

3-17-2022

A regular meeting of the Keene City Council was held on Thursday, March 17, 2022. The Honorable Mayor George S. Hansel called the meeting to order at 7:00 PM. Roll called: Bryan J. Lake, Michael J. Remy, Gladys Johnsen, Michael Giacomo, Randy L. Filiault, Robert C. Williams, Philip M. Jones, Andrew M. Madison, Kris E. Roberts, Raleigh C. Ormerod, Bettina A. Chadbourne, Catherine I. Workman, Mitchell H. Greenwald, Kate M. Bosley, and Thomas F. Powers were present. Councilor Roberts led the Pledge of Allegiance

ANNOUNCEMENTS

Mayor Hansel wished everyone a Happy St. Patrick's Day. He led the Council in celebrating the March birthdays of Councilors Randy Filiault and Bettina Chadbourne.

MINUTES

A motion by Councilor Powers to adopt the March 3, 2022 minutes as presented was duly seconded by Councilor Bosley. The motion carried unanimously with 15 Councilors present and voting in favor.

NOMINATIONS

Mayor Hansel nominated Gail Somers to move from a regular to an alternate membership and Armando Rangel to move from an alternate to a regular position on the Planning Board, with terms to expire December 31, 2022. The Mayor also nominated Kristopher Radder to the Airport Development and Marketing Committee, with a term to expire December 31, 2024. Mayor Hansel tabled the nominations until the next regular meeting.

APPOINTMENT OF AN AD HOC DOWNTOWN INFRASTRUCTURE PROJECT STEERING COMMITTEE

Mayor Hansel nominated the following individuals to serve on the ad hoc Downtown Infrastructure Project Steering Committee, with a charge to review the scope and design of utility replacements as well as improvements to the downtown area. The Ad Hoc Committee will serve as an advocate for the project and be the host for any public interaction events. Finally, the ad hoc Committee will make its recommendations to the City Council with regards to the project. The Mayor appointed the following: Mayor George S. Hansel (Chair), Councilor Randy Filiault, Councilor Mitchell Greenwald, Councilor Andrew Madison, Dillon Benik (Bicycle/Pedestrian Path Advisory Committee), Alex Faulkner (Amiccis), Alec Doyle (The Colonial Theatre), Mark Rebillard (Deep Roots Massage), Brandie Wells (Soul Emporium), Nathalie Houder (Keene State College), Cheryl Belair (downtown resident), and Robert Patton-Spruill (downtown property owner). A motion by Councilor Powers to confirm the appointment was duly seconded by Councilor Bosley.

Discussion ensued about missing representation on the Committee and the Mayor explained that the process for nominating people to these special committees is not an easy one. It is challenging to find qualified people who are available to fill those representations. Still, Mayor Hansel said there would be opportunities for plenty of public input on this project and he invited members of the public to attend any of the Committee meetings, stating the need for the public to

step-up and weigh-in on this project so it is successful. The motion to confirm the appointments carried unanimously with 15 Councilors present and voting in favor.

COMMUNICATION – DANYA LANDIS/MACHINA KITCHEN AND ARTBAR – REQUEST TO USE CITY PUBLIC PARKING SPACES – PARKLETS

A communication was received from Danya Landis, requesting use of public parking spaces in front of her establishment for the location of parklets that would be used to expand the outdoor dining spaces for the restaurant. Mayor Hansel referred the communication to the Planning, Licenses, and Development Committee. The concept of parklets would be discussed later in the agenda.

COMMUNICATION – COUNCILOR REMY – CONFLICT OF INTEREST – KYPN FOOD FESTIVAL

A communication was received from Councilor Remy, who serves as the Event Chair for the Keene Young Professionals Network, requesting that he be allowed to abstain from the vote on the license for this event. Councilor Remy stated that he was not confident that he had a conflict of interest and was seeking Council input. A motion by Councilor Powers to accept that the conflict of interest exists was duly seconded by Councilor Bosley. The Clerk clarified that a yes vote would accept the conflict and a no vote would indicate the Council sees no conflict. Discussion ensued.

Councilor Bosley noted a lengthy discussion at the PLD Committee with the City Attorney about conflicts of interest and how the matter applies appropriately to boards and commissions that Councilors sit on. However, there was clarification that this was not about organization members, but those who sit in executive roles for those organizations. Councilor Bosley also made the assumption that a board or commission seat should constitute a conflict when negotiating financial contracts with the City, not necessarily on the level at which Councilor Remy serves on KYPN.

The City Attorney noted that an amendment to the Rules of Order would be discussed later on the agenda. The existing and possibly amended Rule did not include fiduciary obligations, only pecuniary. Fiduciary responsibilities are those that imply a duty of loyalty to some entity and is not just financial. However, if the Council believed that Councilor Remy's work on this project put him in positions of duty of loyalty to that project, then the City Attorney said they might want to find a conflict. Having encountered this issue in many different capacities, Mayor Hansel said his opinion was that a conflict exists when the City is on one side of a negotiation and an organization is on the other side—when there is potential for opposing interests. He did not see a conflict for permits and licenses that involve no negotiations. On a vote of 1–14, the City Council found no conflict of interest to exist. Councilor Williams voted in the minority.

COMMUNICATION – COUNCILORS WILLIAMS, WORKMAN, AND LAKE – ENCOURAGING THE CITY TO DEVELOP A HOMELESSNESS STRATEGY THROUGH PROGRAMS THAT FOCUS ON REDUCING HARMS ASSOCIATED WITH HOMELESSNESS

A communication was received from Councilors Williams, Workman, and Lake, asking that the City take stock of its housing and homelessness strategy and consider instituting programs that focus on reducing harm associated with homelessness, which affects both people experiencing homelessness and the broader community. Mayor Hansel referred the communication to the Finance, Organization, and Personnel Committee.

