

City of Keene
New Hampshire

PLANNING, LICENSES AND DEVELOPMENT COMMITTEE
MEETING MINUTES

Wednesday, March 24, 2021

7:00 PM

Remote Meeting via Zoom

Members Present:

Kate M. Bosley, Chair
Mitchell H. Greenwald, Vice Chair
Philip M. Jones
Gladys Johnsen (arrived at 7:05 PM)
Catherine Workman

Staff Present:

Elizabeth A. Dragon, City Manager
Thomas P. Mullins, City Attorney
Rhett Lamb, Community Development
Director/Assistant City Manager
Kurt Blomquist, Public Works Director
Andy Bohannon, Parks, Recreation, and
Facilities Director
Patricia Little, City Clerk
Med Kopczynski, Economic Development
Director

Members Not Present:

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 7:04 PM. Roll call was conducted.

1) Representative Joe Schapiro – Urging the City to Take a Position on HB 266

Chair Bosley stated that the PLD Committee had placed this item on more time so that they would have the City Manager and the City Attorney present to speak to it, and they are here tonight. Chair Bosley asked Representative Joe Schapiro to speak about his letter.

Rep. Schapiro thanked the committee for this opportunity to speak about HB 266. He continued that to begin, he apologizes for his shock two weeks ago when this hearing was delayed. He did find the email that had come a day or two before, and he apologizes for not being on top of that. Chair Bosley replied that no apology is necessary; the committee is just glad that the issue was not super time-sensitive and Rep. Schapiro was able to return tonight.

Rep. Schapiro stated that HB 266 establishes the New Hampshire Anti-Sanctuary Act. He continued that similar or identical legislation have been promoted around the country by an extreme, anti-immigrant group called FAIR – Federation of American Immigration Reform. Through the years, FAIR’s leaders have held views about the importance of maintaining an

American, white majority. They have been promoting this type of legislation and have gotten many bills like this passed in 11 or 12 states.

He continued that there are numerous reasons why HB 266 is bad for NH and specifically for Keene. NH cherishes the principal of local control. This Bill gives inordinate power to the State to dictate how local municipalities, counties, and local law enforcement agencies do their jobs. Taking cookie-cutter legislation promoted by national organizations seeks to ensure that only the most zealous cooperation with Federal immigration enforcement agencies will be allowed. In doing so, it strips local entities of self-determination. Where communities currently, through democratic processes (such as this very meeting), determine how their values will be translated into policy, this Bill would dictate such policies. For example, no local law enforcement or City or County could make a policy that even discouraged asking about immigration status, and there is a whole list of things which the City, County, and local law enforcement would not be allowed to do. Will every resident who comes into a City facility be questioned about their citizenship? Will every community member reporting a crime or being questioned as a witness by law enforcement be required to divulge their immigration status? If this Bill passes, there cannot be a policy that disallows that. This will have a corrosive effect on the level of trust between law enforcement and the people they serve. It will have a negative fiscal impact on local law enforcement agencies, whose limited budgets will be stretched by taking on the work of Federal immigration enforcement. It will create Constitutional conflicts, which are likely to lead to costly litigation. The Bill dictates that law enforcement must honor every civil detainer. This means seizing and holding individuals against their will without judicial review, which is clearly prohibited under the Fourth Amendment. The Keene City Attorney taught him that in 2017 when they did a Resolution, and it was the City Attorney who suggested that he bring this issue to the Mayor and the City Council to take a position on it.

Rep. Schapiro continued that finally, this Bill would not merely restrict local decision-making; it would actually criminalize local control by requiring the Attorney General's Office to investigate any alleged violations of this law and penalize local communities for a lack of compliance, making them ineligible for State funds. Legislation such as this is based on a series of falsehoods. Those who support such extreme, aggressive attempts to restrict immigration to our State would have us believe immigrants are dangerous, that they are criminals, that they will erode our communities, that they will take our jobs. To this he would ask: when was the last time you or a family member lost out on a job to an undocumented immigrant? HB 266, if enacted, would send the clear message to immigrants that they are not welcome here. It would slam the door in the face of individuals and families who seek the same thing that we all want: community, safety, opportunity to support ourselves, and a good education for our children. Not only do newcomers enrich our community culturally, they also create businesses and enhance our workforce. Finding workers, especially in the areas of agriculture, healthcare, and caring for the elderly, is a major challenge to our State. Do we really want to create an environment of hostility that discourages and repels people? By saying no to this Bill, the Committee has an opportunity to do more than defeat a flawed, constitutionally questionable piece of legislation.

They have the opportunity to say yes to a vibrant, inclusive, and welcoming New Hampshire, the State that truly lives up to its potential.

Rep. Schapiro continued that he asks the PLD Committee to encourage the whole City Council to take a stand opposed to this bill, and to have the Mayor and the City Council communicate that opposition to the Legislature and the Governor.

Chair Bosley asked if there were questions from committee members.

Councilor Jones stated that he has known Rep. Schapiro for about 30 years, and he has always respected and appreciated him. He continued that of course, he supports Rep. Schapiro's opposition to HB 266. This is a shining moment. Over the many years he has been on the City Council, many people have asked the City Council to support or oppose legislative items, and it has always come from either staff, another City Councilor, or a private entity. The City Council has never had a Representative come to them. He appreciates it. It is good hearing this 'right from the horse's mouth.' He supported the Resolution the City Council adopted in 2017 and he supports the opposition to HB 266.

Rep. Schapiro stated that he knows many people come before the City Council to request the City Council take a stand or support a Resolution, which may seem like idealistic ideas that are irrelevant to the nuts and bolts of City government, like keeping the roads working and enforcing the local laws. He continued that if they look at the big picture, HB 266 is a terrible Bill for NH. If they look at the immediate picture, he thinks this will have a direct effect on cities like Keene. If the Police has to start enforcing these things, which nothing in Federal law says they have to do, it will cost money. And it will erode trust between our local law enforcement and the people of the community. He thinks it has real, specific consequences for localities, and not just Keene. He hopes the Mayor will write a letter to the Governor in cooperation with the mayors of other cities. Rep. Schapiro noted the County would also be dramatically affected and Sheriff Rivera took a courageous stand and developed policies about immigration and these are the kinds of policies that are being targeted.

Chair Bosley thanked Rep. Schapiro for bringing this forward. She stated that several members of the PLD Committee are relatively new, and it was important to re-read that Resolution the City Council passed in 2017 and see how this Bill would go against what the previous City Council had wanted. She saw in Rep. Schapiro's letter that he also mentioned having representation to testify. She asked if he has given any thought as to who from the City he would like to see testify. Or is he looking for a letter?

Rep. Schapiro replied that when he wrote the letter, he thought it would happen in a few days. Now that he thinks about it, that was rather naïve, and things take time, and there has to be a process of going through a hearing. The first ship has sailed. This Bill has been voted out of committee, recommended ought to pass, on a purely Democrat-Republican majority, 10-9. The next step is for it to go to the full House to be voted on. There are meetings on April 7, 8, and 9.

He does not know if the wheels of City government will be in gear enough to have a decision made by then. He hopes so. The idea of testifying could still be relevant, if HB 266 passes the House and goes to the Senate, where it would have another hearing. That testimony could come from anyone in City government, but he thinks the City Attorney is very knowledgeable about this. He thinks a letter, sent by the Mayor to the Governor, that also gets communicated to House members or the Senate members, is more easily done. This could be done in time to communicate that opposition to the Senate, in the form of a letter to the Governor, saying that this would be bad for the City of Keene.

Chair Bosley stated that this will come out of the PLD Committee tonight and be voted on by the City Council on April 1.

Councilor Johnsen thanked Rep. Schapiro and stated that she appreciates the work he is doing. She continued that she knows there are some challenges going on in the House and she appreciates. She is glad to hear that someone could still speak to the Senate, and that is the beauty of this. Regarding Councilor Jones's comments, what happened when she was a Representative was that they used to meet with the mayor, and she thinks that is why it has not come through like this. She likes and appreciates that our Representative is here tonight. She hopes the Mayor is willing to support this. She thinks that if someone could go the Senate meeting, from her experience in the House, that that would be wonderful.

Rep. Schapiro stated that all testimony at the House and Senate is now remote, which makes it a little easier for people to testify. No one would have to travel to Concord.

Councilor Workman thanked Rep. Schapiro for coming to the PLD Committee tonight regarding this issue and why it is important to oppose it. She continued that she was a member of the Ad Hoc Racial Justice and Community Safety (AHRJCS) Committee, and that committee just put forth recommendations that will be coming forth in the future. Approval of HB 266 would definitely make those recommendations and vision much more difficult to see through.

Rep. Schapiro stated that in reference to what Councilor Johnsen said, about meeting with City staff about Bills at the beginning of the legislative session, they have done that, and he thinks the City Manager and the other City staff members have done a great job of bringing relevant Bills. He used to be very dismissive of Representatives he would talk to about certain Bills when they did not really know about those Bills, but it is a humbling experience to be in the House himself and have to keep track of a thousand Bills, including ones that are not in his committee. This may have come to him a little late to discuss it at their meetings with City staff.

Councilor Greenwald stated that he is extremely supportive of Rep. Schapiro's efforts, and as the sponsor of the 2017 Resolution, he is planning to have it read again, and he thinks they should do this periodically. The world just keeps changing, not necessarily in a good way, so we need to keep going back and back to: we do things right in Keene. We treat people as people, and that is not a political issue. That being said, he is curious about whether any of our local folks are

supportive of HB 266. It is discouraging to hear that the Bill was passed in committee. Are there any local people the City Council might want to contact, and try to change their minds?

Rep. Schapiro stated that he does not believe there are any Keene Representatives on that committee, and if there were, he does not think they would support the Bill. He continued that he could look further and see if there are any Cheshire County people on that committee and how they voted. But like he said, there are many, many issues now, unfortunately, that are strictly partisan votes and that was the way this was.

Councilor Johnsen stated that from her experience in listening to the Cheshire County Sheriff, she believes he would certainly be supportive of what Rep. Schapiro is asking. She continued that he might be someone for Rep. Schapiro to connect with, because he definitely does not want to have that control taken away. Rep. Schapiro replied that he and the Sheriff have communicated; he was hoping the Sheriff would be here tonight.

Chair Bosley asked for public comment.

