

City of Keene
New Hampshire

PLANNING, LICENSES AND DEVELOPMENT COMMITTEE
MEETING MINUTES

Wednesday, June 10, 2020

7:00 PM

Remote Meeting via Zoom

Members Present:

Kate M. Bosley, Chair
Mitchell H. Greenwald, Vice-Chair
Philip M. Jones
Gladys Johnsen
Catherine Workman

Members Not Present:

George S. Hansel, Mayor

Staff Present:

Elizabeth A. Dragon, City Manager
Thomas P. Mullins, City Attorney
Kürt Blomquist, Public Works Director
Rhett Lamb, Community Development
Director
Rebecca Landry, IT Director
William Dow, Deputy City Clerk
Andrew Bohannon, Parks, Recreation, and
Facilities Director
Steven Russo, Police Chief
John Rogers, Zoning Administrator

Chair Bosley called the meeting to order at 7:01 PM. She read a prepared statement explaining that Emergency Order #12, pursuant to Executive Order #2020-04 issued by the Governor of New Hampshire, waives certain provisions of RSA 91-A (which regulates the operation of public body meetings) during the declared COVID-19 State of Emergency. She explained the procedures of the meeting and how the public can participate.

Roll call was conducted.

- 1) **Darren Humphrey/Trax Club – Request to Use City Property – Railroad Square**
- 2) **Use of Railroad Square - Parks, Recreation, and Facilities Director**

Chair Bosley stated that the committee will take the first two agenda items together. She asked if the petitioner, Darren Humphrey, had joined the Zoom meeting and was ready to speak. Not seeing or hearing him, she asked the Parks, Recreation, and Facilities Director to comment on the request.

Andrew Bohannon, Parks, Recreation, and Facilities Director, stated that he gave the committee a memorandum with the history of Railroad Square, more specifically, the area of the brick pavers. He continued that this area has been a questionable location with respect to commercial activity over many years – dating back to the creation of Railroad Square in 1992. The entity that donated Railroad Square to the City stipulated that no commercial activity should occur on

Railroad Square. Mr. Bohannon continued there have been various City Council resolutions on this issue over the years, with the most recently updated version adopted in 2015. He noted a copy of Resolution R-2015-29 was included in the packet as an attachment to his memorandum. He continued that throughout the years, there have been various proposed uses for this area including food trucks, ice cream carts, coffee kiosks, hot dog vendors, Christmas wreath sales, etc. Over time the guidelines have been updated to allow certain activities to occur. The space was originally designed for no commercial use and the brick paver area was only for specific purposes, which included educational events, community events, political activities, recreational events, and charitable solicitations.

Mr. Bohannon continued that back in 2015 the City Council Resolution was amended to formally recognize the commercial space where tables and chairs had been allowed in the grass area. He added that over the years, this commercial activity in the green space immediately adjacent to the pavers has been problematic primarily because of the way the drainage in the area was designed. As designed, water drains into the grassy area. In the summer the area being requested is really wet and in the winter it is very icy. This area also serves as the business's entrance. Without being able to redesign the space you will not solve that drainage issue.

Mr. Bohannon continued that they have had multiple problems with previous tenants using that space, resulting in complaints to the Parks, Recreation, and Facilities office, relating to signage, noise, or rental groups utilizing the space.

Mr. Bohannon continued that regarding his recommendation, the current language in the Resolution that was adopted in 2015 has not necessarily been working well for this space. With the Arts and Culture Corridor coming there may be a solution on the horizon. He stressed that if this is going to be permitted for commercial use, then it must be designed to accommodate that use. What currently exists was not designed for this use. If the City is going to allow this, we need to do it right, so that the individuals who seek to use it can use it in a positive manner.

Chair Bosley thanked Mr. Bohannon for all of the information. She recognized Councilor Greenwald.

Councilor Greenwald stated that they cannot judge the activities in the space by the previous occupants of the establishment. He continued that some were good, and some were not good. It is a potential space that is ancillary to that business. The City Council is trying to encourage downtown businesses. He understands that this is a park area; however, he remembers when the bricks were sold, there was chaos that went with the access, [people asking] "Is it really even a door?" and "Do they even have any access outside the door?" He understands it is a very difficult space. Cutting to the chase - if there is a small seating area that will enable Mr. Humphrey to operate his business, that is what the City Council should try to do - enable downtown businesses. Mr. Humphrey is proposing a new business on this site. If this business misbehaves, the City can revoke the license. But it is appropriate to let him have seating out there. With the most recent business's seating, with six tables or so, there were no issues. The previous owners might have had problems, but that does not matter. It is all about how this person runs his business.

Councilor Greenwald concluded that he is all for allowing the outdoor seating. If they need to change some wording, then they should do it. They should not say no to tables because “it’s a park” – it is not Robin Hood Park, it is downtown. It is not much different from Main Street sidewalks. He is supportive and looks forward to hearing Mr. Humphrey speak.

Chair Bosley asked if Mr. Humphrey had joined the meeting was prepared to speak.

Darren Humphrey stated that all he wants is a chance to start a business and help Keene have a nice atmosphere downtown. He continued that he needs help from the City to design a patio the way the City wants it and what works best for the area. He came up with an idea for how he could raise the money if he has to, the same way with the park on West Street when the City sold bricks, to area business people who want to help fix the problems on Railroad Square and improve the downtown. He continued that like Councilor Greenwald said, if he fails, the City can always take the patio away. Hopefully he will not fail. He tries to run a good business, and has not had too many problems at his other business. Yes, Trax is a challenge, and the people who come in and out, but if he has backing by the City he promises it will be a respectful business. He wants to turn it more into a restaurant than a nightclub. Outside seating would help.

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

Councilor Jones stated that they have done this in the past. He continued that just so new councilors know, this has nothing to do with the sidewalk café ordinance. This is a different ordinance that was created later on, for one of the past owners. He continued that he serves on the COVID-19 Rebound Committee. All conversations have been about finding more space for local businesses and this fits right in. He wants to see it happen. With the past owners, the question that came up was whether the City should make them be on pavers or on grass. That is a question for staff. Other than that, he is in favor of this.

Chair Bosley asked staff if there were limitations about seating happening only on grass. Mr. Bohannon replied that the provision provides for seating just in the area between the two doors. He continued that between the entrance and the service door, there is a grassy area with a tree in the middle. That is the area they would be able to use. The other grass that goes beyond has irrigation. If you allow a tenant to use that space you jeopardize the irrigation system and the other pieces that go along with that, as it is a park.

Rhett Lamb, Community Development Director stated that the reason it is not allowed on the paver surface was the prohibition of commercial activities on the brick space.