PLD REPORT – DANYA LANDIS/MACHINA KITCHEN & ARTBAR – REQUEST TO SERVE ALCOHOL AT SIDEWALK CAFÉ

A Planning, Licenses, and Development Committee report read, recommending that Machina Kitchen & ArtBar be granted permission to serve alcoholic beverages in connection with their Sidewalk Café License, subject to the customary licensing requirements of the City Council, and compliance with the requirements of Sections 46-1191 through 46-1196 of the City Code. A motion by Councilor Bosley to carry out the intent of the Committee report was duly seconded by Councilor Giacomo. The motion carried unanimously with 15 Councilors present and voting in favor.

PLD REPORT – GAIL SOMERS/YAHSO JAMAICAN GRILLE – REQUEST TO SERVE ALCOHOL AT SIDEWALK CAFÉ

A Planning, Licenses, and Development Committee report read, recommending that Yahso Jamaican Grille be granted permission to serve alcoholic beverages in connection with their Sidewalk Café License, subject to the customary licensing requirements of the City Council, and compliance with the requirements of Sections 46-1191 through 46-1196 of the City Code.

The City Clerk recognized that Councilor Greenwald had a standing conflict of interest as the property owner of 45 Main Street, the location of the Jamaican Grille. A motion by Councilor Bosley to carry out the intent of the Committee report was duly seconded by Councilor Giacomo. The motion carried unanimously with 14 Councilors present and voting in favor. Councilor Greenwald abstained.

PLD REPORT – KEENE YOUNG PROFESSIONALS NETWORK – KEENE FOOD FESTIVAL – REQUEST TO USE CITY PROPERTY

A Planning, Licenses, and Development Committee report read, recommending that the Keene Young Professionals Network be granted permission to use downtown City rights-of-way on Saturday, June 4, 2022 with rain date of June 5, 2022 subject to the discretion of the applicant, to conduct a Food Festival conditional upon the following:

- The furnishing of a certificate of liability insurance in the amount of \$1,000,000 naming the City of Keene as an additional insured;
- The signing of a standard revocable license and indemnification agreement;
- That the Petitioner agrees to absorb the cost of any City services over and above the amount of City funding allocated to the event, and agrees to remit said payment within 30-days of the date of invoicing;
- That the footprint and layout for the event shall encumber the traveled portions of Central Square, Main Street both sides from Central Square to Railroad Street and Gilbo Avenue,

and a portion of Railroad Street. Road closures may include any portions of other streets needed to facilitate detour routes. The full extent of road closures and detour routes shall be agreed upon with City staff;

- That the Petitioner is permitted to place porta-potties in City parking spaces located at the base of Washington Street from Friday, June 3, 2022 to Monday June 6, 2022, which will be chained together and affixed to ensure they are not vandalized while unattended overnight;
- That the actual event will be held from 11:30 AM to 4:00 PM with the times for set up and clean up to be established with City staff;
- That free parking be granted under the provisions of the free parking policy for City parking spaces on Washington Street needed for storage of equipment from Friday, June 3, 2022 to Monday June 6, 2022; and spaces within the event footprint on the day of the event;
- The submittal of signed letters of permission from any private property owners for the use of their property; and
- Said permission is granted subject to obtainment of any necessary licenses or permits and compliance with all laws; and compliance with any recommendations of City staff.

A motion by Councilor Bosley to carry out the intent of the Committee report was duly seconded by Councilor Giacomo. Discussion ensued. Councilor Johnsen referred to the permission for the applicants to place porta-potties overnight in City parking spaces and she referred to the comment “to ensure they are not vandalized while unattended overnight,” and asked how they will assure that. Councilor Remy replied that they would be chained together, which makes it harder to tip them over. Councilor Remy continued commenting that the KYPN was excited to bring the event back this year, which is planned to be largely similar to the great event last year, while having learned some lessons. They are still seeking sponsors and volunteers, and he welcomed all the public to attend. Councilor Jones reminded the Council that this event was conceived from the Keene Rebound Committee and the KYPN stepped-up to make it happen. The motion carried unanimously with 15 Councilors present and voting in favor.

PLD REPORT – RULES OF ORDER – SECTION 4 – QUORUM AND REMOTE PARTICIPATION

A Planning, Licenses, and Development Committee report read, recommending that the City Attorney draft an amendment to Section 4 of the Rules of Order in accordance with the background notes of the Committee’s discussion. Mayor Hansel noted that this and the next agenda item were culminations of workshopping some controversial topics out of the previously adopted City Council Rules of Order. A motion by Councilor Bosley to suspend the Rules of Order to allow action on this proposed amendment was duly seconded by Councilor Giacomo.

Discussion ensued. Councilor Bosley recalled the ample time the PLD Committee put into revising this language this year and last. Second, Councilor Chadbourne commended the PLD Committee, saying they did a great job and that she was really happy with the amendments presented.

The motion to suspend the Rules of Order carried unanimously on a roll call vote with 15 Councilors present and voting in favor. A motion by Councilor Bosley to amend Section Four of the Rules of Order as recommended by the Planning, Licenses, and Development Committee was duly seconded by Councilor Giacomo. Councilor Bosley summarized the PLD Committee report. Mayor Hansel welcomed discussion.

Councilor Workman noted that she would likely vote in opposition. She wanted to highlight that if 24-hour notice is required, then most of the permitted reasons like health issues and road conditions would not be known that far in advance. She said that many parents are already members of the City Council and even single parents had found the time for Council duties. When she asks constituents why they do not run for office, their answers are not usually about lack of availability or remote participation, but because they do not want public scrutiny. Councilor Workman thought this was only happening because the current Council wanted it.