Michele Chalice, of 25 Main St., stated that she wants to support Rep. Schapiro's request to oppose HB 266 for reasons that Keene is a humane community. She continued that it is her opinion that all Americans, except for Native Americans, are immigrants in this country. She appreciates what she is hearing tonight, and she hopes the City Council will be as welcoming to this idea as she has heard this evening.

Judith Reed of 20 Green Acres Rd. stated that she is an active member of the Keene Immigrant and Refugee Partnership, which was the organization that Rep. Schapiro represented in part when they brought forward the former statement that the City Council adopted a couple years ago. She continued that she is also a co-founder of Project Home, which has brought now five families and individuals into host homes in Keene. These people are asylum seekers, and not here illegally. They are legal residents while they are here pursuing their asylum cases and it is Project Home's aim to accompany them throughout their asylum cases to provide them a place to live and fulfill their basic needs. This Bill being proposed would throw cold water on both of these endeavors. The Keene Immigrant and Refugee Partnership's purpose is to help Keene continue to be and to be even more welcoming to all immigrants. It would also make life more difficult for anybody like an asylum seeker, who is here legally, but would be looked at askance and unfairly. There are such wonderful things going on in Keene. The outpouring of support for both these organizations has been heartening. This is a community that really cares about immigrants and cares about taking care of other human beings, and this legislation flies in the face of everything that she has seen Keene stand for. Thus, she appreciates Rep. Schapiro bringing this forward and the City Council's attention to it.

Nancy Kelley-Gillard of 72 Reservoir St. stated that she and her family are fortunate enough to have two lovely families in her neighborhood that they have gotten to know through Project Home. She continued that she is grateful for that, and she is grateful to live in Keene, and she

applauds Rep. Schapiro for bringing this to the attention of the City. She echoes what everyone else has said. She hopes they can all comment during the time they can do public comment at the hearings.

Chair Bosley asked if there were any further questions or comments from the public. Hearing none, she asked if committee members had any further questions for Rep. Schapiro.

Rep. Schapiro stated that he received a text from Amanda Toll, asking how she could speak at this meeting. Chair Bosley invited Amanda Toll to speak.

Amanda Elizabeth Toll stated that she represents Cheshire 16 alongside Rep. Schapiro at the NH Statehouse, which encompasses the City of Keene. She continued that she is here in opposition to HB 266 and to encourage the City Council to oppose it. By allowing NH law enforcement to initiate investigations into immigration status this Bill will essentially turn NH law enforcement officers into Federal immigration officers. This will have xenophobic and racist implications, as it will open the door to profiling immigrants and racial and ethnic minorities. She feels confident that the vast majority of Keene residents would oppose this Bill and she knows that the elected Cheshire County Sheriff opposes it. Keene citizens appreciate the cultural, economic, humanitarian, and educational contributions of our immigrant friends and neighbors. We do not want to increase profiling in our community. Rather, we want immigrants to feel welcome and safe here. This city is where Project Home, an organization that seeks to help asylum seekers, was founded. It is a city where people crowded into the Library on Thanksgiving 2017 to oppose family separations and to stand in solidarity with our immigrant communities. It is a city that had significant turnout to Black Lives Matter rallies in the wake of George Floyd's murder. She is proud to represent her constituents today by taking a stance against discrimination and she urges the PLD Committee to take a stance against this Bill as well.

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

Rep. Schapiro asked if this comes up at the City Council next week. Chair Bosley replied April 1. Rep. Schapiro asked, for his own edification, if there is opportunity for the public to speak at that meeting. Chair Bosley replied that tonight is the public's opportunity to weigh in. She continued that everyone from the City Council will have an opportunity to speak to their opinion regarding the PLD Committee's recommendation on the City Council floor, but they will not hear from the public then.

The City Attorney stated that he has a point of clarification. The City Council can have anyone it wants testify in connection with this Bill, but interestingly, the position of City Attorney is the only person in the City who requires direct authorization under the Code to appear before a legislative body on behalf of the City. Thus, if the PLD Committee is inclined to have him speak on this Bill that should be included in the motion.

Councilor Greenwald stated that that raises the question – is the City Attorney their first choice to speak? The City Attorney replied that from his perspective it does not have to be, but he just wanted the committee to know that if that was the case, they would have to authorize him. Chair Bosley asked for a conversation regarding who in the City the PLD Committee would like to see give testimony. Councilor Greenwald replied that he thinks the City Attorney is the right person, but he just wanted to put it out there. Chair Bosley replied that choosing the City Attorney sounds good to her. Councilor Jones stated that since the City Attorney is a charter officer, yes, the City Council can authorize him, but he does not think the City Council can authorize anyone else, such as the Police Chief – that would have to come from the City Manager. He continued that he thinks the City Council can only authorize the three charter employees. Chair Bosley asked if Councilor Jones is comfortable with the City Attorney being the one to give testimony.

Councilor Jones replied that he thinks the question is whether the City Attorney is comfortable. The City Attorney replied yes, he is happy to do it. He continued that as Rep. Schapiro and the others know, they spent a fair amount of time on this, and he had very serious issues back then with respect to the idea of a detainer outside a judicial process. It really does subject law enforcement members to Constitutional violation liability, and the City. This Bill basically opens that issue back up. That would certainly be one thing that, if the City Council wants him to go speak on this Bill, he will point out to the legislators. If you consider this particular Bill, which raises the Constitutional issue, in connection with the Bill that was out there to eliminate qualified immunity for public employees, most people think that is directed at law enforcement community it is basically directed at all municipal employees. If you pass a Bill that places Constitutional damages in play and a Bill that basically eliminates qualified immunity for public employees, you have a double whammy against people who work in the government with respect to the possibility of immigration violations. That includes not just the Police Department but our Social Services employees and everyone else, because if they violate Federal law by providing assistance to individuals in violation of Federal law they could be open to the damages, too. This Bill has significant ramifications to it.

Chair Bosley thanked the City Attorney for those comments and stated that at this point, she is convinced that he is the right one to testify on the City's behalf. Councilor Greenwald stated that the City Attorney certainly understands the issue and will represent the City very well.

Councilor Greenwald asked if it would make a difference to send the letter to all 400 or however many there are. Councilor Johnsen replied no. Rep. Schapiro replied that he does not know.

Chair Bosley asked if there were any further comments. Councilor Johnsen asked if the letter is coming from the Mayor or the City Council. Councilor Greenwald replied the Mayor on behalf of the City Council.

Councilor Greenwald made a motion, which was seconded by Councilor Jones.

On a vote of 5 -0, the Planning, Licenses, and Development Committee recommends sending a letter of opposition to House Bill 266 relative to the enforcement of immigration laws and the prohibition of sanctuary policies to the Keene Legislative Delegation, all State Senators, and the Governor, and that the City Attorney be authorized to speak and testify on the City Council's behalf.

2) Darren Humphrey – Request to Use City Property

Chair Bosley recognized Darren Humphrey and asked him to speak to his request. Mr. Humphrey's audio was not intelligible. After giving it a few more minutes and offering Mr. Humphrey technology advice, Chair Bosley stated that the PLD Committee will skip to item 3) now and return to item 2) afterwards, to see if Mr. Humphrey's technology issues have been resolved.

At 8:15 PM, Chair Bosley returned to this agenda item and asked to hear from Mr. Humphrey.

Mr. Humphrey stated that his request is to open up a patio outside of Trax Club this summer. Chair Bosley replied that she saw that in his request he had outlined a drawing, but she did not see dimensions on it. She asked if his intention was to have a capacity of about 60 patrons. Mr. Humphrey replied roughly, give or take depending on COVID-19 restrictions. After COVID-19 it would be a little more. The space is about 1,200 square feet. Chair Bosley stated that she saw there is also a request relating to potentially having music and other entertainment outside. Mr. Humphrey replied yes, similar to Modest Man and what everyone else has been doing. Chair Bosley asked if there would be an area cordoned off or if that would be inside. Mr. Humphrey replied obviously inside the patio area. He does not believe he can use any other area.

Chair Bosley asked to hear from City staff. Andy Bohannon, Parks, Recreation, and Facilities Director, stated that he wants to give a brief history regarding Railroad Square and the use of this grassy area immediately adjacent to the Square. He continued that the Keene Property Owners' Association participated in and contributed to the improvements accepted by the City Council, now known as the brick pavers in Railroad Square, in the late 1980s and early 1990s. As a result of the direction from that action, the City Council has revised through the years versions of the new, now current Resolution R-2015-29, which is in the PLD Committee agenda packet tonight. This version clearly indicates in the continuation of the intent of Railroad Square that commercial activity was not encouraged and focused on the activities highlighted in the third "WHEREAS," which states: *"The types of activities that are permissible in Central Square Common and Railroad Square include educational events, community events, political activities, recreational events, and charitable solicitation."*

However, in the last revision, which was included in the packet tonight, the City provided the last "WHEREAS," which states *"The grassed-in area immediately abutting the pavers in Railroad Square may be used for commercial activity under the provisions of the Sidewalk Café License, with the condition that any tables and chairs be removed when Railroad Square is*

utilized by any community event licensed by the City Council or any event scheduled through the Keene Parks, Recreation, and Facilities Department.”

Mr. Bohannon continued that before the PLD Committee tonight is a request for a general license to use City property. This type of license was meant for parking spaces, right-of-ways, but not parks. Because of this general license and the language in the license states “*including, but not limited to,*” they are trying to make something fit that does not belong. Staff does not support the use of the space for this purpose. Future development of the area is beneficial for the City to determine its best use, and perhaps those conversations happen at higher levels, such as the CIP development, now that the future of the Arts and Culture Corridor is uncertain. But for now, the staff needs more time, if the PLD Committee were to move forward tonight. Based on the letter of request and drawings before the committee tonight, staff needs to determine the capacity for the area. The applicant stated that he intends for 60 or more people to be there. How does that relate to Code related concerns related to the restroom capacity? The outside seating also contributes to the inside seating, and what does that allow for? There is a Code requirement related to that. The drawing also indicates a potential deck on City property. What would that deck entail? There are specific guidelines for that. The applicant also suggested the removal of a tree, which City staff would not support. The applicant suggests live entertainment and Staff would need further explanation of how that would impact that particular space. Based on the license, they want to make sure Mr. Humphrey understands that the limitations of time and that all activity would end by 8:30 PM. There is residential neighborhood surrounding Railroad Square. These limitations have come about because of the many complaints in the past related to noise in Railroad Square in general. Mr. Bohannon noted that staff will need to see a drawing drawn to scale. This site is adjacent to the bike path and there are setbacks to the bikepath that need to be retained. Staff will need to review the Federal grant that funded the bikepath to determine its impact on the request from Mr. Humphrey. In order to fully consider the request, Mr. Humphrey needs to provide additional resources that details his proposed use of the space.

