

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

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

**Wednesday, June 12, 2024**

**6:00 PM**

**Council Chambers,  
City Hall**

**Members Present:**

Philip M. Jones, Vice Chair  
Robert C. Williams  
Edward J. Haas  
Andrew M. Madison

**Staff Present:**

Rebecca Landry, Deputy City Manager  
Andy Bohannon, Deputy City Manager  
Amanda Palmeira, Assistant City Attorney  
Patty Little, City Clerk  
Terri Hood, Assistant City Clerk  
Rick Wood, Fire Marshall/Building Official

**Members Not Present:**

Kate M. Bosley, Chair

Vice Chair Jones called the meeting to order at 6:00 PM. The Committee welcomed its newest member, Councilor Madison.

**1) Keene Downtown Group – Request to Use City Property – Wizing Week**

Vice Chair Jones welcomed Amy Christiansen Schoefmann of 10 Belmont Ave., representing the Keene Downtown Group, as well as Adam Berube of 710 Main St., whose request was incorporated with the Downtown Group’s request for this event. Ms. Schoefmann said that this 5<sup>th</sup> annual event would be at Railroad Square and Central Square. Approval for use of these areas for artists and pop-ups has been received from the Department of Parks and Recreation and the City Clerk’s Office. She noted that she typically requests extra trash bins and a truck body from Public Works, noting that her family members assist with emptying the receptacles at the close of the event. While they do use City property, she said that most of the events take place inside the downtown stores. This year, the Downtown Group also requested the use of Church Street as “Daigon Alley” which is the reason this came to the City Council, so that road could be closed for the activity. Vice Chair Jones asked if Mr. Berube’s request was primarily to do with food trucks and Mr. Berube said yes.

Councilor Haas thought Church Street was a good idea for Daigon Alley. He asked if the Downtown Group had reached out to local youth groups to promote the activities. Mr. Berube said yes, but they were waiting until this was approved by the Committee before further planning. He anticipated a lot of youth participation.

Vice Chair Jones thought many in the community would be familiar with the event. Ms. Schoefmann agreed, adding that it is a well-established event that had been immensely

successful. She noted that the event helped to keep some downtown businesses from closing during Covid. There would also be musical performances this year. As a local business owner, Mr. Berube agreed, noting that when business slows downtown during the summer, this is a great opportunity to generate revenue. The organizers were excited to continue growing and improving this exciting event.

There were no public comments.

Rebecca Landry, Deputy City Manager, said that moving forward, she would be the one reporting out on the protocol meetings for these events. While she was unable to attend this one, the Assistant City Clerk, Terri Hood, attended and assured Ms. Landry that the event met all staff requirements. Staff will continue working with the organizers as the event approaches.

Councilor Madison thanked Mr. Berube and Ms. Schoefmann for organizing this event, which the community enjoys. As the Councilor had mentioned recently, Keene is becoming an event/festival City. This was only possible because of community members like Mr. Berube and Ms. Schoefmann generously organizing and bringing the community together, which supports local businesses. Vice Chair Jones agreed.

Councilor Williams made the following motion, which was duly seconded by Councilor Madison.

On a vote of 4-0, the Planning, Licenses, and Development Committee recommends that the Keene Downtown Group be granted a license to use downtown City property on Central Square and Railroad Square, from Wednesday, July 24 through Sunday, July 28, 2024 to host Wizarding Week festivities, as well as permission for the closure of a portion of Church Street on Saturday, July 27, 2024 to host a “Daigon Alley” event as part of Wizarding Week, conditional upon the following:

- The signing of a standard revocable license and indemnification agreement;
- That the petitioner provide a certificate of liability insurance with the City of Keene listed as additional insured in the amount of \$1,000,000;
- That the Petitioner agrees to absorb the cost of any City services provided to the event, and agrees to remit said payment within 30-days of the date of invoicing;
- That the July 27th event on Church Street will be held from 10:00 AM to 8:00 PM with the times for set up and clean up to be established with City staff;
- That the timeframes for use of Central Square and Railroad Square be coordinated with City staff;
- 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.

