

**City of Keene**  
**New Hampshire**

**PLANNING, LICENSES AND DEVELOPMENT COMMITTEE**  
**MEETING MINUTES**

**Wednesday, July 22, 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

**Staff Present:**

Elizabeth A. Dragon, City Manager  
Thomas P. Mullins, City Attorney  
Rhett Lamb, Community Development  
Director  
Beth Fox, Finance Director  
Tara Kessler, Senior Planner  
Marti Fiske, Library Director  
Steven Russo, Police Chief  
Kürt Blomquist, Public Works Director

**Members Not Present:**

**George S. Hansel, Mayor**

Chair Bosley read a prepared statement explaining how the 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 called the meeting to order at 7:09 PM. Roll call was conducted.

**1) Ordinance O-2020-09: Relating to the Wearing of Face Coverings**

Chair Bosley stated that she has had several citizens reach out to her and express their opinions for and against an ordinance addressing face masks and expects to hear from several of them tonight. She continued that she will call on the Councilors who originally brought this issue before the City Council, and she also plans to recognize Dr. Don Caruso, the President of Cheshire Medical Center and our local public health expert. She asks that people keep their comments brief. Each person wishing to speak will be given a three-minute time limit to allow everyone a chance to speak. There will be no disrespectful comments allowed, whether aimed at opposing groups, City departments, City Council members, neighbors, or anyone else. There will be a 10-minute recess at 9:00 PM and the meeting will be adjourned at 10:00 PM. If necessary they will continue the comments at another meeting.

Chair Bosley asked Councilor Filiault, Councilor Clark, and Councilor Williams to speak. Councilor Filiault stated that he will give a brief synopsis of how they got here. He continued

that back in May he, Councilor Clark, and Councilor Williams sent a letter to the Mayor, asking that the City Council discuss a mask ordinance similar to the one recently approved in Nashua. Shortly after, Nashua's mask ordinance was challenged in the courts. He and Councilors Williams and Clark decided to withdraw their letter until that court case was resolved. Now that it has been resolved, the City Council can move forward with their own ordinance, which brings them here tonight. They are respectfully requesting that the City move forward with what they consider a public safety ordinance. It is not a political ordinance. They are not asking for anything unprecedented. Over half the country has mask ordinances, all in the name of public safety. They can look to the 25 to 30 states that have mask ordinances in place and find out that they are effective and can be enforced. Unfortunately, NH is not one of those states. Governor Sununu decided not to make a State mandate at this point, leaving cities and towns on their own to create their own ordinances. He continued that his position on this is well known, so he will not take up more time. He looks forward to people's comments.

Councilor Clark stated that he supports an ordinance requiring face coverings. He continued that we are fortunate to live in one of the country's least populated states, but we are getting into tourist season and will soon be descended upon by thousands of people from all over the country. Other states have been having recurring issues with this pandemic. For example, Stoddard has about 1,400 year-round residents, and it swells to more than 6,000 people in the summer. Keene is the central hub of the region. Tourists from all the towns in the Monadnock region will undoubtedly be visiting Keene's stores, restaurants, beaches, and leaf-peeping areas. It is important to take this measure to protect local people who have not been exposed to COVID-19. There is an ordinance they are modeling this after, from Nashua. He has a concern about the perception of the fine that would be imposed by this ordinance so he hopes to get direction about this, by getting information about the comparable fines for other endangerment violations, and how often that maximum fine is imposed. He read that the suggested motion is to place this on more time. He is not sure why they need that, since the Nashua ordinance is pretty clear and they have it here. He thinks what they are recommending on paper tonight is not much different from it. In Nashua it has been vetted by the courts. The PLD Committee should be able to make the needed changes tonight so that it can go to the next City Council meeting and not be put off until leaf-peeping season. They can hopefully get this passed in the month of August.

Councilor Williams stated that he does not have a lot to add because he knows they will be hearing from a lot of people. He continued that Keene has been fortunate to not have higher numbers and he gives credit to the good weather. In the south the summers are much hotter and people are staying inside for the air conditioning. Keene might get a similar effect in the fall when the cool weather makes us go inside, too. The mask ordinance can set the expectation for how people should behave while inside and the ordinance is important to keep everyone safe.

Chair Bosley stated that regarding Councilor Clark's point, Nashua has an ordinance. And Keene needs to look at what Keene should have as an ordinance. As a concept, Nashua has paved the way. But tonight the PLD Committee needs to listen to what the public has to say and look at what the committee feels the appropriate framework is to build an ordinance into. Next week is

the 5<sup>th</sup> week of the month so there is no City Council meeting. There is potential for additional time to be made up there.

Chair Bosley asked Dr. Caruso to speak. Dr. Don Caruso, CEO and President of Cheshire Medical, stated that he is also a family physician and has been practicing in this community for over 28 years, and he has a Master's degree in Public Health. The Master's in Public Health is an important piece of the knowledge he brings to the committee today. He continued that he wants to make clear: COVID-19 is not the flu on steroids. It is a new infection. Early in the pandemic, [the medical community] knew very little about it, and they know much more about it now. It is important that we use the tools we have to protect our community from this very infectious virus. COVID-19 kills in a very different way than the flu does, and it is not just people who are susceptible due to other health conditions. It kills by mechanisms that are different from the way diseases usually cause people to die, which is why young people die as well as old people. It is incredibly infectious. One person who has COVID-19 will rapidly infect three others in a short period of time. This is called the R0 value. Any R0 value above 1 is not good. The great news that in Keene the R0 value is about .95. We are not where we are by accident or because it is the summer, we are here because early on when the Governor said people need to stay at home, people in Keene and the surrounding communities did so, and wore masks, and did the right things. But COVID-19 is here. Cheshire Medical Center has a patient with COVID-19 receiving oxygen right now and five others under investigation. They need to keep the disease burden low so stores and schools can open and the economy can remain sustainable. He knows this is important to the City Council and it is important to Cheshire Medical Center, too. In the six weeks that Cheshire Medical Center went to emergencies only, it lost 24 million dollars in revenue and was only given half of that by the Federal Government's support. Cheshire Medical Center is in significant financial crisis, like local businesses and community partners are.

So, Dr. Caruso asked, why [have a mask ordinance] if the disease burden is low? In a few weeks Keene State College (KSC) will open. He and KSC President Melinda Treadwell have been talking regularly, and KSC will do everything they can when the students are on campus, to [have people wear] masks and do all the right things. The tools are limited: masks and social distancing are all we have. Even the drug Remdesivir has minimal effect on this disease. The most important thing is to keep people from getting it. When 4,000 students come back from places like NY, CT, RI, and MA, the disease burden will increase. There will be a considerable number of cases in the community. We need to keep that number low. The way to do that is with masking. Data and studies are clear that if 80% of the population is masked it will give the same result as a strict shutdown. He would rather have people wearing masks and protecting each other. People in Cheshire County are the oldest of any other county in the state. Those people are more at risk than the younger people who probably will get better, but not all of them will.

Dr. Caruso continued that his message tonight is: this disease is not influenza. It is not something most people are going to recover from. Even people who get it and recover have sequelae, or long term problems because of it. There are very simple methods we can use to

protect our community, and wearing masks is the most important. Trying to keep people 6 feet apart is really hard. Human nature is to get close to each other. Masks clearly have an impact and they can prove the outcomes. He continued that he will end with an anecdote: two hair stylists in TN were both COVID-19 positive. They both wore masks and both took care of about 100 people before realizing they were positive, and those people all wore masks, too. No one got COVID-19, because wearing masks works. Early on in the pandemic there was a question of whether or not wearing masks would work, and now it is clear that it works and makes a difference. It is important to understand that we have few tools against this deadly virus, and masks are one of the few tools we have to give our community.

Councilor Greenwald stated that he is in favor of wearing a mask and he wears them, and anyone who is not wearing a mask in public gets the evil eye. He continued that he has a question for the City Attorney – can he clarify what the court had to say about Nashua’s ordinance, which is what Keene is sort of patterning after? He is aware of the concept of “home rule.” The State has neglected their responsibility to step in. So where is Keene?

