness, applicants are encouraged (but not required) to bring any draft applications, plans, maps or other materials so that city staff may provide informal feedback and guidance about whether such applications or other materials may be incomplete or unacceptable in their then-current form.
2. **Application Submittal Date.** All applications must be submitted to the city on the monthly application submittal date, which shall generally be the second Tuesday of every month unless specified otherwise by the Director. Prospective applicants may submit up to 5 individual applications at one time as a batch. Any purported application received on a date other than the application submittal date, whether delivered in-person, by mail or through any other means, will be considered filed as of the next applicable application submittal date.
 3. **Additional Administrative Requirements and Regulations.** The City Council authorizes the Director to develop, publish and from time to time update or amend license application requirements and technical standards that the Director finds necessary, appropriate or useful for processing any application governed under this Article, not otherwise inconsistent with the requirements of this Article. The City Council further authorizes the Director to establish other reasonable rules and regulations for duly filed applications, which may include without limitation regular hours for appointments and/or submittals without appointments, as the Director deems necessary or appropriate to organize, document and manage the application intake process. All such requirements, materials, rules and regulations must be in written form, on file with the Director, and publicly released, to provide all interested parties with prior notice.
 4. **Incomplete Applications.**
 - a. **Initial Completeness Review.** Within fifteen (15) calendar days following the application submittal date, the Director shall complete an initial review of each application to evaluate whether the submission requirements set forth in Sec. 82-207 have been met. If the Director determines that an application is incomplete, the Director shall notify the applicant in writing of the application's nonconformance, including the specific deficiencies in the application, which, if cured, would make the application complete.
 - b. **Shot Clock Extensions**
 - i. *Collocation Applications.* Applicants proposing to collocate a SWF on an existing structure shall have fifteen days to cure all deficiencies in the application.
 1. If the applicant submits all information required for an application to be deemed complete by the Director within 15 days, the shot clock shall not be suspended.

2. If the applicant submits all information required for an application to be deemed complete after fifteen days, the shot clock shall be extended by the number of days beyond the 15-day period that it takes for the applicant to submit this information in accordance with NH RSA 12-K:10.
 - ii. *Applications to install a SWF on a new structure.* Applicants proposing to install a SWF on a new or replacement structure shall have fifteen days to cure all deficiencies in the application. On the date of the issuance of a written incomplete notice, the shot clock shall be suspended until the applicant submits all information required for an application to be deemed complete by the Director.
 - c. **Incomplete Application Deemed Denied.** Any application governed under this Article shall be automatically denied when the applicant fails to submit a substantive response to the Director within 60 calendar days after the Director deems the application incomplete by written notice. A “substantive response” must include, at a minimum, the complete materials identified as incomplete in the written incomplete notice.
5. **Application Submittal Notice for SWFs Proposed on New Structures.** Within 15 calendar days after a complete application is received and prior to any approval, conditional approval or denial, the city shall mail public notice to all persons entitled to notice, including all owners of record and legal occupants of properties within a 300-foot radius of the proposed SWF. The notice must contain:
- a. A general project description;
 - b. The applicant’s identification and contact information as provided on the application submitted to the city;
 - c. Contact information for the Director for interested parties to submit comments; and
 - c. The date by which comments must be submitted to the Director.
6. **Application Decision Notice.** Within five calendar days after the Director acts on a SWF License application, the Director shall provide written notice to the applicant. If the Director denies an application (with or without prejudice) for a SWF, the written notice must also contain the reasons for the denial.

Section 82-209. Decisions

1. **Decision Deadlines.**
 - a. The Director shall make a final decision to approve, approve with conditions, or deny a completed application to collocate a SWF on an existing structure within 45 days of application submittal, unless the NH Shot Clock was extended according to Sec. 82-208 subsection (4)(b).
 - b. The Director shall make a final decision to approve, approve with conditions, or deny an application to place or install a SWF on a new support structure within 90 days after the application is determined to be complete.
2. **Required Findings for Approval.** The Director may approve or conditionally approve a complete application for a SWF License when the Director finds that the proposed project:

- a. meets the definition for a “SWF” as defined in this Article, if it involves a wireless facility,
 - b. complies with all applicable location standards in this Article;
 - c. complies with all applicable design standards in this Article;
 - d. would not be located on a prohibited support structure identified in this Article; and
 - e. will be in planned compliance with all applicable FCC regulations and guidelines.
3. **Conditional Approvals / Denials Without Prejudice.** Subject to any applicable federal or state laws, nothing in this Article is intended to limit the Director’s ability to conditionally approve or deny without prejudice any SWF License application as may be necessary to ensure compliance with this Article.
4. **Appeals.** Any decision by the Director shall not be subject to any administrative appeals, but may be appealable to a court of competent jurisdiction.