Councilor Jones was opposed and wanted to bring forward three issues. First, he asked the City Clerk, Patty Little, whether the Ordinance governing Councilors' pay was based on attendance. The City Clerk responded that the City Charter contains the compensation provision for City Councilors. Councilor Jones addressed the City Attorney, Thomas Mullins, stating that because of the Americans with Disabilities Act (ADA) the City must provide reasonable provisions to those with disabilities, but under this amendment, those participating remotely would not be counted as a part of the voting quorum. The City Attorney confirmed that those participating remotely cannot be counted as a part of the quorum because the current State Statute provides that a quorum must be present physically. Thus, Councilor Jones asked how a disabled person who needs remote participation would ever be counted as a part of the quorum. The City Attorney said they could not by State Statute. Councilor Jones questioned what would happen if technology "cut-out" for someone participating remotely. The City Attorney said that at that point they would be considered absent and the meeting would continue with the quorum present; just like if a Councilor walked out of the Council Chambers before a vote. Mayor Hansel agreed that Councilors could walk out on a vote in the Council Chambers if they choose. The City Attorney said the Rules were amended in the past so that Councilors do not need permission to exit the meeting.

Councilor Roberts said this was a tough one as he read the language and listened to his peers. He noted that he has some extremely serious disabilities, and it requires significant effort for him to be present at Council meetings, from which he is very exhausted after. Still, he said he was elected to represent the people and be present. He said Councilors are elected for up to four years and under this amendment, they could never have to show up. Councilor Roberts also suggested caution on the wording because he found the amendment a little insulting to those with disabilities, when he makes the effort to be present.

Councilor Workman echoed Councilor Roberts remarks. Councilor Workman asked the City Attorney, whether this amendment was adopted, if the City would still have to follow the ADA and provide reasonable accommodations if a person with a disability requested. The City Attorney stated that his understanding was that Councilor Workman's statement would be correct under the current State law.

The City Attorney continued, noting that there was a case presently pending before the First Circuit Court of Appeal that came out of the NH House of Representatives during Covid-19. There was an action file against the Speaker of the House because the House had adopted a rule that basically prohibited remote participation. The City Attorney said that some members of the House sued, claiming that it was a discriminatory matter under the ADA and Federal Rehabilitation Act. The Federal District Court in Concord avoided the question of disabilities and essentially said that the House of Representatives is a co-equal branch of government and has the right to make its own rules, and so they dismissed the request for injunctive relief. When the matter went to the First Circuit Court—a three-member panel—the District Court’s decision was reversed. The District Court and the Appeals Court reached different conclusions, after which the House of Representatives requested that the full Circuit Court of Appeal rule on the matter, which had not yet occurred. The City Attorney clarified that even if the House of Representatives rules that they do not have to provide remote accommodations that would not necessarily apply to this City Council. This was the City Attorney’s way of saying the risk was still there and he would not like to be in the position where the City Council disallows the remote opportunity to someone who meets ADA qualifications.

Councilor Ormerod looked at this matter from the world we live in now, in which many organizations are operating remotely and making decisions that impact life. He said the City proved they could do remote participation during Covid-19. Many of the boards he is a member of have successfully conducted business remotely. Councilor Ormerod knew the Council could be very effective operating this way. He clarified that the decision would still be left to the discretion of the public body to allow or disallow remote participation. The decision is usually by consensus but if that does not exist, the Chair can still use their discretion, which can be overruled if it is clear someone has abused the privilege. Thus, the PLD wrote this Rule to control for misbehavior. Councilor Ormerod supported this amendment.

Councilor Johnsen said it was an interesting conversation at PLD and she heard both sides, including Councilor Filiault’s comments that the current language in the Rules had been working since the 1800s and should still work now. Councilor Johnsen thought we had become much more sophisticated since then and are no longer just a group of very dedicated men getting together at these meetings. Now there is a mixture of people and the PLD Committee hoped for all kinds of inclusivity. She cited the Chair needing to give her a ride to PLD in poor weather conditions, when she could have been present by Zoom (which she was able to do for the Heritage Commission that same day). She said there are circumstances in human beings’ lives that come into play for those dedicated to this Council process. Councilor Johnsen still wants to contribute when she cannot be physically present.

Councilor Bosley spoke to Councilor Roberts’ points. Councilor Bosley thought one of the most important things were the following proposed words: “Remote participation by members is discouraged.” She said that no one wanted to see remote participation happening, but that all Councilors had moments of extenuating circumstances in their lives. She heard that this had worked since the 1800s, but said that today there are Councilors who travel for work or might not be able to find childcare. She believes that her opinion on the Council is valuable, and she

thinks creating an environment where all know that being in the room is the most effective way is important. She said it was clear during Covid-19 that Zoom meetings were laborious and there was probably less verbal participation than when present in the Council Chambers. Councilor Bosley said this provision would only be for extenuating circumstances and it was clearly stated that it was discouraged.

Councilor Filiault stated his opinion that, "If it ain't broke, don't fix it." He realized that new technologies were available, but said that did not mean it was better than what the Council had been doing. He said that Zoom was ineffective and it did not work well during the pandemic. He cited Councilor Johnsen's mention of road conditions, which he said someone would not know 24 hours in advance. He said more questions were arising during this discussion and he said it was "opening a can of worms." He was unsure how far this issue could go in trying to make Council convenient to everyone, which he said would never happen. He said there was a Council of 15 members so the body could still function when people are absent. He said the Rules were designed to work. He understood the need to return to Zoom if there were another emergency order. He said that if someone running for Council could not commit to being present just two nights monthly, then they should not run; the Council could not accommodate everyone in every situation. Councilor Filiault said the 24-hour aspect would not work. He stated kudos to Councilor Roberts because people should be making every effort to show-up. Councilor Filiault thinks constituents would agree that Councilors were elected to show-up. He added that the statement saying it is discouraged proved that the Council does not really like it. Councilor Filiault noted he continued to be adamantly opposed to this amendment.