The City Attorney replied that there is a bit of a misunderstanding with respect to what the court did and did not do with respect to the Nashua ordinance. He continued that it is important for the City Council and the public to understand the legal status. No court, not even the Nashua court, has made a final determination that the ordinance that was enacted in the City of Nashua is one the City of Nashua has the authority to do. There has been no final decision. Basically what happened in Nashua is the plaintiffs filed a motion for a preliminary injunction. It is an extraordinary relief, one that is not readily granted. The request is that the court hold the status quo until there is a final decision on the merits of whatever the complaint was. In this case, the complaint was that the City did not have the authority to enact this ordinance. What the court was required to do was make a determination at that preliminary stage whether or not there was a reasonable likelihood of success on the merits at the end of the process. That is a requirement for granting a preliminary injunction. If there is no reasonable success on the merits then the preliminary injunction will not be granted. That does not mean the ordinance at that point is otherwise under the authority of the City to execute. That will not happen until the court makes the final decision on the complaint.

He continued that something else to keep in mind is that it is not even the same judge that will consider that question. The case has been transferred to the Merrimack County Superior Court for any and all challenges to the Governor’s orders. Part of the action in Nashua included the challenge to the Governor’s authority. Ultimately, the Supreme Court might/probably will make a decision one way or the other. Having said all that, he is not suggesting the PLD Committee not go through this process. Clearly it is still an open question. The other thing the court did not do specifically was dissect the ordinance before it because it was not required to do that. It did not have to look at the language in the ordinance, but it did, in the motion it was considering, to make a determination of the reasonable likelihood of success. In the trial on the merits there is a good possibility that the court would dissect the language in the ordinance to make a determination on that as well, keeping in mind that there are two things going on: first, does the

City have the authority to do it? Second, if the City has the authority to do it, does the language of the statute that it crafted comply with the requirements of the law? This is potentially a criminal statute because its violation goes through the criminal court, and there are special rules for crafting a criminal ordinance. You have to be able to place everyone on notice about the requirements of the ordinance before you can enforce them. So there are questions with respect to the Nashua ordinance, and to what they presented to the City Council through the resolution that they morphed into the draft ordinance, as to whether or not the language in those documents is something the court would find clear enough to be able to warrant some sort of action for a violation. Those are still all on the table. But the PLD Committee can go forward, and he hopes they do, and they can come up with a result.

Councilor Greenwald stated that the concept of a mask is good. He continued that if it were up to him everyone would wear them. He has a number of questions. The ordinance as presented is extremely ambiguous/open to interpretation. They need to tighten it up. The obvious questions are: who would enforce this ordinance? He cannot imagine the KPD would step up. He hopes the Chair asks the KPD for their thoughts. The KPD cannot even keep bicycles off the sidewalks and now they want them to be the mask police? And what about penalties? Ultimately the committee needs input from the public. That is the big value of tonight's meeting. He would have preferred a more formal public hearing, but he gets it. Our little bubble is about to be invaded by the KSC world coming back and they need to have something in place. It is very important to be unambiguous. The City Attorney is the one who will draft whatever it is the committee votes on. He cannot imagine voting on it tonight. He understands and agrees with Councilor Clark about the urgency but it needs to be clear, and what Nashua put together was very loose. He continued that he is reminded of a phrase a friend said: "Act in haste, repent in leisure." They must get it right. During his time on the Council he cannot remember any time when they had discussion on any issue that impacted the behavior of the public as much as this does. They cannot rush into it and think they will get it right on the first swing. Tonight they can get input from the public, and raise questions, and maybe set up a multiple choice for the City Attorney to put before them. The PLD Committee has the opportunity to meet next week, since it is a 5<sup>th</sup> week, to put something together that is sound and makes sense. It would be ready for the first City Council meeting in August and that is when they will vote in favor or not in favor. He thinks the people not in favor need to be heard. He understands the health reasons, and the counterarguments. The committee will hear a wide range of opinions tonight. Chair Bosley is doing a great job.

Chair Bosley stated that she, through this whole pandemic, has experienced multiple governmental knee-jerk reactions. She continued that some affected her company disastrously. That is one of the reasons she is so keen on going through this process and not just having a knee-jerk reaction. It is why it is important to craft something that makes sense for our community specifically, so they are not just taking something a different community has done and stamping "Keene" on the top of it. They have to be thoughtful. She hopes the committee can take some of the feedback they get this evening and work toward that end.

Councilor Workman stated that she is wholeheartedly in support of wearing face masks. She continued that she wears one when she is in public and cannot social distance. She had some questions about “Why now?” and thanks Dr. Caruso for answering those questions about why [masks are recommended] now but were not a few months ago. She also wants to thank everyone who has reached out via email or phone to express their opinions. She has heard from a lot of people from the public and she thanks them. She wants to make sure that if the City Council goes ahead with this ordinance the recommendations are enforceable and the language is strong and it is not just a feel good measure to say “Look, we’ve done something.”

Councilor Johnsen stated that she is happy to hear from Dr. Caruso and thanks him. She continued that she wants to be clear: are they talking tonight about a resolution or an ordinance? Chair Bosley replied that they are talking about an ordinance. She continued that at their last City Council meeting there was a vote to take the resolution the City Council passed, which is in effect, and label it with an ordinance number and present it to the City Council as an ordinance. The PLD Committee will review it now on its merit as an ordinance.

Councilor Johnsen stated that someone asked her a question: if the ordinance is passed, will it apply to every business? Will people going to the movies, going to play poker, or going to some other activity, have to wear a mask? Chair Bosley replied she understands, and she has gotten a lot of those questions, too - people asking about all kinds of scenarios, wanting to know if they would be required to wear a mask. She continued that the ordinance as written now is vague and all-encompassing. It does not leave a lot of opportunities for people to understand clearly what would be expected of them. The committee’s job is to listen to comments tonight and talk again about what they want to see in an amended ordinance. The committee will come up with ideas, such as limiting mask-wearing to retail businesses, or businesses that invite the public inside, or to require masks both indoors and outdoors, or just outdoors, or to identify places that would not require masks, or require masks in all businesses. They need to go through it.

Chair Bosley asked if the committee members had more questions or comments. Hearing none, she asked for questions or comments from members of the public.

Melinda Treadwell, Keene State College President, of 229 Main Street, stated that she is also Co-Chair of the University System of NH’s Coordinating Committee, which is creating a coordinated effort regarding the reopening of colleges and universities. She continued that in her role of President of KSC she takes very seriously her responsibility to preserve the safety of the faculty, staff, and students. Equally important to her is ensuring that the campus does not present a risk to the broader Keene community or Cheshire County. As Dr. Caruso said, they have been working together for the past five months, very actively, on the reopening plan for the university system. For KSC specifically they have been working with infectious disease experts and epidemiologists to develop the best evidence-based plan they can, with regard to ways they can protect people’s safety and well-being and consider opening the college in a way that would be safe and have early methods by which they could identify early outbreaks.

She continued that she is here tonight to underscore the importance of cloth face coverings. They are an important element of infection prevention. What is known about COVID-19 at this point is the primary pathway of infection is airborne droplet transfer, which occurs when individuals are within 6 feet of each other for 10 minutes or more. As Dr. Caruso stated, the use of cloth face coverings is essential when a person is symptomatic but does not know it, or asymptomatic but carrying the virus. Masks are an essential element of preventing transmission of the virus, and an important part of KSC's plan. KSC's reopening plan will require cloth face masks at all times inside and out on the campus, combined with very aggressive testing and surveillance of COVID-19 status. They will require 6 feet of separation.

President Treadwell stated that the reason this ordinance is so important is: although KSC [leadership] is standing up and requiring a number of responsibilities of students and and engaging actively with the students, normalcy between students' experience on and off campus is very important. A consistency in expectation and recognition by the City through the adoption of something like a mask ordinance is essential in creating a shared sense of community and safety for the entire population. She strongly supports a mask ordinance and is happy to help in any way she can.

Gerhard Bedding, of 25 Ivy Drive, stated that what bothers him most is: actual health results from wearing masks for a long time are hardly looked at. He continued that they only look at how people can wear masks to prevent transmission of the virus. It is clear, especially for children, that mask-wearing can be detrimental. Sometimes adults wearing masks are in a role where they have to speak to the public and their voice comes through kind of muffled. There are a lot of elements in there that are bad for public health. That seems not to be looked at. There seems to be a one-sided view of this. They are not weighing all aspects of public health. He asks the committee to consider that more actively.