2) **Madam Sherri's Lounge – Request to Serve Alcohol on City ROW – Adjacent to Railroad Square**

Vice Chair Jones questioned whether this application would fall under the Resolution relating to Central Square and Railroad Square, and whether this was separate from the Sidewalk Café process. The Assistant City Attorney, Amanda Palmeira, said that the Resolution does refer to the Sidewalk Café process, so it was incorporated.

Vice Chair Jones welcomed the applicant, Adam Toepfer of Winchester Street. Mr. Toepfer explained that he and his fellow managing partners purchased the former Hennessy's space to open a restaurant and bar, with some live entertainment. He said the intention was to set up the patio exactly the same way as Hennessy's had it before. They would be serving lunch and dinner on the patio. He provided a map in his application that showed his intention to set-up the patio the same way that the City Council approved it for Hennessy's. Vice Chair Jones wished the applicants luck with their business.

Vice Chair Jones requested staff comments. Deputy City Manager, Andy Bohannon, said he met with Mr. Toepfer at the site. Mr. Bohannon said that the patio set-up on Railroad Square was based on what the Council had approved for Hennessy's, which he said was the best arrangement at that location in a long time. Staff would work with Mr. Toepfer to resolve any remaining issues. As a community event organizer, Mr. Toepfer was familiar with the meaningful impacts on Railroad Square.

Councilor Williams recalled that when Hennessy's applied for the patio at this location, he gave them a hard time about late-night noise, so he felt it was fair to emphasize to Mr. Toepfer as well. The Councilor asked how the new owners would keep the patio from becoming a rowdy atmosphere as it had been in the past. Mr. Toepfer understood the past concerns, and assured the Committee that the managing partners had no intention of creating a situation like in the past; they are going in a very different direction. The patio will be open until 9:30 PM, at which point the door to the patio will be locked so that patrons can only enter through the main doors.

Mr. Bohannon wanted to ensure that the following motion language included a statement ensuring that the restaurant owners have a lease to operate in that space and have the patio on Railroad Square. Mr. Toepfer said the lease had been signed but not yet submitted to the City.

There were no public comments.

Councilor Haas made the following motion, which was duly seconded by Councilor Madison.

Councilor Madison noted that he was happy to see this space utilized again. He said that if the way Mr. Toepfer organized and executed the Pride Festivals was any indication, this should also be a successful venture. The Councilor wished the owners the best. Vice Chair Jones agreed.

On a vote of 4–0, the Planning, Licenses, and Development Committee recommends that Madam Sherrie’s Lounge be permitted to place tables and chairs on the grassed-in area immediately east of the Railroad Square pavers for the serving of food and alcohol to patrons seated in the café area Monday through Wednesday from 4:00 PM to 9:30 PM, and Thursday through Sunday, Noon to 9:30 PM. This license is also subject to the following conditions: subject to the customary licensing requirements of the City Council; compliance with the requirements of Chapter 46 of the City Code of Ordinances; compliance with the City of Keene Sidewalk Café Guidelines issued by staff; that the area encumbered shall not extend beyond the easterly most entrance to the building; that a buffer of at least one-foot be maintained from the edge of the multiuse trail pavement to the fence/enclosure structure; that the tables and chairs be removed when Railroad Square is utilized by any community event licensed by the City of Keene or any event scheduled through the Parks and Recreation Department; that no materials, gravels, or any other alterations to the site may be made without prior approval from staff; and that the property be maintained and returned to its original state at the expiration of the license with staff reviewing the condition of the area at the end of the season to determine any needed maintenance. This license shall expire on March 1, 2025.

**3) Kiwanis Club of Keene – Request to Use City Property – Tree Lighting Ceremony**

Vice Chair Jones welcomed the applicant, Peg Bruce, of the Kiwanis Club of Keene, which was organizing the 11<sup>th</sup> annual Tree Lighting Ceremony. The license request was essentially the same as in the past, with the exception that no portapotties would be available this year. The tree—on Central Square—would most likely be decorated the Saturday after Veteran’s Day, and the bandstand would be decorated that week as well, with wreaths purchased from Franklin, NH. Set-up on the day of the event will begin at 1:00 PM, the event is 5:00 PM–8:00 PM, and Central Square is usually clear by 8:30 PM. A Kiwanis member as Mrs. Clause will read a story to the children. The Kiwanis Club appreciated the City’s help in executing this event. Vice Chair Jones said this event is a part of what makes Keene special.