Chair Bosley asked Public Works Department Director Kürt Blomquist to speak. Mr. Blomquist stated that like Mr. Bohannon, he has been dealing with this for over a decade. He continued that he cannot emphasize enough, like Mr. Bohannon said, the drainage issues. The way Railroad Square was designed, the water flows from Main Street all the way back to the edge off the brick areas. There is a manhole in the grass area by the tree. Over the years multiple users have never been able to solve how not to have wet space. They have tried many different things. The last tenant tried digging a ditch and putting rocks in. But as Mr. Bohannon says, the design of Railroad Square is: that is where all the water runs to. One of the tenants did have to rebuild the

entranceway to try and raise it out of where the water settles. The design of the building goes back to the railroad era. There were no real exits out of the building at that time. He can appreciate that the tenants want to do something, but it ends up being heavily damaged. The grass gets destroyed. The tenants' attempts have not worked. Tenants do not want to spend a lot of money for something only utilized during the summer months, and they are supposed to remove whatever they have put in when they are done. Recently the PWD had to go in and remove what the last tenant put in. It is a very difficult space. The PWD deals with it in the winter too because water accumulates there and they do their best to move snow around. But until the City decides what to do with that space and reworks the space, any heavy downpour is going to flood that space. One would have to spend a significant amount of money to build a structure there, which he understands tenants do not want to do because they are tenants.

Councilor Greenwald stated that "water always wins" is an expression he has heard. He continued that however, there are solutions to every problem. If the petitioner and building owner will participate it can be built up so water goes away from the site. "This is not rocket science," as Councilor Filiault says. Raise the ground. Fix it. It is a City property. If the rest of the park needs a storm drain, do it. The business is trying to expand. The City Council is trying to encourage the rebirth of downtown, like Councilor Jones said. Having a couple tables outside is not anything huge. They should do this, because it is not that complicated. If it takes a drain, maybe that is more complicated, but they could build it up. He really thinks the City could solve this and he is advocating for this. If it needs more time for engineering that is fine.

Councilor Workman stated that she shares Councilor Jones's and Councilor Greenwald's sentiments. She continued that they need to do what they can to help a local business. If the owner understands the risks of putting out patio tables and chairs right now without this work being done and he is okay with that and understands there may be flooding, he should be able to do so. She added she thinks the City should try and solve the flooding and irrigation issues, for resident safety, pedestrian safety, and the betterment of any business that would go in that area.

Chair Bosley asked for questions or comments from members of the public

Councilor Remy stated that whether or not to allow the outdoor seating is a decision he trusts the committee to make, but regardless, he has had constituents reach out to him in the past when other tenants have had businesses there, with complaints about noise. He has not heard these complaints about the current tenant's business. He continued that the City Council should think about whether there can be some tie-in between the outdoor seating and the noise complaints. If there is continued disregard for that, then he asks that they consider the outdoor tables part of it - they are obviously bringing the noise outside.

City Manager Elizabeth Dragon stated that she walked this area today. She continued that it is not an area that is creating some sort of danger to the public. The paved areas are dry. The grass area is up against the building. It was intentionally built with a drain there to drain the water. That is the conflict and she does not think there is an easy solution. If the business wants to talk about ideas they have to resolve that, the City would have that conversation. She is concerned about noise. She is all for helping businesses get going again, but they have had recurring noise

complaints in that area. When they look at this, she asks that they look at putting conditions in there like Councilor Remy was suggesting, to address the noise. Also, the petitioner wants to expand into the other grassy area and she does not recommend that. If you walk the area, you will see why. It is an area that has not had tables and chairs in the past, and there are irrigation systems in the ground. In the location where the prior owner Scores had tables the grass is not in great shape but it is starting to come back. If they have additional conversations with Mr. Humphrey about ideas to mitigate the water issues, his customers will ultimately decide if it is too much water they are sitting in. But if they have continuous noise complaints that would be her concern. Also, she is not recommending the area beyond the site that the previous occupancy, Scores had used in the past.

Chair Bosley asked if the City Attorney wants to comment on the City's liability for furniture placed out there. She asked: if Mr. Humphrey chooses to move forward knowing there are water issues, is there is a way to waive the City's liability with the understanding that that is what happens? City Attorney Thomas Mullins stated that it is standard in the City's licensing agreements to avoid that liability with respect to that kind of damage. He continued that tenants are responsible for whatever they put out in that area. This one is a little different. The City will have a license for Mr. Humphrey if the decision is for this to move forward, hopefully with conditions as the City Manager was saying. This is not a sidewalk café under the ordinance, but the license would include indemnification.

Councilor Greenwald made a motion to allow more time to allow staff to consider the situation. Councilor Jones seconded the motion.

Chair Bosley stated that she agrees. She continued that they need to look at what conditions are appropriate, what the plan would look like, what the petitioner is willing to do to mitigate the water, how many tables there would be, and so on and so forth, and have the issue come back to the Committee.

Chair Bosley asked for additional comment on the motion. Hearing none, she called for a vote.

On a vote of 5-0, the Planning, Licenses and Development Committee recommends the request for use of City property adjacent to Railroad Square be placed on more time pending staff review.

- 3) **Sarah Franklin/Concerned East Side Neighbors – Consideration of a Social Host Ordinance**
- 4) **Dawn and Med Kopczynski – in Support of Social Host Ordinance**

Chair Bosley stated that they will take agenda items 3) and 4) together. She asked Sarah Franklin to speak.

Sarah Franklin, of 95 Adams Street, stated that she represents a small group of neighbors on the east side. She continued that they have been meeting for about two years. They all take great pride in living here. They love their neighborhood and houses. The problems have been with unruly behavior in their neighborhoods. They got together to try and come up with solutions. Over the course of two years they met with (KSC President) Melinda Treadwell, the City

Manager, landlords, Councilor Greenwald and other City Councilors, the Mayor, and more. They have done a lot of research, and their unanimous conclusion is that if the City had a Social Host Ordinance it could really help with a lot of the unruly gatherings that are disrupting the peace. They connected with other college towns that have adopted such ordinances and they say a social host ordinance has really helped.

Finally they are bringing a concept of a social host ordinance to the City Council to look at it. The ordinance is not the same for every City. They realize it would have to be tailored to Keene. It is a tool, for Police Officers to go in and actually do something about these large gatherings that are disruptive. The other people in the Concerned East Side Neighbors are here, too, if the committee has questions for them. The group has done a lot of research – research into the demographics of Keene, what other college towns have done, what a Social Host Ordinance is, and what landlords and the Keene Police Department (KPD) have to say. They have done their due diligence.

Chair Bosley thanked Ms. Franklin. She stated that the Concerned East Side Neighbors’s packet was very thought out.

The City Manager stated that this is a very determined and thoughtful group. She continued that every question City staff had, members of the Concerned East Side Neighbors had sought an answer for. Her question was: how would a Social Host Ordinance be different from what the City already has in place? They have a noise Ordinance and a way to address Code violations. What she and other City staff learned through conversations with them and conversations with other communities that have this type of ordinance in place is: the key is follow up. This is about putting all the tools together in one place and having someone dedicated to follow up on those things. San Marcos, TX, which has implemented such an ordinance pretty successfully, has a community liaison who is a city employee, funded partially by the college there. That position follows up calls, with party hosts, landlords, and the college. Because anything the City puts in place has to be closely tied to the college. It has to be more than just a ticket from the City. They have learned that people hosting parties will just [have their guests] share the cost of the ticket. So there needs to be another way to hold people accountable for behavior. The college is the key. She has talked with President Treadwell, and she is in support. They talked about including a position like this in the Municipal Services Agreement that they are negotiating and are talking about how to better work together to address neighborhood issues and help students be successful in school. It is okay to hold a party or gathering (once the Governor allows larger gatherings again), but there are certain ways to do that. The college already has a position that reaches out into the community but she sees this as a different role.