Councilor Giacomo was unsure what Councilor was only attending two meetings monthly, stating that it is more like four to five meetings, which did not include other City Committees the Councilors sit on. Councilor Giacomo continued agreeing with Councilor Filiault's comments that remote participation does not work as well, but said that the Council had proven it does work. He said the suggestion was not to switch all of Council to Zoom permanently, but rather to give people every opportunity to participate and give elected officials every opportunity to do their jobs. He said that if two Councilors were absent from the same Ward, that Ward would have no representation. He said all Councilors were voted into this office to participate and because they believe they have something to say; their voices matter and should not just go away due to absence. Councilor Giacomo said this would not change things in a negative direction, but enable alternate solutions to allow participation for permissible reasons. He hoped the Council could agreed that this should never be the first option and that while it is inferior, it has proven effective.

Councilor Lake voiced his support for this amendment because it made sense to use available technology in circumstances out of people's control. As long as the set of circumstances allowed for was narrow enough, he thought it made sense to allow. He said it would not be used often and would not be less efficient. Rather, he thought it would increase participation, which he said the Council should support where possible.

Councilor Jones noted that this option could be abused. He cited how many times, for example, that people tried to run for Council with false addresses and stated that extremists would always

take advantage. He said this had become a very divisive society and people with extreme visions are trying to be more involved “just to get their plight out in front of people.” He said that with this option, a Councilor could never attend meetings in person. Councilor Jones wanted to avoid abuses and vulnerability to extremism.

Councilor Lake addressed this issue of potential abuses. He stated that his reading of the amendment found provisions included to combat someone openly abusing the privilege because the public body can use its discretion and vote to disallow the remote participation. He said abuses would be stopped unless the whole Council allowed it to happen.

Councilor Roberts also addressed potential abuses, stating that some could consider the repeated inability to find childcare as an abuse of the privilege, for example. He said there was no definition of abuse, and it could be different to each Councilor. He said they were present to do the business of the Council and not to decide who might be abusing remote participation.

On a roll call vote of 11–4, the motion carried to amend Section Four of the Rules of Order as recommended by the Planning, Licenses, and Development Committee. Councilors Filiault, Jones, Roberts, and Workman voted in the minority.

PLD REPORT – RULES OF ORDER – SECTION 15 – CONFLICTS OF INTEREST

A Planning, Licenses, and Development Committee report read, recommending that the City Attorney draft an amendment to Section 15 of the Rules of Order in accordance with the background notes of the Committee’s discussion. A motion by Councilor Bosley to suspend the Rules of Order to allow action on this proposed amendment at this meeting was duly seconded by Councilor Giacomo. The motion carried unanimously on a roll call vote with 15 Councilors present and voting in favor. The Rules were suspended. A motion by Councilor Bosley to amend Section 15 of the Rules of Order as recommended by the Planning, Licenses, and Development Committee was duly seconded by Councilor Giacomo.

Councilor Bosley summarized the Committee report. She noted that language was changed in the beginning of the proposed amendment to only account for immediate family’s pecuniary interests—not personal—but that language did not carry through to the final paragraph of the amendment. There was an additional statement that, “The Mayor and Council shall file with the City Clerk each January a Statement of Interest form,” on which the intention is for the Councilors to identify their source of employment and any boards or organizations they sit on. This statement also reads that it should be done for the immediate family as well. Councilor Bosley proposed the following amendment, which she said was the original intent of the PLD Committee’s discussion and vote, as reflected in the meeting minutes.

A motion by Councilor Bosley to amend the proposed Section 15 of the Rules of Order to strike the second sentence of the final paragraph to instead read: “The Statement of Interest shall identify for each Councilor and for each person in the immediate family the person’s employer, and shall state for each Councilor any board, commission, organization, association, or other entity with which the person is a member of and whether the person holds a leadership position in that organization,” was duly seconded by Councilor Giacomo. Discussion ensued.

Councilor Roberts wanted to know why the word “household” was stricken and replaced with “immediate family.” He noted that more households in the US are unmarried and thus someone could have a closer interest with a partner who is not in their immediate family, but is a part of their household. He provided further examples. He said that calling this “immediate family” was limiting to an older demographic that is largely married. He thought caution was needed on changing these terms. The City Attorney said that this went back to the defined term of immediate family in the first paragraph, which is “the parent, a child, or other member of the Councilor's immediate family” as those in the household. The definition does not require biological relation. Councilor Roberts still thought that immediate family was clear, whereas the language earlier in the section could be a partner, which he said left a lot for the Council to make the determination versus the Ordinance doing so.

Councilor Giacomo said part of what Councilor Roberts was speaking to was what the PLD Committee discussed as only looking for pecuniary interests of immediate family members because there is usually a financial tie to those in one’s household.

Councilor Filiault had a problem with this amendment, but said it had nothing to do with the wording. He said there used to be strict standards on when to suspend the Rules of Order. He thinks the Rules were now being suspended often when he did not think it was needed. Then amendments are proposed on the floor while the Rules are suspended, like at this meeting, which he opposes. He realized that the PLD Committee had spent a long time on this issue, but he would rather have it go back to Committee than have amendments happening on the fly while the Rules are suspended. Councilor Filiault said he was opposed to the amendment not because of the wording but because the Rules were being suspended to amend something hastily.

Councilor Jones asked whether the Statements of Interest be public because they state Councilors’ and immediate families’ places of work and more. Mayor Hansel replied in the affirmative. Councilor Jones said that would open issues too. He was scared that there could be abuses, or people showing up to family members’ places of work, for example. He did not think it necessary to expose where spouses work. Councilor Jones said that for years, Councilors just stated when their spouses had pecuniary interests. He said it worked well for years without filing such documents.

Councilor Lake was sympathetic to the idea that the Council should not be amending things while the Rules are suspended. He thought this amendment would get that Statement of Interest to function as anticipated. He asked the City Attorney.

The City Attorney clarified that when he drafted this version of the amendment, it was based on the PLD meeting that was captured about the distinction between pecuniary and personal interests for Councilors and their immediate family. Unfortunately, the City Attorney said those details did not carry into the final paragraph. He said the final paragraph was intended to keep the same structure: for each Councilor and their immediate family, pecuniary interests should be disclosed, however, only the Councilor must disclose personal interests, such as the boards they sit on. He said the Council had discussed whether to have this Statement of Interest last year, but the amendment was not adopted.

