City of Keene
New Hampshire

PLANNING, LICENSES AND DEVELOPMENT COMMITTEE MEETING MINUTES

Wednesday, September 11, 2024 **6:00 PM** **Council Chambers, City Hall**

Members Present:
Kate M. Bosley, Chair
Philip M. Jones, Vice Chair
Andrew M. Madison
Robert C. Williams
Edward J. Haas (Remote)

Staff Present:
Rebecca Landry, Deputy City Manager
Thomas Mullins, City Attorney
Amanda Palmeira, Assistant City Attorney
Don Lussier, Public Works Director
Jesse Rounds, Community Development Director

Members Not Present:
All Present

Jay V. Kahn, Mayor

Chair Bosley called the meeting to order at 6:00 PM. Having declared that a quorum was physically present in the Council Chamber, Chair Bosley recognized that Councilor Haas requested to participate remotely due to family travel. Hearing no objections, Chair Bosley granted the remote participation. Councilor Haas was calling alone from his location.

1) **Relating to the Request to Authorize the Issuance of a Building Permit for the Property at 270 Beaver Street - Community Development Director**

Chair Bosley welcomed an introduction from the Community Development Director, Jesse Rounds. Mr. Rounds said that this request was to authorize the issuance of a Building Permit for the property at 270 Beaver Street, a parcel that has no frontage on a Class V or higher road. NH RSA 674:41-c requires that the applicant appear before the City Council to request authorization for the Community Development Department to issue a Building Permit. In 2000, the City Council adopted Resolution R-2000-28 so that the City would not allow Building Permits on Class VI roads. In advance of voting to authorize the issuance of a Building Permit, the Council would need to vote by a 2/3 majority to suspend that Resolution prohibiting Building Permits on Class VI roads.

Chair Bosley asked whether this Committee was making a recommendation as to whether to suspend R-2000-28. The City Attorney, Tom Mullins, replied that the Committee should vote to suspend Resolution R-2000-28, but he said the overall question about Class VI roads was for another discussion. Mr. Rounds agreed that this discussion was specific to this one item.

Chair Bosley pointed out that this Committee recently reviewed a similar application, with the difference being that this one is a Class VI road related to a private road. Mr. Rounds said that was correct. Chair Bosley said the language in R-2000-28 is erroneous regarding private roads but is specific about Class VI roads. So, she thought the Committee needed to give a little more due diligence to ensure it would be properly asking the Council to suspend the Resolution.

Councilor Williams discussed Beaver Street, which is an extremely steep road in his neighborhood, with an eroded set of steps at the top and a lot of weeds. He said the roadway is treated like most Class VI roads, most of which are in more rural areas, whereas Beaver Street is in a medium density neighborhood. Councilor Williams was not happy with that situation. He thought the neighbors would be very pleased if the steps were fixed. Councilor Williams was worried about the implications of having a driveway against a Class VI road in terms of City maintenance (e.g., snow plowing), and he asked if the City should consider reclassifying it, as any homeowner with a connection to the road would expect to have those kind of services available. Mr. Rounds replied that in this case, the driveway would come off the stub end of the eastern terminus of Beaver Street, and City maintenance already exists to the edge of the pavement of Beaver Street. So, this driveway—privately-maintained through an agreement with the Department of Public Works—would just be an extension of that. Don Lussier, Public Works Director, replied that the simple answer to Councilor Williams' question was no, the City would not use public funds to maintain a Class VI road per NH law, which he thought the applicant understood. It is explicit in the Land Development Code that the issuing authority—the City Engineer for single family homes or duplexes, and the Planning Board for multifamily homes or commercial—may issue a Street Access Permit based on the demonstration that the Class VI road to be used as a driveway is suitable for emergency vehicles on the date of issuance of the Street Access Permit. So, Mr. Lussier would have to find that the section of this Class VI road to be used essentially as a driveway is suitable for emergency vehicles on the date that the driveway is permitted. Mr. Lussier also pointed out that this was already an existing driveway and was used as a driveway until just a few years ago when the City demolished a home that was damaged by fire. It still looks like a driveway today, and he said it was really no different for emergency vehicle access than a driveway. The City cannot maintain or plow it; that will be the owner's responsibility. If approved, Mr. Lussier said the owner will be required to file a statement with the City that will be filed in the Registry of Deeds, acknowledging that the owner understands that the City does not maintain this section of roadway and that the owner is responsible and waves damages as a result of the City not maintaining the road.

Councilor Williams said that because this property owner would be paying taxes, he thought they should be entitled to have that 10–20-foot stub of the road plowed as much as any other property owner in the City would. So, he questioned the possibility of reclassifying the roadway. Mr. Lussier replied that he would have to look at the road's geometry to determine whether there would be a reasonable place nearby to pile snow if the City was to plow that stub, since it would essentially be a dead end; he would not want to pile snow at the bottom of the stairs Councilor Williams mentioned. He asked for more time to review the area before making a

recommendation in this regard. Mr. Lussier thought it was within the City Council's purview to modify the layout of a Class VI road and to make it Class V, allowing for paving and maintenance; however, it would have to be upgraded to meet Class V road standards, which would require some construction.

Chair Bosley asked if this extension goes all the way to Terrace Street. Mr. Lussier replied that the tax map showed it going all the way to Reservoir Street. The former Public Works Director referred to this roadway as a "paper street" meaning it was put on a subdivision plan at some point in time because it was going to be laid out as a street but that never actually occurred. Mr. Lussier was unaware who built the stairs in question, so he declined to comment on that, besides stating that they were not in great shape and that they were a separate issue the Council/City staff should discuss at some point.

Chair Bosley asked if the street slope would prevent reclassifying this roadway. Mr. Lussier replied that he was unaware of an upper bound on road slope in NH law. At this time, the steepest in the City was Thompson Road—approximately 20%—which was under reconstruction. He thought this portion of Beaver Street would be similar, if not a bit steeper. The City's existing road standards would not allow development of a road that steep again; anything over 15% is prohibited.

Vice Chair Jones thought a potential benefit of the Council supporting this project would be additional property for taxing. He asked City staff what they saw as potential benefits and detriments of this project. Mr. Lussier replied that he thought the most important thing to consider would be restoring a condition that existed just a few years ago. The applicant was seeking to build a house where there was a house for a very long time. In that light, Mr. Lussier thought it made a lot of sense to allow this to go forward and continue allowing this property to act as it was until a short time ago. Barring any further discussions about changing the geometry of the roadway, Mr. Lussier did not envision any detriments that would affect Public Works at this time. Mr. Rounds said that from the Community Development Department's perspective, this is additional housing, and it is a property that the City took possession of that could go back on the tax roll, which is positive because the City needs housing of all different types.

Chair Bosley welcomed the applicant, Ken Susskind, of Terrace Street. He and his wife, Monica Marshall, made an offer to purchase this property at 270 Beaver Street. Mr. Susskind and Ms. Marshall are abutters, and they were seeking to buy this property to build a very small home for their daughter in this difficult housing economy. They hoped it would be a sort of model tiny home for the community for what could be done on a difficult piece of land. Having lived on Terrace Street for 27 years, Mr. Susskind said that the City had always plowed and piled snow in the small area that the other speakers had described because there is nowhere else to put it, though he understood that it was not the City's responsibility. While he thought it would be thrilling if the City wanted to reclassify this road, he thought residents there were used to the winter situation.

There were no public comments.

