

09/19/2024

A regular meeting of the Keene City Council was held on Thursday, September 19, 2024. The Honorable Mayor Jay V. Kahn called the meeting to order at 7:00 PM. Roll called: Kate M. Bosley, Laura E. Tobin, Randy L. Filiault, Robert C. Williams, Edward J. Haas, Philip M. Jones, Andrew M. Madison, Kris E. Roberts, Jacob R. Favolise, Bryan J. Lake, Catherine I. Workman, Bettina A. Chadbourne, Thomas F. Powers, & Mitchell H. Greenwald were present. Michael J. Remy arrived at 7:07 PM. Councilor Tobin led the Pledge of Allegiance.

MINUTES OF THE PRECEDING MEETING

A motion by Councilor Greenwald to adopt the August 1, 2024, minutes as presented was duly seconded by Councilor Bosley. The motion carried unanimously with 14 Councilors present and voting in favor. Councilor Remy was absent for this vote.

ANNOUNCEMENTS

Mayor Kahn welcomed the Council back from its summer vacation. He and the Council wished happy birthdays to those who celebrated in August: Councilors Roberts, Powers, & Lake. Councilor Greenwald wished Mayor Kahn a happy birthday on behalf of the Council and offered him a gift.

Mayor Kahn announced the Annual Fire Prevention Parade on Sunday, October 6, starting at 1:00 PM; the reviewing stand will be on Main Street at the intersection with Railroad Street. He invited Councilors to join him. The Parade will end at Keene Central Fire Station. Next, the Mayor announced the Annual Inspection Dinner on Thursday, October 10, at 6:00 PM on the apparatus floor at Keene Central Station; the Finance, Organization, and Personnel Committee meeting that evening is canceled so the Council and staff may attend the dinner. Next, The Mayor explained that in preparation for the City Clerk's retirement on April 30, 2025, the City Council authorized the Mayor to negotiate a contract with Terri Hood, the Deputy City Clerk, to assume the role of City Clerk on May 1, 2025; negotiations concluded, and a formal press release would be issued leading up to her assuming the new position of Keene City Clerk. The Mayor also shared that Councilors would be receiving copies of applications for the City Attorney candidate search that they need to review before the October 3 Council meeting, when the field of candidates will be narrowed.

Next, the Mayor shared events associated with the Historical Society of Cheshire County's (HSCC) hosting of an exhibit of Keene at 150 years. The exhibit will be on display at the HSCC from October 25–December 31, 2024. An opening reception will be held on October 25 from 4:30–6:00 PM. On November 8 at the Historical Society, the City will be hosting the "Keene in Perspective and Retrospective" program (title is in formulation). Keene's four living mayors are all available on November 8 and will participate in the *retrospective portion* of the presentation. The presentation will begin at 4:30 PM with Alan Rumrill providing the *Keene in Perspective* portion, a review of how the City evolved from 1874 to 2024. After 30 minutes of presentation and 10–15 minutes of Q&A, the program will break into a panel discussion with the four mayors. Mayor Kahn said he is very appreciative of the City-Historical Society collaboration on this project. He hopes everyone will stop into the Historical Society on October 25th or sometime before the end of the year to view the exhibit of photographs depicting Keene's growth from the

1870s–2020s. In the meantime, he encouraged all to stop look at the City Clerk’s two related displays on Keene’s transition from a town to a city. In addition to some artifacts, the display also includes several placards with information. For example, the voters in the town were actually reluctant to become a city, and they rejected a charter amendment in 1865, 1869, and again in 1870. They finally adopted the charter amendment in 1874, which created a Board of Alderman and Common Council. This bicameral form of government continued until 1950 when another charter amendment created the City Manager–City Council form of government that we know today.

Councilor Madison announced that September 20–21, 2024 was the annual Source to Sea River Clean Up, sponsored by the Cheshire County Conservation District and the Connecticut River Conservancy. All were invited to get dirty and help haul trash out of Beaver Brook and the Ashuelot River.

PROCLAMATION – ENERGY & CLIMATE COMMITTEE

Mayor Kahn presented a Proclamation to Michael Winograd, member of the City of Keene’s Energy and Climate Committee, declaring October 2024 as National Energy Awareness Month in Keene and the Mayor encouraged all citizens to celebrate by participating in energy and climate change education.

RETIREMENT RESOLUTION – JUSTIN PUTZEL

Mayor Kahn presented a Retirement Resolution to Justin Putzel, honoring his 17 years of service to the City of Keene Fire Department.

COMMUNITY RECOGNITION – JAMES RINKER – NH PRESS ASSOCIATION RECIPIENT

Mayor Kahn recognized James Rinker, NH Press Association Recipient. Mr. Rinker is a long-time resident of the Monadnock Region, born in Westmoreland and raised in Keene. He is a proud Keene High School graduate and chose to continue his studies at Keene State College. Mr. Rinker joined the Keene Sentinel in June 2021 as an intern and became a full-time newsroom member in January 2022. Starting as the paper’s first Digital Community Engagement Journalist, he stepped into his role as the Education and Business Reporter in April of 2024. Mr. Rinker was a 2023–2024 Complicating the Narrative Fellow through the Solutions Journalism Network, reporting on rural LGBTQ+ healthcare access and the politicization of gender affirming care in the state of New Hampshire. His work during the fellowship has since been recognized by the New Hampshire Press Association and the New England Newspaper and Press Association. Mayor Kahn stated that in the shadow of the Keene Sentinel’s 225th anniversary and the Pride Festival that just took place, this award was even more meaningful to link Mr. Rinker’s reporting awards to those two citywide celebrations. Most recently, said Mr. Rinker received the Dennis Joos Memorial Award from the New Hampshire Press Association. The award honors a New Hampshire journalist who makes a unique personal sacrifice in pursuit of covering an event or issue of significance. To readers, Mr. Rinker was honored for his work reporting on gender affirming care in the State through deeply personal columns and through news stories on State

legislative efforts to affect Granite Staters in the trans and greater LGBTQ+ community. On September 21, Mr. Rinker would travel to Providence, RI, to accept an award from the New England Newspaper and Press Association for his reporting over the past year on LGBTQ rights, and the LGBTQ community and gender affirming care in New Hampshire.

CONFIRMATIONS – LIBRARY BOARD OF TRUSTEES, PARTNER CITY COMMITTEE

The Mayor nominated Sam Temple and Karthik Gowda to serve as regular members of the Library Board of Trustees, with corrected terms to expire June 30, 2027. The Mayor also nominated Eric Weisenberger to serve as a regular member of the Partner City Committee, with a term to expire December 31, 2024. A motion by Councilor Greenwald to confirm the nominations was duly seconded by Councilor Bosley. The motion carried unanimously on a roll call vote with 15 Councilors present and voting in favor.

CONFIRMATION – CONGREGATE LIVING AND SOCIAL SERVICES LICENSING BOARD

Mayor Kahn nominated Medard Kopczynski to serve as a regular member of the Congregate Living and Social Services Licensing Board, with a term to expire December 31, 2027. A motion by Councilor Greenwald to confirm the nomination was duly seconded by Councilor Bosley. The motion carried unanimously on a roll call vote with 15 Councilors present and voting in favor.

