

A regular meeting of the Keene City Council was held on Thursday, July 21, 2022. In the absence of the Honorable Mayor George S. Hansel, the City Clerk, Patricia Little, called the meeting to order at 7:00 PM. Roll called: Bryan J. Lake, Michael J. Remy, Gladys Johnsen, Michael Giacomo, Randy L. Filiault, Andrew M. Madison, Robert C. Williams, Philip M. Jones, Bettina A. Chadbourne, Catherine I. Workman, Mitchell H. Greenwald, Kate M. Bosley, and Thomas F. Powers were present. Kris E. Roberts was absent. Having declared a quorum physically present, Raleigh C. Ormerod—who had the Council’s permission to participate remotely—stated his location, that he was participating remotely due to health issues, and that he was alone. A motion by Councilor Bosley to elect Councilor Powers as temporary Chair was duly seconded by Councilor Greenwald and the motion carried on a unanimous roll call vote. Councilor Roberts was absent. Councilor Powers acted as Chair of the meeting. Councilor Remy led the Pledge of Allegiance.

#### ANNOUNCEMENTS

Chair Powers announced Councilor Remy’s birthday on July 17. He also announced the Council’s vacation, beginning with the cancellation of the July 27–28 MSFI/FOP meetings, the August 4 Council meeting, and the August 10–11 PLD/FOP meetings. The Council will return to its normal meeting schedule for the August 18 meeting.

#### MINUTES OF THE PRECEDING MEETING

A motion by Councilor Bosley to adopt the minutes of the July 7, 2022, regular meeting was duly seconded by Councilor Greenwald. The motion carried on a unanimous 14–0 roll call vote. Councilor Roberts was absent.

#### PROCLAMATION – SPECIAL OLYMPICS

Chair Powers read a Proclamation extending the official congratulations from the City of Keene to the coaches and participants of the Special Olympics NH team and called upon all citizens of Keene to join in congratulating the members on their outstanding display of athletic ability, strength, and thrilling victories, as well as the pride and joy they bring to this community. Chair Powers presented the proclamation to Director of Parks, Recreation, & Facilities, Andy Bohannon, Mike Sulsey, and four Special Olympics participants. Mr. Bohannon spoke on behalf of the Parks and Recreation program in congratulating the members.

#### NOMINATION

Mayor Hansel nominated Doris McCollester to serve as a regular member of the Partner City Committee, with a term to expire December 31, 2025. Chair Powers tabled the nomination until the next regular meeting.

#### CONFIRMATION

Mayor Hansel nominated Pamela Russell-Slack and Justin Somma to serve as regular members of the Library Board of Trustees, with terms to expire June 30, 2025. Mayor Hansel also

nominated Randyn Markelon to serve as an alternate member of the Planning Board, with a term to expire December 31, 2026. A motion by Councilor Bosley to confirm the nominations was duly seconded by Councilor Greenwald. The motion carried on a unanimous 14–0 roll call vote. Councilor Roberts was absent.

**COMMUNICATION – COUNCILOR PHILIP JONES – RESOLUTION IN SUPPORT OF A “PROTECT OUR POLICE BILL”**

A communication was received from Councilor Jones, requesting the drafting of a Resolution that would request legislation be enacted which would outlaw the owning, storing, buying, selling, distributing, manufacturing, or custom making of any gun loading ammunition designed to penetrate bulletproof armor. Chair Powers referred the communication to the Municipal Services, Facilities, and Infrastructure Committee.

**PLD REPORT – KEENE ELM CITY ROTARY – USE OF CITY PROPERTY – CLARENCE DEMAR MARATHON**

Planning, Licenses, and Development Committee report read, recommending the Elm City Rotary Club be granted permission to sponsor the Clarence DeMar Marathon on September 25, 2022, subject to the signing of a revocable license and indemnification agreement and the submittal of a certificate of liability insurance in the amount of \$1,000,000 listing the City of Keene as an additional insured. This license is conditional upon the petitioners providing an adequate number of volunteer race marshals to ensure runner safety along the course and is subject to any recommendations of City staff. The petitioner agrees to absorb the cost of any City services over and above any amount of City funding allocated in the FY 23 Community Events Budget. Said payment shall be made within 30-days of the date of invoice. A motion by Councilor Bosley to carry out the intent of the Committee report was duly seconded by Councilor Giacomo. The motion carried unanimously on a 14–0 roll call vote. Councilor Roberts was absent.