Vice Chair Jones asked the City Attorney if there would need to be a waiver process to reclassify the road. The City Attorney replied that the roadway's classification would remain the same at this point—Class VI—but in order for the City to issue a Building Permit on a Class VI road, the NH Statute requires (and this would be a part of a larger forthcoming conversation) that the Planning Board consent and advise the City Council. The Planning Board had done so and suggested that the City Council move forward. So, the process would be to (1) suspend R-2000-28, and (2) motion to recommend to the City Council that a Building Permit be authorized, which would allow the applicant to move forward. Obtaining the Building Permit and approval from City Council are required as a condition of the purchase and sales agreement. There would then be a series of other steps to finalize, including a Driveway Permit. Vice Chair Jones asked if R-2000-28 would need to be suspended at this meeting and at City Council. The City Attorney replied yes, it would be best to follow the same procedure with both bodies.

Brief discussion ensued about the procedure for motions. The City Attorney clarified that a third motion from the Committee recommending that the City Council suspend R-2000-28 would not be needed because that would be the Council's prerogative, but by the Committee suspending it, it would indicate to the City Council that the PLD Committee agrees with suspending R-2000-28.

Chair Bosley indicated that she was in favor, adding that R-2000-28 is 24 years old and needs to be revisited.

Councilor Madison agreed and added that there are many rules that need revisiting that might be contributing to the State's housing crisis. He felt it was time to suspend R-2000-28 and allow a tiny house on this parcel for a young family to have a home of their own, which is becoming harder and harder for residents of Keene and NH.

Vice Chair Jones also agreed with Chair Bosley, reiterating the housing and tax benefits of supporting this application.

Councilor Williams agreed with the steps being taken here. He hoped to see additional steps taken to reclassify this roadway, or at the least to reclassify the bottom section to Class V and determine what to do with the steps in question. He said it is a commonly used thoroughfare for people walking to/from Terrace Street or up to Robin Hood Park from his neighborhood. He reiterated that the steps are in disrepair, unmaintained, and that the City should fix them.

Councilor Haas asked the City Attorney whether the recommended motion would allow the City Council to move expeditiously on this matter, because the applicant has upcoming deadlines. The City Attorney replied that this would appear before the City Council on September 19, and if the Council has the same sentiments as the Committee, then this part of the process would be concluded. Councilor Haas acknowledged Councilor Williams' point that if the City has an

opportunity to make improvements associated with other work it should, but not in this instance, so the steps could be kept in mind going forward. Councilor Haas thanked the applicant for pursuing this and utilizing some unused areas of the City. He agreed that this could be a great example for other areas of the City that can be developed from the interior.

Councilor Williams made the following motion, which was duly seconded by Vice Chair Jones.

On a roll call vote of 5–0, the Planning, Licenses, & Development Committee suspended Resolution R-2000-28 to allow consideration of this matter.

Councilor Williams made the following motion, which was duly seconded by Vice Chair Jones.

On a roll call vote of 5–0, the Planning, Licenses, & Development Committee recommends that City Council authorize the issuance of a Building Permit for the property at 270 Beaver Street.

2) Relating to an Amendment to Land Development Code – Charitable Gaming Facility – Ordinance O-2023-16-B

Chair Bosley recalled that there had already been a public hearing on this matter, so there would be no further public comments accepted at this meeting.

Chair Bosley welcomed the Community Development Director, Jesse Rounds, for an introduction. Mr. Rounds explained that in November 2023, there was an original proposal to create a definition of a charitable gaming facility in Keene's Land Development Code that followed the NH RSA definition of a charitable gaming facility. Quickly, through conversations with the Joint Planning Board/Planning, Licenses, & Development Committee and the City Council, Mr. Rounds said it was clear that was not the best way to handle this issue. After 3 or 4 Joint Committee meetings, the Committee arrived at an altered definition, as well as some use standards and new zoning district restrictions. He thought that work—surprisingly—allowed for a lot more flexibility, even though there are now use standards. Now, there is an opportunity for charitable gaming facilities in the community in a way that the Joint Committee felt respected the community's interests.

Next, Mr. Rounds listed the specific areas in the Commerce Zoning District where charitable gaming facilities would be permitted if the City Council adopts Ordinance O-2023-16-B: West Street between the bypass and Island Street, Winchester Street south of Island Street and north of Cornwell Drive, Main Street south of Route 101 and north of Silent Way, and commerce land along Key Road, Kit Street, and Ashbrook Road. The Joint Committee worked to identify those areas that have a lot of activity already. Mr. Rounds listed the use standards for charitable gaming facilities listed in O-2023-16-B: no facility shall be within 500 feet of an of another charitable gaming facility or within 250 feet of a place of worship, school, daycare facility, single- or two-family dwelling, or residential zoning district. He explained that one factor that informed those use standards was that there are a lot of single- and two-family houses in non-

conforming, non-traditional residential zoning districts, which is a significant restriction. For example, off West Street, there are a lot of areas that are zoned Commerce but have single-family homes, just through the vagaries of zoning, thus restricting where charitable gaming facilities could be located. In addition, there are a few spots with more intense residential development in Commerce Zones, further restricting charitable gaming facilities in those areas per this draft Ordinance. He explained, however, that a charitable gaming facility cannot be placed near a multifamily home in a Residential Zoning District but can in a Commerce Zone if the charitable gaming facility meets all other dimensional standards for the Commerce Zone. Lastly, Mr. Rounds explained that in O-2023-16-B, there are a number of parking restrictions for charitable gaming facilities due to the heavier traffic expected, including larger vehicles like busses. The parking requirements include: 0.75 parking spaces per gaming position (which would be a new definition in the Zoning Code) and 2%—or two parking spaces—are required to be equipped with electric vehicle charging stations.

Chair Bosley noted that sometimes the Council will start what seems like a simple process and through educating itself, as in this case, the process becomes more complex. However, that education and hearing from educated members of the public and members of the NH Gaming Commission, helped guide the Joint Committee toward this "B" version of the Ordinance. She thought the Council did the right thing in sending this back to the Joint Committee for more workshopping and compromising with the Planning Board—other members of our community—to ensure good choices were made to arrive at this version. Chair Bosley thought they had arrived at a solid Ordinance.

Mr. Rounds mentioned a question during the public hearing about Bingo and whether this Ordinance would prohibit churches or other charitable organizations from holding bingo in their buildings. In speaking with the City Attorney and other City staff, Mr. Rounds said the agreement was that Bingo would be an accessory use for those organization, and therefore would not be regulated through this Ordinance at all and would be allowed to continue as it always had.

Vice Chair Jones asked if the definition should be codified in the Zoning Code before this Ordinance is adopted. The City Attorney replied no, citing the unlikely scenario that the definition would be adopted, and the Ordinance would not be, the definition would then be orphaned in the definitional section, so it was prudent to ensure that the charitable gaming Ordinance is in place first.

A motion by Councilor Madison to adopt Ordinance O-2023-16-B was duly seconded by Councilor Williams.

Vice Chair Jones recalled that he was against this since this beginning, so he would be voting in opposition. He reiterated his position that the City should not be separating gaming out as this malicious device. He said it is just a form of entertainment, no different than having a movie theater, a penny arcade, or anything else. Vice Chair Jones was opposed to putting these specific

restrictions on an issue that other cities were using to bring more money into their communities, so he would be voting no.

