

08/01/2024

A regular meeting of the Keene City Council was held on Thursday, August 1, 2024. In the absence of the Honorable Mayor Jay V. Kahn, the City Clerk, Patricia Little called the meeting to order at 7:03 PM. Roll called: Kate M. Bosley, Laura E. Tobin, Michael J. Remy, Randy L. Filiault, Robert C. Williams, Edward J. Haas, Philip M. Jones, Andrew M. Madison, Kris E. Roberts, Jacob R. Favolise, Bryan J. Lake, Catherine I. Workman, Bettina A. Chadbourne, Thomas F. Powers, & Mitchell H. Greenwald were present.

A motion by Councilor Powers to elect Councilor Greenwald as the temporary Chair was duly seconded by Councilor Bosley. The motion carried unanimously with 15 Councilors present and voting in favor. Chair Greenwald took his seat at the dais. Councilor Bosley led the Pledge of Allegiance.

#### MINUTES FROM PRECEDING MEETING – JULY 18, 2024

A motion by Councilor Bosley to adopt the July 18, 2024, meeting minutes as presented was duly seconded by Councilor Filiault. The motion carried unanimously with 15 Councilors present and voting in favor.

#### ANNOUNCEMENTS

Chair Greenwald reminded the City Council that its summer vacation would start with the cancellation of the Council meeting on August 15, as well as the meeting on September 5. The Council Standing Committee meetings of August 7–8 and August 21–22 is also canceled. The Committees will start meeting again on September 11–12, and the Council will start meeting again on September 19.

Chair Greenwald also encouraged voters who want to help at the polls to visit the City website and sign up for one or both of the fall elections: the State Primary on September 10 and the Presidential Election on November 5.

#### RETIREMENT PROCLAMATION – HELEN MATTSON

Chair Greenwald read a Proclamation honoring Helen Mattson’s retirement after 21 years of service to the City. Ms. Mattson was appreciative, noting what a joy and pleasure it had been to work with everyone; she never expected to stay so long, but it become an integral part of her life. She thanked everyone for accepting her. The City Manager, Elizabeth Dragon, added that Ms. Mattson had been amazing during the City Manager’s 7-year tenure after more than two decades of Ms. Mattson’s service to multiple mayors and city managers. The City Manager had witnessed Ms. Mattson handle the most difficult situations without them ever reaching the City Manager; and she always does it with a smile. Not only had Ms. Mattson multitasked and juggled both the City Manager’s and Mayor’s schedules, but also handled all the different personalities that had walked through the door. The City Manager thanked Ms. Mattson for everything she had done for the City Manager and the City.

## COMMUNITY RECOGNITION – LILY RUNEZ

Chair Greenwald welcomed Lily Runez to be honored for her high school wrestling success. The Mayor is a former wrestler, and provided this statement:

I am guessing that you, like me, are watching USA athletes joining nations around the world in the 24th Olympic Games. You may have noticed that there is medal competition for women's wrestling. It is a very competitive sport—just ask Lily. The Keene High rising junior wrestles on the Keene co-ed wrestling team. Yes, because for women like Lily, wrestling is not a high school men's competitive sport any longer. Lily is a groundbreaker like one of Malcolm Gladwell's 10,000-hour geniuses. Nobody in the New England wrestling community sees Lily as an ordinary girl. She is a phenomenal athlete. Her impressive credentials include that as a freshman at Keene High in 2023, Lily became the first girl to be crowned a State Champion at the inaugural NHIAA Girls Wrestling State Championship. This year, she competed in the co-ed state championship tournament as a sophomore, seeking to become the first girl in Granite State history to win a co-ed wrestling title. Lily finished second at the Division One Tournament at 106 pounds. She also earned second at the Meet of Champions; in other words, only one boy in the state was able to beat her. Her second-place finish qualified her for the All-New England Co-ed Tournament, where she earned wins in her first two matches in July 2024. The Keene Sentinel reported that the 16-year-old native competed on one of the biggest stages junior wrestling has, finishing eighth in the Junior Girls Freestyle 105 weight class at the U.S. Marine Corps Junior Nationals held in Fargo, North Dakota, July 12–20, 2024. Lily entered the tournament as the 20th seat in her weight class and faced off against 64 of the best wrestlers in the country, finishing in the top eight and earning All-American status, surpassing the achievement of any Keene wrestler ever, and placing her on the radar for top collegiate and perhaps international status.

For her junior year, Lily will continue her athletic and academic efforts at Choate Rosemary Hall in Wallingford, CT. There,

On behalf of Mayor Kahn, Chair Greenwald thanked Lily, Coach Runez, and their fellow coaches for building this wrestling program and for their accomplishments. Chair Greenwald presented Lily and Coach Runez with honorary keys to the City. The community will be cheering Lily on in her future success. Mayor Kahn expressed his very sincere pride in Lily, adding that he expects to see her at future Olympic games.