**FOP REPORT – ACCEPTANCE OF FEDERAL FORFEITURE MONIES – POLICE DEPARTMENT**

Finance, Organization, and Personnel Committee report read, recommending that the City Manager be authorized to do all things necessary to accept and expend Federal forfeiture monies in the amount of \$22,404.45. A motion by Councilor Remy to carry out the intent of the Committee report was duly seconded by Councilor Lake. The motion carried on a unanimous 14–0 roll call vote. Councilor Roberts was absent.

**FOP REPORT – FY22 DOJ JUSTICE ASSISTANCE GRANT – POLICE DEPARTMENT**

Finance, Organization, and Personnel Committee report read, recommending that the City Manager be authorized to do all things necessary to co-apply with the County of Cheshire and to accept the U.S. Department of Justice FY22 JAG in the amount allocated to the City of \$5,554. A motion by Councilor Remy to carry out the intent of the Committee report was duly seconded

by Councilor Lake. The motion carried on a unanimous 14–0 roll call vote. Councilor Roberts was absent.

**FOP REPORT – PRIMEX CONTRIBUTION ASSURANCE PROGRAM (CAP) – WORKERS COMPENSATION – HUMAN RESOURCES**

Finance, Organization, and Personnel Committee report read, recommending that the City Manager be authorized to do all things necessary to enter into and execute an agreement extending participation with Primex3 in a multi-year Contribution Assurance Program (CAP) through the calendar year 2025 providing for mitigation in the event of adverse experience, and assurance of predictable contributions for future workers' compensation insurance. A motion by Councilor Remy to carry out the intent of the Committee report was duly seconded by Councilor Lake. The motion carried on a unanimous 14–0 roll call vote. Councilor Roberts was absent.

**FOP REPORT – LEASE AGREEMENT WITH THOMAS TRANSPORTATION – AIRPORT DIRECTOR**

Finance, Organization, and Personnel Committee report read, recommending that the City Manager be authorized to do all things necessary to negotiate and execute a lease with Thomas Transportation for a portion of the Airport terminal parking lot for parking of their customers' vehicles. A motion by Councilor Remy to carry out the intent of the Committee report was duly seconded by Councilor Lake. The motion carried on a unanimous 14–0 roll call vote. Councilor Roberts was absent.

**FOP REPORT – ENGINEERING AGREEMENT WITH MCFARLAND JOHNSON FOR THE AIRPORT FENCING PROJECT – AIRPORT DIRECTOR**

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 engineering services contract with McFarland Johnson for the Preliminary Design and Environmental Assessment for the airport wildlife perimeter fence project. Discussion ensued with Councilor Williams thanking the Airport Director for his work to keep the fence out of the valuable wetland while also keeping wildlife off the runway and meeting FAA requirements. A motion by Councilor Remy to carry out the intent of the Committee report was duly seconded by Councilor Lake. The motion carried on a unanimous 14–0 roll call vote. Councilor Roberts was absent.

**FOP REPORT – DESIGN-BUILD SERVICES FOR THE CREATION OF A NEW SKATEPARK – PARKS, RECREATION, AND FACILITIES DIRECTOR**

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 Spohn Ranch, Inc. for design-build services required for the creation of a new skate park for an amount not to exceed \$225,000.00 with funding to come from Project Cost Center (90317). A motion by Councilor Remy to carry out the intent of the Committee report was duly seconded by Councilor Lake.

The City Manager spoke to this matter. She said the City had negotiated and executed a purchase and sales agreement with Growers Outlet, LLC., for a land swap and purchase of property. The LLC is the owner of the former Findings property at 160 Water Street, which abuts the Patricia T. Russell Park. The land swap is for the City's property at 0 Gilbo Avenue, currently the Skatepark. She was excited to announce this news and move forward with the design of the new Skatepark at 160 Water Street. The land swap and purchase allow for incorporating the Skatepark into the Russell Park improvements and creates options for flood mitigation in this area, which has seen significant flooding in the past. The new owners of the Findings property are interested in a commercial building that they think would fit nicely in the overall development of Gilbo Avenue. The estimated closing date is September 1.

Councilor Jones spoke in favor and asked whether moving the Skatepark would allow Keene State College to extend Wilson Avenue as they have wanted for many years. The City Manager said the land swap would not make that happen in itself; there would need to be additional work to straighten, extend, and connect Wilson Street to Gilbo Avenue. There is language included in the purchase and sales agreement that discusses the need to address Wilson Street in the future. The motion carried on a unanimous 14-0 roll call vote. Councilor Roberts was absent.