Chair Bosley asked if Dr. Caruso is still available, because she has some questions for him. Hearing no response, she continued with public comments.

Jonathan Gallup stated that he lives in Winchester and shops in Keene. He continued that his concern is: are we going to look into people who medically cannot wear masks? They cannot fine people who medically cannot wear them, like people who have been abused that mentally would suffer from wearing a mask, or people who have issues with oxygen and want to do their own shopping instead of having someone else do it for them. They should be able to go out in public without wearing a mask. What about letting the population build up a herd immunity? They cannot do that if they are wearing masks. Also, he keeps hearing that asymptomatic people are spreading the virus, which has been debunked by the World Health Organization (WHO). He also heard a concern about leaf-peepers. Most leaf-peepers are in cars or outside and that is nothing to worry about. Finally, why can't KSC make its own ordinance, or why can't stores make their own ordinances? The [City Council] is trying to control the public and it is not okay.

Tiffany Matthews, of 85 Nims Road, stated that she is a Public Health professional with a focus on school health, and a member of the NH Science and Public Health Task Force. She continued that they conducted a survey in the first two weeks of June, and she will email it to the City Council. A majority of Monadnock region residents say they are mask users. And the majority felt they could not consistently say they felt safe and comfortable shopping in Keene. She also wanted to share: someone talked about how to do enforcement. She wonders, how are shirts and shoes enforced in stores at this time? Perhaps that method is something that can be used for masks. She understands that the public is confused about what public health professionals have been saying about masks. Understanding science and public health and especially what Dr. Caruso had said, that this is a novel virus, so there is so much that people have been learning. [Public health professionals] have now learned so much more. They have learned that this virus is transmitted through aerosol droplets that can spread from one person to another. It is even more contagious than the respiratory droplets. There was a mask/PPE shortage in March and now there is an abundance, especially of cloth masks. Public health officials also now know that asymptomatic and presymptomatic spread is real. They also know there is a delay in test results right now, of about 6 to 10 days in NH, and some of those tests are being sent to Concord and also sent to NJ because of the backlog in Concord. Business owners and staff in the beginning were being harassed for requiring masks in their stores. The Governor and the Mayor said “We really hope people do the right thing and follow the guidance of the business owners,” but when people were trying to require that they were getting into trouble. The public needs clear direction on COVID-19 safety precautions, and Keene needs to take a hard stance.

Councilor Greenwald stated that he wants to ask the public about some of the ambiguities he has thought of. Where should masks be worn? What is a “business”? Should masks be worn walking on the sidewalk downtown? What about construction workers on private property doing construction labor? What about restaurants? Should people wear masks going into the building, and sitting at the table? What about restaurant employees? The Council needs to tighten it up. What is a “worksite”? What is a “government building”? Would the Council try to tell the Post Office that everyone going into and out of the Post Office needs to wear a mask? The City Attorney will tell them they cannot tell the Federal Government what to do. What about apartment buildings? If you are walking down the hall, are you supposed to be wearing a mask? He is not saying yes or no, just raising the questions. What about walking down the rail trail? They need to get this very, very clear. Regarding the enforcement and penalties question, he wants to hear from the public. He has heard both sides. They need the ordinance to be clear because once the City Council passes the ordinance, it stays. He hopes to have a sunset clause to have this go away after a time period where they can revisit it and renew it if appropriate. There is no question that masks are important and useful, but there are also the negatives to consider and they need public input.

Chair Bosley thanked and agreed with Councilor Greenwald. She asked the public: are there situations or locations in which pro-maskers would feel okay not having masks? What about exercising outside or biking? Should kids outside wear masks? Should anyone outside wear a mask?



Councilor Clark replied that that question is easy to answer and they already have protocol of when to wear a mask: anytime you come within 6 feet of someone. It is as simple as that. Chair Bosley replied yes, that is how the ordinance is written. She continued that however, she has heard from many, many people who support an ordinance requiring the wearing of masks inside buildings but not outside in fresh air. They have to have an opinion about it.

John Michael Dumais, of 10 Foster Street, stated that he appreciates the committee considering the best interests of the people in Keene and he takes issue with the science. He continued that first, regarding Dr. Caruso's comments, we *have* seen hypoxemia like we are seeing here with SARS-CoV-2, with SARS 1. That was symptomology that was definitely seen. The WHO, until bowing to some kind of pressure, for years and years said on their website said: "There is no evidence that wearing a mask, whether medical or other types, by healthy persons in the wider community, including universal masking, can prevent infection with respiratory viruses, including COVID-19 and no evidence currently suggests that healthy people wearing any kind of mask in public will protect them from getting the virus." Anecdotes are not science. If you look at masking science from the past 20 years, with randomized control trials, not biased trials, you will not find a single one that supports mask-wearing by the larger community. There are other instances, like in a healthcare setting, but if you look at a regular medical mask, the aerosolized droplets will be coming out all over, because the air goes to the least pressure, which means at the top of your nose, the sides of your face, and the bottom of your chin. N95 masks are not filtered as you exhale. If you are sick, you are not helping anybody, except maybe yourself, in not getting further sick. A study of the asymptomatic SARS-CoV carriers, with a woman who came to Oregon, showed that 455 people were exposed to her and none got sick. The WHO says asymptomatic transmission is very rare. We can have fear all the time or we can have science, and he likes science. 82% of deaths in NH are in nursing homes. Why not call this "the nursing home virus"? Why make everyone else [wear masks]? It boggles the mind. For people 0 to 19 years old the death rate is 0.490%, nationwide. That is 55 for the entire United States. And 147 have died typically per year from regular influenza. He continued that hydroxychloroquine with zinc and azithromycin or inhaled steroids with zinc and other antibiotics are extraordinarily useful in treating COVID-19 with an up to 99% success rate and these have been suppressed. This is not a pandemic. This is a nursing home virus. The rest of us should go about our lives unless we are in the high risk group and have co-morbidities.

Rebecca Montrone, of 75 Winter Street, stated that she is the owner of Wondrous Roots and is a holistic healthcare practitioner. She continued that she agrees with Mr. Dumais and she can really talk about the science. What everyone is hearing here is very one-sided. She wants to tell the committee that they just do not even know. Her point is that business owners need to be able to set their own standards. Patrons can choose whether to work with a business or not. Her type of practice is a small shop that people come in and out of. She has clients who have health problems and none of them are COVID-19; they are cancer, Parkinsons, diabetes, and horrible things that happen to people all the time. As a practitioner, being able to see people's faces is a huge part of human interaction. It is vital. It is ridiculous for her to be forced to wear a mask

sitting at her desk with someone who wants to be there. She works with people through phone and video, too, and it is fine if her clients want to wear masks. But it is her right as a business owner. The City Council has to give people credit for common sense and knowing what is safe and what is not. If she even had a cold, she would cancel. This is an outrageous, monstrous overreach of government. What next? The original ordinance said “Public health officials have determined that it is possible for an infected individual to transmit certain diseases without exhibiting any symptoms and the best means of slowing a virus is [this, that, and that].” COVID-19 is like other things, germs and viruses happen and pass and pass and pass, but when does this end? There will always be something, like a flu, that someone can get. This is not okay. There will be no end. We will be living this way and it is ridiculous.

Ben Robertson, of 20 West Street, stated that he is also a business owner. He continued that he is very respectful to the businesses that request mask-wearing, like the Monadnock Food Co-op and others. He also believes business owners and customers need to be allowed to use their own judgment. He does not believe it reinforces a shared sense of community. In his mind it would be succumbing to mass hysteria and delusion. He has identified in medical literature since 2009, seven studies, including in the American Journal of Infection Control, Epidemiology and Infection, and Influenza and Other Respiratory Viruses, all of which indicate that wearing masks does not reduce the risks of contracting a verified illness. He continued that he also wants to cite the New England Journal of Medicine, which he knows has come out and stated somewhat differently to their previous work on this topic, but he thinks their previous work is quite relevant. They stated “Masks outside healthcare facilities offer little if any protection. They serve symbolic roles. A mask will not protect if not accompanied by hand hygiene, eye protection, gloves, and gowns.” There is a very rigorous protocol that allows us to prevent infection. The public will not follow that. According to the New England Journal of Medicine’s previous work, “Focusing on mask-wearing may lead to more not less transmission, because it diverts attention from very proven techniques such as hand-washing and gives a false sense of security.” He continued that therefore he believes that it is symbolic, unscientific, and risks making the situation worse instead of better. The Council should refrain from this ordinance.