COMMUNICATION – COUNCILOR REMY – MODIFICATION OR RESCISSION OF COUNCIL POLICY: R-2000-28: STREET AND UTILITY REQUIREMENTS AND STANDARDS

A communication was received from Councilor Michael Remy, suggesting that the Council review Resolution R-2000-28 and its consistency with RSA 674:41. Mayor Kahn referred the communication to the Planning, Licenses, and Development Committee.

COMMUNICATION – CHARTER COMMUNICATIONS – REQUEST TO INSTALL A CONCRETE PAD AND UTILITY CABINET – 555 ROXBURY STREET

A communication was received from Charter Communications, requesting a license to install a concrete pad and utility cabinet at 555 Roxbury Street. Mayor Kahn referred the communication to the Planning, Licenses, and Development Committee.

COMMUNICATION – JON LOVELAND – BIKE LANE DESIGNS IN THE DOWNTOWN PROJECT

A communication was received from Jon Loveland, sharing his continued concern over the downtown project; his communication includes a technical publication entitled “Not All Protected Bike Lanes are Safe.” Mayor Kahn accepted the communication as informational and asked that Councilors on the MSFI Committee review it in advance of their next meeting.

COMMUNICATION – GREATER MONADNOCK COLLABORATIVE – REQUEST TO USE CITY PROPERTY – CENTRAL SQUARE AND RAILROAD SQUARE – 30TH ANNIVERSARY CELEBRATION OF THE RELEASE OF THE FILM *JUMANJI*

A communication was received from Catherine Bergstrom and the Greater Monadnock Collaborative (GMC) Chamber of Commerce, requesting that Central Square and Railroad Square be reserved for a 30th anniversary celebration of the release of the film, Jumanji. The event would include a “stampede” parade, a scavenger hunt, food trucks and sidewalk vendors, as well as a car show featuring some of the vehicles that appeared in the film. Mayor Kahn referred the communication to the Planning, Licenses, and Development Committee.

PLD REPORT – RELATING TO THE REQUEST TO AUTHORIZE THE ISSUANCE OF A BUILDING PERMIT FOR THE PROPERTY AT 270 BEAVER STREET

A motion by Councilor Bosley to suspend Resolution R-2000-28, which would prevent the consideration of this request, was duly seconded by Councilor Jones. The motion carried unanimously on a roll call vote with 15 Councilors voting in favor.

A Planning, Licenses, and Development Committee report read, unanimously recommending that the City Council authorize the issuance of a Building Permit for the property at 270 Beaver Street. A motion by Councilor Bosley to carry out the intent of the Committee report was duly seconded by Councilor Jones. The motion carried unanimously with 15 Councilors present and voting in favor.

PLD REPORT – RULES OF ORDER AMENDMENTS

Amendment #1: Section 2. Special Meetings & Workshop Meetings

A Planning, Licenses, & Development Committee report read, recommending the adoption of Amendment #1: Section 2. Special Meetings & Workshop Meetings. A motion by Councilor Bosley to carry out the intent of the Committee recommendation was duly seconded by Councilor Jones. Councilor Bosley summarized the Committee recommendation by explaining that this amendment would codify the process of how workshops and special meetings are called, as well as what action can come out of those meetings. She said the PLD Committee thought it made sense to reduce the number of Councilors who can call one of these meetings in the absence of the Mayor. Doing so would prevent a quorum of any Standing Committee being involved in calling a workshop or special meeting. Additionally, with this amendment, the only official action that could come out of a workshop could be to send an item back to a Standing Committee. Councilor Bosley thought the PLD Committee developed a clean amendment that she hoped the Council would support amendment #1. The motion to adopt amendment #1 carried unanimously on a roll call vote with 15 Councilors present and voting in favor.

Amendment #2: Section 11. Right of Floor

A Planning, Licenses, & Development Committee report read, recommending the adoption of Amendment #2. Section 11. Right of Floor. A motion by Councilor Bosley to carry out the intent of the Committee recommendation was duly seconded by Councilor Jones. Councilor Bosley summarized the Committee recommendation on amendment #2, by explaining that there was a lot of continued discussion at the PLD meeting about the best wording to use in this amendment. The Committee settled on adding the phrase “if able” to allow for a member of the Council to

determine if they are able to stand in a given moment or to remain seated without needing to request any formal approval and without any public discussion or disclosure.

Councilor Roberts stated that he wholeheartedly agreed with this because—having suffered four strokes—he felt somewhat embarrassed having people watch him sit back down mid-speaking, or he said someone might assume he is not paying attention or does not care about what is going on. Whereas he cares greatly, which is why he is present to contribute. As he had stated before, until his most recent stroke, he did not realize how many places had barriers to people with disabilities. So, he thought it was extremely important to implement this amendment so there are no barriers to anyone who wants to serve on the City Council, regardless of their abilities.

A motion by Councilor Workman to amend the language in Amendment #2: Section 11. Right of Floor to change “A member shall rise in his or her place and shall respectfully...” to “A member may rise in his or her place and shall respectfully...” was duly seconded by Councilor Williams.

Councilor Workman recalled that she spoke about this before the PLD Committee for many of the reasons Councilor Roberts mentioned. As the Chair of the Monadnock Diversity, Equity, Inclusion, & Belonging (MDEIB) Coalition, she felt that “may” would be the most inclusive term and way to address this. She had heard from many constituents about this, who were not mad but rather surprised the Council was giving this so much time and discussion because they thought that it should be a “no brainer” for many of the reasons she outlined at the PLD meeting. So, for all those reasons, Councilor Workman hoped the Council would come to an agreement.

Councilor Williams thanked Councilor Workman for the amendment. He agreed that with the amendment, sitting could be the default so that one would be doing nothing wrong if seated, and yet, everyone would still have the opportunity to stand. He thought this was a good way to do it. He expected that many Councilors would continue to stand, when possible, but there would not be a burden of expecting people to ask for an accommodation when it could just be given. Councilor Williams thought this was an important accommodation for the City Council to model to other organizations in the community.

Councilor Jones said he did not like the original amendment. He recalled his stance that standing should be an unwritten policy to recognize the dais when speaking. Still, he thought this was a good compromise, so he would vote to support this amendment.

Councilor Haas said that what holds the Council together with mutual respect is that Councilors obey these unwritten rules of order, like dressing well, addressing each other with respect, and not fighting. He said something as simple as this does not need to be written. Still, he was in favor of the amendment.

Councilor Chadbourne was comfortable with either sitting or standing. She said “may” sounds more optional and “shall” sounds more directional. Still, she felt like she could go either way.

Brief discussion ensued confirming the above amendment language from Councilor Workman.

Councilor Remy asked if the Rules of Order amendments were effective as they were voted in, and the City Attorney said yes.

The motion by Councilor Workman to amend the language in Amendment #2: by replacing the word “shall” with the word “map” and by removing the phrase “if able” so that the first sentence of Section 11 would read: “During regular or special meetings of the City Council, and when recognized by the Chair, a member may rise in his or her place, and shall respectfully address the Mayor or Temporary Chair, confine himself or herself to the question under debate, avoid personal attacks, and refrain from impugning the motives of any other member’s or participant’s argument, stated position or vote. The amendment carried on a show of hands, with 15 Councilors present and voting in favor.