The City Manager continued that if the committee wants to pursue this City staff are looking for direction from the committee to move forward with drafting an ordinance. There would be a lot of conversation about the content. They would hear from landlords. The last time something like this was put forward it was a “Disorderly Residents” Ordinance and landlords were concerned that they would be held solely responsible. This is different; this is about holding the host of the party/gathering responsible, and tying the college’s judicial system together with the City’s. They have learned a lot about how it has worked for San Marcos, TX. City staff would

have to do some work internally to figure out how to make it work for Keene – for example, how to track calls and report out. Those things are possible. Tonight staff is looking to see if the Council is interested in this and to see if staff should work on an ordinance. They have done all they can preliminarily with the Concerned East Side Neighbors.

Chair Bosley stated that she read the draft proposed by the group. She continued that it still contains a provision to hold landlords responsible. She knows that has happened in the past and has been defeated. Tying this to the college in some way would be much more successful. They need to get input from the college to see how they would be willing to participate and decide, if the tools in the City's toolbox are not sufficient, what additional tools they could add together. Without the college's participation she does not know that the City would be changing anything really. Also she assumes this ordinance is not just for college students and would affect other properties, landlords, and tenants. How would those be differentiated? How would they not end up in the college system? How would landlords be notified? There are lots of additional questions. She thinks placing this on more time makes sense and they can continue talking. She asked Med and/or Dawn Kopczynski to speak in regards to the letter they submitted on this subject.

Med Kopczynski, from 10 Willow Street, stated that this is an interesting discussion the City has been having for a number of years. He continued that the areas in question are zoned as residential preservation, low density, and medium density. That is intentional, based on the will of the City Council and past City Councils trying to stimulate changes in these neighborhoods. They have tried a number of ways, some more successful than others. These neighborhoods are what are called "middle neighborhoods" – they have not blighted down to the point where they are slums, but they are not in the upper echelon either. Every tool they can put on the table that helps to build confidence in these neighborhoods is a plus. They want to eliminate safety hazards, which is part of Code Enforcement. They address problem behavior. They create more opportunities for workforce housing and families and hopefully raise the property values. The proposed Social Host Ordinance is one piece of the program. It absolutely requires the City to work with its other tools as well as the college; everyone has to step up for the right reasons. They have the opportunity to make genuine change in these neighborhoods that have great bones. They have great opportunities - they are close to work, close to downtown. They have everything going for them except for the confidence they want to build in these neighborhoods. They can make positive change.

Chair Bosley thanked Mr. Kopczynski and asked to hear from Ms. Franklin again. Ms. Franklin stated that the questions previous speakers had were ones that the Concerned East Side Neighbors had as well. She continued that they talked with a lot of people about those questions.

Chair Bosley asked if the committee members had questions or comments. She asked for questions or comments from members of the public.

Councilor Johnsen stated that she is empathetic; she taught at Keene State College for 15 years. She continued that she is wondering, what might a committee look like? Would it be a PLD Committee member, joining with someone from the KPD, and someone from KSC? She

directed that question to the folks from the Concerned East Side Neighbors. What would be their vision?

Chair Bosley replied that it sounds like that is the piece they still need to start ironing out, and figuring out what involvement the different entities would have and would be willing to have. She continued that they heard not from the college yet.

Tim Zinn, of 43 Grove Street, stated that he is a member of the Concerned East Side Neighbors. He continued that he thanks the PLD Committee for this opportunity to speak with them. The group has been working on this for two years and Ms. Franklin summarized the work well. He appreciates the comments from Ms. Franklin, the City Manager, and Mr. Kopczynski. Ironically, his neighbors on Willow Street have a beer pong party going on right now, and he is hearing thumping and hooting and hollering.

Mr. Zinn read a prepared statement into the record:

"I have been a Keene resident for 30 years this month. Much of it has been filled with great memories and pride for Keene, some of it has been a struggle.

If you can bear with me for a few minutes, I would really like to share two sides of my story and why I am personally committed to bringing this tool before city council and the citizens of Keene. I will provide a written copy for future reference but would like to read it here for the benefit of the public and the PLD committee.

I'd like to thank my neighbors for hosting meetings, and their amazing teamwork and commitment to this project over the past two years. It has truly been a team effort and a lot of work to bring this proposal before city council.

A big thank you to city staff and Keene State College for leaning in on this conversation as well. In particular, I would like to thank Robin Picard with Keene State College for her efforts in connecting neighbors and offering resources along the way. She was integral in placing Social Host Ordinance information in the College/City Commission report. It was there that we took that information and explored it further as a possible tool for Keene.

I moved to 43 Grove Street in 1990 to live in my first and only home, a two family. My wife was pregnant with our first child and we were excited about Keene and raising our family here.

We have fond memories of Wheelock school, bike rides throughout Keene, downtown events, and the beautiful parks we have to enjoy.

The neighborhood was a balanced blend of student rentals, owner occupied homes, and general rental units. Over the years, the neighborhood steadily transitioned from that balance and shifted towards heavy student rentals. Jack Westrate has researched statistics that highlight that dramatic change.

With the growing KSC student enrollment and off campus student rentals came a steady decrease in the quality of life on the east side of Keene. I could write a book on the challenges faced over the years, the countless hours of lost sleep, the stress of never knowing year to year where the

next problem house(s) will pop up, birthday parties and family time that was disrupted by loud music and vulgar language, property damage and numerous other issues.

I am not alone in these struggles. The fact that there are two neighborhood groups anchored on the east side of Keene is testament to the needs and frustration of residents.

I have invested myself in my community and worked to offer solutions to problems. I still take pride in living in Keene, New Hampshire. I want the best for the City of Keene and am convinced that a Social Host Ordinance protects the safety and reputation of all concerned.

Life changes over the years and I find myself about to start a new journey next month. I will be getting married in July and am excited to start a new chapter. In the course of discussing the future with my fiancée, 43 Grove Street is not a realistic option. The quality of life and off campus issues weigh too heavily on my fiancée and the idea of raising her 13-year-old son in this environment is not appealing.

In approximately the last 12 months, there has been a fire at a student rental next door and a serious altercation between a resident and student one street away. We have also heard of incidents of overcrowded basement parties with blocked exits.

I bring this up not to cast blame on anyone in particular, simply to highlight that more work needs to be done if we want the East side of Keene to be a safe neighborhood and avoid a tragedy.

Two quick stories from a landlord's perspective.

Late last fall, my tenant gave me notice that they would not be able to satisfy our lease agreement. In the course of scrambling to rent the apartment, I scheduled what sounded like a promising tenant for a showing. She unfortunately showed up early and at the wrong house. I received a text from her that she had spoken with someone and they advised that the neighborhood was not a good place to live and she should consider other options.

In the course of interviewing tenants for the apartment that I will be vacating after my wedding, I had a prospective teacher inquire about the place. She is living in Washington State and asked me to have a zoom meeting and show her the apartment. She will be working in the Keene School system and she seemed like a perfect long-term potential tenant. At the end of our meeting, she asked the often brought up question, 'Are there problems with off campus students in your area?' I did my best as usual to balance the good bad and ugly. She seemed very interested up until that point, but I have not heard back.