Jessica from Winchester stated that she has grown up in and around the Keene community for the majority of her life and she loves Keene. She continued that walking down Main Street and seeing people she knows and seeing new faces is amazing. Having those faces blocked off by masks, as someone said earlier, really impacts community. You cannot see someone’s whole face; you can only see the eyes. Often people are not happy about having to wear those masks. It is heartbreaking to see the community being broken down in this way. Also she agrees that science does not prove that masks stop the spread of COVID-19. The droplets come from when someone sneezes or coughs. If someone is asymptomatic or presymptomatic and not coughing, how are the droplets being spread? It is disheartening for her to watch this and see members of the community speaking out and to see the looks on the Council members’ faces looking like they just are not going to be moved. If a mask ordinance is passed in Keene she knows she and several others will stop going to Keene and stop shopping in Keene because this is an infringement of their rights as Americans and it is an overreach of the government.

Cheryl Maibusch stated that she lives in Spofford. She continued that regarding Councilor Greenwald's questions, one was, "What is a business?" She has a home-based business. No one can tell her what to do in her own home. The way she handles it is that if people come to her wearing a mask, she will put on a mask, too, to make them feel comfortable. If someone shows up without a mask, she is perfectly fine with that and prefers not to wear a mask, either. She gives people the choice of whether to wear a mask or not. She is completely against any sort of overarching policy to this. She agrees with Mr. Dumais, Ms. Montrone, and everyone who has talked about government overreach. Patrons should decide which businesses they want to frequent based on the protocol that the businesses themselves put into place. She continued that she thinks, although she is not any kind of medical professional, that mask-wearing is probably psychologically damaging to children. It is already damaging to be living through a pandemic like this, and to then have to personally affect your own face, in public, is not good for kids. She asked, why does it have to be a cloth mask? What about the paper ones? There is no reason to wear a mask outside, because it is fresh air. If the City Council does put an ordinance into place there had better be a sunset clause. Because like a previous person said, there will always be something. She does not believe it is government's role to infringe on the public like this.

Councilor Greenwald stated that his question of "What is a business?" gets into the fact that there are different types, such as retail, restaurants, and offices. He continued that there are offices that the public does not go to, manufacturing plants where the public does not go, and that is what he is reaching for. He is really looking for input from the public on this. The devil is in the details. They need to flesh out the details.

Chair Bosley replied that they have more public comment to listen to, but yes, definitely they need to get into the weeds when they deliberate. She continued that she is keeping notes on her questions and comments.

Varrin Swearingen, of 2 Starlight Drive, stated that he works in transportation in a non-medical setting, but it is safety-sensitive and he works a lot with risk management. He wears masks. He would like to not get into the science of it or the benefits of it but wants to focus on this being an ordinance with potential penalties for citizens and businesses. Science is clear that transmission is exceptionally low outdoors, so it does not make sense to mandate that on any level. The right purpose of government is to protect individuals' rights. Businesses are part of that. If businesses struggle with mask compliance the City could potentially be helpful in providing penalties for people who do not respect the business's property rights. However, if the ordinance requires the business to adopt a specific policy that violates the business's rights and/or those of the landowner, who presumably allows the businesses to set their own policies [he is opposed]. He is opposed to an ordinance that would provide one policy for the whole city. City buildings, he thinks, are well within the purview of the City Council so he does not object to the City setting a mask policy for its own spaces, like City Hall and the Police Department. Federal buildings would of course be outside of the jurisdiction of the City.

He continued that he echoes Councilor Greenwald's insistence on a sunset clause. That would be essential in any ordinance the City Council considers. He has some points of clarification: someone said test results are slow, and that is incorrect. There have been test results given within less than 24 hours, in Keene, in the last couple weeks. Regarding determining where such an ordinance might be applicable, Councilor Greenwald is asking good questions about what businesses are and under what circumstances this might apply. He suggests that rather than categorize businesses they think about who has the rights, and that is the property owners or operators of the businesses. They should be the ones setting the policies and the City could simply assist in providing whatever enforcement is necessary to uphold those rights.

Chair Bosley called on Peggy. Hearing no response and assuming Peggy was having connection difficulties, she called on the next person.

Joseph Mirzoeff, of 641 Park Ave., stated that he had questions for Dr. Caruso: If he had the choice of an employee with symptoms wearing a mask, or the employee being required to be asymptomatic, which is more important? He thinks Dr. Caruso would say the latter. He continued that when someone enters the hospital there is a person at the door taking their temperature and asking them about symptoms, and [business owners] should be doing that with employees, as well as wearing a mask if that is what someone wants to do. There are negatives to masks and positives to fresh air. People need fresh air and there is not fresh air in the mask. You should not be required to wear a mask outdoors. You should not be required to breathe your own exhaust. Another question for Dr. Caruso is: what do we know about the accuracy of the tests that Dr. Treadwell will be depending on? That is changing over time. He continued that wearing a mask for eight hours is a difficulty for employees. He does not see any reason why, say, grocery store clerks should have to do this. Why can't they have 15-minute breaks every few hours to get fresh air? That should be the City Council's policy. He agrees with the people who say that each business should have the right to determine the rules of entry to that business. It can be "Shirt, shoes, mask" if you want. He is 69 years old but will go to the grocery store that does not require a mask because he prefers it that way. His comments at the last PLD Committee meeting are in the meeting minutes, and he urges the committee to read that.

Michael Rigoli, of West Street, Swanzey, stated that he is the owner of Fritz in Keene. He continued that he has spoken with several City Council members. He has tried to educate about the opportunities out there so they can stay away from masks, because he agrees with Councilor Greenwald that this is a slippery slope. He interacts with several hundred people a day and can say that people do not know how to wear PPE. They are wearing masks with air valves, which is spewing stuff out of their mouth and violating the whole reason for having a mask. He does not know how a mask rule from the City could be enforced and how people would get educated about how to properly use them. Most people wearing masks have not read the CDC guidelines. It is just a slippery slope. There is a technology coming down the pipe that is not here yet, called Far UVC lighting. The FDA has had it for two years and has not yet approved it for use. It will deal with the virus and is passive and should be in every public building. He does not know how the City would enforce a mask rule. It just will not work. They talk about people coming for tourist season. Most people who come to Fritz on the weekends are from MA, RI, CT, NJ, and

other states and they come here because they do not have to “go through this stuff.” A mask ordinance would make them lose business in the downtown area.

Jared Goodell, of 39 Central Square #201 stated that regarding small businesses, the City and rightly so has many times helped small businesses grow. He continued that this is a time more than ever when that is needed. The City has a unique opportunity now to do so by not instituting this mandate. There are several national chains, like Walmart and Target that are instituting mask mandates. He encourages the Councilors to go and watch how many people are turned away at the door for not having masks and refuse to put on masks and just leave. Those people still need to buy products, and could buy products online, or they could go to local stores. They should go to local stores. This is an incredible opportunity to help local businesses. He himself was turned away at the door of big national chain and he went to a small store and got the supplies that he needed. Regarding the sunset issue, of course this needs to be sunset. The public has been told that eight weeks of everyone wearing masks is all that it will take, therefore, eight weeks should be the sunset period on the ordinance. He also wants to point out that in 2018, 17 people in Keene died of opioid overdoses. So far only two people in Cheshire County have died of COVID-19. One death is too many, of course. But are they going to ask a mass of people to change their lifestyle completely, to do things with their bodies against their will, because of the deaths of two people? The people in Keene have done it right and that is why the numbers are low. We do not need the government to interfere with people’s rights right now.

Chair Bosley again checked to see if Peggy was available. Hearing no response, she called on the next person.

Christopher Nelson, of 357 Water St., stated that he thanks the City Council for taking the time to listen to everyone’s concerns. He continued that the whole issue of masks is very difficult because it is a right for some people to say they do not want to wear them, but as a consumer and Keene resident many times he goes into a store and plans on making a big purchase and walks out if he does not see clerks and other people wearing masks. He planned on buying a whole house worth of floor coverings, saw an unmasked person in the store, and walked out. That Keene business lost thousands of dollars he would have spent. He is also a mental health professional, an educator working in the schools. There are many thoughts out there now, but the best thoughts from professionals are: wear a mask for the short time you spend in front of students and staff, and for the 20 minutes you are in a store, and you can take it off once you are away from people. The best minds across the country are saying it is not that invasive to wear a mask for the short period of time that you are within 6 feet of people. He went out to dinner at an outdoor facility and there were no other people around him, and the staff handled everything well; they cleaned the tables and wore masks and he felt comfortable. They need to look at all sides of this. There are reasons why NY, RI, MA, and NH have kept their numbers low. By wearing masks they can do that, and do it responsibly, and might be much better off overall.