#### FOP REPORT – LOWER WINCHESTER RECONSTRUCTION PROJECT – CONSULTANT SELECTION – CITY ENGINEER

Finance, Organization, and Personnel Committee report read, recommending that the City Manager be authorized to do all things necessary to negotiate and execute an Engineering and Technical Services Agreement with McFarland Johnson, Inc. for the Lower Winchester Street Reconstruction Project for an amount not to exceed \$480,000.00. A motion by Councilor Remy to carry out the intent of the Committee report was duly seconded by Councilor Lake. The motion carried on a unanimous 14-0 roll call vote. Councilor Roberts was absent.

#### FOP REPORT – THOMPSON ROAD REPAIR – CONSULTANT SELECTION – CITY ENGINEER

Finance, Organization, and Personnel Committee report read, recommending that the City Manager be authorized to do all things necessary to negotiate and execute an Engineering and Technical Services Agreement with John Turner Consulting, Inc. for the Thompson Road Repair & Stabilization Project for an amount not to exceed \$60,000.00. A motion by Councilor Remy to carry out the intent of the Committee report was duly seconded by Councilor Lake. The motion carried on a unanimous roll call vote. Councilor Roberts was absent.

#### CITY MANAGER COMMENTS

The City Manager began by reporting that due to our work transitioning the City to a new financial software system the Revenue Office will need to be closed next Wednesday, July 27. We encourage people to go to the City's website to access online services.

Next, the City Manager shared that on Tuesday, July 26 at 6:00 PM there will be a community forum regarding the redesign of Wheelock Park campground for a new disc golf and dog park. The City hired Dubois & King consulting firm to facilitate a concept plan with the purpose of understanding the community's needs and mapping out the required space for both amenities to be included. On Tuesday, there will be a public forum to present the draft plan and answer questions from the public. This forum will take place in the horseshoe pavilion located in the rear of Wheelock Park. The City Manager announced that with some compromise from both the dog park interest group and the disc golf group, it does appear there is space for both to be located in this space.

The City Manager continued sharing an anonymous social media post:

*Late this morning, I stopped to get gas and apparently was too distracted by the 1957 Desoto Wagon in front of me. I must have left my wallet open on top of my car and drove off. Some wonderful City of Keene employee found my wallet and its contents all over Maple Ave. He stopped to pick up as of as he could and delivered it. Many thanks to the City of Keene employee that took the time to save me so much trouble.*

The Manager stated she didn't know who the employee was and it could have been anyone-just a nice example of the great group people we are lucky to have working for the city.

The City Manager wished the City Council a good summer break.

#### ACCEPTANCE OF DONATIONS – FINANCE DIRECTOR/TREASURER

A memorandum was received from the Finance Director/Treasurer recommending the City Council accept the donations identified in her memorandum. A motion by Councilor Remy to accept the list of donations below and that the City Manager be authorized to use each donation in the manner specified by the donor was duly seconded by Councilor Lake. The motion carried unanimously on a 14-0 roll call vote. Councilor Roberts was absent.

- The Keene Parks, Recreation and Facilities Department received two donations to be used for the Human Rights Committee collaboration with the Keene International Festival. \$1,000 from Jennifer Alexander for event logistics and \$1,000 from Saving Bank of Walpole for event logistics.
- The Keene Parks, Recreation and Facilities Department received a donation in the amount of \$3,500 from the Pathways for Keene and that the funds be used toward a new kiosk at the Ammi Brown Trail trailhead.
- The Keene Fire Department received a \$500 donation from Tobias and Brenna Iselin, parents of Henry Iselin who passed away in November 2020, and was close to the members of the Keene Fire Department.

#### ORDINANCE FOR FIRST READING – RELATING TO AMENDMENTS TO THE LAND DEVELOPMENT CODE – RURAL DISTRICT AND CONSERVATION RESIDENTIAL DEVELOPMENT SUBDIVISION REGULATIONS – ORDINANCE O-2022-09

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A memorandum was received from Senior Planner, Mari Brunner, recommending that the City Council refer Ordinance O-2022-09 to the Joint Committee of the Planning Board and Planning, Licenses, and Development Committee. Chair Powers referred Ordinance O-2022-09 to the Joint Committee.