Section 82-210. Conditions of Approval

1. **Standard Conditions.** Except as may be authorized in subsection (2) of this section, all SWF Licenses issued under this Article shall be automatically subject to the conditions in this subsection (1).
- a. **License Term.** This license will automatically renew 1 year from its issuance, and each year thereafter, conditional upon receipt of the annual license fee established in Appendix B of City Code prior to the date of license expiration.
 - b. **Post-Installation Certification.** Within 60 calendar days after the final inspection for any building permit associated with a SWF, the applicant shall provide the Director with documentation reasonably acceptable to the Director that the SWF or other infrastructure deployment has been installed and/or constructed in strict compliance with the approved construction drawings and photo simulations. Such documentation shall include without limitation as-built drawings, GIS data and site photographs.
 - c. **Build-Out Period.** This SWF License will automatically expire 12 months from the approval date (the “build-out period”) unless the applicant obtains all other permits and approvals required to install, construct and/or operate the approved SWF or other infrastructure deployment. Upon written request, the Director may grant up to three extensions to the build-out period in 90-day increments if the applicant demonstrates justifiable cause. If the build-out period and any extension finally expires, the license shall be automatically revoked.
 - d. **Site Maintenance.** The applicant shall keep the site, which includes without limitation all licensed improvements, in a safe condition in accordance with the approved construction drawings and all conditions in the SWF License. The applicant, at no cost to the city, shall remove and remediate any graffiti or other vandalism at the site within 48 hours after the applicant receives notice or otherwise becomes aware that such graffiti or other vandalism occurred.

- e. **Compliance with Laws.** The applicant shall maintain compliance at all times with all federal, state and local statutes, regulations, orders, permits or other rules (“laws”) applicable to the applicant, the subject property, the SWF or other infrastructure deployment or any use or activities in connection with the use authorized in this SWF License. The applicant expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the applicant’s obligations to maintain compliance with all laws. No failure or omission by the city to timely notice, prompt or enforce compliance with any applicable law shall be deemed to relieve, waive or lessen the applicant’s obligation to comply in all respects with all applicable laws.
- f. **Adverse Impacts on Other Properties.** The applicant shall avoid, or immediately remedy if necessary, any adverse impacts on nearby properties that may arise from the applicant’s or its authorized personnel’s construction, installation, operation, modification, maintenance, repair, removal and/or other activities on or about the site.
- g. **Inspections; Emergencies.** The applicant expressly acknowledges and agrees that local, state, and federal officers, officials, staff, emergency personnel, agents, contractors or other designees may inspect the licensed improvements and equipment to disable or remove any licensed improvements or equipment in emergencies or when such improvements or equipment threatens actual, imminent harm to property or persons.
- h. **Applicant’s Contact Information.** Within 10 days from the date of approval of the SWF License, the applicant shall furnish the city with accurate and up-to-date contact information for a person responsible for the SWF or other infrastructure deployment, which includes without limitation such person’s full name, title, direct telephone number, mailing address and email address. The applicant shall keep such contact information up-to-date at all times and promptly provide the city with updated contact information if either the responsible person or such person’s contact information changes.
- i. **Performance Security.** Before the city issues any permits required to commence construction in connection with this license, the applicant shall post a security in a form acceptable to the Director in an amount reasonably necessary to cover the cost to remove the improvements and restore all affected areas based on a written estimate from a qualified contractor with experience in wireless facilities or other infrastructure removal. The preferred forms of security are certified checks made out to the City of Keene and letters of credit.
- j. **Truthful and Accurate Statements.** The applicant acknowledges that the city’s approval relies on the written and/or oral statements by applicant and/or persons authorized to act on applicant’s behalf. In any matter before the city in connection with the SWF License or the SWF or other infrastructure approved under the SWF License, neither the applicant nor any person authorized to act on applicant’s behalf shall, in any written or oral statement, intentionally provide information that is

materially and/or factually incorrect or omit any material information necessary to prevent any material factual statement from being incorrect or misleading. Failure to comply with this condition shall be grounds for license revocation.