Vice Chair Jones requested staff comments. Deputy City Manager, Rebecca Landry, reported that Ms. Bruce was working with the City Clerk’s office and that staff felt assured that the Kiwanis Club had met all protocol requirements. The elimination of portapotties mentioned by Ms. Bruce was discussed during the protocol meetings. After attending the protocol process, it was clear to Ms. Landry how much effort goes into making downtown Keene beautiful during the holiday season, so she thanked the organizers. Vice Chair Jones said the City appreciated the Kiwanis Club’s years of effort.

Councilor Madison made the following motion, which was duly seconded by Councilor Haas.

On a vote of 4–0, the Planning, Licenses, and Development Committee recommends that the Keene Kiwanis Club be granted permission to use downtown City rights-of-way on Friday, November 29, 2024, to conduct the annual Tree Lighting 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 agreed upon footprint and layout for the event shall encumber Central Square, including the traveled portion of the road requiring the following road closures: Central Square, West Street at Central Square, Roxbury Street from west of the Hannah Grimes Parking lot to Central Square, Washington Street from Vernon Street to Central Square, and Court Street from Winter Street to Central Square;
- That the actual event will be held from 5:00 PM to 8:00 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 the following: use of spaces with dates, times and locations to be determined in coordination with the Parking Division for volunteer parking during pre-event set-up and post-event break-down activities, and spaces within the event footprint on the day of the event; 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.

4) **Attorney Thomas R. Hanna/BCM Environmental & Land Law, PLLC – Donation of Land at 0 Ashuelot Street – Compensatory Flood Storage**

Vice Chair Jones welcomed Attorney Thomas Hanna and Planner Tara Kessler of BCM Environmental & Land Law, PLLC, representing JRR Properties, LLC, which owns the 3.5-acre lot behind Targett Dry Cleaners and Mascoma Savings Bank. The property was formerly the overflow parking lot for the Colony Mill. Mr. Hanna understood that the intention was for the Committee to place this matter on more time until other City staff could be present. Still, he wanted to take this opportunity to share some project details at this meeting.

Mr. Hanna continued, providing background details. JRR Properties had offered the City 2.5 acres of this 3.5-acre parcel for use as a children’s playground and City park, hopefully with a launching area for kayaks and canoes. JRR Properties intended to donate the remaining 1 acre on the northeast side of the parcel to the Monadnock Conservancy, which had been quickly planning for its new regional headquarters on that site: architecture, engineering, and fundraising. He explained that 70% of the 3.5-acre parcel is in the 100-year floodplain, which under City regulations, requires compensatory storage to mitigate any loss of flood storage on the site because of infill from development. A substantial portion of the 1-acre lot—which is not technically a lot yet until formally subdivided—would need to be filled. Of the 44,000-square foot lot, approximately 18,000 square feet is upland outside of the 100-year floodplain. Mr. Hanna explained that for Monadnock Conservancy’s building and parking lot, 1–1.5 feet of fill would have to be added. The only possible location for compensatory storage are offsite. Liza Sargent, civil engineer with SVE Associates, would be present at the next meeting to describe

how large the compensatory storage area needs to be. Ms. Sargent's conversations with the Public Works Director, Don Lussier, indicated that there could be opportunities for compensatory storage to benefit the City's stormwater management. Mr. Hanna said the stormwater right-of-way goes through this entire parcel, and the aging pipes need the City's attention, which Ms. Sargent would provide input on at the next meeting.