## PUBLIC HEARING – ORDINANCE O-2023-16-B – AMENDMENT TO LAND DEVELOPMENT CODE – CHARITABLE GAMING FACILITY

Chair Greenwald opened the public hearing at 7:22 PM, and the City Clerk read the public hearing notice. Chair Greenwald welcomed Senior Planner, Mari Brunner, for an introduction. Ms. Brunner focused her presentation on changes since the last time the Council saw this Ordinance. This Ordinance was first introduced to the Council on October 19, 2023 and there had been many changes since. There was another public hearing on January 18, 2024, when it was sent back to the Joint Planning Board-Planning, Licenses, and Development Committee for further workshopping; the Joint Committee had a public workshop and met four times to work on this.

Ms. Brunner summarized the most recent edits that created a “B” version of the Ordinance. Most significantly, the Joint Committee felt strongly that it did not make sense for the charitable gaming facility use to occur in the Downtown Growth District, because the intent statement for the District calls for a more walkable, pedestrian-oriented environment; Downtown Growth is meant to be an extension of the Downtown Core.

The Joint Committee also wanted to place limitations on the charitable gaming facility use. A “use limitation” means that it is allowed in the Zoning Ordinance, but only if meeting the specific use standards; if unable to meet those standards, an applicant would have to apply for a variance from the Zoning Board of Adjustment. The proposed use standards are:

1. A limit of one charitable gaming facility per lot.
2. Limiting the allowed locations for charitable gaming facilities to the Commerce District, which is a more automobile-oriented district. It is also the District where other similar uses are allowed. The Joint Committee felt that charitable gaming facilities should be limited to properties situated with frontage on arterial roads or in a plaza off an arterial road. This would include: West Street west of Island Street, Winchester Street south of Island Street and north of Cornwall Drive, Main Street south of NH Rt-101 and north of Silent Way. In addition, the entirety of Key Road, Ashbrook Road, and Kit Street; specifically parcels that are greater than 1.25 acres and with frontage on those roads or in a shopping plaza that has frontage on those roads.
3. A distance requirement from the charitable gaming facility building edge to the property line of whatever the adjacent use is. Further, a requirement that charitable gaming facilities must be at least 500 feet apart. Additionally, charitable gaming facilities must at least 200 feet from places of worship, daycare centers, or private or public schools; 250 feet from single family or two-family homes; and 250 feet from a residential zoning district.
4. A limit on square footage of charitable gaming facilities. The Joint Committee chose a minimum of 10,000 square feet for a gaming area (they considered 20,000 square feet but chose to lower it).
5. A requirement for screening commercial loading zones, bus and truck loading, and parking areas. New charitable gaming facility applicants would have to supply a traffic study demonstrating that there would be no diminishment of the capacity of any City intersections or roads. There would be associated requirements to comply with the City’s Noise and Zoning Ordinances. An off-site parking requirement was chosen: 0.75 parking spaces per gaming position at an electronic gaming machine or gaming table. A “gaming position” will be defined in another ordinance with other definitions. Lastly, 2% of the total parking spaces required *or* two parking spaces—whichever is greater—must be equipped with electric vehicle charging stations.

Any other proposed changes to the Ordinance were to codify these changes. Ms. Brunner welcomed questions.

Councilor Favolise asked about the electric vehicle charging station requirement. He asked if other uses in the City have a similar requirement. Ms. Brunner said no. Councilor Favolise asked

if there is a reason why this use does if no other use does. Ms. Brunner believed that that the Community Development Director, Jesse Rounds, had incorporated it from other cities whose ordinances he used as a model to develop this one for Keene; Ms. Brunner thought this was apt given the City's goal to transition to 100% renewable energy and to promote electric vehicles. The Joint Committee debated 2% vs. 5% and ultimately chose the former.

Chair Greenwald opened the floor to public comments.

Jared Goodell of 39 Central Square said he had been involved in this process for 10–11 months and he commended the Community Development Department; Chair of the Planning, Licenses, and Development (PLD) Committee, Councilor Bosley; the whole PLD Committee; and the Planning Board. Mr. Goodell explained a challenge he identified in the Ordinance language regarding proximity to churches. He recalled that when this process began, there was discussion of NH RSA 287-E, which deals with bingo/host halls; he said that bingo halls were left out of the use definition initially but added again at some point. He said this would not necessarily be an issue, except that the use standard stipulates that a charitable gaming facility cannot be within 250 feet of a church, and churches (e.g., St. Bernard) are very commonly licensed host halls for the purpose of operating bingo games. Mr. Goodell was concerned that the Ordinance revisions would preclude churches' abilities to do so, which he said was never the intent of this Ordinance. He hoped that could be rectified without further delaying this process.