On a roll call vote with 15 Councilors present and voting in favor, amendment #2, as amended, was adopted unanimously.

Amendment #3: Section 15. Voting and Conflict of Interest

A Planning, Licenses, & Development Committee report read, recommending the adoption of Amendment #3. A motion by Councilor Bosley to carry out the intent of the Committee recommendation was duly seconded by Councilor Jones. Chair Bosley summarized the Committee’s recommendation regarding amendment #3 by explaining that the PLD vote was mixed. Councilor Bosley said that the intent of this amendment was to further define family members 18 years of age or older living in a Councilor’s home and to disclose those family members’ membership on various boards, commissions, as well as employers on the City Councilors’ annual Conflict of Interest Disclosure forms. She added that this change was intended to provide the greatest amount of transparency for the public and for each Councilor to be able to follow-up on any special interests that might be occurring, even if it is unbeknownst to a Councilor whose opinion might have been swayed based on some familial relationship. She said it is a way for the Council to keep each other as honest as possible and it would allow members of the community to keep an eye on what Councilors’ interests are in the community. Councilor Bosley stated that she is in favor of as much transparency as possible, but she recalled that the PLD Committee was mixed on this topic, so she hoped for good discussion.

Councilor Williams stated that he was opposed to this because—while he appreciates the need for transparency—he thought this would go a little too far. He called for balance and said this would come at the cost of Councilors’ spouses’ and kids’ privacy, who did not run for public office. Councilor Williams said he did not necessarily feel comfortable sharing their employment or activity information with the public, knowing how sometimes members of the public react to things the Council does. The Councilor wanted to keep his family separate to some extent, so he said he would be voting against this.

Councilor Jones agreed with Councilor Williams that sometimes it is not necessary to make available where someone’s child is working as a part of a public document. Councilor Jones added the fact that although the State of New Hampshire does not recognize the term common law, it is possible to cohabitate in a partnership for 30 years, and he considers that the same as being married, but that was not included in this process. So, he thought this was missing a step and said he would be voting against this amendment.

Councilor Tobin expressed that she had mixed feelings about this. While she did not have strong opinions about this for a while, the more she thought about it, it was confusing to her in the sense that marriages can be very different in terms of how finances are managed, and how spouses weigh each other's perspectives and expectations, among other factors. She added that there are cases outside of marriages in which people invest in each other and share finances and weigh each others' opinions. Councilor Tobin said that reading this amendment would confuse her because if she read that someone's spouse had a list of organizations they were involved with, she would almost then assume that the spouse is also invested in those, so she would almost hold them accountable to speaking to that when they do not actually agree. So, she would vote against.

Councilor Haas said that transparency is of value everywhere, so he thought the more Councilors disclose into the public record about what might drive their interests and concerns would be worthwhile. He did not think that these public records would be explored and broadcast, though the records would still be available if someone wants to confirm why a Councilor voted a particular way. He said that today, there is too much hiding and anonymity in social media, which he said was working badly. So, Councilor Haas thought that people should stand-up for what they say and transparently back-up what surrounds them and their families.

Councilor Favolise stated that he was still undecided at this point after hearing the discussion so far, but he was imagining a scenario in which a Councilor may suggest on the floor that another Councilor may have a conflict on an item because of a spouse's disclosure or because of an adult child's disclosure. He said the prospect of that makes him pretty uncomfortable; that a Councilor's family would be brought into discussion on the Council floor. So, Councilor Favolise stated that he was open to some discussion "the other way," but he said he thought that would be a big hang-up for him on this matter.

Councilor Bosley said she had not planned to comment but she wanted to articulate once more what influenced her judgment on this. While she did not believe it was malicious, during her time on Council, she had been exposed to a Councilor supporting an amendment to allow allocation of funds for a board that a spouse was on. She noted that she had personally had to recuse herself from being in a position of making a judgment on her spouse's employer. She thought that in past instances, this conflict of interest form would have reminded Councilors that they needed to ask for a recusal if they were not aware they had a pecuniary interest, and it would have allowed the rest of the Council an opportunity to be aware of their fellow Councilors' interests in case someone might have needed a reminder. Councilor Bosley thought that this would protect Councilors from being put in a position of having to make decisions for their spouses' employers. While she understood Councilor Williams' points, Councilor Bosley stated that Councilors' jobs are to protect those relationships between their spouses and their employers and as Councilors, they have a higher level of scrutiny than their family members. Councilor Bosley said this disclosure form makes her feel more comfortable because at the beginning of the year, her fellow Councilors know where she stands and what topics she will ask to be recused from. She stated that when in a marriage, these are family decisions, and she would hope that one's spouse is fully understanding of the time commitment and public scrutiny that

Councilors are under; she said that even her children are fully aware of it and there is no avoiding it once one puts themselves in the public eye.

Councilor Chadbourne felt that both Councilors Bosley and Williams made good points. Councilor Chadbourne thought that the disclosure form addressed some of Councilor Bosley's concerns about boards or organizations that spouses serve. Councilor Chadbourne noted that no matter how transparent, Councilors could still be attacked and scrutinized. She said that if she was a Councilor's spouse, she would not be comfortable with this, and she would leave it to her spouse on the Council to address the conflict if it arose, but she would not want her information public. So, Councilor Chadbourne was leaning toward voting against this amendment.

Councilor Haas said that by putting this information in the public record, Councilors would be protecting themselves against what people may infer, spread rumors about, or write anonymously about Councilors and their families' motivations in public. With this disclosure, Councilor Haas thought it was a way for Councilors to have more open transparency at the beginning of each year. He also wanted to challenge everyone to think about what the citizens of Keene would think about this; there was a lot of conversation about Councilors here and Councilor Haas said he did not like that. He said he likes what the citizenry would want, not what the Council would want.

On a vote of 7–8, the motion to carry out the intent of the Committee recommendation on Amendment #3 failed. Councilors Bosley, Remy, Haas, Madison, Roberts, Workman, and Greenwald voted in the minority.

Amendment #4: Section 25. Communications

A Planning, Licenses, & Development Committee report read, recommending the adoption of Amendment #4. A motion by Councilor Bosley to carry out the intent of the Committee recommendation was duly seconded by Councilor Jones. Councilor Bosley summarized the Committee recommendation regarding amendment #4 by explaining that the PLD Committee was mixed on this amendment as well. So, she touched on some key points in hopes of a broader Council conversation in advance of later motioning to send this back to PLD for more work with the Council's guidance. She did not think this amendment was ready to vote on at this meeting, despite progress during the PLD meeting on alternative language. She noted that Amendment #4 also included housekeeping items, with the first being that the City Clerk will accept communications up until 4:00 PM on the Tuesday following a Council meeting. Additionally, communications containing language that is defamatory, personal, or argumentative will not be accepted by the Clerk. Councilor Bosley noted that she also checked with the City Clerk, who pointed out that Section 26 of the Rules of Order does not allow the Clerk to indiscriminately dismiss communications. The City Council's Rules require that the City Clerk call the Mayor and the City Manager—and the City Attorney by default practice—to hold a separate discussion about every communication before a decision is made regarding whether the communication would be placed on a Council agenda.