Councilor Madison asked the City Attorney whether campaign contributions to a City Councilor—cash or in-kind services—would be considered pecuniary interests that the Councilor would have to disclose. The City Attorney replied, “Yes, probably” under the definition of pecuniary interest, because the language is for basically any financial interest that a Councilor receives that other members of the public do not enjoy, especially if it impacts one’s interests as a Councilor.

Councilor Greenwald said he understood parts of the amendment but in no way thought that Councilors should need to identify campaign contributors. He did not see it as the meaning of conflict of interest. The City Attorney replied that the question becomes whether it is a financial consideration or economic gain to the Councilor that is not otherwise available generally to the public. Thus, if the campaign contribution would affect the Councilor’s decisions as a Council member, which it is not supposed to, then the Councilor would potentially need to report that. Councilor Greenwald continued that there had been a good system that had worked for a very long time that was focused only on pecuniary interests. He said this seemed like an amazing amount of fine disclosure. He said it was a small town and it was no great secret what clubs Councilors belong to. He said the issue came down to personal integrity.

Councilor Madison responded to Councilor Greenwald, stating that historically it had not been an issue for Councilors, but Councilor Madison said that had changed in recent years. He wondered why a Councilor would want to hide where they are receiving campaign money from; if you feel it should be hidden from the public then Councilor Madison said perhaps you should not be accepting it. Working for the State of NH, he understood what it was like to have his personal information available to the public.

Councilor Filiault said there had already been several questions and a hasty amendment. He said this is why not to suspend the Rules.

A motion by Councilor Filiault to send this amendment back to the PLD Committee was duly seconded by Councilor Jones. On a vote of 12–3, the motion carried. Councilors Lake, Giacomo, and Ormerod voted in the minority.

Mayor Hansel recognized the Chair of the PLD Committee, Councilor Bosley, who noted that only one City Councilor showed up for this discussion at the last PLD meeting, which was why this was happening. Councilor Bosley challenged all Councilors to attend this discussion at the next PLD meeting because she did not want this to keep happening.

FOP REPORT – ACCEPTANCE OF 2022 WELLNESS GRANT – HUMAN RESOURCES DIRECTOR

A Finance, Organization, and Personnel Committee report read, recommending that the City Manager be authorized to do all things necessary to accept the wellness grant from HealthTrust to be used for employee wellness activities in 2022. A motion by Councilor Powers to carry out the intent of the Committee report was duly seconded by Councilor Remy. The motion carried unanimously with 15 Councilors present and voting in favor.

FOP REPORT – ACCEPTANCE OF THE LOCALITY EQUIPMENT MATCHING PROGRAM GRANT – FIRE DEPARTMENT

A Finance, Organization, and Personnel Committee report read, recommending that the City Council authorize the City Manager to do all things necessary to accept and expend the GOEFERR Locality Equipment Matching Program Grant. A motion by Councilor Powers to carry out the intent of the Committee report was duly seconded by Councilor Remy. The motion carried unanimously with 15 Councilors present and voting in favor.

FOP REPORT – NEGOTIATE LEASE OF AIRPORT PROPERTY – AIRPORT DIRECTOR

A Finance, Organization, and Personnel Committee report read, recommending that the City Manager or her designee be authorized to do all things necessary to negotiate and execute a lease agreement with Mr. Kevin Provost for land associated with a privately owned hangar. A motion by Councilor Powers to carry out the intent of the Committee report was duly seconded by Councilor Remy. The motion carried unanimously with 15 Councilors present and voting in favor.

FOP REPORT – AIRPORT OPERATING RIGHTS AGREEMENT – MONADNOCK CHOPPERS – AIRPORT DIRECTOR

A Finance, Organization, and Personnel Committee report read, recommending that the City Manager or her designee be authorized to do all things necessary to negotiate and execute an Operating Rights Agreement with Monadnock Choppers to provide aircraft maintenance services at the Keene Dillant-Hopkins Airport. A motion by Councilor Powers to carry out the intent of the Committee report was duly seconded by Councilor Remy. The motion carried unanimously with 15 Councilors present and voting in favor.

FOP REPORT – AIRPORT ENGINEERING AND ARCHITECTURAL SERVICES – AIRPORT DIRECTOR

A Finance, Organization, and Personnel Committee report read, recommending that the City Manager be authorized to do all things necessary to enter into an agreement with McFarland Johnson Inc. for Airport Engineering and Architectural Services for the Keene Dillant-Hopkins Airport. A motion by Councilor Powers to carry out the intent of the Committee report was duly seconded by Councilor Remy. The motion carried unanimously with 15 Councilors present and voting in favor.

FOP REPORT – PROFESSIONAL SERVICES CONTRACT FOR MAPPING CITY CEMETERIES AND ASSOCIATED SOFTWARE – PARKS, RECREATION AND FACILITIES DIRECTOR

A Finance, Organization, and Personnel Committee report read, recommending that the City Manager be authorized to do all things necessary to approve the expenditure of Cemetery Trust Fund B – Capital Reserve for \$8,000 (\$5,000 mapping + \$3,000 annual maintenance fee) to hire Bahar Mapping for a professional services contract to map the City cemeteries, which includes an interactive navigation station that allows the ability for cemetery guests to "find their love

one.” In addition, the authorization includes approval for up to 3 years of an annual maintenance fee of \$3,000, which may include a periodic increase. A motion by Councilor Powers to carry out the intent of the Committee report was duly seconded by Councilor Remy. Discussion ensued.