Greg Johnson, owner of H. G. Johnson Real Estate at 17 Elm Street, said it is difficult to find space for any use—gaming, retail, etc.—in the City of Keene. He recalled discussions of whether these facilities should be placed inside or outside of the bypass system. Mr. Johnson said he wanted the Council to know that there are many vacancies in the City's shopping centers, which he said are unfortunately within the bypass system. He had been contacted by people looking for gaming facilities (some including dining) of all sizes. While Mr. Johnson understood that gaming and gambling are often discussed with a negative tone, he had the opportunity to travel around NH and visit some charitable gaming facilities, and he stated that they are not that bad. He hoped that this Ordinance would not prevent charitable gaming facilities in Keene's shopping centers and noted how roadway projects had improved traffic conditions around plazas, like those on Key Road.

Councilor Roberts asked—if all the proposed use standards are implemented—how many places in Keene would qualify for charitable gaming facilities. He did not want a situation in which the use standards are over-restrictive and essentially prohibit this use so that the Council does not have to say it is prohibiting this use. Ms. Brunner replied that the Joint Committee reviewed a map to determine the specific areas of the City where charitable gaming facilities would be permitted per this proposed Ordinance. The unifying theme amongst those properties was that all the lots could support a larger facility, have frontage on a major arterial road that could accommodate traffic, and were in areas with other commercial uses where they are less likely to be disruptive to neighbors. However, there were concerns that even within those commercial areas, there were still residential pockets. So, the Joint Committee wanted to ensure that there is at least some distance between charitable gaming facilities and single or two-family homes, or a residential district where a home could be built in the future, because this use could have noise at night. The Joint Committee also discussed traffic and parking demand for this use, which is unique because patrons typically stay a long time. The proposed locations include any properties

that are at least 1.25 acres in size and are oriented toward the road, such as West Street between the Colony Mill and the bypass system, Winchester Street between Island Street and just past the roundabout (all the parcels zoned Commercial), Kit Street, Key Road, and Main Street between the Rt-101 intersection and Silent Way (where the Commercial zone ends). The Joint Committee also noted that even if a property is not large enough, there is the potential for someone to purchase multiple lots and merge them to qualify for a location.

Councilor Roberts said that besides shopping centers or those being built, that it seemed the Joint Committee was considering new construction for these charitable gaming facilities. Ms. Brunner said yes, that was the sense she had from the Joint Committee. She thought it was implied unless there is already a large enough building to accommodate this use, or if an addition was constructed to accommodate the uses' size requirements.

Councilor Bosley pointed out that Ashbrook Road was included too. She said that the maps could be reviewed in the published Joint Committee meeting videos, which she said make it easier to visualize. She said the Committee took a long time to understand the orientation of things and it required finesse to consider all the areas, some with buildings already constructed and some that could accommodate new construction, so there are options.

Councilor Haas pointed out that the Joint Committee also worked hard to reduce the minimum permitted size of a gaming floor from 20,000 square feet to 10,000 square feet. The intent was to facilitate the use of existing buildings where there might be infill.

Mr. Goodell noted that legislation had been passed recently that placed a 7-year moratorium on these licenses. He added that licenses cannot be transferred between municipalities. So, unless the legislature does something different, he did not foresee business turned away from Keene.

Councilor Favolise asked whether Mr. Goodell was specifically referring to a moratorium on charitable gaming facility licenses or historic horse racing. Mr. Goodell said he was speaking about historic horse racing licenses. Mr. Goodell continued, stating that as a former operator, he was unaware of any single charitable gaming facility that did not attempt to operate historic horse racing for profitability (because one is needed for the other), from which the charity would benefit; he compared it to a gas station without gas.

Hearing no further comments, Chair Greenwald closed the Public Hearing at 7:54 PM, except that written comments would be accepted up until 1:00 PM on Tuesday, September 10.

A true record, attest:



City Clerk

#### NOMINATIONS – LIBRARY BOARD OF TRUSTEES, PARTNER CITY COMMITTEE

Mayor Kahn nominated Sam Temple and Karthik Gowda to serve as regular members of the Library Board of Trustees, with terms to expire December 31, 2027. The Mayor also nominated Eric Weisenberger to serve as a regular member of the Partner City Committee, with a term to expire December 31, 2024. Chair Greenwald tabled the nominations until next regular meeting.