Councilor Williams respectfully disagreed, stating his belief that gambling in general is very bad news. He said there had been an explosion of gambling across the country with the legalization of sports betting. Casinos are everywhere now, and he said a lot of people are getting harmed; people are gambling away theirs and their savings and their kids' college funds. He said it is not always obvious because it happens in the dark of a casino behind closed doors. The statistics Councilor Williams read indicated that about 1% of adults have a serious gambling problem every year, which he said would include people in our community, who would be harmed by this. If Councilor Williams could vote to prohibit casinos in Keene, he would, but since this Ordinance was the option, he would vote in favor.

Councilor Madison agreed with Councilor Williams that gambling is a clear problem, citing lottery ticket sales as an example. Councilor Madison thought the Joint Committee had well parsed out the areas of the community and levels of parking, etc., in this Ordinance to allow this to happen in a business and family friendly way. So, he supported the Ordinance.

Chair Bosley spoke anecdotally. Having a teenager away at school, Chair Bosley attested that children who are too young to be gambling, are gambling. It is happening online and on college campuses. She had heard of students who were thousands of dollars in debt to bookies and she called it a real problem. She thought that the more questions the Council asked, the more they would hear these stories and see the effects of online gambling, let alone brick and mortar. She agreed that there is a component that is entertainment; some people limit the money they spend at casinos to the same as they would to see a movie, but she said that is not the case for many gamblers. Chair Bosley thought the Joint Committee did a very good job of crafting an Ordinance that does not prohibit charitable gaming facilities but does create really good boundaries around what we want to see in this community.

Councilor Haas said he tended to agree with Vice Chair Jones, stating far be it for City Councilors to judge other people's behaviors and desires. However, Councilor Haas said there were clear community feelings around the how neighborhoods should evolve. So, he said he saw this as one step forward, and maybe one step sideways; the City would see how it develops over time. He thought this was a great starting point to respect personal responsibility and independence, as well as growth of business, while containing a potential problem.

On a roll call vote of 4–1, the Planning, Licenses, & Development Committee recommends the adoption of Ordinance O-2023-16-B. Councilor Jones voted in opposition.

3) A Relating to Amendments to the City of Keene Land Development Code, Definition of Charitable Gaming Facility – Ordinance O-2023-17-B

Chair Bosley recalled that now that the Committee recommended adopting Ordinance O-2023-16-B, the definition of charitable gaming facility needed to be added to the Zoning Code. Community Development Director, Jesse Rounds, noted that this Ordinance was also a "B" version because it went through the same evolution as the discussion of O-2023-16-B. An early definition had been drafted, but through public engagement it was realized that Bingo and Lucky 7—parts of the NH RSA, but in a different section—were overlooked, so those were added. Then, as the use standards in O-2023-16-B were drafted, staff noticed the utility of including "gaming position" as well. So, a definition of "gaming position" was also added to this Ordinance O-2023-17-B.

Vice Chair Jones agreed with the definition. He recalled the instances of Keene turning down KENO 603 twice on referendum. Should that happen again—because he said the Lottery Commission keeps sending it back every few years—he asked how that would fit into this definition; or would Keene reword it? He thought that according to the State of NH, anyone with a Liquor License has the right to allow KENO. Mr. Rounds confirmed that KENO is regulated differently, so it would fall outside the realm of Ordinance O-2023-16-B that was just recommended for adoption.

There were no public comments.

Vice Chair Jones made the following motion, which was duly seconded by Councilor Madison.

On a roll call vote of 5–0, the Planning, Licenses, & Development Committee recommends the adoption of Ordinance O-2023-17-B.

4) <u>Rules of Order Amendments – City Attorney</u>

Chair Bosley recalled that there had been a full Council Workshop to review several sections of the City Council's Rules of Order, and the Council made recommendations for changes. Staff returned to this Committee with draft changes and the Committee sent recommendations for a first reading at City Council. This meeting would be the last opportunity for the Committee to make recommendations before the Council decides what amendments they want to adopt on September 19. She recalled that the Committee would be voting on each of the six proposed amendments individually so the Council can vote on each if they do not agree with all of them. The City Attorney, Tom Mullins, added that on September 19, the Council could decide to adopt these changes as presented, propose amendments, or send any of them back to this Committee for further workshopping. The Committee proceeded deliberating and voting on each amendment.

<u>Amendment #1: Section 2. Special Meetings & Workshop Meetings</u>

The City Attorney explained that these changes are to codify within the Rules of Order the question of calling a workshop and what can happen at a workshop meeting. Over the years, a

pattern of practice developed to call workshops, but the question arose of what the Council can do within workshops. So, this amendment to the Council's Rules would: clarify that workshops can only be called for a specific purpose. The amendment also restricts the types of votes that can occur in workshops (only to send back to a Standing Committee). The City Attorney reminded the Committee that workshops are official City Council meetings that are open to the public, but that does not mean the public has the right to participate or to speak; allowing public participation is the Council's discretion.

Councilor Madison expressed concern because in recent years he had noticed the Council having a lot of workshops and special meetings, some of which he felt had been repetitive. For example, he wondered if workshops on things like the Council's Fiscal Policy need to happen each year. He pointed out that every meeting and every workshop costs the City—and therefore the Keene taxpayers—money, just to have the required staff support, for example. He urged his fellow Councilors to start seriously considering how often these workshops and meetings occur and to start narrowing in on whether they are necessary or they are only occurring for the sake of tradition, etc. This was a frustration that had arisen for him as both a Councilor and a taxpayer.

Vice Chair Jones said he supported this motion but thought Councilor Madison was exactly right about repetitive workshops and that the City/Council should consider his points in the future.

Chair Bosley also saw Councilor Madison's point. She thought that big projects—when there is a need to gauge the whole Council's consensus—are ideal for workshops, as had worked well in the past year for the downtown project in advance of more detailed reviews at the Standing Committee level. She agreed that it is difficult to see repeat workshops on topics familiar to Councilors that could happen at the Standing Committee level; she thought the Mayor was tasked with keeping an eye on ensuring the Council is using its time in the best way possible. Having just returned from the Council's summer break, it was particularly noticeable to Chair Bosley how many meetings she did not attend over the those few weeks, and the amount of time she got back with her family. She thought the Committee did well in determining the smart and thoughtful guideline that two members of each Standing Committee must come together to call a special meeting or workshop in the absence of the Mayor doing so.

There were no public comments.

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

On a roll call vote of 5–0, the Planning, Licenses, & Development Committee recommends the adoption of Amendment # 1: Section 2. Special Meetings & Workshop Meetings.

<u>Amendment #2: Section 11. Right of Floor</u>

The City Attorney explained that the only change in this section from the original language that reads, "When recognized by the Chair, a member shall rise in his or her place…" was to add the Committee's suggestion of, "… a member shall rise in his or her place, *if able*." The City Attorney thought that because this Rule is mandatory, the Committee's intent with this addition was to allow an individual to opt out of they were unable.

Vice Chair Jones thought the agreement had been to change the word "shall" to "should." The City Attorney said no, the agreement had been to retain "shall." For all intents and purposes, the City Attorney's impression from the last discussion with the Committee was that "shall" and "should" were essentially the same at this point.

Councilor Williams thought the purpose of this was to ensure that someone who is feeling infirmed on a particular day does not necessarily have to announce that in front of the City Council and entire public, but instead can keep that information private, where he said it belongs. He thought that this amendment accomplished that, which he appreciated.

Chair Bosley opened the floor to public comment.

