

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

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

**Wednesday, October 9, 2024**

**6:00 PM**

**Council Chambers,  
City Hall**

**Members Present:**

Kate M. Bosley, Chair  
Philip M. Jones, Vice Chair  
Edward J. Haas  
Robert C. Williams

**Staff Present:**

Elizabeth A. Dragon, City Manager  
Thomas P. Mullins, City Attorney  
Rebecca Landry, Deputy City Manager  
Patty Little, City Clerk

**Members Not Present:**

Andrew M. Madison

Chair Bosley called the meeting to order at 6:00 PM.

**1) Keene Sno-Riders – Requesting Permission to Run Snowmobiles in the Right-of-Way Along Krif Road from Ashuelot Rail Trail to Winchester Street**

Chair Bosley welcomed George Thompson, who explained that this was their annual request for permission for the Sno-Riders Club to cross where the Rail Trail connects Swanzey to Keene. Chair Bosley asked if the group had the requisite meetings with City staff. Mr. Thompson believed that the Club President, Jeremy Evans, had done everything necessary for the application. Shortly after, the City Manager clarified that the Sno-Riders do not have the typical event protocol meetings with City staff because this is not an event. Rather, the request was reviewed by the Public Works Department and the City Engineer provided comments related to the proposed motion, so City staff were prepared to move forward at this meeting. Chair Bosley knew this was an annual request and recalled that there had never been negative feedback, adding that the Club does well to follow the City's criteria, which is appreciated, so she was glad to see them back this year. Vice Chair Jones added his appreciation for how the Sno-Riders help the City with maintaining its trails.

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

On a vote of 4–0, the Planning, Licenses, & Development Committee recommends that the Keene SnoRiders be granted permission to use the following locations on City property for a snowmobile trail: the right-of-way along the north side of Krif Road from Krif Court to Winchester Street; City property identified by tax map numbers 116/040/000/000/000, 214/003/000/000/000 and 118/001/000/000/000; the crossing of Winchester Street at Krif Road;

and, The crossing of Production Avenue approximately 200 +/- feet south of NH Route 9. As well as access to the Class VI Portion of the Old Gilsum Road starting approximately one mile from the Gilsum Town Line and going north, (“Premises”) for the following purpose: for a snowmobile trail, and under the following conditions: Said use shall commence on December 15, 2024, and expire on March 30, 2025, and is subject to the following conditions: the signing of a revocable license and indemnification agreement; and the submittal of a certificate of liability insurance in the amount of \$1,000,000, naming the City of Keene as additionally insured.

In addition, the Keene SnoRiders, Inc. will be responsible (including all associated costs) for furnishing, installing and maintaining of all signage/markings; which shall be furnished and installed in accordance with the Snowmobile Trail Standards published by NH Department of Business and Economic Affairs and the Manual for Uniform Traffic Control Devices (MUTCD); all signage/markings installed shall be removed from the City right-of-way and City property when there is no longer any snow cover; no structures, including but not limited to buildings, shelters, lights, displays, walls, etc. shall be permitted with the City right-of-way or on City property; no parking of motor vehicles or trailers and no catering servicing activities of any kind shall be permitted within the City right-of-way or on City property; grooming shall not extend outside the right-of-way of Krif Road; snow windows shall be groomed to provide adequate sight distances in conformance with AASHTO Standards and a gentle sloping approach at all road and driveway intersections; no part of the City Street (paved surfaces) may be used by off-highway recreational vehicles (OHRV) or their operators for any purpose, other than direct crossing; and that Keene SnoRiders, Inc. shall be responsible for the repair of any damage (including costs) and the City right-of-way and property shall only be used when there is snow cover. All crossing of public right of ways shall be made and maintained as perpendicular with the right of way being crossed.

Councilor Haas asked how many years the Sno-Riders had been requesting and receiving this approval from the City. Mr. Thompson was not positive how long this agreement was in place to cross the City’s rights-of-way, but the Sno-Riders had been incorporated since 1985. Chair Bosley knew it had been requested every year she had been a Councilor. Councilor Haas said it had been a long-term arrangement and there had never been negative feedback, so he thanked the Club and encouraged them to keep it up.