**ITEM BROUGHT FORWARD - ORDINANCES FOR SECOND READING – RELATING TO BOARD MEMBERSHIPS – ORDINANCE O-2024-05-B**

Chair Greenwald called this item forward on the agenda to be acted on prior to action on the next agenda item relating to a nomination to the Congregate Living and Social Services Licensing Board. A Finance, Organization, and Personnel Committee report read, unanimously recommending the adoption of Ordinance O-2024-05-B, as amended. Chair Greenwald filed the report. A motion by Councilor Powers to adopt Ordinance O-2024-05-B was duly seconded by Councilor Remy. The motion carried unanimously on a roll call vote with 15 Councilors present and voting in favor.

**NOMINATION – CONGREGATE LIVING AND SOCIAL SERVICES LICENSING BOARD**

Mayor Kahn nominated Medard Kopczynski to serve as a regular member of the Congregate Living and Social Services Licensing Board, with a term to expire December 31, 2027. Chair Greenwald tabled the nomination until the next regular meeting.

**COMMUNICATION – JARED GOODELL – PLEDGE OF DONATION FOR THE PURCHASE AND INSTALLATION OF A SAFE HAVEN BABY BOX**

A communication was received from Jared Goodell, pledging a \$5,000 donation to the City for the purchase and installation of a Safe Haven Baby Box at either the City's Police or Fire Stations. Chair Greenwald referred the communication to the Finance, Organization, and Personnel Committee.

**COMMUNICATION – ROBERT C. HAMM – REQUEST FOR IMPROVEMENTS IN SIDEWALKS AND TRAFFIC PATTERNS – INTERSECTION OF GROVE STREET AND WATER STREET**

A communication was received from Robert Hamm, requesting that the City Council consider improvements in sidewalks and traffic patterns at the intersection of Grove Street and Water Street. Chair Greenwald referred the communication to the Municipal Services, Facilities, and Infrastructure Committee.

**PLD REPORT – REQUEST TO DISCHARGE FIREWORKS – FIRST RESPONDER APPRECIATION COMMUNITY DAY**

A Planning, Licenses, and Development Committee report read, recommending that Jim Coppo and Jimmy Tempesta for the First Responder Appreciation Community Day, be granted permission for the discharge of display fireworks on Sunday, August 18, 2024, on Alumni Field at no later than 10:00 PM. Said permission is subject to following conditions: the signing of a revocable license and indemnification agreement; that Jim Coppo and Jimmy Tempesta for the First Responder Appreciation Community Day, provide a certificate of liability insurance with the City of Keene listed as additional insured in the amount of \$1,000,000; that the fireworks vendor also provide a certificate of liability insurance with the City of Keene listed as additional insured in the amount of \$1,000,000; submittal of a signed letter of permission from SAU 29 for use of their property; and obtainment of a State Fireworks permit. In addition, the petitioner agrees to comply with any recommendations of City staff. The Petitioner agrees to absorb the

cost of any City-related services. Said payment shall be made within 30-days of the date of invoicing.

A motion by Councilor Bosley to carry out the intent of the Committee report was duly seconded by Councilor Jones.

Councilor Williams congratulated the petitioners for holding this event for a very good cause. However, he opposed the fireworks, which would be the fourth display at this location this summer. He asked if the Council really understood the impact on this neighborhood or the ecology in the adjacent swamp. He felt that it was too much at this location, so he would vote against.

Councilor Jones said that at the Committee meeting, he asked the petitioners if they could spread the word to the neighbors, so no one is surprised. The petitioners had agreed, and Councilor Jones noted he was grateful. Further, the petitioners were planning for a shorter than typical fireworks display. Councilor Jones pointed out that this is a private event, and he thanked the organizers for honoring first responders.

Councilor Lake said it sounded like a great event and he thanked the hosts for organizing it. However, Councilor Lake agreed with Councilor Williams in standing opposed to the fireworks display. He agreed that the City needs to rein in how many fireworks displays are happening at this location, both for the neighbors and the environment. He hoped that event organizers would look for other options because he did not think the Council should continue proliferating the number of fireworks displays in the City.

Councilor Favolise stated that he did not necessarily disagree that there are a lot, or perhaps too many, fireworks displays happening at Alumni Field. That said, in the absence of a policy, he did not know that just because this petitioner was coming to the Council in August—as opposed to earlier in the year—that it was fair to deny the petition. So, Councilor Favolise said he would be voting yes on this, and he was looking forward to a conversation about how the City moves forward with a policy around the number of fireworks displays that are happening in West Keene.

Councilor Filiault said he would vote yes. He thought Councilor Bosley made a good point that the requests for fireworks had increased over the years. In years past, it used to just be the 4<sup>th</sup> of July. Councilor Filiault said this was for a great cause. Still, he admired the neighborhood's resilience. He noted that Keene State College does fireworks on Krif Road. So, he hoped the City would help to find a way that spreads these events across the City.