Joe Byk of 37 Church St., also known as Carriage House, stated that the backside faces the small, green, triangle park on Railroad Square. He continued that he is giving input as a neighbor. Formerly, Scores was in this location and they had ‘head-banger music’ that rattled his windows and one of his neighbors had to wear earplugs. Scores went out of business and now it is Trax, and it is still really noisy. This is a residential neighborhood. He pays about \$8,000 in taxes and he is not a whiner, because there are dumpster trucks that come to the Monadnock Food Coop and Kilkenny’s at 5:00 AM, and they are not supposed to arrive until 6:00 AM, and that is not a big deal and he loves living here. But at 1:00 AM when the bar closes down, drunk people come out yelling at each other and swearing. The bottom line is this is a residential neighborhood. To increase noise and activity that this neighborhood experiences is premature. He suggests the City send an Officer to the area at 12:45 AM until 1:15 AM. People go from the bar to the Wells St. parking lot and yell and swear, every Saturday night. He continued that if the PLD Committee is inclined to grant the application, maybe they can give Mr. Humphrey a probationary, 30-day license. Chair Bosley stated that she hears what Mr. Byk

is saying and it sounds like he is concerned about the increase in the disturbance to the neighborhood by adding this outdoor space.

Stephen Bragdon of 51 Railroad St. stated that he is in the building to the left of the bar. He continued that when Scores was there it was an issue, and since the Trax Club has opened it is no better, and probably a little worse. Really what this is about is how well the bar releases its patrons. He would start by agreeing with Mr. Bohannon that they do not have enough specifics about what Mr. Humphrey intends. The space is a lot larger, he thinks, than what used to be there. Having 60 people outside at 9:00, 10:00, or 11:00 PM is a recipe for disaster. On the other hand, he likes to sit out and have a beer now and then. The real issue here is not what Mr. Humphrey is requesting, but how it is policed and what restrictions are placed on it. Mr. Bohannon brought up a lot of good points that have to be addressed before they even get to a point of allowing this. To compare the Trax Club to Scores, it seems to him that the crowd is rougher and the noise is louder.

Kürt Blomquist, Public Works Director/Emergency Management Director, stated that as Mr. Bohannon indicated, in many ways this is a unique space. He continued that it is a space that the Parks, Recreation, and Facilities Department manages for the activities that go on there, but it is the Public Works Department staff who maintains the space, both the brick paver area and the grass area. As part of downtown it is an area that the Department, particularly the Highway Division, takes great pride in. Trax will be his fourth user of the space. Previously, the space had about six tables, which was the maximum they were able to fit in. As Mr. Bohannon indicated, staff would not be recommending removal of the tree. It provides shade for that area. One of the unique challenges of Railroad Square is it was originally designed back in the 1980s for all the water to flow from Main St. to the green space; that is what makes sense as natural storm water retention area. Unfortunately, that green space is where the previous occupants of what is now Trax is [used]. The other issue is that when that was originally built there were no accesses from that building onto that space. Those accesses have been created over time. It really was not designed, originally, to support that kind of access.

Mr. Blomquist continued that one of the other issues is the use of space. They have tried to place conditions on it, such that the petitioner needs to return the space back to as close to what it was previously, which is very difficult. You probably have seen, walking down Main St., these places where there are sidewalk cafes and someone is utilizing the grass area and it wears out. Even the construction of a deck is going to change that space. It will kill the grass and vegetation that is currently there. Also, the City has incurred additional cost. Unfortunately, the last business owner left and the Public Works Department had to go in and clean out the items that he had constructed to separate his space from the general public area. Those are things he hopes the City Council keeps in mind as they are considering this particular request. He knows it may not feel equitable, because the businesses that front on Main St. have some opportunity just because of the configuration of the space. But again, many businesses will complain all around Main St. that they cannot do it out front because they have the median, and so on and so forth. Unfortunately, it is just the way the space is configured. As Mr. Bohannon has indicated, this is

a space that they have been recommending for years to have some additional work done, particularly design work, to make it compatible with being able to create outdoor dining or outdoor activities such as this, that is more destructive than the traditional concerts.

Councilor Greenwald stated that going back in time, Railroad Tavern was there, and the firm answer when the proprietor asked about outdoor seating was “No how, no way.” He continued that they did move forward with the other operations that were there, and what he is hearing is it was not a roaring success. He does not think it was overly terrible, but the noise level needs to be controlled, as people have said. It is an issue that needs to be watched. He does not want the current petitioner to be stigmatized because of previous people who were there. The City Council is encouraging outdoor dining, and made accommodations for Modest Man and food trucks. He is all in favor of being optimistic. That being said, no how, no way is he going to support that tree being cut. He also wants to know from someone who knows these things, how close can you walk around a tree before you kill it? He wants to be aware of protecting the perimeter. Sixty people outside is way more than he is comfortable with. He does want to allow something, but he needs to see a real site plan, not just this little sketch. He needs to see something bigger that shows the street, the Co op, and so on and so forth, and gives a sense of the entire area so they can really work with it.

Councilor Greenwald continued that finally, he is trying to make this happen, to give Mr. Humphrey a chance for his business. He wants to make whatever permission the City Council grants very, very conditional, such as a 30- or 60-day license. Certainly not a license renewing in perpetuity. If it cannot be maintained properly, then it should not be there. They need to protect the residents in the surrounding area. The other restaurants and bars manage to keep their sidewalk activity under control. He has not counted the bars on Main St. but it is a pretty staggering number. He thinks they can work with it, but they need some real detail, and he certainly would not be comfortable voting for anything other than more time this evening.

Chair Bosley stated that she seconds everything Councilor Greenwald just said. She continued that she agrees that the tree is non-starter for her; they need to keep the tree. She also needs to have a real sense of what is going out there. Sixty people feels like an entire restaurant that would be seated outside, and if these are mingling, standing, drinking patrons, she would have concerns about disturbance in that residential area and they need to have some sort of indication of what the management plan would be and how it would be adhered to in order to keep the disturbance out of the neighborhood. She would like to see something potentially be able to happen here, but it needs a lot more refining and a lot more work and guidance from the City.

Councilor Greenwald asked if the establishment is currently open. Mr. Humphrey replied that Trax has been open for a few weeks now on Thursday, Friday, and Saturday nights. He continued that they are trying to get back into business but it has not been easy. Chair Bosley replied that she understands; the City Council wants to see people coming back downtown and frequenting businesses there.

Mr. Humphrey stated that he is fine with everything they said; the tree does not have to go. He continued that he would like to have 1,000 people out there but he realizes that probably about 30 is better. He can give them a better plan. Regarding the comments from neighbors, he asks them to please come to him. He can quell the noise at night; that is not a big deal. No, he cannot control all of the people all of the time, but he can try. We were all young once. When people get alcohol in their systems, they get loud. It is not easy to quell a lot of people. It is anyone from 21 to 60 years old. They are all guilty. His plan is to have a nice restaurant outside, just like everyone else. He does not know how he will do a deck. That place needs something so the water does not become a problem, as staff has said. He does not know the best way to do it. In the past, they have put rocks down. Maybe he would lay a bed of rocks down and then build a slight, leveled deck raised up with cement blocks, or maybe a pallet deck. He needs to refine that a bit more.

Chair Bosley asked the City Manager if it would be appropriate for the staff to work with Mr. Humphrey to help him refine his plans as they do for event protocols. The City Manager replied yes, certainly they can do something with Mr. Humphrey. She continued that in fact, last year she and other City staff went out and did a site visit and they did provide some initial feedback at that time. This is the first plan staff has seen since that site visit, and they would be happy to have more conversations with him and help come up with a plan that is more acceptable to the City Council.

Rhett Lamb, Community Development Director/Assistant City Manager, stated that he reiterates what Mr. Bohannon said earlier with respect to Code. He continued that there are Building Codes, and perhaps Health Codes and Fire Codes that come into play for all of this. Thus, certainly while staff is willing to work with Mr. Humphrey on concepts and designs, limitations may be based on Code, especially if there is a suggestion that some sort of construction would take place.

Chair Bosley replied that she thinks that is even more reason for staff to work hand in hand with Mr. Humphrey so that there can some clarity as to which Codes need to be followed and how limitations in size of that outdoor patio might be based on, say, bathroom capacity or the interior capacity. All of those things need to get clarified so that Mr. Humphrey has an idea of what he can work with, and then see if there is a path forward together.

The City Manager stated that she would be concerned if the patio extended any further into the grassy area where there is irrigation because if you walk down there, you will see what has happened, from where the patio has been in the past. She continued that it is a much smaller space than what Mr. Humphrey was originally hoping for, because the City does have a concern about the irrigation system that is in that grassy area and would not want to expand any further than it has been in the past.

Councilor Johnsen stated that she really liked what Councilor Greenwald said. She continued that she would like to see something happen. It sounds like there have been some good

suggestions here, working together with the City Manager. She really supports folks who are trying to get back on their feet, and yet, she knows that that area unfortunately has some drug issues and if there is music, sometimes that perpetuates the sense of a noisy environment. Thus, there are pros and cons. She will support it as long as Mr. Humphrey and the City work together as recommended.

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

On a vote of 5 – 0, the Planning, Licenses, and Development Committee recommends placing this item on more time to allow Mr. Humphrey to submit a feasible plan for outdoor seating.

3) Request to Endorse Carbon Fee & Dividend – Energy and Climate Committee

Chair Bosley asked to hear from Mari Brunner, Planner, and Peter Hansel, Chair of the Energy and Climate Committee).

Peter Hansel stated that at the last ECC meeting a draft Resolution was presented to the ECC, which they debated. He continued that it called for an endorsement of the carbon fee and dividend legislation that is currently making its way through the Federal Congress. The ECC debated what the relevance to the ECC is and whether they should get involved and ask the City to get involved in something that is happening at the Federal level. This is a bipartisan effort that has been going on for years, and it basically puts a fee on carbon as it comes into our country or out of the ground. That money gets distributed back to residents of the country in terms of the dividend. It is not a tax that goes into the general fund of the country, but gets redistributed back to every household in the country.