**2) Greater Monadnock Collaborative – Request to Use City Property – Central Square and Railroad Square – 30th Anniversary Celebration of the Release of the Film Jumanji**

Chair Bosley welcomed an introduction from the Deputy City Manager, Rebecca Landry, who explained that a protocol meeting occurred with the petitioner, Kathy Bergstrom, and other members of the Greater Monadnock Collaborative Board of Directors. At that meeting, the members learned more about what would be occurring in the next year with the downtown project and decided they needed more time to consider details like road closures, etc. So, they

asked for this to be placed on more time and they intend to return to the Committee in November with more specifics for the event.

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

On a vote of 4–0, the Planning, Licenses, and Development Committee recommends that the request be placed on more time to allow additional protocol meetings to be held.

**3) Charter Communications – Request to Install a Concrete Pad and Utility Cabinet – 555 Roxbury Street**

Chair Bosley welcomed Tom Converse, representing the applicant, Charter Communications. Mr. Converse explained that the intention was to place a cabinet off to the side of Roxbury Street near a current utility building. He said this would provide more reliable uptime for the City’s facilities, citing a snowstorm in 2023, and explaining that this additional cabinet would have added reliable uptime. Additionally, with Charter Communications’ coming upgrades, this would allow them to maintain this equipment more easily if needed.

The City Manager, Elizabeth Dragon, noted that because this would not be a use of the City’s right-of-way—it would be a use of this property on Roxbury Street—this would go through the licensing process and before anything is authorized, the Public Works Department would confirm it is comfortable with this location. Chair Bosley asked if there were comments from Public Works at this point and the City Manager said no. Chair Bosley asked if the proposed motion language would make this a conditional approval. The City Attorney, Tom Mullins, replied that he did not think it needed to be conditional because it would all happen through the City Manager, who would have the authorization to negotiate and execute the license with Charter Communications; the City Attorney said that any Public Works Department requirements could be folded into that.

Councilor Williams referred to another utility box installed on Beaver Street that has a large dip in the sidewalk in front of it that fills with water and turns to ice in the winter. He hoped that Public Works would review that to ensure it does not happen again at this new location. Mr. Converse asked Councilor Williams to share the address of the Beaver Street location after the meeting so they could check if it was Charter Communications’.

Vice Chair Jones noted that this utility box would be fed with underground conduit and asked if that would go through private property. Mr. Converse said no, it would go directly from the telephone pole at the end of the road underground to the box.

Councilor Haas asked if this was at the water tank facility. Mr. Converse said it is the one around the corner off Chapman Road. Councilor Haas said it was at the antenna site, and Mr. Converse said at the bottom of the road. So, Councilor Haas said there are no sidewalks there and the box would be off the road.

There were no public comments.

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

On a vote of 4–0, the Planning, Licenses, and Development Committee recommends that the City Manager be authorized to do all things necessary to negotiate and to execute a standard form City license to Charter Communications for the installation by Charter Communications of a concrete pad and utility cabinet on City property located at 555 Roxbury Street.

**4) Councilor Remy – Modification or Rescission of Council Policy: R-2000-28: Street and Utility Requirements and Standards**

Councilor Remy could not attend but Chair Bosley said she spoke with him about this, and he asked the Chair to speak about this. Chair Bosley said this Committee had dealt with this several times in recent months and discussed how this policy was dated and needed to be revisited. She appreciated Councilor Remy submitting this communication to force this review. Chair Bosley had spoken with the City Attorney and understood that because a NH statute that covers these decisions, it seemed redundant for the City to have Resolution R-2000-28 as well. She said the City had been reviewing each of these Building Permits on their own merits anyway, so Chair Bosley did not think that considering rescinding this policy was out of character for what the Council should do. Still, she sought her colleagues' input.

Councilor Williams was also grateful that Councilor Remy brought this forward. There were some things Councilor Williams had concerns about. He said that Beaver Str. He continued the upper section of Beaver Street is steep and considered Class VI roadway. Historically it was used as Keene's toboggan run. Councilor Williams recalled a petitioner wanting to build a driveway on upper Beaver Street. He thought the Council could do better by the neighbors of Beaver Street by taking better care of that particular stretch of roadway. Conversely, Councilor Williams discussed Old Gilsum Road, which is a Class VI Road that goes through some of the City's most pristine wildlife areas. Councilor Williams said he would hate to see a situation in which someone is able to build a "McMansion" in the Old Gilsum Road area because of rescinding Resolution R-2000-28. So, he stressed that he wanted to approach this in a way that continued protecting Old Gilsum Road and similar roads in rural areas. However, for Class VI roads in urban and residential areas, Councilor Williams thought it would be worthwhile to rescind Resolution R-2000-28, adding that it might be worth considering how this would align with the ongoing Master Plan update.