Councilor Bosley continued summarizing the Committee report, explaining that the larger issue in this Amendment was that the Council showed interest in codifying a policy on national and

international issues, which she said she supported. In the absence of a policy, she said the Council was open to questions about its commitment to its actions. So, Councilor Bosley thought the Council needed to come up with something. In the case that a communication about national or international business is deemed non-germane to the City of Keene, she said a Councilor would need to request a suspension of the Rules of Order at the City Council and a 2/3 majority of the Council would have to agree for that communication to be referred to a Standing Committee. Councilor Bosley said the PLD Committee thought that was a high bar, so they tried to consider alternatives. For example, the Council had just adopted a Rule amendment to allow six members of the City Council to call a special meeting, so she wondered if six Councilors could come together—two from each Standing Committee—to get a communication on the agenda. Other ideas included a simple majority or a certain number of registered Keene voters petitioning the City Council. So, Councilor Bosley stated that there were some ways to circumvent this as a general policy that the PLD committee wanted to consider.

Councilor Remy said he was not aligned with the statement that it would take a suspension of the Rules of Order to pick up a non-germane Communication, because he said that Section 26 of the Rules allows for it. He quoted Section 26, “except as otherwise provided by these Rules, items of business not resolved to the satisfaction of their sponsor may be placed on the Council agenda by the Mayor, any member, or the City Manager.” He said that quote basically said that any Councilor could place a communication on the agenda if they were not happy with how it was handled. The City Attorney said the problem was that those were two different Rules that could not be read together. Section 26 has general language about what happens to a communication, whereas Section 25 is more specific, The City Attorney continued the more specific language has priority over the general language.

Councilor Filiault said he knew the Council—especially the Planning, Licenses, & Development Committee—had worked hard “trying to create a new mousetrap” with this amendment, but he said that this Rule was not broken, so he did not think it needed to be fixed. He said the existing process had worked well for a long time: a communication is submitted, and the Mayor makes a decision about what Standing Committee it goes to, or whether to accept it as informational. Councilor Filiault said that, of course, there had been a couple of examples in which the Mayor had accepted something as informational and a Councilor had used Section 13 of the Rules of Order, which is the Right of Appeal. Councilor Filiault said this Rule of Order was already set-up properly and had worked.

Councilor Madison recalled that Councilor Filiault left the meeting when the last non-germane item was brought before the Council and the Mayor’s decision was challenged by Councilor Williams. Councilor Madison said the Council followed its Rules then, and Councilor Williams was unable to get a second for his motion challenging the Mayor. Councilor Madison continued, stating that frankly, he did not think the Rule worked based on conversations with Councilors and constituents, so he thought a new policy was needed. He also recalled that at the last PLD meeting, he and Councilor Williams were able to have a good conversation about establishing a threshold of 50 resident voters of the City of Keene who would sign a petition to bring a non-germane item to the City Council, which would then be automatically referred to a City

Committee. Councilor Madison thought it was a good idea to refer this back to PLD to discuss this option further.

Councilor Tobin said that to the greatest extent possible, she likes staying within the boundaries of what the Council can do. She recalled reading past communications and wishing the writers had included details about how the issues were impacting Keene residents, so there would be an action she could do something about. She said that perhaps when certain things happen in the world and one population is impacted more, there could be an extra layer of protection or awareness that could be contributed locally. Still, Councilor Tobin said that anytime the Council is discussing global issues, they are not discussing the local things they could do something about. While a stop sign might be boring, she said those are the decisions the Council is empowered to make. She also did not think it would be fair to expect the City Clerk to sort through all communications and make these judgements alone. The Councilor asked for some aspect of education as well. For instance, she thought that many people—herself included—would not always know which issues are local, State, or Federal. She said that perhaps there would be an opportunity to indicate to the Council why a communication is deemed non-germane and how to contact the individual who submitted the communication for more information.

Councilor Remy said he disagreed with the assertion that this Rule was not broken given that a member of the public was arrested at the meeting that was referenced. So, he thought the Council needed more clarity on its position so that does not happen again.

Councilor Workman said this Rule amendment would allow for the public to be heard in a more fair and measured way. She agreed with Councilors Williams and Madison's suggestion to have a threshold of a number of Keene constituents who sign a petition. Councilor Workman thought the Council had become really comfortable with having short meetings more often than not. However, she said they were elected to have long meetings and listen to the public even if the Council does not always like it. She said that sending more communications to Standing Committees also opens more dialogue with the community because sometimes a petitioner might arrive with a specific request that could lead to a compromise and other input from other community members that would not happen if deemed non-germane. So, Councilor Workman did not think that cutting off communications would be worthwhile to the Council and community.

Councilor Greenwald wanted to provide a different perspective. He stated that the City Council is hired to deal with local issues like basketballs and potholes. He did not want the Council to be used by individuals that want a forum for their issues, when they know that there is nothing the Council can say or do that would make any difference. He referenced a recent short letter to the Keene Sentinel editor indicating that the Israeli Prime Minister ought to pay attention to the Keene City Council's recent focus on this issue and solve it quickly. Councilor Greenwald said he did not want his time to be sucked-up by those who want to use the Council a platform for their issues. He said Rule 25 had worked well to date, despite this one incident. He said that if a Councilor was really concerned, they could always move to suspend the Rule. Councilor Greenwald said the Council had enough on its hands trying to run the City and maintain a

reasonable tax rate, etc. He said he heard the opposite from constituents: that they do not want the Council focusing on non-germane issues because the Council is not doing a great job with local issues anyway, so they should focus on what they can do.

Councilor Favolise stated that at this point, he supported sending this back to the PLD Committee. He said he was cognizant that this came out of PLD with a 3–2 vote. He did not want to comment on the merits of some of the ideas hanging out there from the Committee without having a final draft in front of him, but he did think there was further discussion to be had. Councilor Favolise said he certainly had heard from constituents on both sides of this issue. He did not see a problem if PLD would like to spend more time with the Rules of Order.

A motion by Councilor Bosley to refer “Amendment #4: Section 25. Communications” back to the Planning, Licenses, & Development Committee was duly seconded by Councilor Filiault.

Councilor Haas noted that the referral back to PLD was the Committee’s intent, as indicated by the split vote and lengthy discussion. He added his strong agreement with Councilors Greenwald and Filiault. However, as Councilor Greenwald pointed out, Councilor Haas said the Council encountered a hot button issue and it might not have worked well this time. So, even if PLD revisits the existing process and determines that it does work, he said the Council should reinforce parts of it that will make it work better in the future. Councilor Haas said that is the intent and that would be worth it.

Councilor Bosley added that by not referring back to PLD, all the housekeeping items in this Rule would be lost, so she hoped that regardless, the Council would allow for further efforts to clean-up this Rule.