Councilor Bosley asked whether this would include small private cemeteries and the City Manager said it would be all of the City cemeteries, but not ones on private property. Councilor Giacomo asked whether this was software based on the City website or if it was an application. The City Manager believed it was a web-based platform. Councilor Williams stated this was a cool project that would do well for tourism for those who tour historic family gravestones. Councilor Ormerod asked whether this \$8,000 expenditure would save staff time and increase efficiency so they can be doing other things. The City Manager replied that it would help but not a lot; there are not a lot of requests that impact staffing. She said this was more of a service to make the mapped cemetery plots available and interactive to the average citizen at all hours. Councilor Jones asked whether this is a one-time service that the City continues or if it needs to be renewed annually and the City Manager replied that it is both. There is an initial cost to get it up and running and then an annual maintenance fee. She reminded that this was not coming from the General Fund or taxation, but from the Cemetery Trust Fund. The motion carried unanimously with 15 Councilors present and voting in favor.

FOP REPORT – BODY WORN CAMERA AND IN-CAR VIDEO SYSTEM IMPLEMENTATION – POLICE DEPARTMENT

A Finance, Organization, and Personnel Committee report read, recommending that the City Manager be authorized to do all things necessary to begin implementation of the Body Worn Camera and In-Car Video program; to apply for, accept and expend any available grant funding related to the Body Worn Camera program funding; and pursuant to Section 2-1336 of the City of Keene Code of Ordinances, waive bidding requirements in Section 2-1332 (1), and Section 2-1335 as recommended by the City Manager. A motion by Councilor Powers to carry out the intent of the Committee report was duly seconded by Councilor Remy. Discussion ensued.

The City Manager shared good news that this week she was notified by Senator Shaheen’s office that the City received \$415,000 of Congressional Direct Spending, which will cover the majority of the camera purchase of \$445,000 for implementation over the next five years. However, this means that implementation cannot begin until the funds are received and that date was currently unknown. In addition to several other grants the City is applying to for this effort, she sought Council support on this now to have the ability to phase it in overtime with some initial purchases for modifications to uniforms and more. The City Manager also shared how excited the Police Department is about these changes, stating that they had done a great job looking at the different systems and choosing one of the most popular. She hoped the Council would approve.

In response to Councilor Jones, the City Manager could not say whether other communities that had done this saw an increase in Right to Know requests. She continued that for the one-month

Keene had the technology, there was an increase in Right to Know requests that required extra work and developing a new system on redacting. This was a part of the reason the Council approved the addition of an Assistant City Attorney, who will be stationed at the Police Department to deal with these requests and the body worn and in-car camera systems. Mayor Hansel said that in his Mayor's group, there were reports of increased Right to Know requests across the Board.

Councilor Giacomo noted that this all pertained to the first five years and asked what the anticipated life of the hardware was and what happens to this contract after five years if there is not funding available for another half million dollars. Councilor Powers said that a portion of those expenses would likely always remain no matter how long the equipment lasts and there is a portion of the operation dealing with the data gathered that must be managed. However, he said it is much easier with new automated equipment. If in fact this company is the primary vendor and they want to continue, there would likely be a fee for the future and the equipment would either continue past those five years or require updates. If there are equipment updates, that is software and not hardware, so most of what had been purchased could roll over. Much of the hardware associated with uniforms could roll over. He said it was hard to say but he thought any reserve money would be put aside each year for equipment maintenance.

The City Manager said the simple answer was that yes, the City was assuming an additional expense for the future because these pieces of equipment would need to be replaced (every 6–7 years), which would be rolled into the next Capital Planning process. She did not envision costs going down, noting that there had been a considerable price increase between the trial period and now; increased demand is contributing to higher prices. The City Manager had to do some negotiations and modifications to keep the price that was estimated originally. She said the simple answer to Councilor Giacomo's question was that yes, they would be assuming an additional half a million dollars, which would eventually roll into the City's budget.

Councilor Roberts said that technology would continue getting better and cheaper. He said it was important as City leadership to maintain a certain level of trust with the community and these cameras would improve that level of trust, especially with people of color and low-income people. He added that the cameras also protect the officers. Councilor Roberts said it would have been worth it even if these funds were coming from the City's pockets. The motion carried unanimously with 15 Councilors present and voting in favor.

CITY MANAGER COMMENTS

The City Manager, Elizabeth Dragon, began her report with Green Up Keene on April 23. The Public Works Department would again have drive-through supply pick-up on Saturday rather than the usual sign-up table at Railroad Square. Pre-registration was encouraged and there was a map on the City website so people could sign-up for specific areas.

Next, the City Manager provided an update on the Fire Station Staffing Committee. A smaller group of the Committee had met recently at the Fire Department to review available data and this conversation would continue. She added that they were currently reviewing options for the fire

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prevention function with a vacancy in the fire prevention office due to Captain Bates' retirement. She anticipated initiating a recruitment process in the near future.

The City Manager said the City continued receiving assistance from two members of the State's Fire Marshall's office for the previous four weeks to address the backlog of open violations in the system related to assembly permits. They have also helped with life safety and building permit inspections. The City Manager continued reporting that the Community Development Department had also been assisting with plan reviews. She said they had been attempting to hire a temporary person through a contract for help while recruiting Captain Bates' replacement. She said the State Fire Marshalls Offices had been extremely helpful, but they obviously have other responsibilities and cannot substitute as a full-time inspector for Keene.

The City Manager said that with more inspections comes more violations. She said most property owners had been cooperative and willing to address violations, while others have been frustrated or even angered. However, unless there is an imminent life safety concern, the team is working with property owners to allow them time to come into compliance. Businesses with new permits that are anxious to open have also experienced delays that have caused them frustration. She said the community is accustomed to getting more immediate service, but because of necessary certifications, customers have had to wait until the next time the State Fire Marshall's office is here assisting us—usually the following week.