- k. **License Revocation.** The Director may revoke a license granted under this Article when the Director finds substantial evidence that the facility is not in compliance with the requirements of this Article, and with any applicable laws, which includes without limitation, any license or permit issued in connection with the facility and any associated conditions required by such license(s) or permits.
 - i. Before any decision to revoke a license granted under this Article, the Director must issue a written notice to the applicant that specifies the facility, the violation(s) to be corrected, the timeframe within which the applicant must correct such violation(s), which shall be a minimum of 30 days, and that the Director may revoke the license for failure to correct such violation(s).
 - ii. If the applicant does not correct the violations as specified in the written notice within the timeframe stated, the Director may issue a decision to revoke the license. Within five (5) business days after Director makes a decision to revoke a license, the Director shall provide the applicant with a written notice that specifies the revocation and the reasons for such revocation.
- l. **Records.** Any and all documentation or data submitted to the City in connection with a SWF License application and license is a public record subject to the requirements of NH RSA 91-A, unless otherwise claimed to be confidential by the applicant and agreed to by the City in accordance with state law. In the event of a public record request for confidential information, the city shall notify the Licensee within 5 calendar days of receipt of the request, and the Licensee may, at its sole cost and expense, seek an immediate protective order from the NH Superior Court. In the event that the Licensee does not take such action within 30 days of notification, the city shall release the record subject to redactions required by law.
- m. **Abandoned Facilities.** The SWF or other infrastructure deployment authorized under this SWF License shall be deemed abandoned if not operated under a valid license for any period of time that is 90 days or longer. The City shall notify the applicant in writing of the abandonment. Once deemed abandoned, the applicant and/or SWF owner shall completely remove the SWF or other infrastructure deployment and all related improvements and shall restore all affected areas to a condition substantially similar to the condition at the time the license was initially granted. In the event that neither the applicant nor the SWF owner complies with the removal and restoration obligations under this condition within a 30-day period after the notice by the City, the city shall have the right (but not the obligation) to perform such removal and restoration without further notice, and the applicant and SWF owner shall be jointly and severally liable for all costs and expenses incurred by the city in connection with such removal and/or restoration activities.
- n. **Trees and Landscaping.** The applicant shall replace any landscape features damaged or displaced by the construction, installation, operation, maintenance or other work performed by the applicant or at the applicant's direction on or about the

site. If any trees are damaged or displaced, the applicant shall hire and pay for a NH licensed arborist to select, plant and maintain replacement landscaping in an appropriate location for the species. Any replacement tree must be substantially the same size as the damaged tree or as otherwise approved by the city.

- o. **Utility Damage Prevention.** The applicant shall comply with the requirements of NH RSA 374:48 – 56, and any adopted administrative rules.
 - p. **Rearrangement and Relocation.** The applicant acknowledges that the city, in its sole discretion and at any time, may perform any work deemed necessary, useful or desirable by the city (collectively, “city work”) in the City right-of-way. If the Director determines that any city work will require the applicant’s SWF located in the public rights-of-way to be rearranged and/or relocated, the Director shall issue written notice to the applicant of the work to be performed, and the action to be taken by the applicant. The applicant shall, at its sole cost and expense, do or cause to be done all things necessary to accomplish such rearrangement and/or relocation within 10 days after the Director’s notice. If the applicant fails or refuses to either permanently or temporarily rearrange and/or relocate the applicant’s SWF or other infrastructure deployment within 10 days after the Director’s notice, the city may (but will not be obligated to) cause the rearrangement or relocation to be performed at the applicant’s sole cost and expense.
 - i. The city may exercise its rights to rearrange or relocate the applicant’s SWF or other infrastructure deployment without prior notice to applicant when the Director determines that city work is immediately necessary to protect public health or safety.
 - ii. The applicant shall reimburse the city for all costs and expenses in connection with such work within 10 days after a written demand for reimbursement and reasonable documentation to support such costs.
2. **Modified Conditions.** The City Council authorizes the Director to modify, add or remove conditions to any SWF License as may be necessary or required to ensure compliance with the City of Keene Code of Ordinances, this Article or other applicable law. To the extent required by applicable FCC regulations, the Director shall take care to ensure that any different conditions applied to SWFs are no more burdensome than those applied to other similar infrastructure deployments. The Director shall provide written notice to the applicant of any required alteration to the license.

Section 82-211. Preapproved designs

- 1. **Purpose.** To expedite the review process and encourage collaborative designs among applicants and the city, the City Council authorizes the Director to designate one or more preapproved designs for SWFs and other infrastructure deployments. This Section sets out the process to establish or repeal a preapproved design and the expedited review procedures and findings applicable to these applications.
- 2. **Adoption.** The Director may, in the Director’s discretion, establish a preapproved design when the Director finds that a proposed preapproved design meets or exceeds the design standards in this Article. The Director shall make preapproved designs publicly available at

the offices of the Director and at the time of application.

3. **Repeal.** The Director may repeal any preapproved design by written notice posted at Keene City Hall and at the offices of the Director. The repeal shall be effective to any application received after the date of the repeal.
4. **Modified Findings.** When an applicant submits a complete application for a preapproved design, the Director shall presume that the findings for approval in Sec. 82-209 subsection (2)(c) of this Article are satisfied and shall evaluate the application for compliance with the remaining findings for approval listed in Sec. 82-209 subsection (2).
5. **Nondiscrimination.** Any applicant may propose to use any preapproved design whether the applicant initially requested that the Director adopt such preapproved design or not. The Director's decision to adopt a preapproved design expresses no preference or requirement that applicants use the specific vendor or manufacturer that fabricated the design depicted in the preapproved plans. Any other vendor or manufacturer that fabricates a facility to the standards and specifications in the preapproved design with like materials, finishes and overall quality shall be acceptable as a preapproved design.