Mr. Hansel continued that the ECC looked at their Sustainable Energy Plan and there are a few areas to which he thinks it is very relevant. Page 2.1 calls for the pathways to 100% renewable energy. Pathway #1 is to reduce energy use. Conservation is the first step in trying to accomplish any goals toward renewable energy. We need to use less energy so we can control the remainder that we are using in a more equitable manner. Pathway #2 is to generate and store renewable energy locally. The City has already taken a strong leadership role, beginning with the methane recycling and generation program out of the landfill, followed by solar installations on various City buildings and encouraging residents and businesses to install solar on their buildings through various incentives the City is offering, including a tax incentive. Those two pathways are things that we can control. We can reduce our own energy, and generate and store renewable energy locally.

He continued that pathway #3 is to switch remaining energy purchases to renewable sources. This is where things happen beyond the city's borders. Again, the City has taken a strong leadership role in the state by going forward with a community power program, which hopefully will get off the ground somewhat soon. Pathway #4 is to conduct ongoing advocacy and information sharing. Throughout this process, that will be critical in order to reduce barriers at

the State and Federal level and increase community buy-in. Whatever we do with our community power program has to do with things that happen outside of our own borders. We can try and buy renewable energy from brokers and hopefully the country will start to produce more renewable energies so that programs like Keene's can gradually move towards 100%.

Mr. Hansel continued that without advocacy, both at the State and Federal level, that will be a tough road to travel. One of the things that this Resolution would do is push our energy market toward renewable energy, by placing a fee on carbon. They will be encouraging all kinds of energy producers to switch to a non-carbon source of energy. They are seeing that start to happen. They know now that both wind and solar power generation is less expensive than alternatives that are out there, but there is a timeframe here that they cannot ignore. First of all, for our own use, we have to make these transitions within the next 10 to 30 years, and if we rely on just the energy market without any kind encouragement from the Federal government they might miss that target. This carbon fee and dividend sort of works into pathway #4.

The ECC is advocating for the State and Federal government to push more renewable energy. One thing that is not mentioned here is the equity side of it. The ECC wants energy to be available to all economic strata within the community. One thing that he is pretty sure of is that when these dividends get redistributed to residents the low- and middle-income users will actually see a higher percentage of that money returned than the higher economic strata. Thus, it is a way of distributing some resources back to the low- and middle-income residents.

Mr. Hansel continued that the ECC wants the City Council to pass this Resolution, endorse it, and then send a letter to the NH Governor, the President, and NH Senators and Congress people, to encourage them to endorse this pending legislation.

Ms. Brunner stated that there was a really good discussion at the ECC meeting and there were a number of attendees from the Clean Energy Team, which initially brought this forward to the committee and spoke about some of the reasons for this Resolution. The only thing she would add is that the ECC, when they voted to recommend that the City Council endorse carbon fee and dividend, also mentioned that they would like to include something in the Resolution that ties this back to the City's Sustainable Energy Plan.

Councilor Workman stated that she received a lot of email comments in support of this and she thanks them for that. She continued that she thinks this is important and she wants to recognize the staff and the ECC's work. It was admirable and respected, and she supports this.

Councilor Jones stated that the recommended motions give two options – one is for a letter and the other is for a Resolution. He asked Ms. Brunner and Mr. Hansel which is preferred. Chair Bosley asked if it should be both.

Ms. Brunner replied that if she recollects correctly, the request was to adopt a Resolution endorsing the legislation and then in addition, during the ECC meeting, the Clean Energy Team requested that the City also consider sending a letter. Thus, it would be both.

Councilor Greenwald stated that he assumes this is not very time-sensitive, because a letter can happen faster than a Resolution. He continued that someone can tell him if he is wrong. Secondly, regarding the Resolution in front of them, which the ECC wrote, he wants to know if the City Attorney has any thoughts on it.

Ms. Brunner stated that in answer to the second question, the Resolution was draft language submitted to the ECC by the Clean Energy Team, based off of a template Resolution that is out there that has been modified and adopted by various communities around the state. She continued that part of the ECC's motion was for it to be customized for Keene. There could be an opportunity to revise that language if the City Council desires. Regarding the first question, her understanding is that while this is not an urgent request, it is time-sensitive in that the Clean Energy Team hopes to meet with NH's Congressional delegation and wanted to have a letter from the City in hand to show that there is strong support. There are members of the Clean Energy Team here tonight who could speak to that.

Councilor Greenwald stated that his concern is that if they start revising this Resolution and then it comes back to the committee and has to go through the Resolution process, it might be summer by that point, and that would be contrary to what the ECC's intentions are. Personally, he would be happy if the City Attorney could review it, change it a bit, and then they could just pass it on. If it needs to be amended further, they could do that next Thursday. The City Attorney replied that that is fine.

Mr. Hansel stated that the ECC talked about that very point. He continued that they wondered whether it made sense to try and make some revisions at this late date, and his impression was it was not as important to add revisions as it was to get the Resolution through with the wording that exists. Ms. Brunner brought up a good point – a number of other communities around the state have already adopted or adapted this Resolution, including the City of Portsmouth. He thinks there are 27 or 28 communities, four or five in Cheshire County, that have already adopted this and others are in the process of bringing it before their communities. They hope the City of Keene will endorse this and show the leadership what Keene has been known for in the State.

Chair Bosley stated that she just pulled up a copy of the draft Resolution and it does feel like it is fairly precise and to the point and she thinks it probably will not require a lot of edits.

Chair Bosley asked if anyone on the committee had further questions for Ms. Brunner. Hearing none, she asked for public comment.

Suzanne Butcher of 44 Felt Rd. stated that she is a member of the Clean Energy Team and she really appreciates the PLD Committee's consideration of this. She continued that Mr. Hansel

made many of the points she was going to make. She wants to highlight that one of the guiding principles of the Sustainable Energy Plan is equity. The great majority of people would come out ahead with the carbon fee and dividend; that is why the package of the carbon fee and dividend is so good. 96% of people in the lowest economic quintile would get more in dividends than they would pay in increased costs, so it goes through the whole economy, rather than chasing this brand or that brand, this would provide a national and federal context as Mr. Hansel said, that would greatly facilitate Keene reaching its goals and implementing the Sustainable Energy Plan. Meanwhile, people in Keene would get checks, money directly in their pockets. It sounds like the PLD Committee understands and supports the proposal, which she appreciates. She does not think it matters whether it is a letter or Resolution. The point about putting something more specific about how it ties to the Sustainable Energy Plan would have been to help Councilors understand why it would be good for the City of Keene to take a position on this. Mr. Hansel expressed it well and it sounds like, from the comments the committee has made tonight that they do understand. Thus, she does not think it is necessary to revise it, unless the PLD Committee thinks that is advisable.

Larry Butcher of 44 Felt Rd. stated that he is calling in wearing his old hat as an International Economist with the State Department. He continued that he was there for 30 years. When both Jim Baker and George Schultz, the two most effective Secretaries of State he ever served under and also two of the most outstanding Secretaries of the Treasury, lead an effort on carbon cashback and they put together the proposal or help lead that effort, you know you are not being asked to do something radical. This is something fundamental. The proposal for carbon cashback has the support 3,500 US economists, which is as close to unanimity as you can get among economists, and support of leading policy makers across the political spectrum, 15 former chairs of the Council of Economic Advisors, the last four chairs of the Federal Reserve, Nobel Laureates, and so on and so forth. The key thing to note is that there are fundamental economics behind this effort. Mr. Hansel referred to it as well. The price mechanism is the guide for businesses in assessing their investments. Another thing to be aware of is: in supporting this, you are supporting the business community in Keene as well. Across the country, you will need massive investments to reorient the economy for efficiency, for production, to adapt to climate change. The glue that holds all of the various policies together is carbon pricing. That is the reason that the US Chamber of Commerce recently came out in support of carbon pricing, and the reason the Business Roundtable and the New England Power Generators Association are supporting it. Companies need predictability, which carbon pricing gives.

Nancy Kelley-Gillard of 72 Reservoir St. stated that she is a long-time Keene resident and is very proud of Keene's climate leadership. She continued that she is also a member of the Clean Energy Team and they did adapt this Resolution from templates that are used throughout the country. Carbon fee and dividend is a national policy that is consistent with Keene's approach to climate crisis, and Keene has been a strong leader in this area by becoming a member of the Cities for Climate Protection in 2000 and adopting a Climate Action Plan that committed us to greenhouse gas emission reduction goals in 2004. Then Keene incorporated the Climate Action and Adaptation Plan into the Comprehensive Master Plan. Keene supported the Paris Climate

Agreement goals in 2017. In 2019, Keene adopted the Sustainable Energy Resolution, which set these goals for transitioning to 100% clean energy. In January of this year they approved the Comprehensive Sustainable Energy Plan, and then they developed a draft Community Power Plan. That will enable Keene's citizens to purchase or use 100% renewable energy to meet their energy needs. Clearly, for a long time, Keene has shown its leadership and has also shown an acceptance of the challenge to reduce its greenhouse gas emissions, and is committed to working towards a clean energy future. Carbon fee and dividend legislation encourages these initiatives, and the leadership that the City of Keene has assumed in meeting the challenges of the climate crisis. As Mr. Hansel pointed out, it is necessary to advocate in order to accomplish the sustainable energy goals, at the State and Federal levels, so that it is tied together. As was mentioned, there are currently now 29 towns in NH and 6 in Cheshire County that have endorsed the carbon fee and dividend, and several other towns have it on their warrant article for springtime town meetings. There is also widespread support from cities across the country, with mayors communicating their cities' endorsement of this to President Biden and their Senators and Representatives. She hopes that the PLD Committee and the City Council will see this as relevant to Keene and a continuation of Keene's leadership in addressing the climate crisis.