Mr. Hanna discussed his letter to the City Council, requesting that it grant conditional approval to encumber the City's land with this flood compensation storage area so Ms. Sargent can apply for the Alteration of Terrain permit from the NH Department of Environmental Services (DES). Ms. Sargent was seeking feedback from DES before applying for the Federal Emergency Management Association (FEMA) permit. There was concern about the ability to designate the flood storage compensation area precisely at this stage, but Ms. Sargent indicated that she was confident it would not be significantly more than what she proposed. So, Mr. Hanna said that he was seeking the Council's conditional approval. He needed to know—conceptually—whether the City Council agrees that the proposed portion of this property can be used for compensatory storage, which means it must remain as undeveloped open space (e.g., children's park with no structures). The conditional approval would be contingent upon agreement of the City Manager, any conditions from the City Attorney to oversee the language of the easement that the City would be granting to Monadnock Conservancy for the compensation area.

Next, Ms. Kessler oriented the Committee with maps of the parcel and its existing boundaries relative to Ashuelot Street, Ashuelot Court (north), the Ashuelot River, Targett Dry Cleaner (south), Mascoma Savings Bank (south), and residences (north). This land is the current Ashuelot River Trail and Greenway. She showed the outer boundary of where the 100-year floodplain lies on the parcel, the location of the City's stormwater easement on the parcel, and a catch basin. She also showed the Monadnock Conservancy's approximately 1-acre portion of this parcel, with an office headquarters space and parking to the north. As Mr. Hanna described, because the fill to support this development would be in the floodplain, the approximately 700 cubic yards of compensatory flood storage must be primarily offsite because of the confines of the property. She showed what flood storage was proposed onsite. It would be a grassy area designated as permanent open space; there could be no structures erected without compensating for the fill for those structures elsewhere onsite or offsite. Ms. Kessler reiterated that the reason for moving the compensatory storage offsite is because there is only a small portion of the parcel that is outside the 100-year floodplain. Based on the plans, the compensation would be a one-to-one basis.

Vice Chair Jones asked Ms. Kessler to show the Jonathan Daniels Trail on the map. Ms. Kessler noted the location and indicated that there would be no impact to the trail. Ms. Kessler showed the portion of the parcel that would be donated to the City as a park.

Councilor Madison asked if the plan for compensatory flood storage would be to lower the elevation of the onsite flood compensation area. Ms. Kessler said that was the plan, with a shallow depression. She said Ms. Sargent had preliminary discussions with the Public Works

Director about potentially removing the storm drain that runs along the northern part of the parcel, which would allow for a deeper depression that could shrink the boundaries of the onsite flood compensation, meaning a smaller area would need to encumber City land. The storm drain would become like a drainage swale. Councilor Madison asked what type of fill was currently under that lot and Mr. Hanna said he could bring the answer to the next meeting.

Councilor Haas asked about the ground surface where the onsite flood compensation was proposed. Mr. Hanna said it was a flat grassy area, with no standing water. Ms. Kessler added that the topography does slope toward the catch basin, but the lot is still very flat. If allowed to deepen the depression for flood compensation onsite, Councilor Haas asked if it could turn into a pond. Ms. Kessler replied that she thought Ms. Sargent was trying to avoid that by creating a shallower depression. If the stormwater drain is removed, initial discussions between Ms. Sargent and the Public Works Director were to create a meandering channel, more akin to a swale. Ms. Kessler said the slopes would be a safe 4:1 ratio. Councilor Haas asked the parcel's base elevation relative to the 100-year floodplain and the existing river level. At this time, Ms. Kessler reported that the floodplain elevation was 474.8 feet above sea level, and the proposed building would be 1–1.5 feet higher. Ms. Kessler was unsure of the river's elevation.

Councilor Madison asked if she knew the groundwater elevation in that area. Ms. Kessler said she would ask Ms. Sargent to bring those details to the next meeting. Councilor Madison thought he and Councilor Haas were trying to understand whether deepening the flood storage elevation would reach the groundwater table, noting that this area is a live stratified-drift aquifer, with a high-water table. This could also be a factor as the adjacent Ashuelot River also has a high-water table. Ms. Kessler thought Ms. Sargent factored that into her calculations that she would present at the next meeting.