Section 82-212. Definitions

The definitions in this Section shall be applicable to the terms, phrases and words in this Article. If any definition assigned to any term, phrase or word conflicts with any federal or state-mandated definition, the federal or state-mandated definition will control.

“Accessory equipment” means equipment other than antennas used in connection with a SWF or other infrastructure deployment. The term includes “transmission equipment” as defined by the FCC in 47 C.F.R. § 1.6100(b)(8), as may be amended or superseded.

“Antenna” means an apparatus designed for the purpose of transmitting or receiving electromagnetic radio frequency signals used in the provision of personal wireless service and any comingled information services.

“Antenna facility” means an antenna and associated accessory equipment.

“Applicant” means any person who submits an application and is a wireless provider.

“Batched application” means more than one application submitted at the same time.

“Clear and convincing evidence” means the presentation of objective facts which are sufficient to show that it is highly probable, and not merely likely, that the higher priority location is not technically feasible.

“Collocation” means mounting or installing an antenna facility on a pre-existing structure, and/or modifying a structure for the purpose of mounting or installing an antenna facility on that structure, as defined by the FCC in 47 C.F.R. § 1.6102(g) (as may be amended or superseded). "Collocation" does not include a "substantial modification."

“Decorative pole” means any pole that includes decorative or ornamental features, design elements and/or materials intended to enhance the appearance of the pole or the public rights-of-way in which the pole is located.

“Director” means the Public Works Director or their designee.

“FCC” means the Federal Communications Commission or its duly appointed successor agency.

“FCC Shot Clock” means the presumptively reasonable timeframe, accounting for any tolling or extension, within which the city generally must act on a request for authorization in connection with a personal wireless service facility, as such time frame is defined by the FCC and as may be amended or superseded.

“Height” means the distance measured from ground level to the highest point on the structure, even if such highest point is an antenna. The term "ground level" means the average existing grade or elevation of the ground surface within the footprint of the structure prior to any alterations such as grading, grubbing, filling, or excavating.

“NH Shot Clock” means the presumptively reasonable timeframe, accounting for any tolling or extension, within which the city generally must act on a request for authorization in connection with a personal wireless service facility, as such time frame is defined in NH RSA 12-K:10 and as may be amended or superseded.

“Nonresidential district” means any zoning district that is not included in the definition of “Residential district.”

“OTARD” means an “over-the-air reception device” and includes all antennas and antenna supports covered by 47 C.F.R. § 1.4000(a)(1), as may be amended or superseded.

“Person” means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization.

“Personal wireless services” means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services. See 47 U.S.C. § 332(c)(7)(C)(i).

“Personal wireless service facilities” means facilities for the provision of personal wireless services as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended or superseded.

“Persons entitled to notice” means the record owners and legal occupants of all properties within a 300-foot radius of the proposed SWF. Notice to the legal occupants shall be deemed given when sent to the property’s physical address.

“Public right-of-way” or “Public rights-of-way” means land or an interest in land which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved for or dedicated to or open to the use by the general public for road or highway purposes, or other public access.

“Residential district” means a zoning district that is intended primarily for residential uses. This term includes the following zoning districts:

1. Rural
2. Low Density
3. Low Density-1
4. Medium Density
5. High Density
6. High Density-1
7. Residential Preservation

“RF” means radio frequency or electromagnetic waves.

“Shot clock days” means calendar days counted toward the presumptively reasonable time under the applicable FCC Shot Clock or NH Shot Clock. The term “shot clock days” does not include any calendar days on which the Shot Clock is tolled (i.e., “paused”).

“Small Wireless Facility” or “SWF” means the same as defined by the FCC in 47 C.F.R. § 1.6002(1), as may be amended or superseded, except as modified in this Article. A SWF meets each of the following conditions:

1. The facility is mounted on a structure that:
 - a. is 50 feet or less in height including the antenna; or
 - b. is no more than 10 percent taller than other adjacent structures; or
 - c. does not extend the existing structure on which it is located to a height of more than 50 feet or by more than 10 percent, whichever is greater.
2. Each antenna is located inside an enclosure of no more than three (3) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet.
3. All other wireless equipment attached directly to a structure associated with the facility is cumulatively no more than 28 cubic feet in volume.

“Support structure” means a “structure” as defined by the FCC in 47 C.F.R. § 1.6002(m), as may be amended or superseded. This section states that a “structure” means a pole, tower, base station, or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types of services).

“Technically infeasible” means a circumstance in which compliance with a specific requirement within this Article is physically impossible and not merely more difficult or expensive than a noncompliant alternative.



City of Keene, N.H.
Transmittal Form

May 7, 2020

TO: Mayor and Keene City Council

FROM: Beth Fox, ACM/Human Resources Director

THROUGH: Elizabeth A. Dragon, City Manager

ITEM: K.1.