While showing the apartment to other prospective tenants, I recently observed on two different occasions, students urinating in broad daylight.

The reality and perception of the issues on the East side of Keene is affecting the ability to entice families and others back to the area. I have heard first and second hand stories of Keene citizens from all walks of life discouraging people from living, buying or renting on the east side of Keene. They are offering advice with the best of intentions. The sad reality is, their concerns have merit.

Without fixing the root cause of large unruly gatherings, I am afraid we will never see balance return to our neighborhoods. All the good efforts like Marlboro St. revitalization and others depend on changing the real and perceived quality of life here.

Lastly, I would like to read off some bullet points as to why the Social Host Ordinance can help us get to a better place. It is not a cure all, but it can be a major tool for improvement.

- *Social Host Ordinances are NOT the same as a disorderly housing ordinance. They are two very different tools with a different focus.*
 - *A SHO starts with personal accountability of the hosts of gatherings.*
 - *Enforcement is entirely driven by the defining of an 'unruly gathering'*
 - *Alcohol and/or drugs present along with one or two other criteria such as noise, unauthorized parking, fights, and trash, help define an 'unruly gathering.'*
- *It has been shown to reduce underage drinking and sexual assault. Both are more frequent at large gatherings.*
- *It is a proven tool being used by countless college communities of all shapes and sizes across the nation.*
- *Holding hosts of unruly gatherings accountable, reduces the numerous effects of those gatherings by addressing the root cause of those effects.*
 - *Symptoms such as noise, fights, public drunkenness etc. are improved.*
- *95% of citizens and students host respectful gatherings. They are not affected by this proposal. This ordinance addresses the 5% that do not.*
- *Lisa Dvorak of San Marcos, Texas has opened her door to you. Her PowerPoint is included in our materials. She was Assistant Police Chief, and is current president of the national Town and Gown Association. She is the subject matter expert on SHO's and has helped our group and city staff better understand it. I would encourage a conference call to her with any questions you might have.*
 - *Within her PowerPoint are references to significant improvements in noise complaints and reduction in police patrol time dedicated to these issues. All, while seeing significant growth in their college enrollment.*
 - *Culture change leads to police savings that can save taxpayer money or allow those resources to be utilized for more important issues. We can help break the cycle and perpetual expense through long term culture change. San Marcos, with a population of 63,000, realized a savings of 3,438 police hours.*
- *This tool provides for increased safety of citizens, first responders, and students.*
- *A Social Host Ordinance would help to reduce exposure to serious reputational harm to the city and college. It is a proactive tool that can provide long term culture change and improved image.*
- *It is an effective tool to discourage the indiscriminate use of social media and the exponential growth of unruly gatherings.*

- *Effective strategies for a SHO in other communities include:*
 - *Progressive penalty structures with flexibility to adapt according to the degree of negligence.*
 - *They establish the potential for reimbursement of response costs where available. Taxpayers are reimbursed for the expenses created by the hosts of unruly gatherings. This may or may not be available in NH. Perhaps we find other ways to create significant accountability to taxpayers.*
 - *They provide clear communication between property owners, hosts, tenants and landlords, and are enforced with the goal of compliance not penalties.*
 - *They provide a process for arbitration.*
 - *Some communities have established a low baseline number for people engaging in an unruly gathering.*
 - *This does not affect assembly ordinances. It simply helps to clearly define an unruly gathering and allow police to focus on behavior vs. counting heads. Newark Delaware, home of the country's #1 party school enacted a SHO that defines 4 or more people holding an 'unruly gathering' as their criteria. You can learn more in the article in our bibliography under the Newark, Delaware section addressing 'Super parties.'*
 - <https://www.delawareonline.com/story/news/2019/03/11/home-no-1-party-school-newark-seeks-peace-and-quiet/3129138002/>

Thank you again for the opportunity to verbalize my support for this proposal. I would encourage the city of Keene to customize it for Keene's unique needs and circumstances. I would also encourage you to have it be a fair yet substantial tool with serious consequences that finally hold the hosts of unruly gatherings accountable for their actions.

While there can never be a 100% guarantee, we strongly feel this is the right tool to protect our community and improve safety and the quality of life for all concerned."

Chair Bosley thanked Mr. Zinn. She asked Mayor George Hansel to speak.

The Mayor stated that he cannot speak for KSC but he is a University System Trustee, and he can say as a Trustee that all of the colleges and universities in the system are very attuned to what is happening off campus. He continued that especially regarding bringing the students back, it has really raised awareness on all campuses about this kind of activity. In light of COVID-19 and other things, he would expect a keen interest in using whatever tools are available to limit these off campus gatherings. That aside, he wants to comment on this citizen group – they really did go about this in exactly the right way. They could have easily sent a letter and proposal and gotten way down the road in coming up with their own ordinance a couple years ago, but no, they worked with staff at the City and college, talked with landlords and community members, and so on and so forth. They have really gone about this in the right way and they have been incredibly patient. Many homeowners are continuing to live in really challenging circumstances that no one here would want to deal with. The City Council owes it to them to explore this Social Host Ordinance option. If problems arise with the wording as it is put together, that is one thing. They can have fair discussion about the details. But at this point he

does not see how they could stop this in its tracks. It is only fair to move this along and recommend that staff prepare an ordinance for further discussion.

Councilor Greenwald stated that on the surface he is very supportive of the Social Host Ordinance idea, as opposed to the disorderly residents ordinance that was previously put forth. He continued that they should hold the perpetrators responsible, which this proposes to do. He also would like the PLD Committee to consider the fact that this is not a current problem. There are landlords not maintaining their properties or controlling their tenants and they need to be held accountable. If you live near the airport, there are airplanes and helicopters. And if you live near the college, there are college students. They need to be behave. Landlords need to be held accountable. Police and Code Enforcement need to do their job and enforce the laws the City already has. If there is an issue going on where Police and Code are being called for overcrowding, the landlord is the last to know. Landlords are not being informed about what is going on. Staff say they do not have the money or staff to communicate with the landlords. This will take additional funding and more money. They do not want to spend more money, so we have a problem there. This issue is all over the city. It is not just college students. Noise complaints need to be enforced. Property owners need to be informed. This all requires money and staff. The City needs to enforce the laws it has. If the college wants to ante up and participate, fine. But before the City Council rushes into anything they need another public input session. There are a lot of property owners and a lot of rentals. They need to have input in this conversation because it will kick back on them. They need a face to face meeting, not a Zoom meeting. If it takes another 4 or 6 months, so be it. He will not support anything that requires public input and is only through Zoom.

Chair Bosley stated that she agrees. She continued that she has apartments that she rents and she has never been notified by the Police about any of the times that they have attended to an issue at her buildings. A couple of times the smoke alarms have gone off, and tenants have contacted the Fire Department, and the Fire Department has contacted her. It is really important that landlords get brought into the loop. There are lots of conversations still to have about the details.