Councilor Chadbourne agreed with Councilor Williams that there are too many of these displays and the ecological impacts are unknown. Councilor Chadbourne had received complaints in her neighborhood about neighbors who set them off illegally. Still, she agreed that the City needs a policy, so she would vote yes for this event.

The motion carried on a vote of 13–2. Councilors Williams and Lake voted in opposition.

**PLD REPORT – REQUEST FOR AUTHORIZATION FOR THE ISSUANCE OF A BUILDING PERMIT FOR 3 ALIBER PLACE AND 57 MARLBORO STREET**

A Planning, Licenses, and Development Committee report read, recommending that the City Council grant the request to authorize the issuance of Building Permits subject to the normal review and approval process, for three duplexes on the property located at 57 Marlboro Street. A motion by Councilor Bosley to carry out the intent of the Committee report was duly seconded by Councilor Jones.

Councilor Jones thought this was a great opportunity given the City had been talking about housing for several years. He added that the Joint Committee would be reviewing the Land Development Code for opportunities to allow for building permits on private streets again, which would lead to more development.

Councilor Favolise stated that he always likes to say a word for the items before the Council that are in his Ward. He was excited about the prospect of further residential development in East Keene, and in his Ward specifically. He echoed Councilor Bosley that the Council's vote was not about the merits of this specific proposal. The request for a building permit would still need to go through the regular planning, zoning, and site review processes. He called this an administrative step that he thought was the result of an overbroad State law. The Councilor said he looked forward to supporting this and giving the "green light" for it to continue moving through the regular order process.

The motion carried unanimously with 15 Councilors present and voting in favor.

#### PLD REPORT – DONATION OF LAND AT 0 ASHUELOT STREET

A Planning, Licenses, and Development Committee report read, recommending that the City Manager be authorized to do all things necessary to negotiate, execute, and/or accept all documents required for the purpose of constructing and maintaining required compensatory flood storage located on property to be transferred to the City by JRR Properties, LLC, being a portion of 0 Ashuelot Street for the benefit of JRR Properties, LLC, or its transferees, successors, or assignees, and as preliminarily depicted as "Concept #3" on the Plan prepared by SVE Engineering, dated 01-Jan-24, to be effective as of the date of the transfer of the property to the City. A motion by Councilor Bosley to carry out the intent of the Committee report was duly seconded by Councilor Jones.

Councilor Jones expressed happiness that this project was moving forward for this very nice piece of real estate. He noted that the Monadnock Conservancy had a track record of employing Keene residents. He thought that both the flood mitigation and stormwater issues were well-resolved. He thanked the petitioner and City staff for what he called a win for the City.

The motion carried unanimously with 15 Councilors present and voting in favor.

#### PLD REPORT – RULES OF ORDER AMENDMENTS

Chair Greenwald explained that the PLD Committee had been working on amendments to the Rules of Order, which were initially brought forward at two Council workshops earlier this year. There are six amendments proposed that would require two readings by the City Council. The Council would not be taking any action at this meeting. Chair Greenwald introduced the primary intent of the six recommended amendments and encouraged all Councilors to review these



proposed Rule changes. Each amendment will require a 2/3 vote for adoption. Chair Greenwald referred these proposed Rule changes back to the Planning, Licenses, and Development Committee for their continued discussion and recommendation.

Section 2. Special Meetings & Workshop Meetings

- Introduces the concept of workshops and provides a process where six Councilors can call for a special meeting or workshop, while not constituting a quorum of any of the Council standing committees.

Section 11. Right of Floor

- Refers to whether a Councilor should stand when addressing the Chair. This draft of the changes has the Councilor standing “if able” when addressing the Chair.

Section 15. Voting and Conflicts of Interest

- Extends the Conflict of interest provisions to a Councilors’ spouse, parents or children over 18

Section 25. Communications

- Introduces the provision that communications not germane to the City or State of NH, or over which the City lacks the authority to take action shall not be placed on the Council agenda. Copies of any such communications would be placed in the Councilors’ mailboxes.

Section 32. Report of Committee

- This is a housekeeping change to clarify that after a public hearing, if there is a written communication agendized it does not guarantee that the petitioner has the right to speak at the committee meeting about the subject of the public hearing.

Section 33. Resubmission of Items Previously Considered

- Provides that the reconsideration process is used when dealing with an item previously considered with copies of any such communication placed in the Councilors’ mailboxes.