Carolyn Jones of 14 Monadnock St. stated that she is a member of the Clean Energy Team. She continued that the Clean Energy Team had a community forum about carbon fee and dividend, which was co-sponsored by the Clean Energy Team, the Monadnock Sustainability Hub, the Greater Keene Chamber of Commerce, County of Cheshire, NH, Citizens Climate Lobby, and the City of Keene. They had 62 people sign up and 50 people attended. There were three panelists, including Joel Huberman, a volunteer for the Citizens Climate Lobby; Marge Shepardson, former State Representative and chair of the Marlboro, NH Energy Committee; and John Kondos, a local solar expert and teacher of an online program that shows the best way to reduce your carbon footprint. Carbon cashback seems to be the best way. It was a fruitful evening, and they had a lot of good questions from people and most of them were answered at that forum. The questions that they did not have time to answer got answered later in emails. They had a great TED talk, which she sent to the PLD Committee, given by Ted Halstead, who has since died in a hiking accident. He was very passionate about this. She feels that it is our duty to pass this on for him. The Clean Energy Team talked a lot with the County Commissioners and Chris Coates, County Administrator, produced a really good piece of work, a Resolution that he sent to all the elected individuals in Concord and Washington, D.C., including the President, Vice President, and our Senators and Congress people. The carbon cashback promises to be helpful in advancing Keene's goal for 100% clean energy and the goal of making things more equitable. She appreciates everything the City Council does for the city and she really hopes they pass this.

Chair Bosley asked if there were any further questions or comments from the public. Hearing none, she asked if there was anything else from the committee.

Councilor Jones asked for clarification on the recommended motion. He continued that it says "Move to recommend that the City Manager introduce a Resolution," and not "the" Resolution.

Does that mean that she would author her own Resolution? Or would they be introducing the Resolution that came from the ECC? The City Manager replied that they would be introducing the Resolution that came from the ECC. Chair Bosley stated that she would like to see these two motions put together, if the committee is comfortable with that.

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

On a vote of 5 – 0, the Planning, Licenses and Development Committee recommends the City Manager introduce a Resolution (patterned on the draft Resolution with minor comment and revisions from the City Attorney) that would endorse the Federal Carbon Fee and Dividend Legislation and that an accompanying letter be sent along to our Federal Delegation, the President, Governor, and Keene’s Legislative Delegation.

Chair Bosley asked if there were any questions. Ms. Butcher asked if it would be the Mayor sending a letter. She continued that she hopes it would be the Mayor and the City Council, on behalf of the City. Chair Bosley replied yes, it would be the Mayor on behalf of the City Council.

4) Relating to Proposed Congregate Living and Social Service License – Senior Planner

Chair Bosley asked to hear from Tara Kessler, Senior Planner.

Ms. Kessler stated that she is joined tonight by Med Kopczynski, Economic Development Director, and Rhett Lamb, Community Development Director. She continued that this is a continuation of a conversation that was started at the Joint Planning Board/Planning, Licenses, and Development Committee’s public workshop phase for the proposed Land Development Code. At that time, staff recommended that this proposed Congregate Living and Social Service License be separated from the proposed Land Development Code Ordinance, which was leaving the public workshop phase, for two reasons. One reason is staff had identified some concerns about the existing appeal process in Chapter 46 of the City Code, which is focused on licenses and permits. In addition, they also recognized that the amendments being made related to Congregate Living and Social Services Licenses were specific to Chapter 46, which is not proposed to be merged into the Land Development Code. It would remain its own chapter of the City Code, so they thought it was appropriate to separate the two, at least from an Ordinance standpoint. Tonight she will give an overview of some of what staff has been working on to update the language and the framework for this proposed license that they had started discussing with the PLD Committee through the Joint Committee public workshop phase. Ultimately, what they are looking for is feedback from the PLD Committee on this proposed framework and then some guidance/direction to submit an Ordinance to the City Council that would formalize these proposed amendments to Chapter 46 for a license.

Ms. Kessler stated that a handout was included in the agenda packet that has a lot in it, so she will not go through all of it, but it would be helpful to walk through some of the components of it. As a reminder, a number of the uses they are talking about are proposed uses to the City's Zoning Code, new uses that would be permitted if the Land Development Code were adopted. They include drug treatment clinic, fraternity and sorority, group home (either large or small), group resource center, homeless shelter, lodging house, residential care facility, and residential drug and alcohol treatment facility. They do have lodging house and group home as existing uses that occur today and lodging houses require an annual license through Chapter 46. With the proposed Land Development Code there are amendments proposed to the definitions of those uses and also the standards for which those uses would be allowed. Tonight's discussion is focused on an operating license. So for these uses, at least as proposed in the Land Development Code, any new uses would first require a Conditional Use Permit issued by the Planning Board to operate as a use. That would have its own review process and criteria. This license would be something that a business or entity that operates any of those uses would need to obtain, in an initial instance to operate the use, but also to renew each year thereafter. It is focused more on how that business and entity operates and functions, and not so much related to the ability of that use to operate on the site as granted by the Planning Board through a Conditional Use Permit. This license would apply to existing uses that operate today but might fall under a different category of Zoning Use in the Code, because these nine uses are not in existence today; but it would also apply to any future or new uses that would be proposed if the Land Development Code is adopted.

Ms. Kessler continued that if the Land Development Code is adopted, the City recognizes that there are a number of existing businesses that might fall into one of those use categories, and they would propose that those existing businesses be given at least a year of time to obtain a license, and then each year thereafter they would have to renew that license. Any new businesses that were to be proposed and fall within one of those categories of uses after the Land Development Code takes effect, if it is adopted, would need to obtain a license in order to operate their use. Existing businesses would have a grace period to pull together a license application and come before the City and new businesses would have to obtain their license in order to begin operation immediately.

She continued that staff is also proposing that there be a schedule in place for when licenses would need to be renewed each year. If you obtained an initial license in May for a group home, you would not have to renew that license until June of the next year if June is the date that they propose to be the schedule for all group home licenses to be renewed.

Ms. Kessler stated that regarding the question of who issues the license, this question is what staff raised initially as a concern with the existing language in Chapter 46. Currently there are three categories of licenses that are reviewed and approved by the City Council. Those include the lodging house license, street fair licenses, and community events. The issue staff raised is that the current appeal process for the City Council decisions on these licenses is to the City Manager, City Clerk, and Police Chief. There is a conflict there in that the City Clerk and City

Manager are Charter Officers and employees of the City Council, so staff wanted to create a fairer and more straightforward process for these licenses, which they expect to be higher in volume than what you typically see for lodging houses and street fairs and community events. They are proposing the creation of a Licensing Board that would be a public body, with members (potentially five) appointed by the City Council. The appeal entity to that board would be the City Council. Because of that, they are recommending that City Councilors not be part of the composition of the Licensing Board, nor staff that are in enforcement roles, such as Police, Fire, or Code, in that they may have a role in testifying on behalf of an application or providing a recommendation on an application. Staff thinks there should be some parameters for who could be a member of the Licensing Board and who would be qualified. Some thoughts around that are a certain number of citizens from the community, potentially a staff member from a non-enforcement role, or a member of the Planning Board. The Licensing Board meetings would be open to the public. All license applications would go to the board to be acted on either for their initial application or renewal, or any need to hold public hearings to address potential violations or questions about suspension or revocation of licenses. The Licensing Board would have a few options for how they would side on an application. Staff's goal was to try and provide more structure than there is today in Chapter 46, for this Licensing Board to have an understanding of how they act on these applications and what the criteria and parameters are for action on applications.

Ms. Kessler stated that regarding the process, in the first instance, if an entity that falls into one of those use categories and needs to either obtain an initial license or if they are seeking to renew a license, they would submit an application to the Community Development Department, and staff would review the materials and ensure that everything that is required for an application is present and that the application is complete. They would then send the application to other City departments for review. For instance, the Fire, Police, and Code Departments would review what types of inspections have been conducted on that property in the past year, and any known violations that are attributed to that property related to Police violations or Life Safety violations. Staff would prepare a report with a recommendation to the Licensing Board for their public hearing on the application. They have, staff is proposing, 30 days from the receipt of a complete application to when this Licensing Board would have to hold a public hearing. That public hearing would give an opportunity to members of the public to speak, although it is important to note that staff is not proposing that abutters be notified in advance or that a legal notice be posted for these meetings. They do want to make sure there is an opportunity built into that meeting for public testimony.

Ms. Kessler continued that the Licensing Board would have a few options for how they might act on an application, at least with reviewing an initial or renewal application. They could either approve, approve with conditions, deny, or continue a license hearing to another meeting. The appeal process staff is proposing would be that any party that is aggrieved, whether it is the license applicant or somebody else who might be affected by the decision of the Licensing Board, could appeal the decision to the City Council within 30 days. That is the basic outline.

She continued that she just addressed the process for an initial license application and the renewal license application. If at any point during the course of a year between when the license is issued or renewed it is brought to the attention of the Licensing Board that there are significant violations happening with respect to the terms of the license, or if there are any grounds for suspension or revocation, then the Licensing Board could hold a public hearing and review the violations that have been brought forth. Staff is proposing some criteria or guidance for that board and how they might act on a hearing related to violations. Those options would include either placing the applicant on a provisional license, which would give them the opportunity to continue to operate their use except under certain conditions, and that could license be for a shorter timeframe than the issuance of an annual license. For instance, if somebody was in violation of their management plan, which is a requirement of the application, the Licensing Board could say they will give the entity a month to show that they are getting back in compliance with their management plan and they can continue to operate but under certain conditions. Then the entity would have to come back to the Licensing Board and demonstrate that they met those conditions and that they are back in compliance. The other options would be, depending on the severity and/or frequency of the violation, the Licensing Board could choose to suspend the license for a period not to exceed a year, or they could revoke the license, which would be cessation of the use and the owner would no longer be able to operate, but that would be an extreme circumstance.

Finally, Ms. Kessler continued, there is the criteria the Licensing Board would use to make decisions or evaluate applications. When reviewing initial applications and applications for renewal of licenses, the Licensing Board would be looking to see whether the use is in compliance with their submitted operations management plan as well as in compliance with all local, State, and Federal codes and regulations, especially those related to building, fire, and life safety. That operations and management plan requires a fair amount of information, including security plan, life safety plan, staff training and procedures plan, health and safety plan, emergency response plan, neighborhood relations plan, and building and site maintenance procedures. Thus, the applicant would be including that plan in their application and then the Licensing Board would be evaluating or holding them to the plan that they have submitted, including all of those elements just mentioned.

Other factors they would use when reviewing and acting on a license application would be to make sure the character of the use does not produce noise, odors, glare, and/or vibration that adversely affects the surrounding area and that the use does not produce public health or safety concerns in connection with traffic, pedestrians, public infrastructure, and Police or Fire Department actions. The Licensing Board could issue conditions on the license at any point, even if it is an annual license or renewal license, but they should be related to the operation of the use.