SUBJECT: In Appreciation of Timothy I. Read Upon His Retirement

RECOMMENDATION:

That Resolution R-2020-13 be adopted by the City Council.

ATTACHMENTS:

Description

Resolution R-2020-13

BACKGROUND:

Mr. Read retired from the Keene Fire Department effective March 31, 2020, with approximately 25 years of service.



CITY OF KEENE

In the Year of Our Lord Two Thousand and Twenty

A RESOLUTION In Appreciation of Timothy I. Read Upon His Retirement

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

WHEREAS: Timothy I. Read was hired by the City of Keene Fire Department 1 May 1995 as a Call Firefighter, then joined as a regular Firefighter/Emergency Medical Technician effective 23 September 1996, and his willingness to fill in shifts and provide off-duty station coverage when call volumes reached above normal made him one of the busiest members of the department related to call responses; and

WHEREAS: Always ready to respond, Tim—a Level III-certified Firefighter and Registered Paramedic whose input on matters has been respected by shift officers—possesses not only knowledge, experience, and abilities that served the department well at very serious incidents, but also has proven compassion, dedication, trustworthiness, and motivation to succeed at any challenge in all areas of the service; and

WHEREAS: Able to keep calm and formulate a plan under the stress of an emergency scene, Tim worked independently or as part of a team, serving as its leader as necessary—spotting and/or anticipating potential problems, either communicating or handling them, making sound decisions about issues, and being trusted with any task without need for further direction; and

WHEREAS: Being both passionate about his fire service career and a forward-thinking person, Tim wants to do what is right and what is better in everyday work, so was part of improving—in his own words—the “cohesiveness and consistency of the team concept of professional, quality patient care and emergency services” provided; and

WHEREAS: One of Tim’s strengths is to continually better himself through self-study and formal training, and he obtained training and certifications that include Fire/EMS Instructor, Incident Command System, Firefighter II and III with Confined Space, Trench Rescue, Ice Rescue, Hazardous Materials Technician, specialized RIT training, Driver Operator All Vehicles, Driver Operator Pumps, Rescue Systems I and II, Swift Water Rescue, HM Cargo Tank Response, Terrorism Response, and WMD Radiological/Nuclear Response; and

WHEREAS: Among his contributions beyond fire/EMS responsibilities, Tim can include demonstrating a genuine interest in mentoring newer Firefighters, serving as a member of the HazMat Team, developing a program to help standardize pumping operations, participating in peer oral review boards, and working as an instructor for many local classes teaching EMS skills to new emergency providers; and

WHEREAS: Tim retired 31 March 2020 as Firefighter/Paramedic with almost 25 years of honorable service to the City;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of Keene hereby extends its sincere thanks to Timothy I. Read for his dedication to the City of Keene and the Monadnock Region and wishes him the very best for his retirement years; and

BE IT FURTHER RESOLVED that a copy of this Resolution, properly engrossed, be presented to Tim in appreciation of his years of service to the City of Keene.

George S. Hansel, Mayor



City of Keene, N.H.
Transmittal Form

May 1, 2020

TO: Mayor and Keene City Council

FROM: Merri Howe, Finance Director

THROUGH: Elizabeth A. Dragon, City Manager

ITEM: K.2.

SUBJECT: Relating to the FY 2021 Proposed Fiscal Budget

RECOMMENDATION:

That Resolution R-2020-22 relating to the FY 2020-2021 budget be referred to the Finance, Organization & Personnel Committee for their review and recommendation, and that a public hearing be scheduled for Thursday, June 4, 2020.

ATTACHMENTS:

Description

Resolution R-2020-22

BACKGROUND:

Resolution R-2020-22 summarizes the budget document that has been prepared for FY 2020-2021.

The detailed budget document has been distributed to the Mayor and City Council. The document, in its entirety, has been posted on the City's website and printed copies are available upon request by calling the City of Keene Finance Department at 603-352-1013. A Citizen's Budget Guide will also be available that summarizes the General Fund Proposed Budget, explains the City Budget process, and the role of the Comprehensive Master Plan in that effort.

Any bond resolutions associated with projects recommended for funding in the next fiscal year will be presented under separate cover memos.