Councilor Jones thanked Ms. Franklin. He continued that he is the Council liaison to the College/City Commission. This all started when they had a subcommittee on housing. They started getting outside the sunshine laws so they had to stop that part of it. He is glad Ms. Franklin took the bull by the horns and kept working on this. He has always respected the work Mr. Zinn does and thanks him, too. He chaired the PLD Committee when the landlord ordinance was brought forward and it did not fail – it did what they wanted it to do, which was to bring the landlords together. But it takes more. It takes what these folks are asking for. He strongly suggests that they request a draft Social Host Ordinance from staff. They are not ready for an ordinance yet but they should get a draft so they can do wordsmithing. They want to hear from the Police about how to enforce it – if there is a party at one place but some party-goers are acting up two houses down, for example, they cannot make that connection.

He continued that the City tries to do a lot for the people on the East side, and they are doing a lot with infrastructure right now, because they feel that if the City takes care of streets and

sidewalks and curbs people will take care of their houses. He looks forward to this. It will accomplish good things.

Pete Moran, of 38 Myrtle Street, stated that regarding notification, the City Manager mentioned having a position funded by the City and the college. He continued that there is a lot to talk about. He will submit some written information and will not give his big spiel right now. All the ingredients still exist for a repeat of the riots of Halloween 2014. He and his wife bought their house in October of 2018 and moved in November 2018, and life was rosy until August 2019 when the men's soccer team moved into 40 Myrtle Street. There were 50 kids parading down the street with all their joy. He spoke with them. They had a meeting after Labor Day. Labor Day weekend was a repeat. He sat down with the coach and team and thought they came to terms, but as time progressed things did not go well. Then it exploded again next door at the end of October. These students are very inconsiderate, here and at other properties in the neighborhood such as on Grove Street. The ingredients still exist for all this anxiety here.

He continued that this Social Host Ordinance proposal is an opportunity for the City to address the East side neighbors' concerns and those of a lot of others who are unwilling to speak publically on this. One person who is unwilling to speak publicly tells him he has had problems for 13 years; another person said they have had problems for 12 years, and Mr. Zinn is talking 30 years. This is an opportunity for the city to seriously address all these issues. The noise ordinance is a tool. But this is a standalone item. Where is the problem? It is not with any of us, not with the City or the college per se. The problem is those who are irresponsible are getting away with all these activities. These students have apps to listen to police scanners, and they quiet down by the time police get there, and police say there is nothing they can do except [tell the neighbors to] keep calling. The [partying students] know how to play the game. They crowdfund, dropping money in a bucket when they arrive at a party, in case there are fines, so the fines can be paid with the money in the bucket. This is an opportune time for the City Council to give it some due diligence. At the end of the day the buck stops at who is responsible for the disturbance and the penalties are assessed to them. It takes the burden off of the City and the college to a degree. What is essential is it gets tracked by a devoted position and to see that it is enforced, landlords are informed, and so on and so forth.

Mr. Moran stated that he wants to share a few quotes [from partying students]: "This is a party town" and "College is a party place. It's just the way it is." He continued that on Halloween of last year, a [partying student] came over at midnight, after there had been eight hours of students parading back and forth, and told him, "You moved here." Yes, he and his family moved here; they invested in town to take advantage of all the city has to offer, such as the college, walkability, the downtown, and great government. Everything is wonderful. But since they moved here, they have been slammed. They moved next to the college and wanted to walk to the college and take advantage of it. They never anticipated this degree of abuse they would receive. This Sunday at 10:30 PM on Willow Street, he walked over because there was a party raging. There were two Police cars on Grove Street dealing with a different situation. He asked the students to quiet the party down, since it was a Sunday night, and they said okay. One girl said "This is just what we do." They come to town, all these cars with license plates from NY, RI,

and CT, and they are loading up the apartments because there are fewer COVID-19 restrictions here and the bars opened Monday, and he is very concerned that his neighborhood will get slammed again with irresponsible behavior. The buck stops with the ones causing the problem. The students who are coming and going to these parties, how do you stop them when they are out on a public way? This ordinance addresses that.

Councilor Johnsen stated that she appreciates hearing from and learning from each individual. She continued that what she is hearing is that they will create this ordinance, but people want to know what will happen in the meantime. Do they need something immediate that will take care of things until they get this ordinance done? She sees them looking at a timeline for this coming year and then what they want to have for the future.

Toby Tousley, of 499 Washington Street, stated that he has been a landlord for 40 years and is strongly aware of these issues; they are nothing new. He continued that some of his concerns have already been voiced, but he wants to reiterate that one of the biggest issues for landlords is a landlord does not know what is happening until long after. They do not hear about it the night it happens or from the Police. This will not work if it does not involve the Police being on board. If the Police are not already arresting the people urinating on the street and enforcing the ordinances the City has, how will the new ordinance help? They have been talking for years about having the college hold the students accountable, with sanctions at the college. If these activities happened at the college, those students would be sanctioned by the college. There is no reason they cannot be held accountable even if they are off campus. President Treadwell is doing a great job working with the City. This has been pooh-poohed by previous staff at the college. They need to hold their students accountable.

Chair Bosley stated that she agrees; they need to have the college involved and committed in some way. She continued that they put a lot of different facets that still need to get worked out. They will hear from a few more people and then have a committee conversation about whether to put this on more time on direct staff to draft an ordinance.

Andy Oram, of 390 Main Street, stated that he has a positive note to start on: he appreciates having Mr. Kopczynski's concerns brought together with the neighbors' concerns. This conversation is not just about a Social Host Ordinance, but overall improving the quality of the neighborhoods and life in Keene. The ordinance is an important part of that. Mr. Kopczynski made several good points – there are lots of different constituents that need to be included in this process. The Concerned East Side Neighbors has gone to great lengths to contact those constituents and make them a part of this. They are committed to continuing that. There are issues that need to be addressed with Police reporting to landlords about what is going on, and Police responses to student behavior regarding students having scanners. They need a way to get around that so when they arrive and they find a problematic situation it has not disappeared because the students were forewarned. The Concerned East Side Neighbors understand this takes time. But to have a livable, civil community that works for all, they have to work on these things. He hopes they do not think this ordinance will change everything. It will not. There needs to be a commitment to change throughout the city that supports a civil community. He is happy to be in Keene and loves Main Street but had to look closely at the neighborhood he

moved into – it is under attack. If the community does not rise and protect and bolster that neighborhood it will get worse. This is an important step.

Chair Bosley stated that regarding students using technology to circumvent the Police, the City should also be using technology to its advantage. She continued that she had a break-in, and the Police caught the person due to video footage. She suggests homeowners invest in exterior cameras to give footage directly to the Police. So if the students quiet down just as Police are coming that is a tool people can use.

Councilor Ormerod stated that he lives on Monadnock Court, near Adams Street and Main Street and adjacent to the problem areas. He continued that he hopes they can move forward with direction to draft an ordinance. There are many aspects to this but the Social Host Ordinance is a key part of it. He really hopes they can get started with that so they can start serious discussions before the next college season comes in.

Ms. Franklin stated that yes, all of a sudden this is a bit timely with the COVID-19 situation. She continued that large gatherings are not only disruptive to the neighborhood but also dangerous to people. She appreciates Councilor Johnsen's thoughts about the timeliness of this.