Ms. Kessler continued that there are two other sets of criteria that staff put forth. None of this is actually included in the lodging house license process today, so they are trying to get this guidance but also clear criteria that could be used for both the Licensing Board and for the

applicants to know what decisions on licenses are being held against. There is a proposed list for grounds for suspension or revocation or placing a license on a provisional status. This list of criteria would be used to determine what would cause a license holder to be brought before the Licensing Board to determine whether or not their license should be suspended, revoked, or placed on a conditional or provisional status. Those include: fraud, misrepresentation or false statements contained in the application for the license or in the carrying out of the use for which the license is issued, substantial violations of Chapter 46, substantial violation of local Codes and safety regulations, any violation of a restriction or condition placed on the license, or if the licensee is determined to be routinely conducting the use in a manner that is a substantial or unreasonable nuisance to the public health, safety, or welfare, or refusal to permit an inspection or any interference with an authorized City Enforcement Officer performing inspections required by Chapter 46.

Finally, Ms. Kessler noted that staff heard from Councilors and Planning Board members in the Joint Committee process concerns that there was not clear enough or objective enough set of criteria for the Licensing Board to use in making a determination as to whether to suspend, revoke, or place on probationary status. It is really difficult to try and create a clear, set threshold for which a license would be suspended or revoked, because this applies to so many different types of uses and each use and its operation will be unique. The types of violations may vary and may have varying degrees of impact, thus, staff feels like if they could give the Licensing Board some parameters to weigh decisions versus giving them set thresholds, it might be a preferred process for trying to address so many different types of situations. In the Licensing Board's effort or role of trying to determine whether to place a licensee on a provisional license, suspend, or revoke a license, these are the factors that they would be considering: the circumstances leading to the violation; the owner or operator's history of violations; the extent of deviation from the terms and conditions of the license and from the licensee's approved operation and management plan; the severity of the violation, including the degree of impact to the clients and/or surrounding area; the duration and frequency of the violation; and the owner/operator's efforts to comply with the licensing requirements.

Ms. Kessler stated that she will be happy to answer questions. She continued that staff is looking for guidance. Their next step would be to draft this Ordinance and have it introduced to City Council on April 15, to ideally have it come back to the PLD Committee on April 21. Ultimately, if this is moving forward it would need to be voted on at the same time as the proposed Land Development Code, because they do go together. The Land Development Code establishes these uses, and notes that these uses need to obtain a license in order to operate. She asked if Mr. Lamb or Mr. Kopczynski had anything to add.

Mr. Kopczynski stated that he thinks that is a good synopsis for right now. He continued that he is interested in feedback from the members of the public or the PLD Committee. It is a little difficult to provide bright line standards; as Ms. Kessler said, there are so many different variables.

Mr. Lamb reminded the committee that this was part of the strategy from the beginning, as they took on this difficult task of identifying and creating processes to improve congregate living and social service uses. The community really wants to make sure that we do not let these uses impose on quality of life in neighborhoods and one way to do that is this license process, because it provides for this continuing, ongoing review.

Chair Bosley asked if there were any questions from the committee. She continued that that was a lot of information to absorb, but they have been talking about this at length at the Joint Committee meetings.

Councilor Jones asked if it is correct that many of these licenses are uses under many of the new Zones under conditional use. Ms. Kessler replied yes, all of the nine uses that she just talked about, in the proposed Code, would only be allowed first by a Conditional Use Permit issued by the Planning Board. That is, any *new* uses in those categories. Councilor Jones asked: if these licenses were approved by the Licensing Board, do you still have to go through the Conditional Use Permit as in Article 13.5 of the Land Use Code? Ms. Kessler replied yes, that would come first. In the first instance, that Conditional Use Permit, if granted, would give the owner of that use the ability to operate that use. It is similar to if a use was allowed in Zoning by Special Exception, it would need to go to the Zoning Board of Adjustment for approval before it can establish the use. In this instance they would need to go before the Planning Board to get approval before they could establish the use.

Councilor Jones asked why go to the Planning Board first; why not do the license first? Mr. Lamb replied primarily because Zoning establishes the use pattern and the evaluation of the Conditional Use Permit really is this assessment of whether or not the use is compatible with the neighborhood and the Zoning surrounding the neighborhoods, whereas the license gets closer to the operation of each individual business associated with a use that is subject to a Conditional Use Permit.

Councilor Jones replied that it could happen where the Zoning is approved but the license is denied, but it cannot happen vice versa. Chair Bosley replied that in an initial case she does not think that would be a real potential. She continued that they would have criteria to meet with the Licensing Board, to get their initial license, and then at the review process there could be potential for ramifications for violations for some part of their originally license. Councilor Jones asked if she is saying the Planning Board would go first. Chair Bosley replied yes, they would receive the Conditional Use Permit through the Planning Board to operate the use on the site, and then they would need to submit an application for an operating license to the Licensing Board, which would initially be approved with the understanding that they have submitted safety and management plans to the Licensing Board. After a year of operation, it would be reviewed, just like with a City Council license that was granted, and the license could have conditions placed on it by the Licensing Board. The original license would have been given with information about what the expectations would be. Then in the year following, you would have

the Code, Fire, and everyone submitting any reviews that needed to happen, and an opportunity for the public to speak again; it would be very similar to the City Council process now.

Councilor Jones replied that he understands all of that. He continued that the part he wants to ask about is: if the Planning Board denies the Conditional Use Permit, that negates any reason to apply for a license? Chair Bosley and Mr. Lamb replied correct. Chair Bosley added that the Conditional Use Permit applies to the land, not the business, so that Conditional Use Permit, once approved, could transition to other entities that wanted to operate on that lot. Councilor Jones stated that he just wanted to know what the process would be if one was approved and the other was denied.

Chair Bosley stated that the other thing she wants to point out is these licenses are relative to the proposed Land Development Code but this would also transfer the other licenses that are before the PLD Committee and City Council, through this Licensing Board, such as sidewalk cafes, outdoor events; all of those licenses would go through this new Licensing Board and the PLD Committee would then be the appeal board. Councilor Jones replied that he understands that part.

Chair Bosley asked if there were more questions or comments from the committee. Hearing none, she stated that she would like to make a couple comments herself. She thinks the majority of the Licensing Board members should be members of the public/Keene and maybe a representative from staff if that is reasonable, but having the voice of the community involved in this process is really important. She continued that she also looked at the calendar. As a committee member who has been to a lot of meetings, she sees that there are only six months of scheduled meetings. She suggests a shift in those dates to the winter months instead of the summer months, because she thinks people would be more willing to meet in the winter instead of giving up their summer evenings to talk about licenses.

Chair Bosley asked for public comment.

Tom Savastanos stated that he reviewed this licensing language pretty closely and he feels a lot of care has gone into it, which he appreciates. He continued that he had a couple questions. He thinks his comments apply to group homes in general, because that is mostly what he has been following, though obviously it carries over into the other uses as well. There can be well-run group homes that are also good neighbors, and there could be poorly-run group homes that are not good neighbors and not good for the residents served or the city at large, and not good for well-run group homes, because they give them a bad name. He believes, partially from his social services background, that group homes can be good neighbors. One of his questions, as he reviewed the language, is: there is an 'operations and management plan' which includes a 'neighborhood relations plan.' He wonders if that could be fleshed out more. What would be an example of a neighborhood relations plan, or what should that include? He thinks that people in the neighborhoods of group homes can sort of be the first backstop in seeing issues that are arising in poorly-run group homes. Also, in terms of the definition of "group home," both for

large and small, it says “*unrelated natural persons who are in need of personal care services and/or are in need of supervision, and that may include non-medical drug and alcohol rehabilitation.*” He would say that regarding people undergoing drug or alcohol rehabilitation in a group home, that group home could be well-run or poorly-run. Does that definition imply in-house supervision? That is his concern. That also ties into this whole thing about licensing. It is there in the language, “*in need of supervision,*” but he does not know if that is of a nature that is residential supervision, ongoing, or something else. It would help with the licensing process if there is good supervision. That tends to be a well-run group home.

Chair Bosley asked if members of the public had any further questions. Hearing none, she stated that she will go back to the committee then, because they need to give some direction on this. Do they feel comfortable with how this was presented to move forward and asking that the City Manager introduce an Ordinance? Or are there other changes or clarifications that need to be made? Hearing no response, she stated that it seems like the committee is comfortable with the language as it was submitted to them.

Councilor Greenwald stated that he liked Chair Bosley’s comment about the dates. He asked, does the Ordinance need a change to have those dates reflected? Mr. Lamb replied that it is actually something that the City Clerk has been incorporating into Chapter 46 already under some circumstances, so they are trying to spread out the licensing process so it fits people’s schedules. Yes, they can make that change.

Mr. Savastanos asked if the neighborhood relations plan is something that Mr. Lamb, Ms. Kessler, or Mr. Kopczynski could give any input about. What is included in that?

Ms. Kessler replied that in the Land Development Code itself they provide a bit more detail, but it is still open-ended. She continued that the neighborhood relations plan is intended to establish provisions for how the operator of the use would be communicating with adjacent property owners and the City, including the Police Department or any other entities that might be important. Each plan might look a little different depending on what the use is. A group resource center might have a very different neighborhood relations plan than that of a homeless shelter, but it is intended to establish those guidelines for how the operator of the use intends to commit to communications with its abutting property owners, the neighborhood, and the City, Police Department, and other emergency services that might be needed or connected to the operation of that use. The Licensing Board would be evaluating that as part of the operations management plan and the public would also have an opportunity to comment on that when a license is being applied for before that board.

Chair Bosley stated that it is great that staff has taken all of the feedback they were given during the Joint Committee meetings and really crafted a lot of language here that helps the neighbors feel that there is some avenue for them to have a voice, and to have some protections, and for people who are applying for these licenses to have some protections as well, knowing that there is a review process and they know what expectations are going to be asked of them from the beginning. Both sides of that are important.