The City Manager said that a plan had been submitted by the Fire Chief for fire inspections and as Staff learn more they will continue modifying the plan as necessary. The Fire Inspection Program had been focused on utilizing limited Staff to conduct State required inspections, including assembly permits. The City Manager said she had already discussed with Council their concerns related to follow-up for those inspections and how the City is currently addressing open violations. Additionally, she said the Fire Marshall office work had also highlighted the need to address how life safety inspections in commercial and multifamily units are approached. Some of these properties have violations that will require property owners to make significant investments to come into compliance with Fire Codes. As she mentioned, as long as the violations do not present imminent life safety concerns then the team is working with property owners to allow them time to develop a plan to bring them into compliance. This will require additional follow-up and resources to monitor the goal of the inspection program, which is to gain compliance through support and education, not punitive measures. The City Manager will keep the Council updated on progress.

Next, the City Manager shared a flyer for an Arts Alive Community Workshop. Rural Design has been working with a team from Keene over the past several months to develop a design plan for the Keene Arts Core (previously the Arts Corridor). After a site visit and tour in November, virtual community workshops, and an afternoon of focus groups exploring ideas on Gilbo Avenue the City Manager said it was time for the design team (led by TBD Studios) to share their ideas and welcome feedback. Thus, on March 24 from 10:00 AM–12:00 PM there would be a community conversation hosted by Arts Alive. The designers would use feedback to create a clearer vision for the Keene Arts Core. The event is at the Colonial Theater and there are limited

seats available, so the City Manager suggested registering at artsalive.org. There is also a virtual attendance option.

Next, the City Manager said the City's branding project had begun. The branding consultants, Guide, would be in Keene on April 20–21 and there would be several opportunities for engagement, including a workshop with the Council on Wednesday April 20, tentatively at 6:00 PM at the Airport. The City Manager said this was a great opportunity to engage with the consultants and the project lead, Rebecca Landry, Assistance City Manager/IT Director.

The City Manager concluded her report by sharing a housing survey being conducted by the Southwest Regional Planning Commission. She said housing is a crucial topic for all of us and they launched an online survey to gather perspectives. The survey is intended to inform the preparation of an updated regional housing needs assessment. The City Manager encouraged everyone to take the survey available on the Southwest Regional Planning Commission's website.

CITY OFFICER REPORT – CITY COUNCIL GOALS – CITY MANAGER

A memorandum read from the City Manager, identifying the City Council's Goals that were established at several workshops of late, and requesting that the City Council adopt the goals for 2022–2023.

A motion by Councilor Powers to adopt the City Council goals was duly seconded by Councilor Bosley. The motion carried unanimously with 15 Councilors present and voting in favor.

CITY OFFICER REPORT – CREATION OF A PARKLET ORDINANCE – MAYOR HANSEL

With spring coming, the Mayor said this was timely, knowing that several businesses expressed interest in parklets throughout Covid-19 and some applications had been submitted. In order to expand the City's resources toward this and have the City Attorney take next steps in drafting an ordinance, the Mayor wanted Council consensus on if this was something they were interested in pursuing. He requested to hear opposition to considering parklets at this time.

Councilor Greenwald said there is not enough parking in town and advocating for parking is critical. He suggested talking about parklets once there was a parking deck. He cited the parking needs of second, third, and fourth floor occupants downtown. He said he knew where this was going but thought it was selfish.

Mayor Hansel said that if there was no consensus then Staff time would not be expended.

Councilor Filiault said that on paper, this seemed like a good idea coming out of the pandemic, when the goal was to help businesses. He said that Councilor Greenwald was correct that parking is limited downtown, and higher floor occupants need parking. Councilor Filiault's concern was that once it is allowed for one business, they all will want it and parking would really be depleted. He said it would be a legal nightmare and urged extreme caution.

Mayor Hansel said that if there was consensus, he requested that the PLD Committee consider an accelerated meeting schedule to accommodate a review and ultimate recommendation on the parklet ordinance on Wednesday, March 30 at 6:00 PM. Councilor Johnsen was thankful to see so many young people making requests and she did not want to shut that down before taking a good look at it.

The City Attorney said this helped him have some idea, but he wanted to ensure that they were not truncating the PLD discussion. He also wanted Councilors to understand that he would not be showing up to the next PLD meeting with a proposed ordinance because more time and discussion was needed to put this in place.

Councilor Filiault asked the City Attorney whether opening this up to one restaurant would lead to legal ramifications when another business is denied. The City Attorney replied that the challenge is in those details, which is why the ordinance would need to be as objective as possible. There have to be criteria built in to deal with questions of location and safety because the reality is there are some places in the City where this would not be appropriate. The Council must make those determinations so there is an objective basis on which to make a decision. Mayor Hansel said they would try to get through this as expeditiously as possible for the benefit of business owners, but it would not be rushed to the point that it is done incorrectly.

Councilor Bosley pointed out that Councilors would already be present at the next PLD meeting to help discuss this. Councilor Workman recalled the City doing work on this last year. The City Manager said that was correct, but that work was not related to an ordinance, but was about parameters around where a parklet could or could not work and other aspects to consider (sidewalk dimensions, parallel vs. straight parking, etc.). The Director of Public Works presented a framework for this last year and the City Manager said they would likely be guided by that same framework in this process. There are also challenges because this ordinance must interact with the parking ordinance. Thus, Council input was sought before the City Attorney did a lot of this work.

Mayor Hansel said he still argued that the previous work on this was under the emergency order and it is a different situation to reevaluate now. Mayor Hansel heard consensus and the City Attorney had enough information to begin work.

REPORT – ACCEPTANCE OF DONATIONS – PARTNER CITY COMMITTEE

A memorandum read from the Finance Director, recommending that the following donations be accepted. The City Manager recognized the donations from the Partner City Committee resulting from last year's Taste of Keene event, with a total of \$572.95.

A motion by Councilor Powers to authorize the City Manager to do all things necessary to accept donations in the amount \$120, proceeds from raffle tickets and "Taste of Keene" fundraiser beer sales in the amount of \$452.95, a total of \$572.95 raised by the Partner City Committee in 2021 was duly seconded by Councilor Remy. The motion carried unanimously with 15 Councilors present and voting in favor. Mayor Hansel, the City Manager, and the City Council expressed their gratitude for this generosity.