Councilor Madison agreed that this was worth more discussion by PLD. He said it was clear that the Council had hit a nerve in the community, noting that members of the public spoke about this at the prior PLD meeting. He said that constituents were clearly concerned and while the Council’s job might be roads, etc., Councilor Madison said their job is also to represent the constituents and their interests. Because there was public interest in this matter, he said the Council should explore it as far as possible. He hoped his colleagues would be open minded. He reminded them that at the beginning of this conversation at PLD, he was on the opposite end of the spectrum as Councilor Williams, but by the end, they found agreement. So, Councilor Madison asked his fellow Councilors to pay attention to the upcoming PLD discussion and to participate if possible.

Councilor Jones agreed with sending this Rule back to PLD. However, he asked City staff to present the PLD Committee with the steps every communication goes through (i.e., the various staff members) when it comes to the City so that the Council and taxpayers have a better understanding of what they are paying for; there is a cost to taxpayers for everything City staff does.

Councilor Chadbourne recalled a challenge of Councilors being unable to speak at Standing Committee meetings if a quorum of the Council were present. The City Attorney said that was correct, if 8 or more Councilors are present at Standing Committee meeting, Councilors in the

audience cannot ask questions or speak as members of the public after a motion has been made and seconded. So, Councilor Chadbourne replied that Councilors would not be able to speak on the issue if a quorum was at the PLD meeting anyway. The City Attorney replied that—quite frankly—this was one of the reasons why he requested that the Council have this conversation this evening, because he wanted to get a sense of how the City Council at large felt about this. This would not prohibit Councilors from submitting communications to a Standing Committee Chair. The City Attorney said this would open the conversation at PLD about what they heard at this meeting. He said—again quite frankly—that there had been some proposals mentioned that he needed to research more to determine if they are possible. He appreciated Councilor Chadbourne’s comment.

Councilor Chadbourne said the tricky part about Councilors submitting written communications to the Committee Chairs is that it prohibits the ability for organic back-and-forth conversation. With that in mind, Councilor Chadbourne said she wanted to make a statement for the record. She said the business of the City should always come first, but Councilors are elected by constituents to represent them and if they have concerns, they should be able to voice them. Her concern was that the Council receives so many communications. She remembered 2016–2019, when the Council received so many communications and spent over 40 hours—including the City Attorney’s time—discussing whether to be a sanctuary city. Having said that, she did not think that most current Councilors were on the Council then. At the same time, Councilor Chadbourne recalled that in the State of NH, there were no laws protecting transgender citizens, to the extent that they could be denied jobs and housing, with no protections even in Keene’s own employee handbook. The Council was approached by a group because the State Legislature kept tabling it. So, the group went city-to-city and town-to-town seeking support, and 10–12 signed communities signed on, including Keene. Because of their effort, the City’s employee handbook was changed to protect anyone transgender or transitioning. After so many cities did so, the State followed suit. Councilor Chadbourne commented on how important those protections are now with some of the trans discrimination that was happening nationally; she said states influence other states, citing other issues like women’s rights and reproductive rights. She agreed that the City’s business is potholes and sewage. However, Councilor Chadbourne said the Council does have some influence, and what happens at the City level affects the State, which can affect the national level. Still, she was concerned with the possibility of being flooded with non-germane communications. She agreed that the Council already has a mechanism to accept something as informational or listen and still accept it as informational. Councilor Chadbourne said she would reflect on this more before the next PLD discussion.

Councilor Greenwald pointed out that the matter at hand was the referral back to PLD, not the actual amendment, so he asked his colleagues to stay focused on that.

Councilor Filiault disagreed with Councilor Madison’s statement that this system does not work. Councilor Filiault said it does work, as evidenced by the last non-germane issue under discussion, when Councilor Williams challenged the Mayor’s decision, but none of the other 14 Councilors seconded the challenge. So, he said the system worked.

Mayor Kahn pointed out that the Rule said “not germane to either the State or the City.” So, a matter before the State would be considered germane to the City.

The motion to refer Amendment #4 back to the PLD Committee carried unanimously.

Amendment #5: Section 32. Report by Committee

A Planning, Licenses, & Development Committee report read, recommending the adoption of Amendment #5. A motion by Councilor Bosley to carry out the intent of the Committee’s recommendation was duly seconded by Councilor Jones. Councilor Bosley summarized the Committee recommendation regarding amendment #5 by explaining that this amendment was another housekeeping item. The City had always done this, but this would codify clearly in the Rules that after a public hearing at City Council, no further public comment will be accepted at the subsequent Standing Committee meeting. At that point in the process, the public would have had at least two opportunities to comment on the item under discussion, so that following Committee meeting is strictly for Committee collaboration and final recommendation back to the Council.

The motion to adopt amendment #5 carried unanimously on a roll call vote with 15 Councilors present and voting in favor.

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

A Planning, Licenses, & Development Committee report read, recommending the adoption of Amendment #6. A motion by Councilor Bosley to carry out the intent of the Committee recommendation was duly seconded by Councilor Jones. Councilor Bosley summarized the Committee recommendation regarding amendment #6 by explaining that this amendment was another clarification. The Council’s current practice was to not take up an identical item within the same calendar year and this Amendment would change the wording to include items accepted as informational. The City Attorney noted that there was also the addition of the City Clerk placing communications in the Councilors mailboxes. The motion to carry out the committee recommendation on Amendment #6 carried unanimously on a roll call vote with 15 Councilors present and voting in favor.

FOP REPORT – 2025 LAW ENFORCEMENT SUBSTANCE ABUSE REDUCTION INITIATIVE GRANT

A Finance, Organization, & Personnel Committee report read, recommending that the City Manager be authorized to do all things necessary to accept and expend the NH Department of Safety 2025 Law Enforcement Substance Abuse Reduction Initiative Grant in the amount of \$25,000.00. (FY25 Project Account # 70G01225). A motion by Councilor Powers to carry out the intent of the Committee report was duly seconded by Councilor Remy.

Councilor Williams stated that he would be voting against this as he had for several years, which he said did not reflect a lack of respect towards the Keene Police Department. He did not support this because substance use disorder is a medical issue and he said we cannot arrest our way out of the problem. Mayor Kahn said he felt compelled to State that he receives more

correspondence about these investigations and follow-through than anything else concerning the citizens of Keene. The motion carried with 14 Councilors voting in favor and 1 voting in opposition. Councilor Williams voted in the minority.

FOP REPORT – FY24 DOJ BYRNE JUSTICE ASSISTANCE GRANT (JAG)

A Finance, Organization, & Personnel Committee report read, recommending that the City Manager be authorized to do all things necessary to co-apply with the County of Cheshire, NH, and to accept and expend the U.S. Department of Justice FY24 Byrne JAG in the amount allocated to the city in the amount of \$4,684.00. (Acct # 70G00225). A motion by Councilor Powers to carry out the intent of the Committee report was duly seconded by Councilor Remy. The motion carried unanimously with 15 Councilors present and voting in favor.