Chair Bosley asked the City Attorney if the Council was required to review every Building Permit request on a Class VI Road, regardless of the policy on file. The City Attorney said no, explaining that NH RSA 674:41 is a lengthy and complicated statute that—due to being short staffed—he had not yet had sufficient time to review the entire legislative history. However, he cited a part of the statute that states, "This section shall supersede any less stringent local

ordinance on file,” which indicated to the City Attorney that the Council had some latitude. Councilor Williams’ point—which the City Attorney said he needed to think about more—would not change the present question about rescinding Resolution R-2000-28 in the City’s Land Development Code, which was mostly about driveways, and included a strict prohibition of any building on a Class VI road. At this point, the City Attorney thought—especially after discussing the property on Beaver Street—that the Council’s intent was *not* to prohibit any building along Class VI roads. He did not think the language in the statute allowed the City to supersede anything, and he said he had particular concern regarding some language. There was no case law on it. Ultimately, the City Attorney advised that the Council may have some latitude regarding what it could allow for building on a Class VI Road or a private road. He explained that the second recommended motion before the Committee was to authorize the City Manager and City staff to develop criteria for the Council to consider when issuing a Building Permit on a Class VI road. The City Attorney apologized as he thought there was more latitude than he might have initially led the Council to believe.

Chair Bosley said she did not feel misled, she had only believed that the RSA required the Council to review each request. The City Attorney said that was not wrong, the Council could review each request and if it does not fall under the established criteria, the Building Permit could be denied. Chair Bosley agreed, adding that in the absence of established criteria, the Council would have to approve the application. The City Attorney agreed but noted that there is an appeal provision. The City Attorney stated that the bottom line was that under the statute, the City Council should review each of these applications based on their own merits and make a decision based on some criteria that guides them. Chair Bosley agreed.

Chair Bosley stated that she was comfortable rescinding Resolution R-2000-28 because she did not think it was serving the City. She asked how this should move forward. The City Attorney said that this would not be a change to the Zoning Ordinance, and that sometimes the Joint Committee of the Planning Board and Planning, Licenses, and Development Committee would handle questions that are not strictly zoning related. So, he said it would be up to the Committee how to move forward procedurally.

Vice Chair Jones asked if rescinding Resolution R-2000-28 would leave the City with the same language as the RSA. The City Attorney said yes, the City would default back to the statute. So, Vice Chair Jones said the other option to modify the Resolution really would not do anything helpful. The City Attorney replied that most of the language in the Resolution was already codified in the Land Development Code for driveway standards, so modifying that would be essentially ineffective. The second part of the Resolution included the building prohibition that the Committee was considering rescinding, in which case the City would default back to the RSA. The City Attorney noted that in his 16-year tenure with the City, there had only been two applications for Building Permits on Class VI roads.

Councilor Haas thought it was interesting that when this first came up, it surprised everyone, and they had to research it. It sounded like it was passed in 2000 to accommodate a very unique situation and Councilor Haas thought the City would be well served to move away from it.

Chair Bosley opened the floor to public comments.

Jared Goodell of 39 Central Square stated that he was recently impacted by this RSA—less so Resolution R-2000-28—and he hoped the Committee would take a broader look at the RSA and take preemptive action on it. In addition to Class VI roads, he understood that the City Council also had to approve Building Permits on private roads. He thought this could also apply to two houses sharing the same driveway. He said the RSA states that for private roads: “the local governing body, after review and comment by the Planning Board, has to vote to authorize the issuance of a Building Permit for the erection of a building,” which he said is separate from the issue of Class VI roads. Mr. Goodell said he agreed to an extent with Councilor Williams’ comments that specifically for Class VI roads, the City Council should approve each Building Permit application. However, as the City Attorney mentioned, Mr. Goodell questioned whether the recent requests were largely due to infill development. Mr. Goodell said the City needs infill development and with it, the City would run into more of these cases on private roads than Class VI highways. He asked for City staff to compile a list of private roads that exist in the City today for the Planning Board to review and decide where they are comfortable preemptively issuing Building Permits; he did not think the RSA said the Building Permit would have to be pending for the Planning Board to review those roads. From a developer’s standpoint, Mr. Goodell said it would take 45–60 days out of the process of obtaining a Building Permit, which could help to jumpstart infill development. Chair Bosley said it was an interesting perspective on the issue.