Councilor Haas mentioned the challenges of working with 18-year-old flood maps. He asked if the representatives had the ability to project what might be appropriate today, about surface water runoff rather than river rise flooding. Ms. Kessler said that—with the knowledge that the climate is changing, and floodplain maps were outdated—she was unsure what a more realistic floodplain boundary would be. She did not have those calculations and did not imagine they would be doing those calculations. However, she knew that the City worked with an engineering firm on floodplain hydraulic analysis and mapping (she thought it was in 2015). Upon submission, Councilor Haas thought it would be important for the applicants in this instance to demonstrate how much flooding is from surface water runoff and hydrology of the immediate area vs. river rise. The Councilor asked whether the applicants were still awaiting information on the stormwater drainage area. Mr. Hanna said yes, he spoke with the Public Works Director the day before this meeting about ideas for taking advantage of the Monadnock Conservancy's needs regarding stormwater drainage.

Councilor Williams said he was a big fan of the State of NH's compensatory flood compensation project across Route 101, which is basically a constructed wetland; he had seen eagles and other wildlife there. He did not see similar dynamics as a part of this project. Instead of building a

constructed wetland, he said the applicants were basically opting for a lawn that would be 1 foot lower than a lawn might normally be. This causes him concern because a lawn must be fertilized, cut, and maintained. He hoped the applicants would consider a constructed wetland instead, perhaps with some boardwalks for observation. Because this is a conservation project, Councilor Williams encouraged turning the parcel into healthy habitat that supports pollinators instead of a lawn.

Vice Chair Jones asked whether compensatory areas must be 100% permeable land. Mr. Hanna said yes. Vice Chair Jones asked if it could be used as a ball field, for example. Mr. Hanna said it could be a playfield but all development—like a dugout—would be prohibited.

Councilor Haas said the City needs to pay attention to developments like this along streams and in low lying areas, of which there are many in Keene. He said that changing conditions in the atmosphere mean Keene is more vulnerable than ever before, in addition to changes in neighborhoods, upstream, and downstream that impact what the City might think is good judgment based on what it had done before. Councilor Haas said he was glad to be working on this with the applicants.

Mr. Hanna recalled representing the Colony Mill in their proposal for an 88-unit condominium development on this site approximately 15 years ago that was fully approved by the Planning Board but fell through due to finances. He said that thankfully, JRR Properties purchased the lot to basically preserve it, removing the pavement and donating it to the City and a nonprofit.

Deputy City Manager, Andy Bohannon, provided details about the storm drain that was mentioned. While it had been scheduled in the Capital Improvement Program approximately five years ago, the City had waited to act until it was clearer what would happen with this parcel. City staff had been working alongside Mr. Hanna and his clients to determine a plan. Mr. Bohannon said the Ashuelot River Park Advisory Board (ARPAB) was aware of this project. They are supportive of and excited about what the future development may be. Mr. Bohannon addressed some of the Committee's questions. He used Pat Russell Park and mitigating stormwater runoff relative to Beaver Brook as an excellent example of what JRR Properties' future development could be. To Councilor Williams' point, Mr. Bohannon said that the ARPAB was looking forward to the educational value that this development could add to the Park, specifically with Monadnock Conservancy's headquarters there and possible collaborations with Antioch University New England. He thought the Council should keep in mind that education for the natural environment should be a top priority of the designers. In response to a question from one of the Councilors, Mr. Bohannon replied that the storm pipe in question eventually empties into Mill Creek. When the Committee hears the full proposal at the next meeting, Mr. Bohannon thought the Councilors would see it as a good opportunity.

Councilor Haas asked whether there is compensatory storage at Russell Park. Mr. Bohannon said that there, the storm drain channel originally went from Carpenter Street 90 degrees across the park to Beaver Brook. The project changed the angle of the pipe to 45 degrees and created a



particular storage area that filters the storm water through a riparian buffer before entering Beaver Brook; it seemed to be working, and a lot of wildlife had been generated in the area that Mr. Bohannon had not seen there in a long time, so he thought the benefits were positive.

There were no public comments.

Councilor Williams made the following motion, which was duly seconded by Councilor Madison.

On a vote of 4–0, the Planning, Licenses, and Development Committee recommends that the request for 0 Ashuelot Street Compensatory Storage be placed on more time for the City to review the request, and the consequences of it.