Mr. Zinn stated that the Concerned East Side Neighbors realize there are a lot of stakeholders. He continued that that is why they started communicating with them. Yes, everyone has their own concerns. He asks that everyone please keep an open mind. This is a tool/best practice being used across the country and successfully in all kinds of college towns. One of the first questions he asked of Eugene, OR was, "We already have tools in the toolbox, why not just use those better?" The answer is that this zeros in on the root cause: the host of the gatherings. If you make [the behaviors at these gatherings] no longer acceptable, you have gone after the root cause and eliminated the unruly gatherings. You whittle it down to more manageable parties and there is less damage done. You could hand out a hundred tickets for public urination or noise, or instead, go after the host that held the party and eliminate the issues in the future. That is one of the big differences with this tool. He continued that he recommends that councilors or staff members who have questions make use of Lisa Dvorak. She has opened her door and been really helpful. She has knowledge and is a subject matter expert.

Councilor Jones stated that he had a request for Mr. Lamb, as the staff liaison to the City/College Commission – can this presentation be given to them? He continued that they have a lot of irons in the fire already. They should be brought into the picture before they have an ordinance put together. Mr. Lamb replied that the College/City Commission is not due to meet until probably August, due to the furloughs taking place at KSC and the inability to achieve a quorum. But he will get this on their agenda. If the PLD Committee wants to act quickly in preparing a draft, he thinks they should do that and not send it to the City/College Commission right away because it will take some time for them to meet again. Councilor Jones replied that they can wait for the draft; that is fine.

Councilor Johnsen asked who will prepare the draft. Chair Bosley replied City staff.

Councilor Jones made a motion for the Planning, Licenses, and Development Committee to recommend that staff draw up a draft of an ordinance. Councilor Johnsen seconded the motion.

Chair Bosley asked if the committee members had questions or comments. She asked for questions or comments from members of the public.

Ms. Franklin stated that she wanted to thank the committee for their time. She continued that if they vote for this, they are entering into a lot of what the Concerned East Side Neighbors' research was so please feel free to keep in touch with them. They have done a lot of the research. They really appreciate if the committee votes for this. Chair Bosley replied that if the committee votes yes, staff will definitely reach out to the group.

Mr. Tousley stated that he expects that the ordinance drafted will include having landlords notified in some way, so he challenges the committee to notify landlords as this proceeds so they can give input.

Councilor Jones stated that he wants to clarify that his motion is asking for a draft. He continued that he does not want anything codified with a number; he wants something they can easily wordsmith without having to make amendments.

Councilor Greenwald stated that he wants to know what the cost will be, for staff follow up and Police follow up. He thinks they have sufficient laws on the books that are not being enforced. He will wait to see what happens. He is basically in favor of the social host concept but he wants to know what it will cost.

Councilor Johnsen stated that she is with Councilor Greenwald but she thinks they cannot afford not to do this. This sounds very serious. She continued that she would like to be able to access and read all of these documents. Maybe they can be put on the City website or made accessible in some other form.

Chair Bosley called for a vote on the motion.

On a vote of 5-0, Planning, Licenses, and Development Committee recommends that staff be directed to prepare a draft of a social host ordinance for the Committee's review.

5) Councilors Williams, Filaault, and Clark – Encouraging the Consideration of a Resolution Relating to Wearing Facemasks

Chair Bosley recognized Councilor Williams. Councilor Williams stated that he and Councilors Filaault and Clark wrote this letter because, as democratically elected representatives of Keene, it is appropriate for the City Council to take the lead on setting a community expectation of mask-wearing in public, especially in the higher risk situations. He wants the City Council to make the strongest possible statement in support of facial coverings, because the alternative is potentially to go through another shutdown if the infection numbers get out of hand when everyone goes indoors in the fall. No one wants to see that happen. Global experience shows that mask wearing is likely the best defense there is in combatting this virus. In example after example, the countries most successful at beating this virus are countries in which everyone is wearing masks.

Councilor Williams continued the City has been promoting the Keene Safe Pledge, having businesses take a voluntary pledge that will encourage customers to wear masks. He applauds this effort and thinks it is a good start. He is not entirely confident that a wholly voluntary program will be effective. It is not the businesses that will voluntarily comply that are the ones he has concerns about, in terms of places that are potentially hubs for the community spread of coronavirus. There are a number of high risk situations in which it is appropriate for the City to establish an enforceable expectation that people wear masks. For example, a letter was in the Keene Sentinel from someone who works in food service, saying it is very common for delivery drivers to show up without masks, and wait around for food. He has witnessed similar behavior from delivery drivers. He does not see a reason why they would not require masks in that type of situation. He knows there are members of the public wanting to speak to this. It is important to listen to members of the public and each other.

Chair Bosley thanked Councilor Williams and asked Councilor Filiault to speak.

Councilor Filiault stated that they have potential wording for an ordinance on the table. He continued that Nashua's ordinance is in the courts right now. They did not want to put anything through the City Council, staff, or the City Attorney that might get rejected by the courts. He agrees with Councilor Williams. At this point a resolution is proper. Resolutions are not enforceable but it puts forth a policy statement from the City Council and City of Keene that masks are of utmost importance. Many states have reopened too early and are having a second surge. The City needs to be ready with strong wording in a resolution now and maybe have an ordinance later. Keene has been in the forefront of this, as usual, and is ahead of other communities. A strongly worded resolution is proper and they should recommend that staff create that.

Chair Bosley asked if the committee members had questions or comments. She asked Rebecca Landry to speak about the Keene Safe Pledge.

Rebecca Landry, IT Director, stated that the Keene Rebound Task Force worked hard to come up with a lot of ideas for how to help downtown and Keene as a whole to be open in a way that is healthy and safe for everyone. She continued that they came up with the Keene Safe Pledge program, to connect concerned citizens with responsible businesses. There are businesses in Keene following the CDC and State guidelines, and there are citizens who are nervous about coming out and engaging in public activities and events again. They thought this would be a good opportunity to help people feel better about doing business in Keene. They have had over 100 pledges in the first few days of the program, and businesses sending messages of gratitude and enthusiasm. Citizens have been commenting, saying they were nervous about coming downtown but because of this program they will be coming to the businesses that they know have taken the pledge and that they know will be taking health and safety measures. WMUR did a piece on the Keene Safe program this week, interviewing Ted McGreer of Ted's Shoe and Sport, Merri Howe from The Pub, and a woman from Hannah Grimes, and they all spoke in support of the pledge. It is nice to see these Keene Safe Pledge posters in downtown windows, and there will be more. Staff have mailed out over 50 in the past couple days. A selectwoman

and business owner in Plymouth called asking for advice on how Plymouth might do something similar, and spoke highly about Keene's business community.

Councilor Workman stated that she supports the use of wearing masks in public, especially when social distancing might not be an option. She continued that as someone mentioned, the resolution might not be enforceable. That is the big difference between a resolution and an ordinance. She asked if someone could explain, for the public's sake, that difference and what a resolution would really accomplish, different from this Keene Safe Pledge.