FOP REPORT – RELATING TO THE ACCEPTANCE OF A DONATION: GREATER KEENE YOUTH BASEBALL AND SOFTBALL ASSOCIATION PAVILION

A Finance, Organization, & Personnel Committee report read, recommending that the City Manager be authorized to do all things necessary to accept the donation of a 27' x 22' pavilion, estimated at nearly \$40,000 of work - and gifts – in-kind, by the Greater Keene Youth Baseball & Softball Association. This donated pavilion will be located at the far end of the parking lot near the Wheelock Park youth ballfields. A motion by Councilor Powers to carry out the intent of the Committee report was duly seconded by Councilor Remy. The motion carried unanimously with 15 Councilors present and voting in favor.

FOP REPORT – ACCEPTANCE OF NEW HAMPSHIRE JUVENILE COURT DIVERSION NETWORK (SBIRT) FUNDING FOR YOUTH SERVICES

A Finance, Organization, & Personnel Committee report read, recommending that the City Manager be authorized to do all things necessary to accept and administer funds in the amount of \$56,488.04 provided by the New Hampshire Juvenile Court Diversion Network for Youth Services programs. A motion by Councilor Powers to carry out the intent of the Committee report was duly seconded by Councilor Remy. The motion carried unanimously with 15 Councilors present and voting in favor.

FOP REPORT – ACCEPTANCE OF A GRANT – ELECTION EQUIPMENT

A Finance, Organization, & Personnel Committee report read, recommending that the City Manager be authorized to do all things necessary to accept and expend the 2024 Rural and Nonmetro Election Infrastructure Grant from the Center for Tech and Civic Life in the amount of \$20,000 to be used for qualifying expenses in the categories of equipment and materials, technological components or key human components that support the security of elections. A motion by Councilor Powers to carry out the intent of the Committee report was duly seconded by Councilor Remy. The motion carried unanimously with 15 Councilors present and voting in favor.

FOP REPORT – PROFESSIONAL SERVICES CONTRACT FOR FINAL DESIGN OF THE LOWER WINCHESTER STREET RECONSTRUCTION PROJECT

A Finance, Organization, & Personnel Committee report read, recommending that the City Manager be authorized to do all things necessary to negotiate and execute a professional services agreement with McFarland Johnson, Inc. for an amount not to exceed \$1,371,000 for the preliminary and final design phase of the Lower Winchester Street Reconstruction Project. The funding source will be split between the General Fund Water Fund and Sewer Fund through the following accounts: 75J0026B, 34JI016B, and 32JIO10B. A motion by Councilor Powers to carry out the intent of the Committee report was duly seconded by Councilor Remy. Mayor Kahn asked if the City's portion would be \$247,000. Councilor Powers and the City Manager said yes. The motion carried unanimously with 15 Councilors present and voting in favor.

FOP REPORT – PROFESSIONAL SERVICES CONTRACT FOR THE DESIGN OF WATER DISTRIBUTION IMPROVEMENTS ON RT. 101

A Finance, Organization, & Personnel Committee report read, recommending that the City Manager be authorized to do all things necessary to negotiate and execute a professional services agreement with Clough, Harbour & Associates for an amount not to exceed \$60,000.00 for the Preliminary Design of water distribution system replacement on Route 101 and Swanzey Factory Road. A motion by Councilor Powers to carry out the intent of the Committee report was duly seconded by Councilor Remy.

The City Manager noted that this work would be in conjunction with the State of NH, which went through a competitive process and selected Clough, Harbour & Associates, so the City also selected them. Councilor Haas asked about the timing of the State's work on RT. 101. The City Manager could not say for sure; they were doing design work at this time, so she thought possibly in the next construction season. The motion carried unanimously with 15 Councilors present and voting in favor.

FOP REPORT – REALLOCATION OF CAPITAL FUNDS – RECREATION CENTER

A Finance, Organization, & Personnel Committee report read, recommending that the City Council reallocate \$174,334 from the Municipal Building Capital Maintenance Projects (65J0002) to the Brian A. Mattson Recreation Center Renovation Project (65M0004). A motion by Councilor Powers to carry out the intent of the Committee report was duly seconded by Councilor Remy. The motion carried unanimously with 15 Councilors present and voting in favor.

FOP REPORT – INVESTNH HOUSING OPPORTUNITY PLANNING (HOP) GRANT APPLICATION – SHORT TERM RENTALS

A Finance, Organization, & Personnel Committee report read, recommending that the City Council write a letter of support for an application to the InvestNH HOP Grant program to hire a consultant to assist the City with developing regulations for short-term rental properties. A motion by Councilor Powers to carry out the intent of the Committee report was duly seconded by Councilor Remy.

Councilor Favolise knew there was some discussion about this at Committee. He was not sure it was clear from the minutes about who does the letter writing if the Council approved this. Mayor

Kahn said he offered. The City Manager said it could be whoever the Council designates. She said the letter would let the State of NH know that it is a position taken by the City Council, so she said it could come from the Mayor's office indicating the Council's position. Councilor Favolise asked if there should be something in the motion about who should write the letter. The City Manager said yes.

Councilor Bosley noted that the Short-Term Rental Property Ordinance had been sitting on More Time at the Joint Planning Board-Planning, Licenses, & Development Committee because PLD recognized some time ago—when writing the Cottage Court Ordinance—that this was important for the community. So, Councilor Bosley said she fully supported anything to move this process along because she knew that the Community Development Department was very busy with projects the Council had assigned to them. So, she thought this was a great addition.

In response to Councilor Favolise's previous question regarding amending the motion to indicate that the Mayor's office would write the letter to the State of NH on behalf of the City Council, the City Attorney, Tom Mullins, stated that it could be considered a Scrivener's error and the motion should have said that the City Council authorized the Mayor to write the letter. The motion carried unanimously with 15 Councilors present and voting in favor.

FOP REPORT – INVESTNH HOUSING OPPORTUNITY PLANNING (HOP) GRANT APPLICATION – HOUSING OPPORTUNITY ZONES

A Finance, Organization, & Personnel Committee report read, unanimously recommending that the City Council write a letter of support for an application to the InvestNH HOP Grant program to hire a consultant to assist the City with developing and promoting a Housing Opportunity Zone program in the City. A motion by Councilor Powers to carry out the intent of the Committee report, which says the Mayor will write a letter on behalf of the City Council in support, was duly seconded by Councilor Remy. The motion carried unanimously with 15 Councilors present and voting in favor.

CITY MANAGER COMMENTS

The City Manager began by reminding everyone about the Master Planning process. The project is designed to proceed in two phases: (1) the visioning phase, and (2) the comprehensive planning phase, which would kick-off on October 5 with a Summit meeting at Heberton Hall led by the consultant team. She highly encouraged anyone, and every City Councilor, to attend.

Next, the City Manager shared some good work being done by the Keene Police Department. Since starting with the City, Social Worker Kailyn Mello, had 66 referrals, 21 of which had been due to primary substance use. Her top referrals had been for a mental health treatment, followed by resources for unhoused individuals, and the third being substance use treatment. A large majority of those individuals with substance use issues also have underlying mental health concerns, which is why the referrals for mental health are higher. Similarly, a large majority of the unhoused population are struggling with those same co-occurring disorders, and of the 66 referrals that Ms. Mello had conducted, seven were juveniles and two of those juveniles reported concerns regarding substance use. Referrals for substance use issues were to The Doorway,

Avenues, Live Free Recovery, Anew Behavioral Health, Youth Services (for the juveniles), Keene Serenity Center, Cheshire Medical Emergency Department, SMART Recovery Online, and many local and online AA meetings. Ms. Mello has an extensive list of resources for substance use treatment and she has made connections with many local and State providers. The City Manager said that is exactly what the City was hoping for, so it had been a great success so far. She explained that one barrier to accessing treatment had been health insurance and the other was the willingness to follow through on the client's part. The City Manager was glad to report Ms. Mello's great work.