Councilor Catherine Workman of Colorado Street began by acknowledging the hard work this Committee had put into considering these amendments. She was speaking more so as the Chair of the Monadnock Diversity, Equity, Inclusion, & Belonging Coalition (MDEIB), which recommended changing the word "shall" to "may." By using "may," she said the default would then be to sit instead of to stand but would still allow those who would like to stand to do so. As previously highlighted, she said the City has a responsibility to lead by example and to make society and/or all environments as barrier free as possible, and to anticipate the needs of others without burdening them with having to request an accommodation. She heard a lot of arguments justifying the need to continue to stand and she wanted to take a moment to debunk those. The Council had heard testimony that standing is necessary because it maintains decorum, formality, and tradition. While the latter is true, she said this thinking is quite antiquated and stems from puritanical societal and cultural norms that typically emphasize male dominance and authority, from a time when men were expected to be the primary speakers and decision makers. Traditional reasons for standing were to command authority and presence, increase visibility and engagement, and project leadership. It was seen as necessary to assert authority and command respect. As far as maintaining decorum and control of the meeting, Councilor Workman did not think anything would change; the Mayor would still have to recognize a Councilor before they were to speak. She said Councilors do not stand and interrupt one another now, so she questioned why the Council should anticipate that they would start just with this change of the Rules. She said chairs of the Standing Committees are also able to maintain control of meetings when standing is not necessary, so she said it had been proven that standing does not dictate decorum of meetings. Councilor Workman recalled that during COVID, the City updated its media system, so now there is no logistical reason to stand, and in fact, doing so can actually be a disservice if one is particularly tall and farther from the mic. Further, the cameras in the Council Chamber either pan to and isolate the speaker or there are two screens in the Council Chamber to

ensure that the speaker—if seated—would still be visible to the public in the audience both in person and at home. If there was a further problem, Councilor Workman said the solution should be to reconfigure the Council Chamber to prioritize the audience, not to change the Council's Rules of Order.

Councilor Workman continued. She stated that while she foresaw that many Councilors would continue to stand with this change, she thought it would send a powerful and impactful message to the Community; it would show that the Council is being intentional and mindful in terms of accessibility and cultural sensitivity, because in some cultures the expectation to stand while speaking may not align with their customs, which can impose an external norm and create internal conflict, discomfort, and can lead to resistance. She explained that some people may also be more comfortable expressing themselves when seated instead of standing. She explained that forced standing had been proven to create a psychological barrier and may actually negatively impact participation, especially in high stress, high pressure situations. Councilor Workman asked the Council to balance the benefits of standing—of which she could see none—with the potential barriers it creates. For example, the solution of disclosing to the Mayor the reason for not standing puts the responsibility on the person who needs the accommodation and makes them disclose personal information unnecessarily. She said this should be a "no brainer change" because it would show growth, flexibility, and inclusion, which would aid in fostering an inclusive and supportive environment and community. She thought the change to "may" would still accomplish the ultimate goal of this amendment.

Hearing no further public comments, the Committee proceeded deliberating.

Vice Chair Jones recalled that he had been somewhat opposed to this because for many years, there had been an unwritten rule that Councilors would stand when addressing the dais out of respect but would remain seated when addressing petitioners, consultants, or speakers. While that had always worked, he would vote in favor to send this for a full Council discussion.

Councilor Williams thanked Councilor Workman for her explanation. Having had this discussion at length to date, Councilor Williams did not think an amendment would pass at this meeting, so he said he would also vote in favor and possibly seek an amendment when this is before the full Council.

Chair Bosley agreed with moving this forward for a conversation with the full Council, with the potential for amendments.

Vice Chair Jones made the following motion, which was duly seconded by Councilor Madison.

On a roll call vote of 5–0, the Planning, Licenses, & Development Committee recommends the adoption of Amendment #2: Section 11. Right of Floor.

<u>Amendment #3: Section 15. Voting and Conflict of Interest</u>

The City Attorney explained that the first main change was in the first paragraph of the text, defining what constitutes an immediate family member for the purposes of conflict of interest. For the public's benefit, the City Attorney explained that this Rule says that if a member of the City Council in particular—or in certain circumstances their immediate family member—may have an interest different from the public in a matter that is before the City Council, that individual Councilor should recuse themselves from considering that matter. This Committee had also been considering the question of whether to broaden the Rule with respect to the definition of an immediate family member. An additional amendment was to add any immediate family members—limited to individuals 18 years of age or older—to the City Council's annual Statement of Interest (public statements) filed with the City Clerk's office; the Council adopted this procedure several years ago in an effort toward public transparency about the leadership positions of the Mayor's and Councilors' immediate family on boards, commissions, and organizations. So, the second main change in this section was to broaden this annual conflict of interest disclosure beyond just the individual City Councilors to also include their immediate family members over age 18. The City Attorney said that disclosing on the Statement of Interests form whether immediate family hold "leadership positions" with organizations specifically was important because if the Councilor or family member does not have what the Attorney called a "controlling role in the organization" then it would not be necessary to report that affiliation as a potential conflict of interest.

Councilor Williams quoted and asked for clarification: "Any board, commission, organization, association, or other entity which the Mayor, Councilor, or immediate family is a member of and whether or not the person holds a leadership position." If they are a member of any organization then it must be disclosed in addition to disclosing whether a leadership position is held. The City Attorney agreed with Councilor Williams assessment of the language.

Councilor Williams stated that he ran for public office, his immediate family members did not. He felt that this amendment would put a burden on his immediate family that they did not ask for and so he would vote against this.

Vice Chair Jones felt similarly to Councilor Williams that spouses and children are not elected officials, so the Vice Chair agreed that immediate family should not be committed to publicly disclosing where they work and what organizations they are affiliated with; he did not think it would be fair. If there was a potential conflict, he thought the individual Councilor should announce that conflict so a vote on the possible conflict could occur. The Vice Chair said he would also be voting against this amendment.

Councilor Madison respectfully disagreed with Councilors Williams and Jones. Councilor Madison said he would vote in support of this amendment because he feels that when someone makes a choice to run for public office, they accept that the choice will affect their financial and personal interests. He added that for better or worse, Councilors' immediate families' personal and financial interests are important to Councilors and impact the decisions they make as

Councilors. So, Councilor Madison said he thinks it is fair for the public to know how Councilors are being influenced and therefore, he actually does not think this disclosure goes far enough. He stated his belief that Councilors should also disclose from whom they receive campaign funds. While he knows that some do not believe it to be the case, he believes that a lot of money is flowing into Keene elections from out of state and out of town. Councilor Madison said he thinks the people of Keene have a right to know from where City Councilors receive campaign funds. So, he thought that should also be disclosed on these annual Statement of Interest forms. While he said he would vote in favor of moving this forward at this meeting, he indicated that he might make an amendment during the full Council deliberation on September 19. He thinks it is fair to ask Councilors to disclose where money coming into their households is coming from, and he said that is something potential candidates should consider before running for office. Councilor Madison urged strengthening these rules to provide more public disclosure.

Councilor Haas said he thinks that openness and disclosure in government is of great value, so he said the more the better. In the absence of such disclosure, he thought it could be invented by disgruntled parties who might take exception to something. Whereas he thought that having a strong disclosure statement as a part of the Council's Rules would help to keep things a little more above board.