Meg Henning of 93 South Lincoln Street stated that she is concerned because there is a lot of data indicating mask-wearing can be beneficial, particularly when thinking about high-risk

individuals. She continued that if someone chooses to not wear a mask, of course they have that choice, but she is concerned for people who have asthma, cancer, or some other health issue that puts them at high risk, and then they are exposed and vulnerable if someone is not wearing a mask and might have the virus but be asymptomatic. That is important to keep in mind. We have a large elderly population in Keene and a lot of kids and young people to consider, too.

Chair Bosley tried to get Peggy on the line again and was unsuccessful. She noted that Peggy did not seem to have audio, and gave the phone number again if Peggy or others wanted to try via phone if their computer audio was not working.

Councilor Ormerod stated that he encourages everyone to listen to the voices. He continued that he wants the Council to listen to the timing of the data that people are talking about. People are referencing data from 2009 and from well before COVID-19 happened, yet he heard Dr. Caruso say this is a different animal and he wants everyone to think about that and consider the more recent, relevant data. Something he has seen as a Councilor and a volunteer working with vulnerable populations is: vulnerable people are all around us, although they may not be the loudest voices, the angriest voices, the most insistent, or most articulate. It is incumbent on us to be purveyors of public health and to consider this as the public health crisis that it is. You do not know who is vulnerable, you do not know who could get seriously sick, and you do not know who could pass this on to others. Creating a clearly-defined mask ordinance based on the *recent* data is really important for the City Council to flesh out. It is the job of the government – they have a legislative and an executive branch - to enforce that, just like it is done in other places.

Carmen Trafton, of 5 Pender Court, stated that it is imperative that they pass some sort of mask ordinance to protect people. She continued that she wears a mask personally and professionally, and often finds herself in situations where because there is not a mask ordinance she is not able to protect herself. She implores the City Council to make it possible for her to stay protected in her own community that she loves. She wants to echo and praise the comments of Dr. Treadwell and Dr. Caruso, two prominent leaders in our community who are knowledgeable and well respected. Dr. Caruso is like the chief Public Health Officer of the community. If he is recommending a mask ordinance, that should be enough for any City Councilor. The research mentioned earlier is not up-to-date. She does not think many people who support masks are on this particular venue because it has taken so much time tonight to stay connected, but if you read the Facebook posts on the Keene Sentinel's Coronavirus page you will see there are lots of medically challenged people in the community who feel helpless. She has high blood pressure and her husband has diabetes, and their daughter could become an orphan, because she and her husband cannot protect themselves. She works with interns at KSC and applauds KSC for mandating masks so interns can come to the office where she is the Director of The Samaritans. The office is inside the Hannah Grimes Center, so the businesses would be affected by a mandate, but she is more concerned about protecting people in the hallways to and from the businesses. She also thinks signage would be really important. They could put signs at the entrances to Keene saying "There is a mask ordinance in effect until further notice." She thinks it should only be indoors when you cannot enforce 6 feet of distance, but not outside. Please

hear [medically-challenged/vulnerable people] and know that they need the City Council's help to be protected. She needs to be able to shop and get her pharmacy goods and feel very safe. It is not a matter of not wanting to support those businesses. She asked that the City Council please get this mask ordinance into effect as soon as possible. She and others are concerned about the tourists. There are businesses out there that are not in compliance, so she thinks this should be enforced like other ordinances.

Chair Bosley called on Gordon Matthews. There was no response/the response was not audible, so she moved on.

Peggy Schaufler of 15 Roxbury Street stated that she is a business owner and wants to thank Keene. She continued that they spend a lot of time working for business owners and trying to keep downtown open. A question that comes up is: "Why is it such a big deal? Why can't people just wear a mask?" She will answer that. She does not wear a mask. It is not a health issue. It is not about her rights. As she has studied history she is looking at Nazi Germany. We can go right down the list of: they declared a state of emergency, took away freedom of religion, started telling people what they had to do, put the Gestapo in place, and she could go on. They arrested people, cannot travel. This is the same thing, right down the line of what Nazi Germany did. This probably seems bizarre to you. But they also used ANTIFA in World War I. If she wears a mask it is the first step in giving her rights away and the rights of all Americans. She loves Americans and Keene. But if they pass the mask ordinance, as a business owner, she would go out of business. She would shut her doors. Because if she does not stand up now, then things are going to keep happening until we have no rights. We have to do something right now. We have to be 6 feet apart and take the masks off. We have been dehumanized from each other. No one has even dealt with all the censorship in media.

John Schmitt, of 31 Green Acres Road, stated that he agrees with all the comments from everyone who is against this silly ordinance, especially this last speaker. He continued that he will move out of Keene if the ordinance goes through. Keene is turning into a nanny state. Businesses will suffer. He will not shop anywhere in Keene. He will not go in the Co op anymore and he is a member there. Government should not be making these policies. Businesses will suffer, and tax revenue to Keene will suffer. We have the highest property taxes in the state. "This whole scandemic" is shutting the little businesses down. Monopolies like Amazon are making the money. Mandatory masks means people like him will not shop in small businesses in Keene. People who are for this ordinance are nuts. There are no studies that prove that a mask will prevent a viral infection. Viruses will go right through the mask. Masks are a joke and unhealthy. You can buy an oxygen meter to measure oxygen and CO2. Put your intake hose under your mask and you can see your oxygen content goes down below 20%. The CO2 level goes up. It is okay if you go in a store for a few minutes, but there are people working in there for eight hours a day. This is extremely unhealthy. The Governor of Georgia passed an Executive Order, and that is what he would like to see, outlawing mandatory masks in the state. That is what we need, not a nanny government. People should concentrate on their immune systems. Eat good food, take some supplements, and you don't have to worry about a little virus.

Mike Lucas from Park Ave. stated that he is on vacation on Cape Cod. He continued that he is favor of the mask ordinance. His comments are: 1) It is disturbing that it is left to Keene to figure this out and not handled at the State level. When you look around the country and assess the number of states now putting a mask ordinance in place, you will see the majority have done so. A lot of folks have commented on data and he will not spend a lot of time on that; we have organizations like the WHO and CDC that are experts in this field. We can choose to ignore the data and science but we do so at our own peril. All we have to look at are the ICU and death counts that continue to escalate. The virus has a lag time on those results and we would be ignorant to ignore the value of masks and social distancing and recognize that it is a temporary thing. Hopefully we would only have a mask ordinance and be social distancing for a matter of weeks or probably in the worst case they might see that into 2021 until there is a vaccine and therapeutics that help reduce the impact of COVID-19. For Keene to ignore the data and science, we would be well behind the curve and only inviting the types of results you have seen in GA, FL, and most of the southeast and southwest. Regarding business, it is vitally important that we have a vibrant business community and it is supported. Keene has a history of this. He has been traveling in a little camper so he can socially distance and he can report out from VT and MA and what he noticed in MA is that there is virtually 100% mask compliance by all visitors to the tourist towns and there is a vibrant local business occurring here. There is always a transition period but he sees no reason why we would not end up with a situation like that in Keene, given Keene's great support of local businesses.

Gordon Mathews, of 85 Nims Rd., stated that he echoes Dr. Caruso, Dr. Treadwell, and Meg Henning: let's think about the most vulnerable citizens in the populations in Keene and statewide. This is a once in a century pandemic and health crisis, and the City should step up, show some leadership, and pass this ordinance. [Wearing masks] is minimally inconvenient for folks and is in the best interest of the most vulnerable population.

Tejasinha Sivalingam, of 9 Pine Arden Dr., Ashland, stated that he opposes mask ordinances. He continued that the numbers are not demonstrating that there is a pandemic that warrants such a thing. Additionally, the ordinances that have been proposed oftentimes neglect religious exemptions. There are many reasons why people might seek to be exempt. He supports all of those reasons. Government should not be able to tell people what should go on or in their bodies. He urges the committee to please consider religious exemptions in whatever ordinance they might put through.