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PB REPORT – PROPOSED CAPITAL IMPROVEMENT PLAN (CIP) FOR FY 2023–2029

A Planning Board report read indicating that the Capital Improvement Program for 2023-2029 is consistent with the Comprehensive Master Plan. The motion was seconded by David Orgaz and passed by unanimous vote. Mayor Hansel accepted the recommendation as informational.

FOP REPORT – CAPITAL IMPROVEMENT PROGRAM FY 2023–2029

A Finance, Organization, and Personnel Committee report read, recommending the adoption of the Capital Improvement Plan for FY 2023-2029. A motion by Councilor Powers to adopt the Capital Improvement Plan for FY 2023–2029 was duly seconded by Councilor Remy.

Discussion ensued. Mayor Hansel expressed his gratitude to City Staff for their hard work on this CIP. Councilor Williams thanked Staff for their hard work on the Sidewalk Improvement Plan and what he called a good down payment. The motion carried unanimously with 15 Councilors present and voting in favor.

ORDINANCE FOR FIRST READING – RELATING TO STOP SIGNS – WASHINGTON AVENUE – ORDINANCE O-2022-03

A memorandum read from the City Engineer, recommending that Ordinance O-2022-03 be referred to the Municipal Services, Facilities, and Infrastructure Committee for consideration and a recommendation back to the Council. Mayor Hansel referred Ordinance O-2022-03 to the Municipal Services, Facilities, and Infrastructure Committee.

RESOLUTIONS – RELATING TO THE APPROPRIATION OF FUNDS FOR THE WINCHESTER STREET BY-PASS PROJECT – RESOLUTIONS R-2022-03 & R-2022-04

A Finance, Organization, and Personnel Committee report read, recommending the adoption of Resolution R-2022-03. Mayor Hansel filed the report. A motion by Councilor Powers to adopt Resolution R-2022-03 was duly seconded by Councilor Remy.

Councilor Roberts recalled 18–19 years ago, when there was a \$70-80 million project that was going to handle a lot of these things, but said there was a lot of disagreement on the City Council at the time and in the end the money went to a different project. He said it was important to not make the same mistake. The motion carried unanimously on a roll call vote with 15 Councilors present and voting in favor.

A Finance, Organization, and Personnel Committee report read, recommending the adoption of Resolution R-2022-04. A motion by Councilor Powers to adopt Resolution R-2022-04 was duly seconded by Councilor Remy. Councilor Jones was happy to see the City following the Dig Once program established long ago. The motion carried unanimously on a roll call vote with 15 Councilors present and voting in favor.

FOP REPORT – WINCHESTER STREET RECONSTRUCTION– CONSULTANT SELECTION FOR CONSTRUCTION ENGINEERING SERVICES – CITY ENGINEER; AND WINCHESTER STREET RECONSTRUCTION – DESIGN CONSULTANT SERVICES FOR CONSTRUCTION SUPPORT SERVICES – CITY ENGINEER

A Finance, Organization, and Personnel Committee report read, recommending that the City Manager be authorized to do all things necessary to negotiate and execute a professional service contract with Greenman-Pedersen, Inc., (GPI) for an amount not to exceed \$670,000 for Construction Engineering Services required for the Winchester Street Reconstruction Project. A motion by Councilor Powers to carry out the intent of the Committee report was duly seconded by Councilor Remy. The motion carried unanimously with 15 Councilors present and voting in favor.

A Finance, Organization, and Personnel Committee report read, recommending that the City Manager be authorized to do all things necessary to negotiate and execute a professional service contract with McFarland Johnson, Inc., for an amount not to exceed \$70,000 for Construction Support Services required for the Winchester Street Reconstruction Project. A motion by Councilor Powers to carry out the intent of the Committee report was duly seconded by Councilor Remy. The motion carried unanimously with 15 Councilors present and voting in favor.

RESOLUTION – RELATING TO THE APPROPRIATION OF FUNDS FOR THE THOMPSON ROAD REPAIR AND STABILIZATION PROJECT – RESOLUTION R-2022-05

A Finance, Organization, and Personnel Committee report read, recommending the adoption of Resolution R-2022-05. Mayor Hansel filed the report. A motion by Councilor Powers to adopt Resolution R-2022-05 was duly seconded by Councilor Remy. The motion carried unanimously on a roll call vote with 15 Councilors present and voting in favor.

RESOLUTION – COUNCIL POLICY: RELATING TO THE LEGISLATIVE PROCESS – REOLUTION R-2022-06

A Finance, Organization, and Personnel Committee report read, recommending the adoption of Resolution R-2022-06 and the rescission of the previous Council policy on Legislative process, Resolution R-2015-10.

A motion by Councilor Powers to adopt Resolution R-2022-06 and the rescission of Resolution R-2015-10 was duly seconded by Councilor Remy.

Councilor Greenwald said this was an important topic and while this was not time sensitive, he was getting wary. He wanted to table this so the Council could have a more spirited discussion at the next meeting.

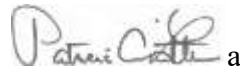
A motion by Councilor Greenwald to table this agenda item until the April 7, 2022 meeting was duly seconded by Councilor Powers and the motion carried on a 12–3 roll call vote. Councilors Remy, Jones, and Giacomo voted in the minority.

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NON-PUBLIC SESSION

A motion by Councilor Powers to enter a non-public session to discuss a land matter under RSA 91-A (II) d was duly seconded by Councilor Bosley. The motion carried unanimously on a toll call vote with 15 Councilors present and voting in favor. Mayor Hansel adjourned the meeting at 9:21 PM and called for a brief recess to clear the room. The City Engineer and Economic Development/Special Projects Director were in attendance. Discussion was limited to the subject matter. The session concluded at 10:00 PM. A motion by Councilor Powers to keep the minutes in non-public session was duly seconded by Councilor Bosley. On roll call vote, 15 Councilors were present and voting in favor.

A true record, attest:

 a

City Clerk