The City Manager also reported that the WOW—Ward Optimization Weeks program—was going well. Ward 1 was finished with 98 requests received through SeeClickFix, and everyone was still encouraged to use the app, which is a great way for the City to track issues that people are reporting and report out when they are resolved. Ward 2 was underway. She said the maintenance items included things like repainting crosswalks, replacing traffic signals, trimming roadside vegetation, sidewalk maintenance, painting fire hydrants, repairing leaking valves, cleaning sewer mains, repairing drains, park and trail maintenance, as well as general maintenance including graffiti removal and removal of litter. She said it had been a good project so far and that other departments had jumped on the concept, such as the Parks & Recreation with Ward Weeknights, activities through the Community Development Department, and one-on-one neighborhood outreach by the Fire Marshall.

The City Manager announced that Jason Martin was promoted from Acting Fire Chief to Fire Chief and that he selected Greg Seymour as the new Deputy Fire Chief. Also, Public Works Director, Don Lussier, selected the new City Engineer, Bryan Ruoff, who started Monday, September 16.

Next, the City Manager explained that during the Council's vacation, there was follow-up regarding an August 12 letter from a resident, Pat Walker, at 17 Thompson Road related to the replacement of a fence on her property as a part of the City's Thompson Hill Road Project. The City was able to work with Ms. Walker to address her concerns. She wanted a fence that was more expensive than the in-kind replacement, so she agreed to pay the difference. The City executed an agreement with Ms. Walker and collected the difference in costs for the more expensive fence, and the fence had been ordered. Therefore, the City Manager believed that issue had been resolved. However, the City Manager said that Ms. Walker had one remaining issue related to boundary lines that would take several months to complete through a process with the City Council to take a sliver of her property that would become City right-of-way because of the location of the wall. The City Manager explained that when the work began, the road was not in the exact right place, so some additional was needed as the improvement were underway. The City Manager understood that Ms. Walker was anxious to have this finished, but the City Manager said this work takes time and there was survey work remaining to finished with the City Attorney's office.

The City Manager also updated the Council about concerns related to call volume and staffing concerns at the Fire Department. The week of this meeting, the Keene Fire Department Union representatives presented data related to call volume and the need for additional staffing; there

would be another meeting in two weeks. The City Manager said the plan is to review the staffing report that was created a couple of years ago and compare that data to current data to determine what has changed. The City Manager had also requested data related to call coverage by the Cheshire County EMS system.

Next, the City Manager updated the Council on three solar projects they approved that Revision Energy was developing. The two small projects—one at Rose Lane and one at Monadnock View Cemetery—involved use of a small parcel of land to develop solar projects for local nonprofit off takers. The City Manager stated that these are not City off takers and that City's accounts are not tied to this; these are for non-profits. Revision Energy is working with Keene Housing for the Rose Lane project and Cedarcrest for Monadnock View Cemetery due to the proximity. In both cases, these are unusable parcels of property that will generate a small lease payment for the City and support a local nonprofit. These nonprofits will purchase the energy. These projects could come online in 2025. The City Manager said the third project at the Dillant Hopkins Airport is much larger at approximately 1/3 of a MW to offset a significant portion of electricity used at the Airport by all of the users. This project is also looking at the possibility of EV charging for aircraft. The next step in the process includes site survey and plan development, which would happen over the coming months and then would appear before the Planning Board for review by the end of 2024, but the City Manager said it would be another year before any construction.

Lastly, the City Manager shared some creative work from the Highway Division crew related to benches. Recently, there had been repeated incidents of vandalism involving the benches on Gilbo Avenue to the extent that some were even uprooted and overturned. In response, the Highway team—likely motivated by both the need to address the damage and their frustration with the ongoing issues—took the initiative to fabricate durable granite benches using extra blocks and recycled curbing from the City's material yard. They created new, more resilient benches. The posts have been securely buried for stability, and the tops have been affixed using exterior-grade construction adhesive to ensure longevity, trying to make them as strong as possible. The City Manager thanked the Highway team for their resourcefulness and commitment to maintaining the City's public spaces.

REPORT – ACCEPTANCE OF DONATIONS

A report read from the Finance Director, Merri Howe, recommending that the City Council accept the donations listed below and that the City Manager be authorized to use each donation in the manner specified by the donor. A motion by Councilor Powers to carry out the intent of report was duly seconded by Councilor Remy. The motion carried unanimously with 15 Councilors present and voting in favor. Mayor Kahn and the Council expressed their thanks to the donors.

FOP REPORT – MORE TIME – JARED GOODELL – PLEDGE OF DONATION FOR THE PURCHASE AND INSTALLATION OF A SAFE HAVEN BABY BOX

A Finance, Organization, and Personnel Committee report read, unanimously recommending putting this item on more time. Mayor Kahn granted more time.

ORDINANCES FOR FIRST READING – RELATING TO WINTER MAINTENANCE
PARKING RESTRICTIONS – ORDINANCE O-2024-14

A memorandum read from the Assistant Public Works Director, Duncan Watson, recommending that the City Council refer Ordinance O-2024-14 to the Municipal Services, Facilities, and Infrastructure Committee. The memorandum was filed into the record. Mayor Kahn referred Ordinance O-2024-14 to the Municipal Services, Facilities, and Infrastructure Committee.

ORDINANCE FOR FIRST READING – RELATIVE TO MINIMUM LOT SIZES IN THE
MEDIUM DENSITY, HIGH-DENSITY, AND DOWNTOWN TRANSITION DISTRICTS –
ORDINANCE O-2024-17

A memorandum read from Mari Brunner, Senior Planner, recommending that the City Council refer Ordinance O-2024-17 to the Joint Committee of the Planning Board and the Planning, Licenses, and Development Committee for a public workshop. The memorandum was filed into the record. Mayor Kahn referred Ordinance O-2024-17 to the Joint Committee of the Planning Board and the Planning, Licenses, and Development Committee for a public workshop.

ORDINANCE FOR SECOND READING – RELATING TO AN AMENDMENT TO LAND
DEVELOPMENT CODE – CHARITABLE GAMING FACILITY – ORDINANCE O-2023-16-B

A Planning, Licenses, and Development Committee report read, recommending the adoption of Ordinance O-2023-16-B. The report was filed into the record. A motion by Councilor Bosley to adopt Ordinance O-2023-16-B was duly seconded by Councilor Jones.