Gene Clerkin, of 135 Silent Way, stated that he is a health practitioner in town. He continued that part of the problem is that in the beginning we had numbers being projected that never came to fruition. We also had reports that people had COVID-19 and died, but not of COVID-19, although those were marked as COVID-19 deaths, so he is not sure we can trust the numbers on that. In our area the numbers do not warrant that. His real concern is, think about knee-jerk reactions. He has not heard much conversation about what impact masking has on the development of our children. We should think long and hard and not just take the party line on



this. He has young children and is very concerned about that. If we are concerned about a virus now, will this be the precedent from now on? Every time there is a virus, are we going to be a masked and distanced society? He thinks there are bigger implications here and they need to take a deeper look. He is against too much government overreach because it is a slippery slope and it can be the next thing in the name of the greater good and that is a dangerous place to go.

Sean O'Mara of 19 Martin St. stated that he hopes the committee can sort fact from fiction, both historical fiction and science fiction. He continued that people are likening mask-wearing to Nazi Germany, and that is a completely erroneous, false claim. He hopes the City Council is aware enough of history to throw that bogus claim in the dust bin. He hopes no one brings that claim up again because it is irresponsible. Our local government's first priority is to protect health. The City Council cannot decide public health policy based on the angry ranting of people throwing out ignorant and uninformed statements. People can throw a lot of opinions out here tonight, but he hopes the City Council is doing their own research and taking a look at the data nationwide and globally and listening to the public health experts, not feelings and hunches from people. Feelings and hunches do not make good public health policy. The WHO, the CDC, UCSF in California, BYU, and Stanford University have all published studies on the effectiveness of masks in limiting transmission. It is those kinds of studies that anyone who holds public trust needs to defer to. It would be irresponsible and immoral for us as a city to ignore the overwhelming consensus in the global public health community and instead go with a hunch or erroneous claims. He asks the Council to please follow the science and good public health policy.

Chair Bosley called for a break at 8:56 PM. She called the meeting back to order at 9:07 PM. She stated that it is time for the committee to discuss the way forward, and asked who would like to start the conversation.

Councilor Johnsen stated that she thinks she is the oldest PLD Committee member. She continued that her daughter and son-in-law are medical doctors. They were very concerned about her (Councilor Johnsen's) health when this all started. Her daughter has been doing all of her shopping for her, and her children are not ones to rely on fear. She is hearing a lot of fear tonight. She is not hearing rational thinking, except from a few voices, and that really concerns her. The City Council is comprised of 15 really smart people plus the Mayor and the City staff, and she is really proud to be a part of it. But many people are not getting good facts and they are worrying about things that mean they are not understanding that this is an epidemic. Her family lost someone to opioids. That was real, and some people did not think it was real. This [COVID-19] is real. Everyone knows people who are her age or older. It is important to think about them. She does not see the City Council as "big government" trying to run things; she sees them being, in this particular situation, a group of 20 or 25 people, including the wonderful doctors who spoke, who are really thinking about the community.

Chair Bosley asked Councilor Johnsen about her thoughts on the language in the ordinance. Does she want the mask ordinance affecting all citizens, or should children be exempt from a

certain age? Would she like it to be about inside and outside? Should it include every business or just businesses that accept the public in? Councilor Johnsen replied that she has heard that children 10 and under should not wear masks. She continued that when she went to Walmart the other day she had to wear a mask, and she was happy to see that, and to see everyone else wearing masks. She thinks the first step is to define “businesses” and the businesses they think would affect our community the most, like restaurants.

Councilor Workman stated that she has a list of things to start with: first, the language in the “recommendation” section. She continued that every instance of “encouraged” to wear a face mask should be stronger, if they are going from a resolution to an ordinance. It has to have more teeth to it. She thinks “encouraged” should be changed to “mandatory” or “must” wear masks. She thinks they should define businesses. Maybe businesses with fewer than five employees can opt out or be exempt from this. She is glad to see there is not a financial or criminal penalty in the ordinance but it does need to have more teeth than the resolution so she would propose something in lieu of a fine. They have to come up with a way to identify violators, but maybe violators would have to do volunteer work with Green Up Keene. That is a socially-distanced activity and a way to give back to the community without having a financial burden or criminal aspect. Again there is the question of who will enforce this. She does not like the idea of having the KPD enforce it. They are trying to hold back on the KPD’s responsibilities. They have expressed that they have a lot of overtime and their Officers are burdened with a lot of other responsibilities beyond their scope. Regarding Code Enforcement, if they are talking about individual violators, how do they identify those people? They might not know who they are walking down the street, so she does not understand how Code Enforcement could enforce anything other than the businesses themselves.

Councilor Jones stated that he has been an independent manufacturer’s representative for several years, and many of the companies he represented were manufacturers of disinfectants, sanitizers, and PPE equipment. He continued that he teaches infection control, not from a medical point of view but from a facility care point of view. His courses give continuing education units from the National Sanitary Supply Association or the International Executive Housekeeper’s Association. He does have knowledge about this topic. When manufactures want you to talk to the infection control team, he is the one they send. He helps develop infection control plans for colleges and so on. He understands a lot of this. COVID-19 is what is called a “spittle catch.” It is liquids coming from your nasal passages and your mouth, while you are talking, singing, sneezing, or coughing, and that is why they have the 6 foot rule. Masks are the greatest thing to stop this. The University of Washington just came out with a report: they have a mask law, and the virus spread dropped by 35%. There is science out there that tells you that masks do the job. If they were voting on the ordinance before them tonight he would vote no, because it does not have enough bite to it. It does need some kind of policing policy, otherwise it is just a piece of paper. If the Police will not enforce it, then who will? They need to know the actual jurisdictions they have the ability to cover and where they do not. There are certain places where masks have to be used. For example, his wife and an associate, both wearing masks, got into an elevator and three other people got on without masks, so his wife and her associate were protecting those three

people, but those three people without masks were not protecting his wife and her associate. There are certain places where you have to have that. They also need a definition of “mask.” He saw one the other day that was mesh, like a scarf someone had knitted. That is not going to do it. He saw another mask with a hole so the person could smoke a cigarette. That defeats the purpose. The comment about N-95 masks tonight was half right: yes, sometimes they do come with an exhaust on them, and that is for people in the remediation business, like working with mold or asbestos. That mask is protecting them from breathing in and allows them to breathe out. There are two kinds of N-95 masks, one with the exhaust and one without. They need a mask with a veracity of 4 or 5 micrometers so they can protect others from the spittle. That is all they need to do.

He continued that he really wants to see this ordinance happen. He sees a lot of tactics going on in the community, people trying to make people feel better, but they are not doing it right. For example, one grocery store wipes down the belt that you put your food on between each customer but not with a spray that actually kills the virus, so they were creating a wet warm place for the virus to go and that actually encourages the virus. Those are things to be aware of. Gowns and gloves are unnecessary. The best thing you can do is wash your hands, use hand sanitizer, and wear masks. Councilor Filiault was right that this should be a state issue, not Keene’s issue. Last week there was an issue before the Saratoga Springs, NY’s City Council and they meet in person with physical distancing and they have the police physically remove people from the meetings. So it is an issue that is all around us. He would love to see a sunset clause in the ordinance. They can always redo the ordinance but they should let the people know there is a time it will end. Most importantly, there has got to be policing in the ordinance, otherwise it is just a piece of paper and he does not know if he can vote for it.

Chair Bosley asked where Councilor Jones thinks masks should be mandatory. Indoors or outdoors, businesses that allow the public in, or all businesses? Councilor Jones replied that he would turn that around and ask what kinds of places the City has jurisdiction over. He is not sure he could make a list. But places with public elevators would be on his list.