Councilor Jones stated that usually the City's Ordinances take effect at the time they are passed, unless they have a take effect date built in. He asked if they want to have a take effect date that coincides with the Land Development Code so they come about together, or if they want this Ordinance to happen before then. Ms. Kessler replied that they would need to go together, so a take effect date would be written into both the Ordinance related to the license and the Ordinance related to the Land Development Code and it would be the same take effect date. Councilor Jones replied that is what he thought. Chair Bosley stated that they will continue to hear license applications here until that date. That will give time to find people to serve on the board.

Mr. Kopczynski stated that on the Ordinances themselves, he thinks they are going to put together kind of a score card, because there are several of them that are in motion that have to come together at the same time.

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

On a vote of 5 – 0, the Planning, Licenses and Development Committee recommends that the City Manager introduce an ordinance to City Council related to amendments to Chapter 46 of City Code, and the establishment of a Congregate Living and Social Service License.

5) Continued Discussion – Requesting Minutes be Kept of Meetings Between the Mayor, the Charter Officers, and the Committee Chairs

Chair Bosley asked to hear from Councilor Filiault.

Councilor Filiault stated that they have had a couple weeks to think things over and he has spoken with a couple PLD Committee members. He continued that he knows staff is lined up to oppose. He appreciates and agrees with some of their opinions, but he has heard some comments on this issue in the past couple weeks and one was “Well, this isn't the purview of the City Council.” He reminds the City Council that everything that comes before them is within their purview. Eight votes of the City Council is their purview. While some members of City staff might disagree with him, he reminds staff that they work for the City Council, not vice versa.

Councilor Filiault stated that he still stands by his request for a minute-taker or an audio version of the minutes at the meetings of the committee chairs and City staff. Once again, it is simply about transparency. It is also to give the other 12 Councilors the opportunity to have access to the exact meetings and exactly what was said at a scheduled meeting. If they cannot have an audio recording and cannot have a minute-taker, then he will be in contact with the Keene Sentinel and the Monadnock Radio Group and recommend that the media cover it, so they can have accurate minutes. Ever since this meeting was brought together a few years ago by the former mayor, he was always uncomfortable about not having minutes taken. Of his years on the City Council, 12 years have been as a Chair or Vice Chair and he would have never allowed a meeting he chaired to go without minutes, if it was a scheduled meeting. There are impromptu

meetings among Councilors and staff, and phone calls, which he understands. But this is a scheduled meeting at City Hall and should have a minute-taker.

Councilor Greenwald stated that he was a committee chair for more than a few years, and he believes that during that time is when these meetings originated. He continued that they really are agenda review meetings. The phrase “administrative” has been used. It is a way to prep the committee chairs on what is coming up on the next agenda, to see if they have any questions. It is very handy to have the City Manager, City Attorney, and City Clerk all in one room answering those questions. There is not a lot of crosstalk between the committee chairs. It just gives the chairs a heads up as to what is coming. He has given this a lot of thought, looking for a compromise. It is not for him to do, it is not for a motion, it is not for the Rules of Order. There is no reason, in his mind, why any Councilor, with some advance notice, could sit in on this meeting. There is nothing super top secret going on. They would have to look out for the quorum, which means there could not be three Councilors from the same committee there, but if some Councilors are so interested in hearing what is coming up at the next committee meeting, fine, come on down. They probably will not find it all that interesting. This compromise is something that the Mayor would have to decide. But that is his two cents’ worth. Maybe that would satisfy people’s curiosity. Everyone wants to be in the know of what is going on, and when they are not, they start to get suspicious. If there is a conversation happening, share the information. After the meetings [that he attended as a chair], he made it a point to get with his four committee members and say “Here is what is going on; here is what we are working on.” The chairs have to have the information to run a decent committee meeting. If Chair Bosley did not have the background of what was being talked about this evening, she would be sitting there asking questions. He does not want to see these meetings go away, but he would open it up to the City Council to be there. Hopefully that would satisfy everyone. But that is not for him to decide; that would be the Mayor’s prerogative.

Chair Bosley stated that the Mayor was an attendee at some point tonight but she is not sure if he is still present.

Councilor Johnsen stated that her good friend Councilor Filiault knows her thinking. She continued that she sees these meetings as planning meetings. It is like if you were getting ready to make a dinner, you would put out everything you need in order to cook it, and it really is not the rest of the family’s concern about what you are going to use for ingredients. This is an administrative meeting. When she was in the House of Representatives, they did not go to the Speaker’s meetings. That was not their place. The Speaker met with his other administrative folks. When she was Chair of the Council at Keene State College she met with the other officers. If other people want to come, fine, but they did not need another meeting to go to. This is a meeting in which they say “This is what is going to happen.” In all appreciation for where Councilor Filiault is coming from, she thinks this is up to the Mayor, and if he wants to have a meeting with his administration he has a right to. She does not think the PLD Committee should be imposing their thoughts there.

Chair Bosley stated that she appreciates Councilor Johnsen's perspective on that, because she has been chairing this committee for about a year and a half now and this meeting [in question] has been super important to her from a process standpoint. As she spoke about in the last committee meeting, she would hate to see these meetings go away because of this difficulty and these concerns. She does not have a problem with anyone attending this meeting and sitting through the conversation if there is a curiosity, but being a chair is a lot of work. She has learned how much preparation goes into this. She has a job, and probably spent four hours of her business day today preparing for the PLD Committee meeting this evening, and that was not including the meeting that they are talking about. A lot of preparation goes into being able to run the meeting smoothly and to know who is going to be attending and to read all of those Resolutions that they wrote four years ago so she is prepared to ask the right questions, and to know how to direct the Vice Chair about who they should amend motions to, regarding if they should be sending letters to the President of the United States or to the Senate, and so on and so forth. They did all kinds of amazing things tonight, but that involves her knowing every detail of what is going on for every one of these subjects, and for that to happen, she needs support. Thus, she will stand her ground; she needs to continue having these [agenda preparation] meetings and have them continue the way they have been working.

Councilor Workman stated that she was disappointed to see the two options available as motions for tonight. She continued that she was hoping that by putting it on more time, they would allow Councilor Filiault to come to a compromise with City staff. But again, she heard reasons being that they do not want to create a public body, and she wholeheartedly agrees with that. There are complications to doing that. She also does not want to see the meetings end. She believes that they have merit. She heard that if minutes were taken it would take up too much time from other official business and job responsibilities, so again she is with Councilor Greenwald in wishing there was a compromise. She thinks the best and most feasible, time-efficient option would be some type of audio recording, so if you wanted to listen to that meeting you could, at your own leisure. She personally would not be able to attend meetings bi-weekly in the middle of the business day. She does not want to drag out the topic. She would like to see it go to the full City Council and see what everyone has to say, not just the five PLD Committee members.

Councilor Greenwald stated that for a bit of clarification: this discussion about what is happening is not involving a decision coming from City staff at all. He continued that City staff comes to the meetings to feed information to the committee chairs. It is a procedural operation that originated from the Mayor's Office. In terms of the motions, maybe this needs to be clarified to all the Councilors: the motions they get [from staff] are just suggestions. The committee can do whatever they want with them. It is an improvement to do a little less ad-libbing, but definitely if a committee member does not like the recommended motion they can step up and do whatever they want with it. This decision [about the agenda preparation meetings] really comes down to what the Mayor wants to do.

Councilor Jones stated that he agrees with Councilor Workman that this should go for discussion by the full City Council, so there should be some kind of workable motion coming out of the

PLD Committee. He continued that he likes Councilor Greenwald's idea of inviting Councilors who want to be at these meetings, as long as they do not violate the sunshine laws. That being said, he thinks maybe they should have a motion (but his words right now are not a motion) to grant requesting Councilors be issued a written summary or audio recording of said meetings. This way they could find out what was spoken about. He chaired the PLD Committee for 15 years and the MSFI Committee for two years, and they used to do it a different way, but he knows what happens when you speak to staff - that is when you hear about all of the options that could have been exercised and you narrow it down to one or two and sometimes that can be good for other Councilors to hear. He thinks they would be able to do that. He disagrees with having a minute-taker, calling anything "minutes," or approving minutes, but he thinks there is a happy compromise here.

Chair Bosley stated that it is not her prerogative to say who the Mayor invites to these meetings, but she is open to that idea as well. She continued that at the City Council meetings, whenever communications come in, what she, personally, has learned to do is: as they go through those communications at City Council meetings, she has her agenda and listens to what the Mayor is saying for referrals to committees and writes notes about which items are going to which committees. If there is a topic that is on more time, or if there is a topic someone hears is being referred to the PLD Committee, if that is a concern of that person's, she would suggest that person reach out to the Mayor and ask if there is a way to participate in that meeting. That is a PLD Committee member's opportunity and cue to know what is coming. If a City Council meeting is Thursday and the [agenda preparation] meeting is Monday, you would have a few days over the weekend to reach out to the Mayor to discuss that.

Councilor Filiault stated that he appreciated Councilor Greenwald's comment that Councilors could show up, but some of them work and do not have the opportunity to show up even if they wanted to. Thus, once again, if another Councilor shows up and you cannot, you are still hearing their second hand opinion of what was said. With all due respect to everyone here tonight, he has heard no reasonable reason of why they could not have an audio recording. He is hearing excuses. Why could someone not just pop a recorder down in the middle of it and record the minutes? He understands that the meeting is 'boring.' But it allows the other 12 Councilors to go back at any time to hear what was said, not just the next day or two days later. It seems like if it is a committee meeting or a City Council meeting they can go back quite a ways and look, especially now that these are all recorded by Cheshire TV and there are Minute-takers, but that one particular meeting has nothing. There is no way Councilors can go back and look at what was said, even if it was 'boring.' He might want to go back 30 days to listen to something discussed at the meeting that he did not hear. If there is just an audio recorder put down in the middle of the table - that is not cumbersome. That takes up nobody's time and does not get in the way of anything. Anything beyond that is, to him, an excuse. It raises a red flag with him. Why would they not want to have the minutes taken or just a recording? He does not understand that. He is not saying it is a conspiracy and does not think anything is going on, but it leaves reasonable doubt about why they are digging in so hard not to have at least an audio recording of these meetings. Most Councilors cannot be there during daytime meetings.