**ORDINANCE FOR FIRST READING – RELATING TO PARKING RATES – ORDINANCE O-2022-08**

A memorandum was received from Parking Operations Manager, Chelsea North, recommending that Ordinance O-2022-08 be referred to the Finance, Organization, and Personnel Committee for their review and recommendation. Chair Powers referred Ordinance O-2022-08 to the Finance, Organization, and Personnel Committee.

**ORDINANCE FOR SECOND READING – RELATING TO AMENDMENTS TO THE LAND DEVELOPMENT CODE – MULTI-FAMILY RESIDENTIAL DWELLINGS**

Planning, Licenses, and Development Committee report read, recommending the adoption of Ordinance O-2022-04. Chair Powers filed the report. A motion by Councilor Bosley to adopt Ordinance O-2022-04 was duly seconded by Councilor Giacomo. The motion carried on a unanimous 14–0 roll call vote. Councilor Roberts was absent. Ordinance O-2022-04 declared adopted.

**RESOLUTIONS – ACCEPTANCE OF DEED AND RETURN OF LAYOUT – MAGNOLIA WAY – RESOLUTIONS R-2022-23 & R-2022-24**

A petition was received from Attorney Timothy Coughlin, representing Nuevo Transfers LLC., for the acceptance of a deed and the layout of Magnolia Way. Chair Powers set a public hearing 7:00 PM on Thursday, September 1 following a site visit at 5:45 PM, with bus transportation from City Council and a subsequent dinner. The matter was referred to the Planning Board and Municipal Services, Facilities, and Infrastructure Committee.

**RESOLUTIONS – ACCEPTANCE OF DEED AND RETURN OF LAYOUT – INTERSECTION IMPROVEMENTS – MATTHEWS ROAD AND WINCHESTER STREET – RESOLUTIONS R-2022-25 & R-2022-26**

A petition was received from Attorney Timothy Coughlin, for the layout of intersection improvements to the Matthews Road Right-of-Way at Matthews Road and Winchester Street. Chair Powers set a public hearing at 7:05 PM on Thursday, September 1, following the site visit at 5:45 PM. The matter was referred to the Planning Board and Municipal Services, Facilities, and Infrastructure Committee.

**TABLED ITEM – COUNCILOR MITCHELL GREENWALD – AMENDMENT TO THE CITY COUNCIL RULES OF ORDER – REMOTE ACCESS**

This item was tabled at the July 7, 2022 regular meeting. Chair Powers removed the item from the table for discussion of Councilor Greenwald’s request for further amendment to the Rules of

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Order that would provide that a member could be allowed to participate remotely for personal reasons up to two meetings per year. This maximum of meetings would not apply to being remote for serious health issues, disability, or out-of-town employment responsibilities.

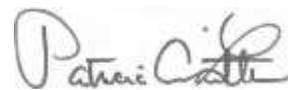
Chair Powers requested comments from the City Attorney, Tom Mullins, who said this item came in at the prior City Council meeting and was tabled to provide him an opportunity to discuss the amendment with Councilor Greenwald. The City Attorney reminded the Council of Rule 33 of the Council Rules of Order, regarding items that were once considered. Rule 33 states that once a final vote is taken by the City Council on a matter, the vote is final for the calendar year and cannot be revisited during that calendar year without a motion to suspend the Rules of Order. In 2021, there was an extensive Council discussion about changes to the Council Rules of Order, and ultimately Rule 4 regarding remote participation and quorum was discussed heavily, and in December 2021, the proposed changes submitted were not adopted. In February 2022, a letter previously submitted to the Council by several Councilors was resubmitted to FOP and then referred to PLD on the topic of remote participation again. The PLD discussed the matter at length and made recommendations to the Council, which included remote participation, and the City Council voted to adopt Rule 4 on March 17, 2022. Within Rule 4 is language regarding remote participation. The City Attorney stated his position is that the matter before the Council was Rule 4 in March 2022, that matter was disposed of, and any further consideration would require a suspension of the Rules of Order.

A motion by Councilor Bosley to suspend Section 33 of the Rules of Order to allow consideration of the issue in the same calendar year of the previous amendment was duly seconded by Councilor Remy. This motion was not debatable. The motion carried on a vote of 10-4 and the matter was referred to the Planning, Licenses, and Development Committee. Councilors Lake, Jones, Madison, and Chadbourne voted in opposition. Councilor Roberts was absent.

#### ADJOURNMENT

Hearing no further business, Mayor Hansel adjourned the meeting at 7:46 PM.

A true record, attest:



City Clerk