#### **5) Warrant for Unlicensed Dogs – City Clerk**

Vice Chair Jones welcomed the Assistant City Clerk, Terri Hood, who noted that this was before the PLD Committee (as opposed to the MSFI Committee in the past) because it must be approved by the Council between June 1–20, and this aligned with the newer Committee meeting schedule.

Ms. Hood explained that this action would result in a \$25 fine being issued to anyone that had not licensed their dog for this year. The deadline was April 30. At this time, there were approximately 519 dogs remaining unlicensed and 424 owners still listed on the warrant; 100 of those were new dogs and the remaining were non-renewals. So far this year, the Clerk's office had issued 2,800 licenses, which is more than what used to be issued, potentially due to an uptick in people getting dogs during Covid. By the time the license process concludes, there should be 3,200–3,400 dog licenses issued. Ms. Hood noted that the Clerk's office goes beyond what the state statute requires for outreach to dog owners. Outreach includes two public notices, and biweekly emails to any dog owners willing to have an email address on file. There is also a postcard reminder to those without an email on file, as well as a robocall asking them to come in to relicense so they avoid the late fees—\$1/month—that began on June 1. Mid-July, the Clerk's office will send out fines that will be due at the beginning of August; the Police Department helps with this process. During the second wave of this process, the Animal Control Officer goes door-to-door to verify whether there is still a dog at the residence, which will occur in early August.

Vice Chair Jones said it was clear that the Clerks were going above and beyond the requirement. Ms. Hood said that one reason that the licensing process is so important is because it ensures dogs are vaccinated against rabies, which is easily transferred among mammals and when someone develops a rabies infection, it can result in death. The law requiring dog licenses in NH was enacted in the late 1800's, shortly after the rabies vaccine was invented. The fees are returned to the state, some of which support spay and neuter services for those who cannot afford them, and some goes to the Agricultural Commission. So, this is a method to encourage

vaccination, and with this information on file, the City can tell someone bitten by a dog whether that dog was vaccinated, because the City will not issue a dog license without proof of rabies vaccination. It is also a way to help return a dog to their owner, as the license tag number is associated with an address on file.

Vice Chair Jones recalled that the City went many years without an Animal Control Officer (ACO), but the position had been filled recently by someone with special talents, and he asked if the ACO would be helpful in this process. Ms. Hood said yes, while other members of the Police Department helped in the interim, having the new ACO is important for more than just dogs, and the Clerk's office was glad to have the position filled, especially by someone so qualified and knowledgeable.

Councilor Haas recalled that the City was constrained in the costs of fines and licenses by state law. Ms. Hood said yes, the statute limits what can be charged for a dog license and dictates how much of the fee goes to the State, and how much the local municipality retains. She believed the City was charging the maximum allowed for these licenses. Councilor Haas encouraged all owners to license their dogs.

Vice Chair Jones opened the floor to public comment.

City Councilor Jacob Favolise (Ward One) asked if the Clerk's office had a sense of how many dogs might be living in Keene that were not covered by one of these two lists (e.g., might be new to Keene) and how much revenue the City might be losing in that regard. Ms. Hood said no, there is no way for the Clerk's office to track that data. One way the City learns when new dogs come to the community is when they receive their rabies vaccination, as local veterinary offices are required by law to report that information to the City. If someone is not taking their dog to a vet, the City might not know whether there is a dog at a residence, which would more likely be reported through a complaint by a neighbor, for example. Vice Chair Jones said it was complaint-driven enforcement and Ms. Hood agreed.

Councilor Haas made the following motion, which was duly seconded by Councilor Madison.

On a vote of 4-0, the Planning, Licenses, and Development Committee recommends that the City Council issue a warrant for unlicensed dogs pursuant to NHRSA 466:14, to direct the City Clerk's Office and the Keene Police Department to issue a civil forfeiture to those dog owners who have failed to license their dog by April 30, 2024.