Councilor Greenwald stated that he sees the City Attorney taking notes; ultimately he will have to do his magic to take the writing out of Nashua that is very vague and turn it into something that is understandable. He continued that he thinks the enforcement is going to be peer pressure and doing the right thing. That is how he has felt all the way through. He sees 90% of people in Home Depot wearing masks, and the people who are not go in with an attitude and will not wear a mask. Ultimately it would be up to Home Depot to say they cannot come in without a mask. It is private property. Someone brought up the question of whether they will go into a manufacturing plant and say that if workers are not 6 feet apart they need to wear masks, just the same as in an office setting, and this is what they are going to have to put together. Some version of an ordinance will come forth from the City Attorney and the committee will discuss the options and they can make some changes, and then it comes down to voting. Eight votes will make this either happen or not. Right now they have a very aspirational, mutated resolution. They should change the “encourage” and “should” to “shall,” but without the hard definitions it

is wishy-washy. He thinks they should put this on more time so the City Attorney can give his wisdom in turning this into an ordinance. He cannot wait to come back next week to work on something.

Chair Bosley stated that she has a list of items to bring up for the committee to consider. She wrote lots of notes. She is sorry that Dr. Caruso is no longer present because she has a list of questions. She does not think they can get to a place tonight to vote to move something forward. Some things to consider: she has listened to some data suggesting children ages 10 and under should not be wearing masks regularly. She has not seen any research on the long term effects of wearing masks, like someone brought up. That would be an interesting question for public health officials. She wears masks and her children wear masks if they are with her, but they are in the store for a few minutes. Is there data showing long-term mask wearing has negative effects? She had not heard that there is a backlog on testing, so she would ask that question. She would like to see a sunset clause.

She continued that she also would like them to consider leaving the definition of “mask” open to interpretation and allow for face shields. She wonders if Councilor Jones has input on that. Some restaurants have employees wearing the plastic face shields. Or if employees are behind plastic plexiglass is that sufficient to offset the requirement of a mask? Councilor Jones replied that anything that will stop the splittle is fine. He continued that the plastic face shield is actually a hardened mask. Chair Bosley stated that the current language very clearly outlines what a mask is and calls it a “cloth face covering” and she would expand that to include “face shield.” Even City Hall has plastic barriers. They need to have some sort of way for the public to offer complaints and for there to be enforcement, and a way for there to be a medical exemption for something like anxiety and they will have to take people their word; HPPA prevents them from asking people to identify their medical issues. This is a wonderful town and people try to be considerate of others, so hopefully that is something that would not be abused.

She continued that she is a runner and runs on the Rail Trail. Would bicyclists and runners be required to wear masks, if they wanted the ordinance to apply to the outdoors? She would like to exempt the outdoors and focus on people in buildings. If the City Council wanted to look at having the mask mandate apply to people going in and out of enclosed spaces, they can do that. She wants to look at the difference between businesses that invite the public in and businesses that do not. If employees inside are working together and the public is not allowed in, are they exempt from the ordinance? She asked the committee what they think.

Councilor Jones stated that he agrees with the outdoors part, as long as there is physical spacing. People walking together in a clump is different from people running individually. Chair Bosley asked, what about a family group? If she is walking with her immediate family, would someone be able to call the Police and have them check their familial status? Those are the kinds of things she thinks about. Councilor Jones replied that that is a good question and he does not have an answer.

Councilor Filiault stated that he wants to give kudos to Chair Bosley for moderating this. He continued that as far as the outdoors, as long as people are six feet apart, he thinks it should be exempt. In the downtown area people might be clumped together and then you might require masks, but not when you are out for a walk or on the trails. A few businesses got a hold of him today and did not want to be on the air, saying they do favor this ordinance. They want the enforcement for their employees and their customers, but they do not want to be “the bad guy;” they want to be able to say “I’m sorry, you need a mask, but it’s that darn City Council that requires it.” They asked him to tell that to the City Council tonight. One business owner asked tonight who enforces this. Any restaurant has to enforce being 21 to drink alcohol, so it would not be difficult to tell people they have to wear masks and give customers masks. Dr. Fauci and Dr. Caruso are the medical experts. They heard the real science tonight. This is a once-in-a-century pandemic. There is no cure yet. Since the State is not going to back them on this, he favors a mask ordinance. He agrees that they can relax the restrictions for the outdoors. They can go down the list from A to H and do a little bit of tweaking. Some of the wording needs to be changed since it was originally a resolution.

Councilor Workman stated that she also runs and thinks the outdoor part is common sense. She has less of an issue with that as well. She always has her mask handy so she can put it on quickly if she is approaching someone. When she is on West Street approaching Main Street she does not wear a mask because there is no one within 6, 12, or 20 feet of her, but as soon as she turns the corner she puts on the mask because Main Street is more populated and the 6 foot distance would not be possible to maintain. When she, as part of the Keene Rebound committee, was visiting stores for a separate matter there were smaller businesses that had just one or two employees and no customers in the store and they did not have a mask on when she first opened the door but as soon as she entered they put their masks on. The City Council needs to have distinguishing characteristics for the businesses. Also, as a caller mentioned, they need to have a religious exemption as well. Regarding enforcement of businesses, it can be easily enforced. She is more concerned with the Joe Schmoe passing Joe Schmoe on the street. She does not want to see social media shaming or people trying to take video of strangers, or anything like that, and she is concerned about that. Even if they do pass this ordinance now they have the Keene Safe Program and a resolution in place. She would implore the City as a whole to do more public service announcements and projects to really promote those two. The State has also, this week, launched an aggressive education campaign: Don’t Go Viral. The City should promote and educate the public on that, too.

Councilor Johnsen stated that she has been involved with churches, which are meeting online. She had some personal business meetings with one or two people and they have all been online. She does not think the City Council will be considered such bad guys. They have the support and people who are already taking measures. What Councilor Workman said was thoughtful. People can help do this themselves, if they have a sign up outside. She was surprised when the employee at Walmart was telling people they could not go in the door without a mask, and that employee blamed the Governor. She thinks there is a lot of support for this. She encouraged the committee to read the comments on Facebook, because many people there were in support of the

mask ordinance. She has received many letters from people (with a 50/50 split for and against) and she is sure the other City Councilors have, too.

Councilor Clark stated that as far as where they will enforce this, there is a 6-foot rule. They have been told by science and medical experts that 6 feet is the safe distance, regardless of your age, religion, activity, or anything else. For all human beings the 6-foot rule should be enforced. If you are within 6 feet of someone in public you should wear a mask. That is very simple. It is not necessary to bring up all of these examples. Secondly, he has been on the Council for almost 11 years. He does not recall when they have ever been in the process of passing a new ordinance and asked “Who will enforce it?” That is a given. There is a system in place and that has been in place for many decades. When you add an ordinance, there are rules on who enforces it. In this case here, he does not know if it would be the KPD or the Health Department but there must be, somewhere in our caverns of information, who would enforce this ordinance. He thinks it is out of place to be holding this up because they do not know who will be enforcing it. They have never asked that question before. He thinks they are making this a little more difficult than it should be. It will only be a temporary ordinance, maybe for three or five months, but if they keep talking about it tourist season will be upon them and people from all over the world will come here, and they will be bringing things with them. Keene has been lucky, since it is a low populated city in a low populated state, but that will change soon and is starting to change. No one is immune to this, whether they are business owners that need to make money, or Episcopalians or Universalists or members of any other religion. If you are within 6 feet of someone who sneezes, you can get this virus. The City Council as elected officials need to do something to protect their citizenry. He thinks they should cut through all of this stuff and try and bring it down to the simplest equation that they can.

Councilor Johnsen asked if they can hear from the City Manager and the City Attorney because she is interested in their thoughts. Chair Bosley replied yes, but they have about 15 minutes left and she does not think they will get to a point tonight where they will vote to put this ordinance through the way it is written. She is proposing that on July 29 the PLD Committee meet again via Zoom to pick this up so they can continue this conversation and hopefully have something drafted that they can approve or recommend or not recommend to move forward to the next City Council meeting. She asked if the City Manager had comments.

The City Manager replied that tonight staff’s job was to listen and to hear the comments from the public and the City Council. They knew going into tonight’s meeting that the resolution that came forward was vague, because a resolution serves a different purpose than an ordinance. Tonight they got some good feedback and the City Council has asked some really good questions and she has a better understanding, but it is really the City Attorney that will work on the next draft that will come forward for the committee to consider.