Chair Bosley recalled sharing her position on this several times, specifically that her husband's employer comes to the City annually to ask for funds as a part of the City's contributions to local non-profits. That puts Chair Bosley in a very difficult position if she does not recuse herself, as not doing so could negatively impact her spouse's employment. Thus, she said she appreciates that this level of transparency actually protects her husband's employment. Chair Bosley said she appreciates these Rules because she had seen them inadvertently abused. She had seen Councilors who sat on boards in leadership positions ask the Council to increase the funding that the City offers to a non-profit through the City's budget process, without disclosure (she acknowledged that there was no malice intended in this action). Such instances had made Chair Bosley uncomfortable, and while that money was not going directly to that individual, she highlighted the grey area that needs to be eliminated to the greatest extent. Chair Bosley said these annual disclosures are a way for the Council to help hold each other accountable, and for individual Councilors to protect themselves when they need to recuse for a particular reason. Still, Chair Bosley thought a line needed to be drawn with immediate family, and she felt the line should be drawn at spouses specifically; she did not think children should be involved.

Chair Bosley opened the floor to public comment.

Councilor Jacob Favolise of Main Street said he was uncertain how he feels about this. He thought that Councilor Williams' argument was compelling when he stated that those on the Council ran for office and their families, immediate or otherwise, over 18 or otherwise, did not. So, Councilor Favolise said he does not actually know how healthy it is to be involving Councilors' families in the political process. With that said, it is a hard sell for him to vote against increased transparency. So, Councilor Favolise asked the Committee to vote to send this

to the full Council, where he thought there could maybe be a fuller discussion with additional perspectives. He was clear that this was not an indication that he did not support this amendment, but that he thought it was appropriate to move it forward for a full Council discussion.

Councilor Madison made the following motion, which was duly seconded by Vice Chair Jones.

On a roll call vote of 3–2, the Planning, Licenses, & Development Committee recommends the adoption of Amendment #3: Section 15. Voting and Conflict of Interest. Councilors Jones and Williams voted in opposition.

Amendment #4: Section 25. Communications

The City Attorney explained that there were three components to the proposed amendments in this section, with two being essentially housekeeping. First, the deadline for the City Clerk to accept communications until 4:00 PM on the Tuesday preceding a Council meeting was moved into this section from Section 26. Additionally, language is included indicating that personal, defamatory, or argumentative communications will not be accepted by the City Clerk. The more fundamental change to Section 25 under discussion was the Council's past pattern and practice of not accepting or acting upon communications regarding larger national and international issues outside of the City. Because there had been a lot of discussion about this issue, the City Attorney looked back and found that the last time the City Council accepted a communication regarding larger issues outside of the City was in 2019. So, due to the Council's discourse on this issue, there had been a proposal to codify that practice in the Council's Rules.

For the public's benefit, the City Attorney quoted from the draft Rule amendment: "Communications requesting that the City Council consider matters not germane to either the State or to the City, or over which the City Council lacks the authority to take any action, shall not be agendized by the City Clerk, provided, however, that the City Clerk shall place such communications into the Councilors' mailboxes." The City Attorney said the reason for this is to provide a sort of "safety valve"; the Council has the right to suspend its Rules to review such communication and he said that, frankly, the City Clerk does not want to be in the position of having to arbitrarily make these decisions, so they will be placed in Councilors' mailboxes in case they want to suspend the Rules by a 2/3 vote of the Council to hear the communication.

Chair Bosley said she did not see it addressed if a Councilor submits a communication to the Council. The City Attorney replied that Councilors are basically members of the public, so it would follow the same process and would still require suspension of the Rules if the Clerk had determined it to be non-germane.

Councilor Madison recalled talking about the Council disciplinary process and initiating that process by a Councilor submitting a communication to the Council. He asked—if a member of the public submitted a communication asking the Council to initiate the disciplinary process against a Councilor—would that be considered "personal, defamatory, or argumentative?" The

City Attorney said that particular Rule (which he said was not directly before the Committee, but which the City Attorney had authored) was created intentionally to be a very difficult process to get through, because these are elected officials. His recollection was that the process could not be triggered by a member of the public because it could open the process to political issues in order to trigger the disciplinary rule. So, the City Attorney said the answer to Councilor Madison's question was that such a public communication would not be accepted because there would be no authority to do it. In such a case, the City Clerk would likely suggest to the individual—especially depending on the nature of the request—to contact their City Councilor or the Mayor to discuss the concern.

Councilor Williams expressed concern over what is considered a "communication." He said it seemed that this mechanism was being used to shut out certain discussions. He recalled the 2019 issue the City Attorney referenced, as well as the more recent Medicare for All issue the Council faced, when some Councilors were concerned about supporting it because it was a national issue, but they were able to drill down to how the issue ultimately impacted high health costs for Keene community members, so the Council voted to support it. In this discussion of communications, Councilor Williams was concerned about this mechanism of just placing communications in Councilors' mailboxes, stating that it would require some very heavy lifting on the part of some Councilors to then take a communication and get a 2/3 majority of other Councilors to vote for it when—according to RSA 91-a—he did not think they were allowed to talk to that many Councilors about a communication in advance. So, he felt this would create a very high barrier to people bringing petitions to the City Council. Councilor Williams said he does not take it lightly when people bring petitions to the Council. He cited the recent instance of a petition with approximately 90 signatures, 60 of which were from people in Keene. He emphasized that in many instances, signing petitions on certain topics can be risky, strong political steps; people are sometimes fired from jobs for signing such petitions. So, if community members are willing to sign petitions and bring them to the council, he thinks it is very important that the Council at least listens to what they have to say and thanks them for bringing it to the Council's attention, whether the Council decides it is within its purview. Councilor Williams expressed concern that this addition to the Rules that was not included a few weeks ago, when he motioned to allow a communication to be heard on the Council floor but received no second. He emphasized that people have a First Amendment right to petition their government and said that if the Council is cutting off the avenue for that discussion, he has a problem with that. He was concerned with putting the City Clerk in the position of having to determine which communications are germane. Councilor Williams questioned if a communication from the Human Rights Committee would be treated like every other communication on national or international issues. Regarding non-germane communications being placed in Councilors' mailboxes, Councilor Williams asked the City Attorney how a Councilor would take action on one of those communications in a way that would keep it from being subsequently rejected.

The City Attorney reminded the Committee that he was acting as the scrivener, attempting to translate the Council's wishes into the text of the Rules of Order, which is a policy of the City Council, and the Council can choose what to do with its Rules. Regarding communications

placed in Councilors' mailboxes specifically, the City Attorney explained that every City Councilor has access to and should check their mailboxes for communications. If a Councilor wants to act on a communication the Clerk deems non-germane, at the next City Council meeting, they would inform the City Council that they think it should be considered by submitting a motion to suspend the Rules of Order, and if the Council agreed by a 2/3 majority vote, the Mayor would to send the communication to the appropriate Standing Committee for further consideration. Even if a particular communication was not on the specific agenda for a Council meeting, a Councilor could raise a non-germane communication as a point of order with the Mayor and the City Council.

Chair Bosley recalled that during COVID, when Council and Standing Committee meetings were happening virtually, issues arose because people were attending meetings from across the nation and the Council was being asked to consider issues far outside Keene's purview, which she said tightened the Council's resolve to keep the Council focused on issues of real local concern. She cited several occasions when people from different parts of adjacent communities were the primary speakers on some of the topics that were before the Council. Regardless of whether there is an ability to have advanced conversations under RSA 91-a, she thought there was a mechanism to make a full case for these communications at Council meetings; she said that there are a lot of Councilors who are willing to listen to topics for which they think that there could be a good connection to the community. Chair Bosley said she supported Medicare for All at the time because she saw the direct financial and social impact on the community. She said she saw this amendment as a little bit of a win because it does help to resolve some of the lack of formally written policy/practice issues, but it also gives the Council an opportunity to carefully revisit the communications coming through their mailboxes.