The remaining steps in the budget process are outlined below:

| DATE(S) | DAY | TIME | DESCRIPTION |
|---------------|-----------|---------|---|
| May 7, 2020 | Thursday | 7:00 PM | Regular Council Meeting - budget resolution first reading - referred to FOP Committee |
| May 12, 2020 | Tuesday | 5:30 PM | Special FOP meeting - Budget review - overview, Elected/Appointed, Administrative Services, General Fund Revenues |
| May 14, 2020 | Thursday | 5:30 PM | Regular FOP Meeting - Budget Review - Community Services |
| May 18, 2020 | Monday | 5:30 PM | Special FOP Meeting -Budget Review - Municipal Development Services |
| May 20, 2020 | Wednesday | 5:30 PM | Special FOP Meeting -Tentative - Budget Review |
| May 21, 2020 | Thursday | 7:00 PM | Regular Council Meeting - Introduce bond resolutions; introduce salary ordinance |
| May 28, 2020 | Thursday | 6:30 PM | Regular FOP Meeting -Make recommendation on budget, salary ordinance, bond resolutions |
| June 4, 2020 | Thursday | 7:00 PM | Regular Council Meeting - Public Hearing |
| June 18, 2020 | Thursday | 7:00 PM | Regular Council Meeting - Vote on budget, salary ordinance, bond resolutions |
| July 1, 2020 | Monday | | Start of FY 2021 |

Please refer to the City of Keene's website for information about how to participate in online public meetings during the COVID-19 emergency.



CITY OF KEENE

R-2020-22

Twenty

In the Year of Our Lord Two Thousand and
Relating to the 2020/2021 fiscal year budget

A RESOLUTION

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

That the sum of \$25,586,346 be raised by taxation during the current year which together with \$35,056,263 for estimated operating revenues aggregating \$60,642,609 is hereby appropriated for the use of the several departments of the City Government, and further that the sum of \$4,708,591 be appropriated for capital expenditures and capital reserve appropriations in the city proprietary funds, funded by the use of capital reserves, fund balance and current revenues, for the fiscal year beginning July 1, 2020, as attached hereto and made a part thereof.

George S. Hansel, Mayor

2020/2021 Annual Operating Budget

R-2020-22

| General Fund Revenue & Other Financing Sources: | <i>Adopted</i> | General Fund Appropriations: | <i>Adopted</i> |
|--|---------------------|---|---------------------|
| Property Tax Revenue | \$25,586,346 | Elected & Appointed Officials | \$2,730,859 |
| Use of Surplus | 850,000 | Capital Projects | 2,748,908 |
| Other Taxes | 1,107,000 | Administrative Services | 4,758,662 |
| Tax Increment Financing | 790,613 | Community Services | 20,671,963 |
| Licenses, Permits & Fees | 3,661,664 | Municipal Development Services | 6,829,183 |
| Intergovernmental | 3,087,578 | Debt Service | 4,358,252 |
| Charges for Services | 1,877,110 | | |
| Fines & Forfeits | 63,766 | | |
| Miscellaneous | 1,902,619 | | |
| Other Financing Sources | 3,171,131 | | |
| NET GENERAL FUND OPERATING REVENUES | \$42,097,827 | NET GENERAL FUND OPERATING APPROPRIATIONS | \$42,097,827 |
| TOTAL PARKING METER FUND REVENUES | \$1,406,534 | TOTAL PARKING METER FUND APPROPRIATION | \$1,406,534 |
| TOTAL PC REPLACEMENT FUND REVENUES | \$111,785 | TOTAL PC REPLACEMENT FUND APPROPRIATIONS | \$111,785 |
| TOTAL SOLID WASTE FUND REVENUES | \$4,773,930 | TOTAL SOLID WASTE FUND APPROPRIATIONS | \$4,773,930 |
| TOTAL SEWER FUND REVENUES | \$5,707,934 | TOTAL SEWER FUND APPROPRIATIONS | \$5,707,934 |
| TOTAL WATER FUND REVENUES | \$4,095,947 | TOTAL WATER FUND APPROPRIATIONS | \$4,095,947 |
| TOTAL EQUIPMENT FUND REVENUES | \$2,448,652 | TOTAL EQUIPMENT FUND APPROPRIATIONS | \$2,448,652 |
| TOTAL OPERATING REVENUES - ALL FUNDS | \$60,642,609 | TOTAL OPERATING APPROPRIATIONS - ALL FUNDS | \$60,642,609 |
| CAPITAL: | | | |
| PARKING FUND CAPITAL FUNDING | \$60,000 | PARKING FUND CAPITAL APPROPRIATIONS | \$60,000 |
| SOLID WASTE FUND CAPITAL FUNDING | \$70,000 | SOLID WASTE FUND CAPITAL APPROPRIATIONS | \$70,000 |
| SEWER FUND CAPITAL FUNDING | \$1,828,465 | SEWER FUND CAPITAL APPROPRIATIONS | \$1,828,465 |
| WATER FUND CAPITAL FUNDING | \$1,287,770 | WATER FUND CAPITAL APPROPRIATIONS | \$1,287,770 |
| EQUIPMENT FUND CAPITAL FUNDING | \$1,462,356 | EQUIPMENT FUND CAPITAL APPROPRIATIONS | \$1,462,356 |
| TOTAL CAPITAL FUNDING - OTHER FUNDS | \$4,708,591 | TOTAL CAPITAL APPROPRIATIONS - OTHER FUNDS | \$4,708,591 |



City of Keene, N.H.
Transmittal Form

May 5, 2020

TO: Mayor and Keene City Council

FROM: Merri Howe, Finance Director

THROUGH: Elizabeth A. Dragon, City Manager

ITEM: K.3.