The City Attorney stated that there are a couple things he would like to put into the mix: the court did, in its order, at least inform to some extent what it thought about the Nashua ordinance which is relevant to this discussion. A quote from the decision: “The ordinance does not prohibit

gatherings, nor does it regulate where people may assemble.” That is important. The City Council cannot put restrictions in public places about how people come together. There is a First Amendment right for people to assemble. They need to be careful with that. Another thing that seemed to inform the court about the ordinance was that it was primarily based on indoor spaces. The court talks about how “requiring individuals to cover their faces while indoors will help reduce the transmission of a highly contagious virus that is spread through the air.” The court went on to say “There is nothing in the ordinance requiring the use of face masks while speaking outdoors in outdoor public spaces.” It seemed to be important to the court that if you are in a public place outside, the ordinance was not regulating that kind of place. He is putting that out there because he has heard some of the discussion, from Councilor Clark, suggesting that if you have to be within 6 feet of people, even outside, the mask would be required. He is not sure how the court would react to that, based on the language put in the ordinance. It seems to be important to them that Nashua’s ordinance was primarily dealing with indoor spaces. He needs direction from the committee because those are very different things, on where they want to go on that, given what the court has said with respect to those issues.

Chair Bosley stated that she completely agrees with that synopsis. She continued that they should be excluding the outdoor space and should only look at the indoor space. She is not sure if anyone on the committee differs on that opinion. There could be some sort of compromise to what Councilor Clark is suggesting that affects businesses indoors, and personally, she would like to see it apply to those businesses that invite the public in and exempt businesses that have a locked door policy. She is not sure where the rest of the committee stands.

Councilor Workman stated that she agrees about having the language be about indoor space. Maybe they could say they “suggest” wearing masks outdoors if people are closer than six feet to each other, if legally it would not be good to use strong language like “require.” Chair Bosley replied that they have a resolution that says that, so the ordinance could focus on indoor spaces. Councilor Workman agreed.

The City Manager stated that there was a lot of discussion tonight about enforcement, and the City will figure out the enforcement piece, but she is curious about penalties and what the committee thinks. She has heard different views tonight, from focusing on education and social norming, but typically with a violation of an ordinance there is a penalty, like for the noise ordinance. Is the committee interested in staff bringing forth a proposal for a fine?

Councilor Williams stated that he suggests, and his preference would be for the Police to be the enforcers, for a first-time violator to be given a warning, and subsequently a \$25 fine, and then if it happens again, a \$50 fine. He does not want it to be a serious burden. If someone is a serial scofflaw and is causing problems, yes, it should cost them money, but for someone who just made a mistake or had a bad day, they could get a warning and some education and they would learn and not make the mistake next time. After that it would be a \$25 fine.

Councilor Greenwald stated that he would like this to apply to manufacturing facilities, offices, and anywhere where workers cannot separate by six feet. It should apply to both small and large businesses, if they are doing this. He wants to get this ordinance tightened up and then the City Council can decide whether to vote yes or no on it, when it is all in one piece.

Councilor Filiault stated that regarding Councilor Williams' comments, the intent is not to be fining people and be the big, bad government; it is about education. Most people, if they accidentally have their mask down, will comply with it. He thinks the only time they will really run into a fine issue is when you get those belligerent people who defiantly go into a business without a mask. Hopefully they are few and far between. An ordinance in place allows business owners a little more teeth to say "No, you cannot come in here without a mask." Not everyone will be in agreement, as is evidenced from the comments tonight, but he thinks that for the enforcement part, allowing the business owners to say "No, that big, bad City Hall will not let you in" will be enough. If there is going to be a penalty, it needs to be small. The fine is not the intent here. The intent is public safety.

The City Attorney stated that Councilor Workman did raise a potential for the penalty that he needs to speak to. If a fine is going to be enforced it has to go through a summons into the Superior Court. The City does not have the authority to order community service. That is something the court can do but the City's opportunity is to have a fine category and that is it.

Councilor Greenwald made a motion for the Planning, Licenses, and Development Committee to place this item on more time to allow the City Attorney time to reflect on and include the comments made, and for the PLD Committee to take this up for further discussion next Wednesday. The motion was seconded by Councilor Workman.

Ben Robertson stated that he appreciated the idea of exemptions in regards to business size. He continued that he heard what people are saying about families. Coworkers and friends have become like family units during this period. He worked in the Hannah Grimes Center through June, without masking, and with handwashing and social distancing, no one got sick. That was practical and effective and a good model for how to work indoors with other people without getting ill. He is currently working in an office with people not exactly six feet apart and not wearing masks, but they are doing lots of handwashing. He does not spit on people and avoids people who spit on him, which is common sense. He would appreciate it if the City Council, in crafting this, realizes that people have good judgment and know how to protect their health and like to be left and respected in their judgment.

John Schmitt stated that in regards to who will enforce this, the KPD should not, because it is unconstitutional. If they do enforce this, and if it is criminal, you will never get a conviction with a jury trial because the people have enough sense to use jury nullification to overthrow this silly law. Regarding the studies, on the CDC site there are no studies saying that masks work.



The City Attorney stated that it is a violation-level offense, akin to a speeding ticket. He continued that juries are reserved for other types of offenses.

Rebecca Montrone stated that this is what she does; she does science. She continued that she cannot believe what is coming through from the City Council. It does not make any sense with the things she knows. “We” just had a study come out saying Glutathione deficiency was a major factor for COVID-19 serious consequences. Has the Council heard of Glutathione? She has been on it for years. This is a cytokine storm based on radiation and anti-oxidation and all this stuff and no one is talking about that. People say “Ohmygod, there are all these molecules of the virus and I’m going to breathe it in and it’s going to be horrible and I’m going to die” and that is not the truth. The message the Councilors are sending out tonight is ignorant. She continued that she is a scientist and knows a lot that the City Council does not.

Chair Bosley stated that what they are doing right now is trying to create a productive draft that can be discussed further. She continued that this will not be voted on tonight for approval. They are fleshing out what sort of document the Council would consider, and then it would need a majority vote to pass.

Sean O’Mara stated that after hearing what Ms. Montrone just said, he wants to say that what he has heard from the City Council is anything but ignorance. He applauds the conversation. He does not know where Ms. Montrone gets her science, but what she was talking about there was not science. Also, the person who was just talking about having different standards for different businesses that becomes a very problematic issue if the City tries to create different standards based on what people in individual businesses decide is right for them. It needs to be standard across the City in this ordinance. The idea of religious exemptions also concerns him. Palm Beach, FL, passed a mask ordinance and they noted that there are people using the religious exemptions left and right almost like a “Get out of jail free” card. It is happening on airlines, too – people are saying “Oh, [wearing a mask] is against my religion.” If anyone can verbally just say it is against their religion that wipes out the purpose of the ordinance if they can just throw that around. He does not know of any particular religion that a mask ordinance would violate, but that is something that would have to be carefully worded, if they are going to put a religious exemption in the ordinance, because it can be abused and people will take advantage of it. He thinks a fine of \$5, \$10, or \$20 is totally appropriate. Regarding people who says a mask law is “unconstitutional,” he does not think they know what they are talking about when it comes to Constitutional law and they do not understand the history of public health measures throughout our nation’s history. We have a long history of legislating things for public health reasons and he doubts anyone who says it is “unconstitutional” could give a definition of what they are talking about.

Joseph Mirzoeff stated that he wants to thank the City Council for doing this. He continued that he loved hearing from everyone and is glad everyone had the opportunity to speak. The City Council is being very conscientious, taking notes. He asked if the committee members have a basic count of how many people want an ordinance and how many do not. Chair Bosley replied

that she thinks she will have to watch all three hours. She continued that she has been keeping a list of everyone who spoke but has not been marking off which side each person was on. Councilor Johnsen replied that she has been keeping a list. She continued that people should also read the Facebook comments.

Christopher Nelson stated that one of the main reasons he decided to listen to the meeting tonight is because of the KSC students coming back. He continued that he has worked with young adults and children pretty much his entire life and knows that peer pressure and impulsivity can go a long way with many young people. The desire to be together and the desire to socialize and the desire to have fun can override good judgment sometimes. He is glad that the City Council is taking that under advisement, to limit some of the large groups that these students congregate in and having a way to enforce social distancing and masks is important for the City to take under consideration. He thanks the City Council for listening.

Chair Bosley called for a vote on the motion. It passed by unanimous vote.

Chair Bosley stated that the PLD Committee will meet again on Thursday, July 29, at 6:00 PM, to discuss a new draft. There being no further business, she adjourned the meeting at 10:11 PM.

Respectfully submitted by,  
Britta Reida, Minute Taker