Vice Chair Jones asked if this was time sensitive for Mr. Goodell. Mr. Goodell said it was not currently, but it could happen, and he thought that preemptively identifying the private roads would be efficient for the Council. He looked through ArcGIS before the meeting and saw that many private roads were already listed in the City’s database, so to some extent, he said they would already be easily identifiable. Mr. Goodell thought it would help to jumpstart development. Vice Chair Jones noted that private roads would be coming up on the Joint Committee’s agenda.

Chair Bosley agreed about needing to look at further development of private roads by developers in general to alleviate some of those restrictions. Mr. Goodell said that anytime applicants can appear before fewer boards/committees (e.g., Zoning Board of Adjustment & Planning Board, etc.), it would certainly help because development is a long and cumbersome process.

Chair Bosley asked if the City Attorney saw a problem with Mr. Goodell’s idea as a concept. The City Attorney appreciated Mr. Goodell’s comments, noting that the focus of these discussions had been on Class VI roads because it came up in a recent situation. As Mr. Goodell pointed out, the RSA also deals with private roads. However, the City Attorney said the problem was that Resolution R-2000-28 was drafted before the RSA was amended to include private

roads. So, he appreciated Mr. Goodell's comments because the Council would not be talking only about Class VI roads in this context. Based on how the RSA was written, Chair Bosley asked if there would be a problem with the City preemptively authorizing Building Permits on specific private roads. The City Attorney thought that would be possible because the statutory language talks about the issuance of Building Permits "on Class VI roads or portions thereof," so he thought that would be a part of the criteria the Council would want. The City Attorney thought that preemptively reviewing what the City knows of private roads within the municipality would be beneficial (the previous Public Works Director tried to limit private roads), and he thought that looking at Class VI roads preemptively would be helpful too, to Councilor Williams' points. This would all require City staff work. Regardless, rescinding Resolution R-2000-28 would leave the Council with the RSA and to consider the Building Permits on their own merits until the Council develops a broader policy.

Councilor Williams thought Mr. Goodell's suggestion was a good one. So, Councilor Williams hoped for the creation of criteria for reviewing Class VI roads, a comprehensive review of the City's Class VI roads, and for staff to propose a policy for Class VI roads.

The City Attorney explained that the RSA was very clear that by allowing this to happen, the City could not assume any liability with respect to this, including access of emergency vehicles to these properties. So, the City Attorney said there would be an assumption of risk built into the process and thus the Council's criteria should really include the public health safety requirements associated with where somebody wants to build something. The City Manager added that over time, individuals had built on private roads that were not as accessible to fire trucks, so there were concerns from those residents. So, the City Manager thought the City really needed to take fire access into account when approving Building Permits on private roads.

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

On a vote of 4-0, the Planning, Licenses, and Development Committee recommends the rescission of Resolution R-2000-28.

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

On a vote of 4-0, the Planning, Licenses, and Development Committee recommends that the City Manager submit proposed criteria for the City Council to consider when determining whether or not to authorize the issuance of a building permit on a Class VI Road, or a private street.

#### **5) Rules of Order Amendment #4: Section 25. Communications**

Chair Bosley welcomed an introduction from the City Attorney, Tom Mullins, who recalled that this Committee had been deeply involved with these Rules of Order for a long time and had previously discussed this proposed amendment. The City Attorney read the amendment for the

public: “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 agendaized by the City Clerk, provided, however, that the City Clerk shall place such communications into the Councilors’ mailboxes.” The City Attorney recalled a fair amount of discussion about this Rule at the September 19 City Council meeting, and whether the language was appropriate or whether there could be a different approach. So, the Council referred it back to this Committee for this discussion.