The City Attorney replied that resolutions are statements of intent of the City Council; they are an aspiration, or the Council's position with respect to a matter of public concern. He continued that a resolution is not enforceable. An ordinance is much like a statute passed by the state legislature. It comes with a general penalty attached to it. Many times you will not see the penalty stated specifically in a City ordinance because there is a general penalty provision in the code of ordinances, which is authorized by state law. Penalties for an ordinance violation can be up to \$1,000. It is very unusual to see a penalty like that; usually it is a couple hundred dollars. An ordinance comes with specific, enforceable criteria. A violation proceeds like a criminal offence and follows the criminal rules of procedure. The violation has to be proven beyond a reasonable doubt.

Councilor Greenwald stated that he bets the Council will pass a resolution, and when the committee is ready he will make a motion to that affect, because a resolution is more likely to mean something than an ordinance. An ordinance would not be enforceable. He continued that he cannot imagine sending the City Attorney into battle with Home Depot, Price Chopper, Hannaford, Target, and so on and so forth, trying to say they cannot make sales if clients are not wearing masks. However, a resolution urging people with the logical reasons to wear masks does make sense. It would be good if businesses could offer masks to their unmasked clients. Another thought that came to mind when he was in a grocery store: it would be interesting to have numerous registers for masked people and one register for people who do not wear masks. That would probably encourage people to wear masks. He will support a resolution. This is important. He personally wears masks and thinks this is a good thing.

Councilor Johnsen stated that at first she was in favor of this, thinking, "Well yeah, come on, let's get smart here!" but then realized it is not that easy. She continued that she received "almost hate mail." Many people are over 50, 60, or 70. Her family has been very dedicated in protecting her. She is thinking about Keene seniors, and protecting them is why she thought they should require masks. But then people said they would not shop in Keene if masks were required. Personally, she wants to see masks required. Doctors' offices check to make sure you are wearing a mask as you walk in. She likes Councilor Greenwald's idea of having one line to go through if you do not wear a mask. She is concerned about herself as a senior and all of the other seniors in Keene.

Councilor Jones stated that he serves on the Keene Rebound Committee, and he watched as Ms. Landry put this Keene Safe Pledge together. He continued that it is quite a successful program. He thinks passing a resolution now would cause confusion when they already have a successful

program going. A resolution has no teeth; why do it now? Most of the community does not understand the difference between a resolution and an ordinance and if they see this in the paper they will think the City is mandating masks. He would rather see the proceeding of Keene Safe and if that does not work they can come back to this. But right now he would rather not muddy the waters.

Chair Bosley asked for questions or comments from members of the public.

Councilor Ormerod stated that he really applauds the efforts Ms. Landry is leading and the immediate impact and visibility the Keene Safe Pledge program is having. He continued that his question is about local businesses that are companies not headquartered here, like Home Depot and Price Chopper – can they participate in the pledge or do they need to get corporate approval? Ms. Landry replied they have had quite a variety of businesses taking the pledge but no national chains other than local auto dealers. She continued that they have had businesses outside of Keene (such as Swanzey and Chesterfield) wanting to take the pledge, but they reply, that's wonderful, but no, it is a Keene pledge. One of Keene's largest employers, C&S, took the pledge, along with food trucks, insurance companies, and others, but none of the national chains at this time. They are welcome to, even as local stores.

Councilor Ormerod thanked Ms. Landry and asked Chair Bosley if a resolution would strengthen this program to the extent that it would encourage/facilitate participation of the national chains, if they knew Keene had a resolution. Chair Bosley replied that she thinks peer pressure is the best tool they have, to get people to wear masks. She continued that if she walks into a building and sees other masked people she has the overwhelming idea that she needs to get her own mask on. The more people who are committing and see others committing, the more it will open the gates for additional awareness and commitment from the community. Maybe that will reach the chains. But they operate with their own guidelines and she is not sure what they are.

Councilor Filiault stated that this is not that complicated. He continued yes, they have Keene Safe. But the City Council is not on record. In the resolution they should mention that they applaud the business owners who are taking the Keene Safe Pledge. If someone is confused about resolution versus ordinance that is not the City Council's fault. The City Council should not avoid putting something forward out of fear that people will be mad at them. A resolution makes sense to do. The 15 City Council members should be on record together endorsing a resolution about wearing masks; this is very serious. This is the minimum they can do.

Lindsey Cushing, of 7 Edgewood Avenue, stated that she wrote to a few City Council members as a concerned parent of a toddler born with a congenital heart defect who would be at increased risk for a severe case of COVID-19 if he were to come in contact with the virus, and as a healthcare provider at Cheshire Medical Center. She continued that most of her thoughts were summed up by Councilor Filiault. Hearing from leadership at all levels is important. Constituents in the community look to leadership to tell them what is going on locally and give them cues on how to be acting. She puts her support behind hearing from local leadership that this is something the City Council supports, and that the local business owners supporting the Keene Safe Pledge have the City Council's support. She is a conscientious member of the

community but had not heard about Keene Safe. She is glad to hear about it; she has been avoiding going to public places because has been nervous about bringing something home to her son. She understands the concern about people getting agitated and not understanding the difference between ordinances and resolutions, and thinks it is part of the committee's responsibility to educate the public about the difference. If a resolution is passed maybe there needs to be clarity given to the public about the difference. Some people might still be agitated about it, but it is important for the community to hear about what local leaders are supporting.

Linda Rubin, of 610 West Street, stated that she has been going back and forth with the Mayor about the issue of mask-wearing in Keene for quite some time now. She continued that he has been incredibly personally supportive of mask-wearing. She is a business owner in Keene, of Frisky Cow Farm Products, and was the Director of Healthy Monadnock for almost nine years and has an extensive background in public health. She believes that any show of leadership at all levels is really important around this pandemic and the protocols that will protect people, until there is vaccine available for everyone.

She continued that there has been incredible state leadership around the issue of mask-wearing. Fifteen states passed laws that mandate mask-wearing in their states. Three of the 15 that have passed state laws are very close to NH – MA, CT, and ME all require masks worn in public when social distancing is difficult or impossible, and there are fines for violating those laws. In those 15 states and in others considering the legislation, they have shown strong leadership around the protocols the WHO and CDC are saying will lower the spread of transmission of this disease. The director of Harvard's Global Health Institute has been using a baseball analogy to describe what is happening – regarding where we are at in terms of knowledge about the transmission of the disease and the protocols being developed by organizations like the CDC and the WHO, he says that we are in the third inning of a nine inning baseball game. The CDC has come out in support of people wearing cloth masks. The WHO has just updated their status report on the wearing of masks and says: "A growing compendium of observational data on the use of masks by the general public in several countries, individual values and preferences, as well as the difficulty of physical distancing in many contexts, the WHO has updated its guidance to advise that to prevent COVID-19 transmission effectively in areas of community transmission, governments should encourage the general public to wear masks in specific situations and settings as part of a comprehensive approach to support SARS-CoV-2 transmission." There is a second wave in FL, CA, and TX, states that are not mandating the wearing of masks and following other CDC guidance.

Ms. Rubin continued that she has been participating in the Saturday Farmer's Market, and this past Saturday she waited on a couple who came from MA, specifically to get her gelato, but they were not wearing masks. They told her the reason they came to NH is because they do not have to wear masks here like they are required to where they live. Earlier in the meeting tonight people were talking about the parties students are having in East Keene where perhaps students returning from other states are excited about the lack of restrictions in NH. This is only the third inning.