Councilor Haas appreciated Councilor Williams' points and the City Attorney's explanation of how Councilors could still pursue communications initially classified as non-germane. He noted that an email address is required for communications to be accepted and asked if it would be more appropriate to list "if available," questioning if the City should be obligating everyone to have an email. Brief discussion ensued on the language listed and whether it was an intentional requirement. The City Attorney said that was language in the existing rule and he would let the City Clerk speak to that at the Council meeting on September 19. Deputy City Manager, Rebecca Landry, said her understanding was that the phrase listed, "if different," applied to the mailing address if not the same as the physical address; Chair Bosley said that address is the requirement and Ms. Landry said that was her understanding. Chair Bosley asked if there could be an amendment at the Council meeting and the City Attorney said yes.

Vice Chair Jones recalled that he had been seeking a procedure like this for some time, including trying to get it into the City Council goals at one time. He said that every time something like a City resolution is drafted, it goes through many levels of City staff, which is valuable time that ultimately costs taxpayer money. So, it concerns him when the Council spends time considering things that are not City business. Vice Chair Jones added that once a petitioner submits a communication and it makes it onto the Council's agenda, it no longer belongs to the petitioner;

it would then be in the Council's hands and the Council could, for example, amend or adapt the petitioner's original wishes.

Councilor Madison agreed with Councilor Williams that the First Amendment right to petition the government is one of the most sacred, basic rights. However, he said that right does not always grant the right to the floor. For example, if Councilor Madison submitted a letter to the NH State Legislature, he would not be guaranteed a right to the floor to address them; the same would be true for the Board of Commissioners of Cheshire County. Further, Councilor Madison emphasized that people have a right to petition their government, not someone else's government. This Council's authority ends at the City line of Keene, NH, which he called a really basic concept. He iterated that Keene is not the government of Gilsum, Dublin, Peterborough, Swanzey, or Chesterfield, etc. They have their own governments and the Councilor said that members of those communities who want address national issues should go to those governments and ask them to address those issues. Alternatively, he encouraged groups to speak with the Cheshire County Commissioners, like the County Administrator, Christ Coates. Also, to Councilor Williams' points, Councilor Madison felt the Council had acted fairly in a recent instance by allowing the communication to come before the Council, deciding that it was outside of the Council's scope, and accepting it as informational. He also recalled the Medicare for All instance, when a petition was brought to the City Council by a resident of Dublin. Councilor Madison voted in favor and reached out to the petitioner afterward to encourage her to approach the Town of Dublin and Cheshire County as well, and the Councilor said the petitioner indicated that the suggestion was "absurd," and they would "absolutely not." So, Councilor Madison expressed frustration about abject refusal of the members of neighboring communities to approach their local governments. He understood that town select boards can be a little tricky because then those become warrant articles, but if these are truly important issues, he said that should matter and the region should speak together versus Keene being one single voice in the darkness. He said that in the instance of a petition with 90 signatures and 30 were from residents outside of Keene, those 30 individuals should approach their local municipalities and ask for action; the City of Keene considered its petition and acted in accordance with its rules.

Councilor Madison continued, stating that he thought Councilor Williams made a good point about the hurdles a Councilor would have to overcome to bring a communication before the Council, almost like an infinite loop of submitting a communication, it being deemed non-germane, going into mailboxes, trying to convince other Councilors, etc. So, he leaned toward sending this to the Council, which can amend it further with the goal of making this local government more accessible. He said he would be open to hearing suggestions. One idea Councilor Madison heard was limiting communications to registered Keene voters so that people are petitioning *their* government, therefore protecting the City from being abused by those who do not want to go to their local governments, the State Legislature, or the County. Councilor Madison concluded by correcting statements he made at the July 24, 2024, Planning, Licenses, & Development Committee meeting, when he stated that he felt some of the petitioners who brought forward the issue of the Israeli War were not sincere. Since that meeting, Councilor Madison spoke with some of those petitioners, who updated him on their actions since then,

including the various committees they brought this issue to. So, Councilor Madison said he wanted to correct himself, stating for the record that he believes they are very sincere, and he respects their efforts and persistence.

In advance of taking public comment, Chair Bosley clarified that this Committee would not be debating the merits of any of the past communications or topics referenced during this meeting as examples. She asked for comments specific to this policy.

Chair Bosley opened the floor to public comment.

Jessica Bullock of Mason Drive in Surry said that she hoped her residence in Surry would not mean that what she had to say would mean any less. As she said Mayor Kahn's comments were reported on June 7 in the Keene Sentinel and as Councilor Madison mentioned at this meeting, some of the petitioners—like Ms. Bullock—who submitted communications to the City Council at their May 16, 2024 and June 6, 2024 meetings regarding the Israel-Hamas war were not residents of Keene. However, Ms. Bullock wanted to clarify that she does pay taxes to Keene, sends her children to school in Keene, volunteers in Keene, shops in Keene, and came to this meeting from her job in Keene as a nurse taking care of the residents of Keene. Ms. Bullock stated her hope that in the future, more wisdom and discretion would be used when referring to members of surrounding towns with the respect they deserve as valued members of this community who do indeed pay taxes to the City of Keene. She noted that no such amendment to this City Council Rule of Order was in effect when the petitioners tried to speak before the City Council in June 2024. Therefore, she believed that Mayor Kahn should not have refused the petitioners their opportunity to speak before one of the Council Standing Committees. In fact, Ms. Bullock felt that dismissing the communications went against the precedent set by this very City Council of supporting discussion of international affairs: in April 2022, Resolution R-2022-06 was introduced, which proposed that matters that do not have a direct local impact be sent to Council mailboxes directly, but the Resolution failed and several Councilors spoke against it. She explained that according to those minutes from April 7, 2022, Councilor Chadbourne said she believed that, "anything brought to the Council should be considered because government is set-up for the people," citing "a trickle-up effect and supported keeping the process open to the public." Ms. Bullock said that Councilor Chadbourne also powerfully stated in those same minutes that, "it is really effective when people come to the Council and not their State officials," citing, "an instance that was a NH organization and the State body kept tabling it, leaving transgendered people open to discrimination in the State. So, they began at the local level and got 12 towns to sign-on, which got the State passing anti-discrimination laws." So, Ms. Bullock said that local government can, indeed, affect positive change more broadly and she hoped the Committee would take note of that.