**6) Relating to Sidewalk Cafe Enforcement Measures – Ordinance O-2024-06-B**

Vice Chair Jones welcomed the Assistant City Clerk, Terri Hood, who was returning to the Committee with some amendments to the proposed Sidewalk Café Enforcement Measures, Ordinance O-2024-06-B. Ms. Hood explained that when she was before the Committee on May 8, an "A" version of the Ordinance was created to include changes allowing the City Manager to

extend licenses beyond the November 1 expiration in 10-day increments if the weather is amenable. The second change was to institute a more succinct time frame for an unlicensed business to come into compliance by applying for a license; instead of saying “a reasonable timeframe” it now provides 7 days to apply. The “A” version was intended to appear before the Council on June 6, but during the interim, Ms. Hood worked with the new Fire Marshall, Rick Wood, who reviewed the draft Ordinance language and suggested amendments, including a mechanism to handle complaints.

Mr. Wood said he considered enforcement and how to have a consistent approach for people to access City resources. Another option was created so people can submit anonymous complaints online that they can track in the City portal.

Councilor Haas asked whether the enforcement mechanism would be through the SeeClickFix app used to report other issues in the City, like potholes. Mr. Wood said no, it is a separate complaint option on the Community Development Department webpage. Doing so allows for searching for complaints (and activities related to complaints, like staff comments) by address.

Deputy City Manager, Rebecca Landry, said the City has two systems. One is SeeClickFix, and the second is this citizen complaint portal Mr. Wood mentioned, which is already in place for other complaints and allows users to review restaurant inspections, for example. She was glad the City was able to add this feature to the self-service portal, eliminating the need for another system. Councilor Haas was also glad to not have overlapping, contradictory systems.

Vice Chair Jones commended Mr. Wood. The Vice Chair had seen many positive outcomes of his employment with the City. It is better to be proactive than reactive. Mr. Wood thought this would be a positive change.

Vice Chair Jones opened the floor to public comments.

Dorrie Masten of Swanzey explained why the complaint system had not been working well for her business. Several complaints were filed about her sidewalk café without her being notified that the complaints existed and why. Most recently, she received a letter from the Liquor Commission, who said they received a complaint from the City of Keene. The City informed her that she needed to file a right-to-know request to receive a copy of the complaints. Following those instructions, she learned that Councilor Laura Tobin (Ward Four) was the complainant about her patio more than once. She added that there was one complaint that mentioned almost every patio in the City. Ms. Masten emphasized the work she had to do to even find these details. The complaints against Ms. Masten’s patio included the TVs, the lights, the lightbulb types, and how an extension cord was plugged in. She felt that if a complaint is filed about any sidewalk café, the business owner should be alerted right away so they can work on alleviating the issue before it reaches the level of the Liquor Commission or Police Chief.

Ms. Masten continued, describing the primary complaint that impacted her business. A Councilor saw someone cross the sidewalk to enter Ms. Masten's patio with a pint glass of beer, which she said could have been soda or anything else. She said that in the past, customers crossed the sidewalk area with a glass and there had never been an incident or complaint, until now. She said the Liquor Commission had no problem with this, but she learned that in the City Code of Ordinances, it is considered an open container. Ms. Masten reiterated that her patio is duly licensed, with expensive insurance covering that part of the sidewalk. She did not think this example was in the spirit of the open container law. She expressed being emotionally upset because of this series of events. She said that nowhere in the Ordinance did it say that a server crossing the patio with a glass of beer is prohibited. She added that the 10-day window to rectify a complaint before a license is suspended is challenging if the business owner is not notified of the complaint. In the interim, Ms. Masten had to quickly hire someone specifically to carry alcohol across the sidewalk, which was particularly burdensome with staffing challenges faced by all businesses. Ms. Masten suggested that the regulations should have some wiggle room in situations like this, and she hoped the City Manager would authorize the Clerk's office to do so.