The City Attorney continued, explaining that Councilor Filiault presented an easier approach at the September 19 Council meeting. At this time, when a communication was submitted to the Clerk’s office, unless it was something that could be easily disposed of through City staff or referred back to the City Manager for action—or if it was a personal attack or defamatory—it would be placed on the Council’s agenda. As with recent communications, the City Attorney said the City Clerk could place the communications on the Council’s agenda—relieving the Clerk of the responsibility of determining what is germane, which he thought the Clerk would appreciate—and the Mayor would still have the authority to tell the Council whether he thinks the communication is germane to what the City does or accept it as informational, unless there is an objection from the Council. It would only require a majority vote of the Council to overcome the ruling of the Chair, and if overruled, the communication would be to refer it to a Standing Committee as already allowed in the Council’s Rules of Order.

In addition to what the City Attorney outlined, Chair Bosley said she thought the Council wanted the public to understand what issues the Council is willing hear and the criteria for that to be amended. Chair Bosley said she thought a lot about this after the Council’s discussion and came to the realization that a challenge of the Chair only requires a simple majority vote, which she said would be an easy way to accomplish what Councilors Madison and Williams talked about during the Committee’s first review of this Rule—lowering the bar from a 2/3 majority (a suspension) to something more practical for a Councilor to accomplish. Chair Bosley asked if it would be responsible to include language like: “The City Clerk shall place items that are not germane on the agenda and the Chair will accept those as informational,” giving the public a path of what the expectation is, and then the Council would understand their ability to challenge that decision is. The City Attorney said yes that language could be included, but it begged the question of who would determine whether something is germane; based on what he heard the Chair say, the City Attorney thought that would still be left with the City Clerk. Chair Bosley cited Section 26, which indicates that the Clerk meets with the Mayor, City Manager, and City Attorney to review every communication. The City Attorney and the City Clerk, Patty Little, said that was correct. So, Chair Bosley stated that it would never be any one individual making the decision, and it would be the Mayor’s final decision on the Council floor when he reads the communication to say whether it is being accepted as informational. The City Attorney agreed.

Chair Bosley said she wanted these details clearly reflected in the Rule for the sake of transparent expectations. For example, when Councilor Williams challenged the Mayor, if there had there been a second and seven other Councilors were in support, with this Rule there would



been a very clear path to move the item back onto a Standing Committee's agenda, indicating that a majority of the Council was interested in talking about it. Chair Bosley had given this a lot of consideration and said that ultimately, she wants to hear the things that the community wants the Council to hear; if a group of Keene residents are interested in the Council's time being spent in a specific item, she thinks it is appropriate for the Council to spend its time on it. However, Chair Bosley does not want special interest groups trying to use the Council Chamber as a platform for their personal agendas vs. the community's agenda. She wants to ensure that there is some sort of boundary.

Vice Chair Jones tried to remember how many instances of non-germane items appeared before the Council. He and Chair Bosley recalled that the only national issue in the recent past that the Council supported was Medicare for All; the Council did not consider the war in Ukraine. Vice Chair Jones asked if the City Manager considered Medicare for All germane to the City. The City Manager replied that the petitioners made a connection, and the Council decided it was relevant. Vice Chair Jones also thought the Council took action on the Paris Climate Agreement because of the City's Climate Action Plan, so he asked if it was germane. The City Manager said it was difficult for her because she was not the City Manager at the time and was not familiar with the communication. The Vice Chair thought the Council acted on it because the City's Climate Action Plan was in place and the Paris agreement affected Keene's Plan. Vice Chair Jones was trying to decide how to determine what is germane moving forward. The City Manager thought that what was being proposed was a fail-safe method because the Council would see all the communications and if a Councilor thinks one is germane, they could challenge the Chair's decision to accept it as informational, and if a simple majority of Councilors agree, it would move forward to a Standing Committee. As such, the City Manager thought it was a way to ensure that 3–4 staff members would not be tasked with the decision of what is germane; it would be more transparent. Chair Bosley added that this would eliminate the issue of communications being placed in Councilors' mailboxes or being missed if deemed non-germane; all communications would be agendized for everyone to review, which Chair Bosley liked. The City Attorney clarified that to date, communications were not regularly placed in Councilors' mailboxes, they were only attached to the agendas when publicized. The City Clerk agreed.