Ms. Bullock continued. She said that residents of Keene and indeed surrounding towns can bring international matters before this City Council, and they should be considered. Beyond that, she said that this Council should stand for what it says it does. She quoted from the City of Keene website, where it says *Who We Are*: "Our community consists of engaged, diverse, dedicated,

caring and respectful citizens, supported by a strong and clear vision for the future, open and accessible leadership, collaborative relationships, and ongoing civic dialogue. Each city employee provides the foundation for our efforts to reach the goal of being the best community in America by 2028, one that is sustainable, dynamic, creative, strong, just and resilient." By the City Council staying open to hearing international matters that concern its community members, Ms. Bullock said it would stay true to its commitment to have accessible leadership and civic dialogue, and to be just. Furthermore, Ms. Bullock said she does not believe any city can become the best community in America if they look only and exclusively at purely local matters. She said we are all citizens of the world, and that there are many circles for our necessary involvement; whether local, national, or international. Ms. Bullock wanted to point out that local taxes do not just stay local and said they do in fact go to international affairs. She thought everyone would agree that no human life means more than another, whether that is a life in Keene, Surry, Swanzey, Manchester, or Gaza. She understood that the City Council is busy with local affairs and trying to improve our City, which she was clear that she appreciates. She was also clear that it was not her or the other petitioners' intents to co-opt the Council's time or distract from its important local work; the petitioners simply wanted their voices heard for all the issues that matter to them and on all of the ways that that their tax dollars are spent, whether those taxes pay for local schools or war crimes overseas, Ms. Bullock said. To conclude, she stated that just because this body is a local government, it does not give it the right to bury its head in the sand when grave international injustices are being perpetrated in other countries with Keene's tax dollars. She asked if all would not agree that they would have wanted the City Council to speak out against all war crimes, genocides, and humanitarian injustices while they were happening; including what she called this real time moment we are "potentially witnessing the extermination of a people group, aided and abetted by American money and weapons." Ms. Bullock said, "Councilors, this is our moment to say something about this. How would we want history to look back on what the people of Keene had to say? What do we want our legacy to be? If we believe that we are people who are engaged, diverse, dedicated, caring, strong, and just, then isn't this an important way to say that?"

Katie Carbonara of 8 Newbury Lane quoted from the walls of the Keene Recreation Center, which she reads monthly as she attends the City of Keene's Human Rights Committee meetings: "Keene is a progressive City with the heart of a town, attracting people who seek and shape their community. We value and practice sustainability and the art of problem solving and highly collaborative engagement with our residents and businesses create our resilient and self-reliant community." Ms. Carbonara stated that her experience with the City over the past few months had been the exact opposite of highly collaborative engagement; instead, she said the City had tried to silence, stop, and arrest her and her fellow petitioners. Now, she felt that the City Council was trying to retroactively change its Rules of Order to justify how the petitioners had been treated. Ms. Carbonara stated: "I want you to know that we see through this proposed Rule change, no matter what justifications you give, we know you are only doing this to provide yourselves with cover for your refusal to engage with the issue of Palestine. Our City apparently likes to spin a lot of pretty words about what we care about and what type of community we are,

but what has become clear to us over the past few months is that all of those words ring completely hollow as the Mayor and this body have shown complete disregard for everything we are told this City stands for." Ms. Carbonara continued, noting that Keene is a unique City, one of Jonathan Daniels and one with a Human Rights Committee, the latter of which as far as she was aware most other NH towns do not have. She said, "We should have been leaders in this State, in this region, on addressing the genocide in Palestine. We should have been the first city in the state to pass a ceasefire resolution. It is a lie to say that there is nothing you can do, that there is nothing our City can do to address this moment, and that this amendment is necessary." Ms. Carbonara explained that Portland, ME, just became the first city on the east coast to pass a resolution that calls for "a complete divestment of all city funds and investments from companies that are complicit or profiting off of the war crimes and genocide being committed in Gaza. Their resolution recognized that the genocide in Gaza is only possible because of the billions of dollars in funding sent to Israel by the United States, paid for with our tax dollars."

Ms. Carbonara continued, stating that she saw Portland, ME—a town in New England, like Keene—make this decision by holding multiple listening sessions with the people of their City, so she questioned why Keene could not; she said she had yet to receive an answer to that question. She stated that being a part of local government will often be difficult and inconvenient. She suggested that if one does not like that reality—or thinks the right thing to do in this moment is to relieve themselves of some of the inconvenience of listening to the concerns of community members instead engaging—then this might not be the right job for them. Ms. Carbonara concluded by echoing Ms. Bullock that all of the petitioners in the group Keene for Palestine either live in Keene or surrounding towns; none were funded by or a part of a national organization or even an official organization until they needed help after one was arrested during a City Council meeting. She said this came together organically by local residents. Ms. Carbonara also stated that as the largest City in a majority rural county, it "sounds elitist and quite frankly, classist," to present the justification for this amendment as to stop non-residents from petitioning to the Keene City Council, when "every other city surrounding us is significantly less wealthy than our City." She related this back to Keene considering itself to be the cultural and economic hub of the Monadnock Region because of the geography and economic realities of our area. She said that people who live in surrounding towns come to Keene to work, shop, go to the doctor, go to school, and send their kids to school; if doing so, then she said they are paying taxes to the City of Keene. Ms. Carbonara said that decisions made by this Council have big impacts on the lives of people in our entire region; she stated anecdotally that, "when I talk to people who make the decision to move outside of Keene to one of our surrounding towns, 10 out of 10 times, they will say one of the major driving factors for their move was because they could not afford to pay Keene property taxes or Keene rent." Ms. Carbonara concluded by suggesting that the City Council focus on making the City a more affordable place to live and a place where people are not afraid to have difficult discussions, instead of trying to make this Rule change that she believed would be deeply harmful to the democratic process in this City.

Heather Servant of Swanzey grew up in the Monadnock Region, graduated from Keene State College, and has lived in Keene or a surrounding town for a majority of her adult life. She works at a local downtown Keene business, her kids attend school in Keene, and although she currently lives in Swanzey, she owns a home in Keene as of this summer. As such, Ms. Servant asked Councilors to stop referring to her as a "non-resident." Ms. Servant stated that Councilors might have recognized her as the woman who was, "unjustly arrested at the June 6th City Council meeting while our organization, Keene for Palestine, was trying to speak on a petition for a ceasefire resolution in Gaza; and I am still fighting disorderly conduct charges. There is no way it is not within the purview for Mayor Kahn or the City Council to get these charges dropped. Yet here we are, staring down the barrel of an amendment you've created to cover up the lies and cowardice that you all stood behind while I was put in handcuffs for caring about innocent people dying and being murdered with our tax dollars." Ms. Servant went on to explain that her 8-year-old son was present the evening she was arrested, and while he likes to join in political events, she said, "although he is proud of me for speaking out for the children in Palestine, he is now terrified that the political activism work that I am doing is dangerous. He was too scared to come here with me today. He did not want to be in City Hall because he was scared of the place where his mommy got put in handcuffs for speaking freely. Is this not exactly what we want to strive to teach our children? To speak for those who cannot use their voice? To stand up to bullies? To make the world a better place?"

Ms. Servant continued, stating that she was speaking against this proposed amendment because it is a violation on the rights of Keene area citizens to share their concerns with their elected officials. She questioned why the Council was really trying to pass this amendment. She questioned if the Council does not believe in this community's ability to make positive change in the world. She noted that Keene has a sister City on the other side of the Atlantic Ocean. Ms. Servant said that borders are a colonial construct, and we should all care about what happens to humankind across the world, not just here in Keene; we do not live in a bubble. She said that this amendment could stop any resident from sharing any concern with larger scope, regardless of the topic's controversy. Whether her opinions align with another person's, Ms. Servant said she still believes in their right to free speech, and she called this amendment "an early move in the process of a fascist takeover," adding that it would be written on the wrong side of history, which she does not want for the Keene she loves. She encouraged the City Council to follow the examples of communities like Portland, ME, whose City Council recently passed a resolution to divest city funds from Israel and complicit weapons manufacturers. She said that what we do here in Keene does matter; she said we have an active, involved, and caring community, citing recent anti-bullying activities. Ms. Servant felt that the City Council should be singing the praises of groups like Keene for Palestine instead of "discretely discussing how inconvenient it is for you to deal with people's concerns." She urged the Council to not to support this amendment and to not silence people because it is "intimidated by controversial opinions." She said the Council could continue to brainstorm and study other options for the creation of appropriate avenues for citizens "to voice their very real, very genuine, and very valid concerns, regardless of its location."