FOP REPORT – CONTRACT AWARD – FIRE DEPARTMENT – SPEC RESCUE INTERNATIONAL

A Finance, Organization, Personnel Committee report read, recommending that the City Council authorize the City Manager to execute a contract with SpecRescue International to provide specialty Trench Rescue Technician Training. The funding source is account #40G00222 (FD2022AFG Trench Rescue). 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 – STATE HOMELAND SECURITY PROGRAM – DHS APPROVED TRAINING FOR LOCALS

A Finance, Organization, Personnel report read, unanimously recommending that the City Manager be authorized to do all things necessary to accept and expend the State Homeland Security Program Award - DHS Approved Training for Locals in the amount of up to \$2,925.00. The funding source is account #40G00224 (FDY2024FSTEMS-Hazmat Training). 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 – FINAL DESIGN OF THE DOWNTOWN INFRASTRUCTURE PROJECT

A Finance, Organization, Personnel report read, unanimously recommending that the City Manager be authorized to do all things necessary to negotiate and execute a professional services agreement with Stantec Consulting Services, Inc. for an amount not to exceed \$1,230,000 for the final design phase of the Downtown Infrastructure Project. The funding source will be split between the General Fund, Water Fund and Sewer Fund through the following accounts: Downtown Infrastructure Improvement (75J0034A), Stormwater Resiliency Program (75M00623), Sewer Improvements Program (32MI0222), and Water Distribution Improvements Program (34ML0222). A motion by Councilor Powers to carry out the intent of the Committee report was duly seconded by Councilor Remy.

Councilor Jones stated that with all due respect for the process, he had been opposed to the design from the beginning, so to be consistent, he would vote in opposition. Still, he thanked everyone for their effort.

Councilor Roberts recalled that the Public Works Director explained to the FOP Committee that this was for the design proposal. Councilor Roberts said that it was unclear what would happen once the underground utility work begins, and that surprises arise in any construction project. He said that the longer the process is delayed, the more expensive it will be. Councilor Roberts said this work has to be done, and the City cannot afford a potential disaster underground in the meantime. So, he said this was the right time to advance the project, and he thought everyone who had worked on it had done well to prepare for contingencies, which results in money saved. Councilor Roberts suspected that Stantec would be as fiscally responsible as they had been throughout the other phases of this project.

The motion carried on a vote of 14–1. Councilor Jones voted in opposition.

#### FOP REPORT – FIRE DAMAGE REPAIR AT KEENE TRANSFER STATION

A Finance, Organization, Personnel report read, unanimously recommending that the City Manager be authorized to do all things necessary to negotiate and execute a contract with Project Resource Group for repair of the fire damage at the Keene Transfer Station for an amount not to exceed four hundred forty thousand dollars (\$440,000). The funding source is the insurance proceeds, less the \$1,000 deductible. 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.

#### CITY MANAGER COMMENTS

The City Manager, Elizabeth Dragon, began by thanking Senator Shaheen, who supported the City's \$3.6 million request for the stormwater portion of the downtown project. The City Manager explained that the City had submitted several Congressionally directed grant requests to both Senator Shaheen and Representative Kuster, and this was the only one to make it this far. It has moved on to the Appropriations Committee, and the City Manager was hopeful they would keep this in their final budget. The Senator's support is appreciated.

Next, the City Manager shared praise for the City's Code Enforcement and Inspections. Throughout the past several months, Fire Marshall Rick Wood had been working with the City's Code and Fire Inspection services. The City Manager shared a complementary email she received on July 12 from the owner of the new Tropical Smoothie Café, opening soon in the West Street shopping plaza. He wrote about his positive experiences with T.J. O'Brien in the Community Development Department. The Manager noted this was at least the third positive message she had received about Fire Inspections and Code/Building Inspections in just the last couple months.

The City Manager continued, reporting that Fire and Code officials had also been working with a local service provider, Davis Oil, to pilot an online system for gas and oil permits using fillable forms and an online permit application through their online portal. The City was looking at easier online payment options not just for these permits but for all departments, in another effort to create more efficiencies and improve customer service.

Next, the City Manager recalled that in 2022, the City conducted a Fire Department Staffing Study, which resulted in a recommendation to add 4 new firefighter positions to the Department at a cost of about \$500,000. This was implemented in 2023. Since then, there have been many changes: Diluzio Ambulance had closed and the City reached an agreement with Cheshire EMS for back up services. In addition, there have been many retirements at the City and as a result there are new faces at the Department, some of whom require training, and as always, the Department is very busy. The Mutual Aid system can be strained at times by the availability of some of the smaller departments around Keene. The City Manager was receiving daily call reports from the Department, and she was beginning to dig deeper into the data: where we go, what we are going for, and when our services are strained. She is always looking for strategies to help ease the burden on City departments to avoid the need for more staffing. When the City entered its agreement with Cheshire EMS, for example, data showed more calls to skilled nursing facilities than in the past (Diluzio had handled those), so she discussed strategies with Cheshire EMS to deal with the non-emergency calls through transport services. Those are the types of strategies she would continue to evaluate to ease the burden on City staff. The City Manager would update the Council about the data and to discuss strategies and opportunities.