SUBJECT: Relating to the Establishment of a Road Infrastructure Capital Reserve; Relating to the Establishment of an Emergency Communication Capital Reserve; Relating to the Establishment of a Reappraisal Capital Reserve; Relating to the Establishment of an Information Technology Systems and Infrastructure Capital Reserve

RECOMMENDATION:

That Resolutions R-2020-14; R-2020-17; R-2020-18; R-2020-19 relating to the establishment of Capital Reserves have a first reading in front of the City Council and that each resolution be referred to the Finance, Organization and Personnel Committee.

ATTACHMENTS:

Description

Resolution R-2020-14

Resolution R-2020-17

Resolution R-2020-18

Resolution R-2020-19

BACKGROUND:

The current fiscal policies adopted by the City Council on September 5, 2019 emphasized the use of other funding sources for projects in the Capital Improvement Program and stabilization funds. Creating capital reserves can serve two purposes. It can serve as saving mechanism for a future purchase and can be used to stabilize funds from budget spikes. For example, the City is required to perform a revaluation of property every five years creating a significant increase in the budget every fifth year. By funding a capital reserve equally over five years this budget spike is eliminated. If enacted, the capital reserves listed below will serve over time as a predictable and stable source of funding reducing the reliance and amount of municipal debt and leveling out budget spikes.

Resolution R-2020-14 pertains to the establishment of the Road Infrastructure Capital Reserve to fund wholly or in part improvements to the roadway system, including but not limited to, road reconstruction, rehabilitation, and preservation, and associated components such as curbing, lighting, sidewalks, signals and stormwater.

Resolution R-2020-17 pertains to the establishment of an Emergency Communication Capital Reserve to fund, wholly or in part, the citywide purchase, replacement or upgrade of emergency communication

systems and components, including and not limited to, portable and mobile radios, base stations, towers, repeaters, support infrastructure, emergency and dispatch center equipment, and software.

Resolution R-2020-18 pertains to the establishment of a Reappraisal Capital Reserve to fund, wholly or in part, the revaluation of real estate for tax assessment purposes. A revaluation is required by state law, RSA 75:8-a, at least once every five years.

Resolution R-2020-19 Relating to the establishment of an Information Technology Systems and Infrastructure Capital Reserve to fund, wholly or in part, the purchase, replacement or upgrade of organizational information technology software and hardware systems and infrastructure.



CITY OF KEENE

Twenty

In the Year of Our Lord Two Thousand and
Relating to the establishment of a Road Infrastructure Capital Reserve.

A RESOLUTION

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

The City Council hereby authorizes the establishment of the Road Infrastructure Capital Reserve to fund, wholly or in part, improvements in the roadway system, including but not limited to, road reconstruction, rehabilitation, and preservation, and associated components such as curbing, lighting, sidewalks, signals, and stormwater pursuant to the provisions of RSA 34.

George S. Hansel, Mayor



CITY OF KEENE

Twenty

In the Year of Our Lord Two Thousand and

Relating to the establishment of an Emergency Communication Capital

A RESOLUTION Reserve.....

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

The City Council hereby authorizes the establishment of the Emergency Communication Capital Reserve to fund, wholly or in part, the citywide purchase, replacement or upgrade of emergency communication systems and components, including and not limited to portable and mobile radios, base stations, towers, repeaters, support infrastructure, emergency and dispatch center equipment, and software pursuant to the provisions of RSA 34.

George S. Hansel, Mayor



CITY OF KEENE

R-2020-18

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

A RESOLUTIONRelating to the establishment of a Reappraisal Capital Reserve.....

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

The City Council hereby authorizes the establishment of the Reappraisal Capital Reserve to fund, wholly or in part, the revaluation of real estate for tax assessment purposes pursuant to the provisions of RSA 34. A revaluation is required by state law, RSA 75:8-a, at least once every five years

George S. Hansel, Mayor



CITY OF KEENE

In the Year of Our Lord Two Thousand and Twenty

A RESOLUTION Relating to the establishment of an Information Technology Systems and
Infrastructure Capital Reserve.

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

The City Council hereby authorizes the establishment of the IT Systems and Infrastructure Capital Reserve to fund, wholly or in part, the purchase, replacement or upgrade of organizational information technology software and hardware systems and infrastructure pursuant to the provisions of RSA 34.

George S. Hansel, Mayor



City of Keene, N.H.
Transmittal Form

May 5, 2020

TO: Mayor and Keene City Council

FROM: Merri Howe, Finance Director

THROUGH: Elizabeth A. Dragon, City Manager

ITEM: K.4.