There were no further public comments.

Chair Bosley recognized that there was a lot for the Committee to process. She thought that Councilors had an accumulation of experiences that brought this Committee to a place where it felt comfortable having a conversation about this amendment because it had seen both sides, in which instances has been both positive and harmful to the community; she said it is the Council's job a lot of time to thread that needle. Without reopening what occurred at the past Council meetings, Chair Bosley acknowledged that in both of those instances, Councilor Williams did challenge the Mayor's decision and in both instances there was no 2nd, which was the Council making a decision in its own right with the information it had at the time; had there been a 2nd, there could have been a process for the full Council to have make a different decision. Chair Bosley appreciated the public comments and said it would be important for the Council to digest those comments regardless of the action taken on this amendment at this meeting or on the 19th.

Councilor Williams thanked the public speakers. He expressed concern about this process of putting non-germane communications into Councilors' mailboxes and hoping a concerned Councilor can rally 2/3 of the Council to vote for it. He thought there should be a different way that does not rely so much on one Councilor to accomplish that. He said it is unfair to petitioners to expect that they would have such a relationship with a City Councilor in advance of submitting a communication; there should be a low barrier to democracy, not a high barrier. Councilor Williams suggested a different mechanism, such as retaining a certain number of signatures from Keene residents on a proper petition, regardless of what it says or whether a Councilor is willing to champion it. Councilor Williams said that if a team of citizens if willing to put their names to a cause in that way, that the Council should hear them out.

Chair Bosley asked if this one amendment could be placed on more time for the City Attorney to consider alternatives that had been discussed or if it would be better to make amendments on the Council floor. The City Attorney replied that the Committee had the authority to place it on more time, but he recalled that the full Council had not had a chance to weigh in on this yet. He stated that he would not be prepared to answer some of these questions at the City Council meeting on September 19, and he continued stating that, quite frankly, some of the questions posed gave him concern. Chair Bosley stated that she understood that. The City Attorney continued, stating that limitations on the opportunity of people from surrounding communities to come to the City Council raised red flags for him, so he would want to consider that. He said he heard the concern regarding a threshold, and said he could attempt to flesh out something that may be more palliative for the Council as a whole if it was the Committee's wish. However, the City Attorney sought more direction from full Council and so his suggestion was to move it forward for a conversation with the full Council. Having heard those comments, then the City Attorney could try to craft a revision.

The City Attorney and Committee acknowledged that there was risk in sending this amendment to Council as it was, because the Council could vote to adopt it with no further amendments.

Councilor Haas added that in bringing this amendment to Council in its existing form, this Committee would be pointing out the parts it is uncomfortable with. He was personally disturbed by anything that goes through a single point of control; for example, the City Clerk having to decide what is germane to the Council. He said that going forward, the Council could look to expand how these things can pass muster to rise up to another level when they are submitted; he would be looking forward to those kinds of changes in the future.

Councilor Madison liked Councilor Williams' idea of a petition threshold. Councilor Madison said that messages from citizens are important, and he agreed with the idea of a accepting petitions with a certain percentage of signatures coming from Keene residents; to him, that would feel like citizens petitioning their government and he would feel a responsibility to act, so he would support such an amendment if it was brought forward. Councilor Madison went on to address comments about Keene being a wealthy community. The Councilor cited the 2022 U.S. Census: median household income was $89,000/year in NH; $76,000 in Cheshire County; $69,000 in Keene; $71,000 in Swanzey; and $93,700 in Surry. Of all the towns the Councilor listed, he pointed out that Keene was the least wealthy.

Chair Bosley thought the audience was getting a tiny taste of how its government does hear them. She said Councilors do not come into these meetings planning to do anything definitively and they make decisions based on the information they hear, making adjustments along the way.

Chair Bosley went on to state that she still supported having some structure and policy on this matter so the Council does not end up in this position again, with community members concerned that they have been treated in a way that is not formalized as a Rule; she thinks that structure helps everyone to understand expectations. Still, she questioned whether the way it was written at present was the proper structure; she stated that she was not 100% convinced. So, Chair Bosley asked the City Attorney to start considering ideas—such as the petition signature threshold suggestion—in addition to the other Councilors' feedback on the 19th. She noted that the Council had typically deferred to Standing Committees when they sought more time on topics. Chair Bosley agreed with the City Attorney that moving this amendment forward to the Council for more feedback was the correct approach. However, for fairness, the Chair stated that she would vote against so it would go to the City Council with a fair 2/3 vote, so it is clear to the Council that the Committee has concern.

Vice Chair Jones made the following motion, which was duly seconded by Councilor Madison.

On a vote of 3–2, the Planning, Licenses, & Development Committee recommends the adoption of Amendment #4: Section 25. Communications. Councilors Williams and Bosely voted in opposition.

<u>Amendment #5: Section 32. Report by Committee</u>

The City Attorney explained that this amendment was essentially a housekeeping matter. In the original Rule, it was implied but not specifically stated that after a matter had a public hearing before the City Council and returned to a Standing Committee, no further public comment would be accepted, because the public would have then had an opportunity twice—at the public hearing and after to submit written testimony into the record. The City Attorney had been uncomfortable with that not being formalized, so this was an opportunity to make that clear.

Councilor Madison made the following motion, which was duly seconded by Vice Chair Jones.

On a roll call vote of 5–0, the Planning, Licenses, and Development Committee recommends the adoption of Amendment #5: Section 32. Report by Committee.

Amendment #6: Section 33. Resubmission of Items Previously Considered

The City Attorney explained that this amendment was also housekeeping to some extent. For the public's benefit, he elaborated that once the Council made a decision on a matter, there is an opportunity under the Rules of the City Council and the Charter for the Mayor to reconsider that decision, generally at the subsequent Council meeting; once the matter is concluded, there should be some finality to that. This Rule indicates that once there is finality on a matter, that same matter cannot be brought up again in that same calendar year except for though a Motion for Reconsideration. This specifically includes accepting as an item is informational, which is basically an action of the City Council; this was not included in the prior Rule. The City Attorney continued that they also tried to build in a mechanism by which a copy would be placed in the Councilors' mailboxes.

Chair Bosley thought this discussion highlighted that Councilors need to be paying attention to the paperwork on their desks when they arrive at Council meetings.

Councilor Williams asked if there are any other codified practices that involve putting communications in Councilors' mailboxes. The City Attorney said that was a question for the City Clerk but those were the only two he could think of from the Rules of Order. The City Attorney added that this new language about placing communications in mailboxes arose from concerns about how the Council would know if a public member brought forward an issue outside their purview.

Vice Chair Jones said he could only recall an instance of reconsideration for a different telecommunications tower with different neighbors. The City Attorney said that would be different because was not the identical subject matter.

Councilor Williams made the following motion, which was duly seconded by Vice Chair Jones.

On a vote of 5–0, the Planning, Licenses, & Development Committee recommends the adoption of Amendment #6: Section 33. Resubmission of Items Previously Considered.

5) Adjournment

There being no further business, adjourned the meeting at 8:23 PM.

Respectfully submitted by,
Katryna Kibler, Minute Taker
September 15, 2024

Additional edits by,
Terri M. Hood, Deputy City Clerk