Lastly, the City Manager wanted to help spread the word about the Public Works Director's planned pilot program this fall: Ward Optimization Weeks. The program would aim to ensure equitable distribution of maintenance services across all five wards, to address specific resident-identified needs, and to improve the overall condition and cleanliness of public infrastructure. Each week will focus on a specific ward, rotating through all 5 wards over 5 weeks. The fall campaign will be timed to occur September 9–October 11, before leaf collection. The City Manager was excited about this idea, because some of this regular maintenance is not always

visible when spread across the City. So, ward-by-ward should be an efficient use of staff time and visible to the neighborhoods. Public Works will *not* be taking on major construction projects, only maintenance issues. The City Manager encouraged all residents to submit their requests for neighborhood maintenance in advance. The City will advertise this program via press releases, posts on the City's website, social media, and the SeeClickFix system (which all are encouraged to use) for residents who have previously signed up to receive notices. At the end of the program, the Public Works Director will provide a summary report to the Municipal Services, Facilities, and Infrastructure Committee along with a recommendation as to whether the program should continue.

#### FINANCE DEPARTMENT REPORT – FINANCE AUDIT SERVICES – FINANCE DIRECTOR

A motion by Councilor Powers to suspend the Rules of Order to consider and act upon the recommendation from the Finance Director for audit services was duly seconded by Councilor Remy. The motion carried unanimously on a roll call vote with 15 Councilors present and voting in favor.

A motion by Councilor Powers to authorize the City Manager to sign the professional services contract for audit services with the firm of Marcum LLP for a term of five years with two optional years for a total amount of \$720,000, to include the preparation of an Annual Comprehensive Financial Report and Federal Single Audit, was duly seconded by Councilor Remy.

Chair Greenwald welcomed the Finance Director, Merri Howe, who thanked the Council for considering this with short notice. Ms. Howe reported that at the beginning of July, staff proposed a request for proposals for qualified firms to perform the City's annual audit. The City's prior contract had been with Marcum LLP (formerly Melanson). This contract expired after the June 30, 2023 audit. She RFP was comprised of financial and compliance examinations of the City, basic financial statements, and supplementary information and compliance reports. The audit is to cover federal, state, and local funding sources in accordance with accounting standards generally accepted in the United States of America and standards applicable to financial audits, including those applicable to the federal single audit. Ms. Howe said the City received three proposals: one from a firm located in New Hampshire, one registered in New Jersey, and one with key staffing offices in Massachusetts and Pennsylvania. She said it was really sad because there used to be many local auditing firms in the State of New Hampshire that used to bid and present proposals for these audits; it is a service many of firms are no longer interested in. So, it was fortunate to receive three.

In reviewing the three proposals, Ms. Howe said staff focused on several criteria: (1) the firm's experience with governmental audits, (2) experience of the staff assigned to our audit and our project, (3) the proposal schedule since it is time sensitive, (4) client references, and (5) the quality of the proposal. The first firm considered was the lowest bidder and failed to follow the requirements of the RFP. The firm did not provide a New Hampshire Board of Accountancy license and they were not listed on the NH website. The firm did not provide proof of insurance or a report of the firm's system of quality control (peer review, an audit of the CPA firm to make sure that they are following the requirements to perform audits). They had no governmental

references and made no mention of preparing single federal audits. They also lacked sufficient staff experience. Thus, this firm was removed from consideration based on their qualifications and because they did not adhere to the requirements in the RFP.

Ms. Howe said the second proposal was from CliftonLarsonAllen, LLP. They have more than 130 U.S. locations and they were the lowest bid. They have a New England team (Boston & Pennsylvania) that specializes in governmental service audits. They provided a copy of their certificate from the State of New Hampshire Board of Accountancy that authorized them as a CPA firm that can provide services in the state of New Hampshire. In the past 5 years, they had one New Hampshire municipal client and one university system client. The New Hampshire client (since 2023) was their first in the state. They had some governmental auditing experience, but they lacked the municipal experience for the State of New Hampshire. So, staff ranked them second. Total proposed cost was \$608,000.

The final proposal was submitted by Marcum LLP (located in Merrimack), which held the City's prior contract. Marcum LLP ranks among the top 15 firms in the nation with 4,100 professionals, including 550 partners and 50 offices nationally and internationally. They are licensed to practice and do business in the State of New Hampshire by the New Hampshire Board of Accountancy. The firm audits 400 governmental entities in New England and as part of the RFP, Marcum LLP provided 19 of their New Hampshire governmental engagements and referenced 5 New Hampshire municipalities, for which they had longevity ranging from 18–28 years. Marcum brings forth the highest level of experience to meet the City's needs, and their staff would be comprised of certified public accountants and staff accountants that have New Hampshire municipal experience. Ms. Howe provided a memo to the Council with a brief overview of the financing proposals that Marcum provided for 2024–2030. City staff scored Marcum as the highest and as able to fulfill the City's needs. Total proposed cost for the seven year contract was \$720,000.