Chair Bosley stated that every member of the City Council has the opportunity to call and have an unrecorded conversation with any charter member of the City, at any time. She continued that Councilor Filiault is basically saying he wants to take away the right of the chairs to have unrecorded meetings with the charter officers to discuss issues that are coming before the City Council. Every single Councilor has that right. Thus, she does not understand why Councilor Filiault is hammering on this particular meeting that he himself has said he does not think there is anything questionable going on at. There are many meetings like this; there are agenda review meetings for Planning Board, an agenda review meeting for the Joint Committee that is also with the chair of the Planning Board, and so on and so forth. Where does this end? Is she to be recorded at every single meeting that she has with City staff because she is a chair? Is that what Councilor Filiault is suggesting?

Councilor Filiault replied no. He continued that these meetings started a couple years ago. They are scheduled meetings that happen every two weeks. They are not impromptu meetings or like the situations in which Councilors might call each other or somebody makes an impromptu comment. His opinion is when elected officials are meeting with City staff and policy is being discussed, there should be minutes. He is not hearing a logical reason why they cannot just plop down a recorder.

Chair Bosley stated that she understands that Councilor Filiault's point is that because it is a scheduled meeting he wants to differentiate it from these other conversations that happen between Councilors and staff, but she does not draw that differentiation. She continued that Councilor Filiault is allowed to call the City Manager, the City Attorney, or the City Clerk at any time to discuss any item on the agenda and she does not need to be privy to that conversation.

Councilor Filiault replied that that is not a scheduled meeting; that is his point. Chair Bosley replied that it does not make a difference to her. Councilor Filiault replied that they need to agree to disagree. Chair Bosley replied yes, and she respects his opinion and wishes they had a compromise, because she wants to try and meet in the middle. For her, that is opening up the meeting. Councilor Filiault is welcome to come. But she does not want to feel like she is in a position where she cannot speak to the charter officers without feeling the need to be recorded.

Councilor Filiault stated that again, many Councilors are unable to make it to those meetings, and so, he suggests that the Keene Sentinel or the Monadnock Radio Group send a reporter to cover the meeting. Chair Bosley replied that those meetings are for City staff and Councilors, not for media. Councilor Filiault replied that that raises red flags all over the place for him.

Mayor George Hansel stated that he has been listening to this debate. He continued that when Councilor Filiault brought this up, he felt like there was an insinuation that there is something improper or 'behind closed doors' going on with this issue being brought up, and he cannot emphasize enough that that is not the case. He would say, especially during COVID, City staff and himself and individual Councilors have gone out of their way to engage the public in new

ways that they never did before. They are soliciting public input in many ways and in many ways he thinks they are being more transparent now than they have ever been. He wants to make sure that there is not an insinuation that anyone is putting any stock in, that they are not being transparent, because they most certainly are. In regards to these meetings, he does not have a problem with it if a Councilor has a special interest in something on the agenda and wants to give him a call. They can talk about it. The Councilor can come to the meeting if they feel it is necessary, although he does not think they will get much out of that. These are administrative meetings and he cannot emphasize that enough. They are not with a public body. The three committee chairs do not represent a public body that is making recommendations to the City Council or taking any other sort of legislative action. That is where it stands. He is open to working with the Councilors who feel that they are not in the know. He knows it has been difficult with COVID and the City is constantly looking for new and creative ways to keep the City Council informed and keep the public informed. He is open to working with people but he does not see any sort of warranted action here that is necessary.

City Manager Elizabeth Dragon stated that she apologizes for not being here the night the PLD Committee first talked about this, and she does not want to rehash things they have already spoken about, but she wonders if there was a clear explanation of what occurs at these meetings. She continued that they have drafts of the agenda for the committees that they go through, and it is very administrative in nature. They talk about who will be speaking, who is speaking from staff, who is going to be coming from the public, whether they have to share screens, whether there are PowerPoints, and so on and so forth. As Chair Bosley said, other boards are doing the same thing, such as the Planning Board and the Zoning Board of Adjustment – it is no different. They are preparing for upcoming public meetings, but the meeting they are having is an administrative meeting. Also, these meetings have been going on long before she arrived at the City of Keene, and she is going on four years. She does not know exactly when they were created, but she knows that recently, because this topic came up in the past, the Mayor is very careful to make sure they only discuss items that are on the agenda. She can say, prior to that, sometimes they would veer off the agenda a little bit. If there was a conversation about something that might be coming up, they might talk about that, but that was with the prior administration and there are now very clear boundaries at these meetings that they follow what is on the agenda, whether it is an upcoming agenda or a more time item. Sometimes the chairs will ask when a more time item is coming back, what they are waiting for, and/or what needs to happen. She does not know if that was explained at the previous meeting when the PLD Committee discussed this, but she wants to make sure everyone knows that. What happens at these meetings is no different than what happens at the planning meetings for the ZBA or the Planning Board or any other public board.

The City Manager continued that also, there was an insinuation at the beginning that City staff was lined up to oppose this, and that is incorrect as well. She thinks that there are concerns related to this, and questions about where they draw the line, and what a public body is and what is not, which are questions they have been talking about and debating internally, so they can understand for themselves. It is important to clarify that.

Councilor Workman stated that she keeps hearing two different arguments. She continued that one thing that she wants to reiterate and drive home is that for her, this has to do with access to information and everyone receiving that information equally. They keep saying “yes, that information is available to all City Councilors via the agenda,” but the agenda she got yesterday at 4:00 PM was for today’s meeting at 7:00 PM, so she was given 27 hours’ notice. The chairs of the three committees were present at a meeting she believes happened on Monday afternoon, so they had information much sooner than the other 12 Councilors.

Chair Bosley replied that just to clarify what she does and how these meetings go for her: on Monday she sat down with a draft agenda, with the five agenda items listed with their headlines, and the more time items at the bottom. During that meeting, there is a conversation about each item. There is no other documentation provided to the chairs. She receives all of that documentation at the same time as other Councilors receive it, usually on Tuesdays. She spent her day today reading 37 pages of an agenda packet to go along with this meeting. She did have the privy of knowing that, for instance, regarding the HB 266 item, she said to the City Clerk, “I believe there was a Resolution that the City Council had passed in prior years, is that accurate?”, and the City Clerk said “Yes, and this is when it was passed,” and she said, “Great, can you please put that in the agenda packet?” She (Chair Bosley) did not have a copy of it and had not read it; she saw it at the same time that it was made available to the other Councilors on Tuesday. She did have the knowledge to ask for it, and if she had not, the City Clerk might have said to her, “There is also a Resolution that was done years ago. Would you like me to include it or not?” and she could have said yes or no. That is the level of information that is being passed to the chairs. It is not that she is getting anything special and detailed. It is a process. She likes to know the process of what to expect. For example, the questions that she asked tonight are ones she normally might have asked inside of this meeting. If she had thought of it, she would have asked City Manager, regarding Mr. Humphrey’s request to use City property, “Has staff had a protocol meeting? Is it even called a protocol meeting? What does staff do when someone applies for a sidewalk license? Since this is not a sidewalk license, what would the process be for them to do this? Has that all happened? What should I expect? Should this go on more time because we haven’t done that? Should we even be hearing it yet?” Those are the kinds of questions she is asking. She is not seeing Mr. Humphrey’s request; she is not seeing his plan; she did not know what it looked like. It is basically high level information and she is able to ask questions in order to coordinate an effective meeting on Wednesday.

Chair Bosley continued that she knows it is difficult, but the meeting is usually 15 minutes, so if other Councilors can come for 15 minutes to see what happens, they will get a real idea of what is actually happening there. It is difficult to see that chairs maybe get more information than other committee members, but there is an amazing weight and amount of responsibility that goes along with this position, and you have to be well-informed, and able to commit to giving that time. It is a burden. She spent six months as a committee member before she became a chair, and it was a drastic difference in the amount of effort that she has to put in every night at these meetings. She has gone above and beyond to try and keep her committee in the loop on all

things process related that are odd or different, or to let people know to look in their agenda packet for certain things. To have someone behave as though she might be doing something suspicious or has some privilege is really disheartening for her because she puts so much effort into trying to do a good job. She is trying to not take this personally; she knows Councilor Filiault is not directing this at her, personally, or saying he has a concern about her transparency, but she feels that they are all doing the best they can.

Councilor Greenwald stated that they could probably talk about this until tomorrow morning. He continued that he is looking at [recommended motion] option #3. The whole City Council is going to get into this discussion anyway. Option #3, for comments, is to refer this without recommendation to the City Council for open discussion.

Councilor Filiault stated that regarding Chair Bosley's comments, he chaired committees for 12 years. He understands the work, because he did it. He understands what Chair Bosley is saying. His point is: those 12 years when he was a chair, if this type of meeting had come up during that time, and he met with City staff and someone said "We should have a recording of it for the other 12 Councilors," he would have absolutely said yes. He continued that as a matter of fact, he would have "no" if there were *not* minutes taken, because that is the type of Councilor that he is. Just like Chair Bosley, he was a hard-working chair and put many hours into it, but he was a stickler for transparency. With all due respect to everything people said tonight, he still has not heard one good reason about why a recorder could not be dropped in the middle of the meetings. He is hearing all of the "reasons" why not, but they are all just excuses. Where he works, they have minutes among the crews, and they plop down a recorder in the middle of it, so if the rest of the crew was not there they can hear exactly what was said afterwards. He is not insinuating bad things are going on. He realizes that most of these meetings are rather boring. But if there is a recording, every word is there, not just someone's opinion of what was said. Years ago, if a Councilor had brought this up, it would have been, "Yeah, we'll put a recorder down in the middle of it, of course." He realizes things have changed, but once again to Chair Bosley, there is no accusation being made. He knows how hard the full City Council works. There are no insinuations other than transparency.

Councilor Johnsen stated that she is with Councilor Greenwald. She continued that she likes to see them as a team, and she thinks this is the most intelligent group of people with whom she has worked in a long time. She is impressed with everyone here, and she has been on a lot of committees. She feels like it is a threat to say, "Well, I'm going to go to the newspaper or Cheshire TV ought to tape this." That is pushing it too far. The chairs and charter officers have a right to plan the meeting, period. It is not her business and she does not even want to know.

Councilor Jones stated that he thinks they should roll along with Councilor Greenwald's suggested motion, because they are going to hear all of this all over again on Thursday night.

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

On a vote of 5-0, the Planning, Licenses, and Development Committee referred the matter to the full City Council for their wisdom and discussion.

There being no further business, Chair Bosley adjourned the meeting at 10:00 PM.

Respectfully submitted by,
Britta Reida, Minute Taker

Additional Edits by,
Terri M. Hood
Assistant City Clerk