SUBJECT: Relating to an Appropriation to the Road Infrastructure Capital Reserve

RECOMMENDATION:

That Resolution R-2020-15 relating to an appropriation to the Road Infrastructure Capital Reserve have a first reading in front of the City Council and that it be referred to the Finance, Organization and Personnel Committee.

ATTACHMENTS:

Description

Resolution R-2020-15

BACKGROUND:

Resolution R-2020-14 pertains to the establishment of the Road Infrastructure Capital Reserve while Resolution R-2020-15 pertains to the funding of the capital reserve.

In October 2019, the city received the first of two Municipal Aid payments from the State of New Hampshire in the amount of \$391,627.32. These funds were received prior to the FY20 tax rate setting enabling the city to reduce the amount of fund balance utilized to balance the budget by \$391,627.32. Resolution R-2020-15 would appropriated the \$391,627.32 from the General Fund unassigned balance to fund the Road Infrastructure Capital Reserve.



CITY OF KEENE

In the Year of Our Lord Two Thousand and ^{Twenty}.....

A RESOLUTION Relating to an appropriation to the Road Infrastructure Capital Reserve.

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

That the sum of three hundred ninety one thousand six hundred twenty seven dollars and thirty two cents (\$391,627.32) is hereby appropriated in the 2019-2020 fiscal year for the purpose of providing funding for the transfer of funds to the Road Infrastructure Capital Reserve Fund. Said appropriation to be funded by the General Fund unassigned fund balance.

George S. Hansel, Mayor



City of Keene, N.H.
Transmittal Form

May 5, 2020

TO: Mayor and Keene City Council

FROM: Merri Howe, Finance Director

THROUGH: Elizabeth A. Dragon, City Manager

ITEM: K.5.

SUBJECT: Relating to the Establishment of a Police Special Detail Revolving Fund Pursuant to RSA 31:95-h for the Purpose of Receiving Revenues and Expending Funds Relative to Police Special Details

RECOMMENDATION:

That Resolution R-2020-20 relating to the establishment of a police special detail revolving fund have a first reading in front of the City Council and be referred to the Finance, Organization and Personnel Committee.

ATTACHMENTS:

Description

Resolution R-2020-20

BACKGROUND:

The current fiscal policies adopted by the City Council on September 5, 2019 emphasizes the use of stabilization funds. A revolving fund is a stabilization fund established for a particular purpose. The revenues deposited in the fund are allowed to accumulate from year to year and are not considered part of the city's general fund surplus. The revenues generated by the revolving fund activity subsidize the expenses of the activity thus keeping the funding outside of the general fund resulting in no tax impact to the taxpayer.



CITY OF KEENE

Twenty

In the Year of Our Lord Two Thousand and
Relating to the establishment of a Police Special Detail Revolving Fund
A RESOLUTION pursuant to RSA 31:95-h for the purpose of receiving revenues and
expending funds relative to police special details.

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

That all revenues received for police special details be deposited into the fund for the purpose of paying all expenses associated with payroll and equipment of police officers performing outside details and shall be allowed to accumulated from year to year, and shall not be considered part of the City's general fund balance.

George S. Hansel, Mayor



City of Keene, N.H.
Transmittal Form

May 5, 2020

TO: Mayor and Keene City Council

FROM: Merri Howe, Finance Director

THROUGH: Elizabeth A. Dragon, City Manager

ITEM: K.6.

SUBJECT: Relating to the Reallocation of Bond Proceeds from the Rose Lane Wastewater Treatment Plant Cleanup Project (08094) to the Waste Water Treatment Plant Generator Replacement Project

RECOMMENDATION:

That Resolution R-2020-23 relating to reallocation of bond proceeds from the Rose Lane Waste Water Treatment Plant Cleanup Project to the Waste Water Treatment Plant Generator Replacement Project have a first reading in front of the City Council and that it be referred to the Finance, Organization and Personnel Committee.

ATTACHMENTS:

Description

Resolution R-2020-23

BACKGROUND:

Included in the FY 2021-2027 Capital Improvement Program recently approved by the City Council is a project to the replace the generator at the waste water treat plant. This project is scheduled for FY 2021 with a funding source of bond proceeds reallocated from the Rose Lane Waste Water Treatment Plant Cleanup Project (08094) in the amount of two hundred ninety thousand four hundred dollars (\$290,400).



CITY OF KEENE

R-2020-23

Twenty

In the Year of Our Lord Two Thousand and
Relating to the Reallocation of Bond Proceeds from the Rose Lane Waste
A RESOLUTION Water Treatment Plant Cleanup Project (08094) to the Waste Water
Treatment Plant Generator Replacement Project.

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

That the sum of two hundred ninety thousand four hundred dollars (\$290,400) of bond proceeds be reallocated from the Rose Lane Waste Water Treatment Plant Cleanup Project (08094) to the Waste Water Treatment Plant Generator Replacement Project.

George S. Hansel, Mayor