Councilor Powers acknowledged that this was an unanticipated suspension of the Rules of Order but said that is needed sometimes around the Council's annual summer vacation. Further, he emphasized the need to have a well-qualified auditor. He also acknowledged advice to change auditors every so often as a standard in that field, but said that the Finance Director outlined that Marcum is a well-qualified firm. He thought there had been improvements when Marcum bought out Melanson. He thought that because the firm is more established, they will bring forward ideas that make it easier for Keene to do business. He hoped the Council would approve this unanimously.

Councilor Haas said it was a disappointment that there were no other firms available to respond to this proposal. He hoped that would improve in the next 5 years before the City advertises RFPs again. He agreed with Councilor Powers on the importance of a good auditor and the importance of changing auditors over time to ensure continual organizational improvement. Councilor Haas asked Marcum's fee for the prior contract, and Ms. Howe was not positive, but said \$60,000–\$66,000. Councilor Haas remarked on the significant increase but acknowledged that was the case in most fields.

Councilor Favolise asked if this money was already fully budgeted for as part of the Operating Budget and Ms. Howe said yes.

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The motion carried unanimously with 15 Councilors present and voting in favor.

**ORDINANCE FOR SECOND READING – RELATING TO CLASS ALLOCATION AND SALARY SCHEDULES ORDINANCE O-2024-12**

A Finance, Organization, and Personnel Committee report read, recommending the adoption of Ordinance O-2024-12. Chair Greenwald filed the report. A motion by Councilor Powers to adopt Ordinance O-2024-12 was duly seconded by Councilor Remy. The motion carried unanimously on a roll call vote with 15 Councilors present and voting in favor.

**ORDINANCE FOR SECOND READING – RELATING TO THE CITY ATTORNEY FUNCTIONS AND POWERS – ORDINANCE O-2024-13**

A Finance, Organization, and Personnel Committee report read, unanimously recommending the adoption of Ordinance O-2024-13. Chair Greenwald filed the report. A motion by Councilor Powers to adopt Ordinance O-2024-13. The motion carried unanimously on a roll call vote with 15 Councilors present and voting in favor.

**NON-PUBLIC SESSION**

At 8:50 PM, Councilor Bosley a motion to go into a non-public session to discuss the release of non-public minutes, to discuss the hiring of a person as a public employee, and to discuss land matters under RSA 91-A:3 II (m), (b) and (d) was seconded by Councilor Jones. On roll call vote, 15 Councilors were present and voting in favor. Assistant City Managers Rebecca Landry and Andy Bohannon were invited to attend the non-public session. Mari Brunner, Senior Planner, was invited to attend a portion of the non-public session. Cody Morrison, Executive Director of Monadnock Economic Development Corporation, was also invited to participate in a portion of the non-public session.

Councilor Bosley motioned to unseal the minutes of November 1, 2023, because the reason the minutes were originally sealed no longer applies. Councilor Filiault seconded the motion and unanimously adopted it.

A motion by Councilor Bosley to keep the non-public minutes of August 17, 2023, non-public because disclosure would adversely affect the reputation of a person other than a member of the board was seconded by Councilor Filiault and unanimously adopted.

A motion by Councilor Bosley to retain the minutes of October 19, 2023, November 2, 2023, November 9, 2023, and December 7, 2023, in non-public session as disclosure would render the proposed action ineffective was seconded by Councilor Filiault and unanimously adopted.

A motion by Councilor Bosley to keep the non-public discussion of August 1, 2024, relative to land matters non-public as disclosure would render the proposed action ineffective was duly seconded by Councilor Jones. On a roll call vote, 15 Councilors were present and voting in favor.

A motion by Councilor Bosley to keep the non-public discussion of August 1, 2024, relative to personnel non-public, as disclosure would render the proposed action ineffective, was duly

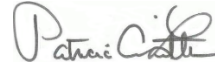
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seconded by Councilor Jones. On a roll call vote, 15 Councilors were present and voting in favor.

A motion by Councilor Bosley to keep the remainder of the discussion from the non-public session of August 1, 2024, non-public as disclosure would render the proposed action ineffective, was duly seconded by Councilor Jones. On a roll call vote, 15 Councilors were present and voting in favor.

As there were no further items of business, the meeting adjourned at 10:15 PM.

A true record, attest:

A handwritten signature in black ink, appearing to read "Patricia Castle". The signature is written in a cursive style with a large initial "P".

City Clerk