Vice Chair Jones said it sounded like better communication was needed. Ms. Masten agreed and added that she felt the anonymous complaints were somewhat cowardly. If it was a situation of public safety, she would understand, but she felt that this was becoming harassment, so she thought complainant names should be publicly accessible. It took her a lot of research to get to this point. Vice Chair Jones said he learned that much of this is the purview of the Liquor Commission; sometimes when the City sends them an inquiry, the Liquor Commission sends an inspector to review the situation and calls it "working on a complaint," which is not an official complaint, but an inquiry. He thought that might have led to some of this confusion. Ms. Masten said that the Liquor Commission had visited her business many times in the past year with no complaints; many nights, they stood at the door and watched customers cross the patio with drinks. She reiterated that there had never been an incident of broken glass, for example. She said this was more so about multiple complaints by a City Councilor, who could have stopped by to talk about any concerns with Ms. Masten as opposed to how emotionally charged this situation had become. Ms. Masten said she should have been able to find out who made the complaint and why.

Vice Chair Jones asked Ms. Hood to speak about the 10-day period Ms. Masten mentioned. Ms. Hood explained that the 10-day extension is not related to suspending a license. Rather, the ordinance specifies that a "reasonable timeframe" be provided for compliance, because some instances might be resolved simply by staff visiting the site. This was specifically intended to provide some flexibility. Mr. Wood added that Ms. Masten's concerns about not being notified of complaints or the inability to find information is why staff deliberately chose the complaint portal, because it would provide that instant access to any member of the public. Ms. Hood agreed, noting that the new complaint portal was not instituted before Councilor Tobin's complaint.

Ms. Hood also pointed out that she spoke with the Liquor Commission as well. These Sidewalk Café Licenses always come to the City Council. Typical wording of these motions would include language indicating that the business is allowed to *serve* patrons seated in sidewalk cafés, and Ms. Hood did not think that the Ordinance was intended for *patrons* to carry drinks across the sidewalk. So, Ms. Hood said that when there is a Liquor Commission-related complaint, that is where the complaint would be routed, but staff would be more attentive to notifying license holders in the future. The City was learning and improving along the way, with a lot of help from Mr. Wood in developing administrative standards and ensuring that complaints are handled in a consistent manner.

Vice Chair Jones said that someone from Liquor Commission enforcement would be presenting some of this information to the City Council in the near future and felt it would be a good educational opportunity for license holders and City staff. He hoped that these actions would lead to better communication and better understanding of requirements.

Ms. Masten said the Liquor Commission had been wonderful to work with and she learned a lot from them. She asked—if the Council approves these amendments—if she would be able to access complaints without filing a 91-A request, like she had to a few weeks prior. Mr. Wood noted that staff were in the process of evaluating how best to process complaints from this portal, which was already being used by the Community Development Department for other complaints. If staff receive a complaint, they will enter it into the portal manually. Once a complaint is in the portal, one could view where that complaint had been assigned. Because this is a newer licensing procedure, all complaints are forwarded to Mr. Wood who will coordinate with the Clerk's office to ensure it is routed to the appropriate department. Staff were in the process of reviewing how all complaints are managed and would bring updates to the Council, likely in the next two months. Staff were willing to engage other stakeholders to make sure anybody who interfaces with the complaint portal has an opportunity to provide feedback. Vice Chair Jones asked if that would help business owners to track complaints. Ms. Hood said yes, and to Ms. Masten's point, if someone comes to file a complaint in-person, staff will ask the complainant to file it in the portal themselves or Clerk's staff will do it for them, so everything remains accessible in that system.

Ms. Masten asked staff to—when complaints are filed—notify the respective business owner so it does not lead to problems with the Liquor Commission. Mr. Wood said the intention was that any time a complaint is filed, it is assigned to the appropriate staff member, who would follow-up with the complainant and the business, often by visiting the site. He said 90% of these problems would be resolved through improved communication.

Councilor Haas said that in hearing both sides of this issue, he had great faith in the government process to solve problems. He looked forward to this system working well, with better communication.

Vice Chair Jones said it was much like Mr. Wood said: we cannot fix the past but can fix the future.

Councilor Madison made the following motion, which was duly seconded by Councilor Williams.

On a vote of 4–0, the Planning, Licenses, and Development Committee recommends the adoption of Ordinance O-2024-06-B.

7) **Adjournment**

There being no further business, Vice Chair Jones adjourned the meeting at 7:24 PM.

Respectfully submitted by,  
Katryna Kibler, Minute Taker  
June 14, 2024

Edits submitted by,  
Terri M. Hood, Assistant City Clerk