Councilor Haas reviewed the existing processes with the City Clerk. When communications are submitted to the City Clerk's office:

- All communications would be forwarded to the other Charter Officers—City Manager & City Attorney—and the Mayor. This was not in the Rules but had been the practice.
- Communications that should be obviously agendized would be added to the Council's agendas.
- The Rules allow for “direct referral” to the City Manager for things that could easily be dealt with in her powers. In those cases, the Council would receive a copy of those communications with the direct referral notations on them, and the City Manager would be obligated to report back to the Council as to her actions.

Councilor Haas said that—according to his reading of the Rules—as long as the Council is copied on every communication disposition, it seemed to fulfill the issue at hand. He had not seen many non-germane communications arise in his first 8–9 months as a Councilor. The City Clerk said they were rare. So, Councilor Haas said that anything he does not see in his mailbox or on his desk at a Council meeting would have been agendaized. The Councilor continued, referring to another point in the Rule, which states that written notifications would be returned to sender if not to be agendaized. He said it would be great to build into the Rule that communication back to the sender should include advice to contact their ward Councilors or at large Councilors to continue pursuing the matter if they choose; he could imagine someone feeling unhappy receiving a communication back from the City stating that their communication was non-germane and Councilor Haas said that providing contact information for a Councilor might be helpful. The City Clerk said that it sounded like the Committee was suggesting that all communications would be agendaized now if the Rule amendment under discussion would move forward. In that case, the Clerk said there would never be an opportunity for her to keep a communication off the Council’s agenda. Councilor Haas agreed.

Councilor Haas asked where it was written in the Council’s Rules of Order that the Mayor is authorized to accept anything as informational. The City Clerk said she could not recall the section. The City Attorney said he did not believe it existed, noting that the Councilor had identified through this process another part of the Rules that needed clarifying. Chair Bosley asked in what section that could be clarified and the City Attorney said perhaps Consideration of Business, and Councilor Haas suggested Section 26 where it says, “the Mayor shall refer to a Committee.” Councilor Haas liked the Mayor having the option to accept a communication as informational and the Council having the opportunity to override that action.

The City Attorney agreed that he had also only recently identified this problem in the Rules that Councilor Haas pointed out, so he and not yet had time to workshop the solution with the City Clerk. Discussion ensued briefly about whether it could be worked into Section 25 under discussion as an additional amendment. The City Attorney suggested that the last sentence in the suggested amendment of Section 25 could be deleted, ending Section 25 with “... or argumentative nature by the City Clerk.” If the Committee did so, they would have to adopt Section 25 as amended to accept the applicable housekeeping changes, which the City Attorney felt could happen at this meeting; he felt it would go back to the City Council with that proposal and staff would submit an amendment for first reading.

Chair Bosley said she would prefer to put this on more time to allow for the new amendment to have its first reading and then both amendments could be considered by the Committee together. The City Attorney said yes, it was fair. He would introduce a proposed amendment to Rule 26 to the Council for first reading, inserting the language he drafted at the very end of the first paragraph: “Communications requesting that the City Council consider matters that may not be germane to either the State or to the City, or over which the City Council may lack the authority to take any action shall be agendaized by the City Clerk for appropriate action by the City

Council.” Chair Bosley suggested adding, “... and accepted by the Mayor as informational.” The City Attorney agreed.

Councilor Haas agreed on including the informational aspect, noting that there are plenty of other things that are not exciting, like international events, that the Council can dispense with easily by accepting them as informational. He said he looked forward to having that wording in the Rules. The City Attorney agreed that it would be included in the first reading. Councilor Haas added that he agreed with the Chair about placing this item on more time.

Vice Chair Jones also agreed about placing this on more time. The Vice Chair also asked that the background notes clearly show the Committee’s intention to strike the last sentence of Section 25 and to amend Section 26.

Councilor Williams agreed that this should be placed on more time because he needed more time to think about it. He liked Chair Bosley’s point about making it clear to the public, which he thought was important. Councilor Williams was unsure about including, “... and it will be accepted as informational,” because he thought it would be a directive to the Mayor and he was unsure that would be appropriate; he said there could be an instance that the Mayor does not want to accept something as informational. So, Councilor Williams wanted more time to think about it. The City Attorney said that was why he said, “appropriate action,” in considering this now because once it is in the Rule as a directive to the Mayor as “thou shalt accept it,” City Attorney said he had issue with that.