She continued that she has a couple of other important public health points to ponder: she was definitely in support of an ordinance/resolution/fine. She has joined Keene Safe as a business owner. It was outlined in the program that it is for businesses, and maybe the City of Keene is not considered a business, but she did not see the City of Keene listed and would love to hear a response to that. In our country as a whole, and in NH definitely, and in Keene, many residents have limited access to paid medical leave or sick days, especially hourly workers in places like grocery stores and Walmart. She hopes the City Council thinks about the culture in our country and the tendency for people to go to work sick. She herself has done it many times. There is a culture of “Oh, I’m not that bad, I only have a 99 degree fever,” or “I had chills last night but I’m okay today.” We talk ourselves out of protecting the other people we are going to expose to whatever it is we have. We tell ourselves we have to go to work. Even salaried workers go to work sick, trudging on. Hourly workers in essential businesses might be in the same place but might also not have the access to sick days so they can actually stay home. Unless they are wearing masks, they will spread COVID-19 if they have it.

She continued that in New England, states are so close together. There is a Stay at Home advisory in NH but people are moving about the country. There will be people coming in to NH. They should show leadership at every level of government to show that this is the norm here and Keene follows the CDC guidelines, which include the wearing of masks in order to lower the transmission of disease and keep our economy going. Opening the economy and protecting public health do not need to be in opposition to each other. The more they work together on these issues the better off they will be, from both a public health and economic perspective. They are still not testing people to the scale that the CDC is recommending, which is not helping, in terms of letting a protocol like wearing masks be not as important. Then there are the asymptomatic and pre-symptomatic people who are out in public without knowing they are contagious. Mask-wearing is really important as a comprehensive approach to lowering transmission rates, especially as we head into fall and winter and before we have a vaccine available to all.

Chair Bosley thanked Ms. Rubin and stated that there is a testing site on Krif Road that is available to anyone who wants to get tested. She continued that antibody tests are available through Clear Choice MD and are free to NH citizens. The City Council and a lot of the community does understand there are guidelines to reopening that include a lot of the safety concerns Ms. Rubin brought up. The resolution would be in addition to those guidelines and it sounds like the committee will support it.

Councilor Greenwald made a motion to ask staff to draft an appropriate resolution for consideration by the Planning, Licenses, and Development Committee, on the subject discussed. Councilor Workman seconded the motion.

Councilor Jones stated that he does not know what this resolution will say. He continued that he would be in support of it if it is endorsing the Keene Safe Pledge. Otherwise, it will just be words on a piece of paper and what are they supposed to do with it, hand it out to people? He will vote ‘yes’ for the draft, but would have to see the resolution before going any further.

Chair Bosley asked if anyone had additional questions or comments. Hearing none, she called for a vote.

On a vote of 5-0, the Planning, Licenses, and Development recommends that staff be directed to draft an appropriate Resolution for consideration by the Committee.

6) Proposed Amendments to the Rules of Order – Mayor Hansel

Chair Bosley asked the Mayor to speak. The Mayor stated that this process started with Mayor Kendall Lane working with the City Clerk and other staff, regarding proposed changes to the Rules of Order. He took the project up and added some changes of interest to him, too. This is the first of what may be a couple proposals that he puts before the committee. The first section they are proposing amendments to is Section 15: Voting and Conflicts of Interest. This adds the fiduciary duty or responsibility to the list of conflicts of interest. Right now the City Charter explicitly lists and focuses on a financial interest in an issue being discussed and this language adds a fiduciary duty or responsibility as something that qualifies as a conflict of interest. It may confuse people – when people hear “fiduciary duty” they think it has to do with money, and it does a little bit, but really it refers to the obligation that one party has in a relationship with another to act entirely on the other party’s behalf and best interest. For example, a recent situation involved himself – he is the Mayor of Keene as well as Board Chair for Monadnock Economic Development Corporation (MEDC). He brought this up to the City Council as a potential conflict because he has both a duty to work on behalf of the City and MEDC in both of those positions. Any time there is a matter before the City Council that involves a partnership or contract between the two entities he thinks he has a conflict there. The City Council agreed and allowed him to recuse himself from those situations. But looking at the letter of guidance they have, just the City Charter, it says that is technically not a conflict of interest. You only have a conflict if you have a financial interest in what is being discussed – for example, if he was getting paid by MEDC or had a financial interest in whatever contract was being worked out. This proposed language makes it a little clearer and gives a broader guidance to work with. It is an important thing for the City Council to do.

The Mayor moved on to Section 17: Motions. He stated that the proposed change is to change the appeal of the chair from a two thirds vote to a simple majority. It makes it so a simple majority can overrule the chair, which is consistent with Robert’s Rules of Order. He continued that regarding Section 29: Votes on Ordinances and Resolutions, his understanding is the Bond Council has advised them that they need to pass bond resolutions by a two thirds vote, so this makes the language in the Council’s rules consistent with that advice. Similarly, for Section 31: The Appropriation of Unbudgeted Funds, he proposes changing the language to require a two thirds vote for any re-appropriation of bond funds. Last is Section 30: Annual Appropriation. This makes the process of proposing amendments consistent for both the Capital Improvement Program (CIP) budget and the operating budget. Right now for the operating budget they require councilors to submit in writing their proposed amendments to give staff time to really vet those proposed amendments, and this would make that consistent with the CIP budget. He is happy to answer questions.

Chair Bosley asked if the committee members had questions or comments. She asked for questions or comments from members of the public.

The City Attorney stated that when this document left his word processor he had two differences that did not get carried through: Section 15's new language says "A fiduciary duty shall be determined" and the word should be "defined" instead of "determined." Staff will make that change. He continued that in the last section of Section 15, there was a word that was dropped out for some reason: "The question of whether or not a conflict of interest *exists* is subject to debate." Staff will make those two changes. All he would add to the Mayor's comments is, he wants to point out that in Section 15, there is a specific statement in there now that the councilor who has a conflict shall not vote on the question. That has been confusing so they wanted to clarify it. It is unusual for the individual stating that they have a conflict of interest to then vote on whether they have a conflict of interest or not, so they wanted to make that change clear.

Councilor Workman stated that these proposed changes basically remove the ambiguity in the previous language. She continued that to her it just firms up the language. As they have seen there have been conflicts of interest already, so that is an important caveat.

Councilor Remy stated that he is really supportive of these ideas. He continued that he was surprised that the conflict of interest level for the City was lower than that of most nonprofits he has been involved in, and this gets it more consistent to what would be more standard conflict of interest language. He is happy to see this come forward.

Chair Bosley stated that she agreed. She continued that she just had to ask to be recused for a conflict of interest and thought it was really unusual that she got to vote on that. This clears up a couple of things. She asked for a motion.

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

On a vote of 5-0, the Planning, Licenses, and Development recommends the City Council adopt the proposed amendments to the Rules of Order.

There being no further business, Chair Bosley adjourned the meeting at 9:21 PM.

Respectfully submitted by,
Britta Reida, Minute Taker

Additional Edits by,
Terri Hood, Assistant City Clerk