As such, Chair Bosley directly asked the City Attorney to consider the best language to propose to the Council over the forthcoming week. She had heard from many Councilors that they wanted there to be an obvious place that the public could go to understand the Council’s intentions, and that there be a mechanism for the Council to undo that when appropriate. The City Attorney suggested something like: “Agendized by the City Clerk for consideration by the City Council as to whether or not to accept the communication as informational.” Chair Bosley said yes, direction like that. The City Attorney said that Councilor Williams pointed out an important issue in the Rules.

Councilor Haas reiterated and reinforced that the Council has a good process that works but that could be tightened-up, as identified by a hot button issue recently. He thought the Council would be a in a much better place with these existing Rules tightened-up.

Chair Bosley opened the floor to public comments.

Jared Goodell of 39 Central Square appreciated the Council favoring letting people’s communications come forward on its agendas, no matter the topics. He recalled submitting a communication that was accepted as informational, which was challenged, and then went through the Committee process. So, he felt the current system was working. However, he said there was a different approach to consider that had bothered him since the Pumpkin Festival in

2013–2014 and again recently. He recalled headlines about a Swanzey woman arrested at a Keene City Council meeting and stated that while he has nothing against the Swanzey resident, this is not Swanzey, and this Council represents the people of Keene. He said that whenever there is a hot button issue, Keene becomes a forum for people from other towns and states, which Mr. Goodell feels affects—or waters down—the decisions the Keene City Councilors are making based on people who are not their constituents and are not representative of the people of Keene. Mr. Goodell suggested restricting communications to people with connections to Keene—he listed residents, property owners, and business owners—suggesting that communications from those without a nexus to Keene not be heard by the City Council unless sponsored by a City Councilor.

Chair Bosley recalled that during COVID, this was a particular issue, when people across the country had access to the Council for publicity via Zoom meetings, which was what she wanted to avoid the Council being used for in the future. She said she thought that sometimes there would be things bigger than the City to discuss that would be germane to the State of NH. Chair Bosley said that she understood a Councilor challenging the Chair accepting a communication as informational as that Councilor standing up for that communication. She said the community and City wards use the 15 Councilors to speak their opinions, which she said is a really important role. Different Councilors have access to different community groups and provide important representation in front of the Council. So, if there is a group of people local to Keene that a Councilor wants to represent, Chair Bosley thinks it is important that those Councilors can plead their cases in front of the Council. The Chair liked that this amendment under discussion would have all communications agendaized. Chair Bosley added that the 15 Councilors should be very cognizant of whose communications they are supporting and for what reasons.

The City Attorney stated that while he respected Mr. Goodell’s position, he had serious concerns under the First Amendment with respect to a proposal like Mr. Goodell suggested—even just the practical realities—so the City Attorney would not recommend something like that to the Council. The Chair noted that there is an opportunity for members of the public to state their names and addresses, so the Council knows who is speaking, but the City Attorney noted that individuals are not required to do so under RSA 91-A; the City asks, and most people accommodate.

Vice Chair Jones posed a question about a past issue with letters submitted to the Council from out of state, and Councilor Haas clarified the question about verbal vs. written communications. The City Attorney confirmed that both verbal and written communications are subject to the First Amendment; he called it a slippery concept, noting that things like actions or even a patch on your arm could be First Amendment protected, for example. Vice Chair Jones said he was thinking of the Mayor being an elected official vs. the Charter Officers and if the Mayor could consider whether a communication is germane. The City Attorney said the Mayor is still a public official. While commonly misunderstood, the City Attorney explained that the First Amendment constrains governmental action. In his capacity, the Mayor is a governmental actor, as are all the Councilors when acting in their official capacities, and thus they are all subject to

the First Amendment. Private entities—except for some commercial speech—are not subject to the First Amendment. The City Attorney confirmed that as a governmental actor, the Mayor would still be subject to these requirements. Chair Bosley cited instances of letters being agendized from an individual from California who was regularly writing to the Council about the downtown redesign.

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

On a vote of 4–0, the Planning, Licenses, & Development Committee recommends placing Rules of Order Amendment #4: Section 25. Communications on more time.

**6) Adjournment**

There being no further business, Chair Bosley adjourned the meeting at 7:03 PM.

Respectfully submitted by,  
Katryna Kibler, Minute Taker  
October 11, 2024

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