Councilor Favolise stated that he had worked hard on some remarks but would just paraphrase and give an abridged version because the hour was drawing late. The Councilor stated that there are some parts of this Ordinance that he likes a lot. He said he had long believed—even before he got on the Council—that we should be preserving downtown parking and that preserving downtown parking means preserving downtown parking that can actually be used by everybody and that is not going to be taken up by a specific use or monopolized by a specific business downtown. So, he said that to the extent that this Zoning Ordinance that was in front of the Council would accomplish that, he supported it. Councilor Favolise said he could also support some of the provisions around not having flashing neon dollar signs across from elementary schools. He said there are some commonsense parts of this Ordinance that he likes. That said, Councilor Favolise stated that there is a lot about this Ordinance he does not like as well. He said he did not want to belabor this point because he had certainly shown up at Joint Committee and said that he thinks the restrictions related to electric vehicle charging stations are unfair. He thinks some of these restrictions target a specific business that some Councilors or community members would not patronize in their free time. Councilor Favolise said that is fine and that he had heard some arguments—certainly at the last PLD meeting—that people are gambling irresponsibly, and that irresponsible gambling is a problem. He said he does not necessarily disagree with that, and that people do a lot of things irresponsibly, including drinking irresponsibly and yet bars in the Land Development Code do not seem to come in for quite as much scrutiny as this charitable gaming use would.

Councilor Favolise continued, stating that he does recognize that there has been a lot of compromise, and there has been a lot of work on the part of PLD, the Planning Board, City staff, and certainly members of the public showing up and getting involved. This has been a long process. He said that if this Ordinance is going to take effect, then he wants to make sure that it is the best possible version of this Ordinance, regardless of whether he ends up voting for it or not. He said there is one use standard in the Ordinance that has bothered him from the beginning, since he first started reviewing, and it continues to bother him because even some of the use standards in the Ordinance such as the minimum square footage, that he does not like and that he does not personally support, he can see how they are related to and germane to the use. The inclusion of an electric vehicle charging station minimum within the Ordinance when the City does not do that for any other use in the Land Development Code, and which the City does not have an overarching policy for—although he stated that he understands that the Energy and Climate Committee is working on something to bring forward to Council at some point that would be an overarching policy for the Land Development Code—he said the City does not have that right now. So, Councilor Favolise stated that he thinks singling out casinos as the only use where the City is applying this standard is arbitrary and he stated that the City’s Zoning Code can be a lot of things, its Zoning Code can include parts that he does not like and that individual Councilors do not like, but Councilor Favolise said it should not be arbitrary. With that, he looked to the City Attorney for guidance on the exact language needed to amend the proposed Ordinance to strike the language requiring electric vehicle charging stations.

The City Attorney confirmed that Councilor Favolise was opposed to the Parking and Traffic Standard in subparagraph six of the proposed Ordinance, which says that “2% or two of the required parking spaces, whichever is greater, shall be equipped with electric vehicle charging stations.” Councilor Favolise confirmed that he wanted to strike that quoted standard from the proposed Ordinance. The City Attorney noted that from his perspective, that would be a material change of the Ordinance, which would require the Ordinance to go back through the Joint Committee process for public comment.

A motion by Councilor Favolise to amend the proposed Ordinance by deleting subparagraph six of the Parking and Traffic Use Standards from the Ordinance was duly seconded by Councilor Jones.

Councilor Favolise said he recognized that Chair Bosley, the PLD Committee, and the Planning Board had done a lot of hard work, and he said it was not his intent to needlessly throw this back a step in the process. He said he does think, though, that the Council needs to be thoughtful about the process here. He said this is not about charitable gaming facilities, this is not about electric vehicles, this is about the process and how we should be applying different aspects of our Zoning Code, and whether we should be applying specific standards to specific uses that Councilor Favolise said would probably be better for us to discuss having a policy that is Land Development Code-wide. So, Councilor Favolise urged the Council—as painful as he said he knew it was going to be for PLD and the Planning Board, and he did apologize, if this amendment passed—to join him in supporting this amendment so they could get this Ordinance closer to its best version.

Councilor Lake understood Councilor Favolise's point about this being the only spot in the Land Development Code with this requirement. However, Councilor Favolise did allude to the fact that in Keene's Clean Energy Plan it says that the City would develop guidelines around EV infrastructure within the City. Councilor Lake said it was something he had been investigating as part of the Energy and Climate Committee and he thought this was a good first step to actually getting that into the Land Development Code. He said this is not an uncommon piece of legislation around the country; there are cities and towns all around the U.S. that are putting this into their land development codes, with very similar language. So, Councilor Lake said thought this would be good legislation and did not see a need to remove it.

Councilor Greenwald asked the City Attorney how material the EV parking requirement was to the rest of the work in the charitable gaming Ordinance. He inquired whether this language could be deleted without triggering the entire process to be redone. The City Attorney replied that he was only stating his opinion for the Council to do with it what it wanted. The City Attorney's answer to the Councilor's question was that the City Attorney did not know. The City Attorney continued, by stating that the public had an opportunity to review the Ordinance and the public may or may not have some opinion with respect to the electric charging stations. He said it would be a fairly significant change from his perspective in terms of the substance of the information, even though it does not sound like much. So, the City Attorney's suggestion was that it would need to through the process again, but that was the Council's decision to make.

The City Attorney stated that in his opinion, the practice of the Council had been—and he thought appropriately so—that unless there is a fairly small change or Scrivener's error, more substantive changes like deleting a use standard from an Ordinance that had been publicly vetted and that the public had an opportunity to speak to at a public hearing, should go back to the process so that the public has an opportunity to do that again. The public could not do that during this Council meeting. The City Attorney's opinion was that if the amendment passed, putting it back into the public Joint Committee process would be the safest course of action, but he said the Council could seek the Community Development Director's advice too. Mayor Kahn asked if referral to the Joint Committee needed to be added to the motion to amend and the City Attorney said no, if the amendment passed, from his perspective, then it should go back to the Joint Committee.

Councilor Roberts agreed with Councilor Lake that when traveling around the country, you will see a lot of new developments (housing, business, hotels, etc.) with these charging stations, with some getting government tax credits. Councilor Roberts noted that Keene has 2030 and 2050 clean energy goals and it is almost 2025, so he did not see why this should be a one off standard. He said it should be in every plan going forward to meet the City's goals, while the City is hard pressed to meet its 2030 goals. So, Councilor Roberts said the Council should keep the standard in the Ordinance and move on.

Councilor Remy said he did not like that the standard was in this Ordinance as a one off, as he thought it should be in everything because he thought it would be a good practice overall. While he did not think the amendment would be a major change to the Ordinance because he did not recall many public comments on this throughout the process except from Councilor Favolise.

However, Councilor Remy said he could not recall the Joint Committee discussing to remove it either. He asked if it could not go to PLD with open comment instead of the Joint Committee, because if it goes to the Joint Committee it has to come to the City Council and PLD and back to Council again.

Councilor Bosley replied that unfortunately, with a material change to the Ordinance, the Planning Board needs to vote on whether the change complies with the Master Plan, which is why it would have to go back to Joint Committee. She recalled that more members of the Planning Board than the PLD Committee were interested in eliminating this standard. Councilor Bosley stated that she had noted her objections to the Joint Committee several times for this particular reason, because the Planning Board's membership outweighs the PLD Committee's in that forum. So, she recalled discussion about this use standard, and she thought it was reduced to what was in the proposed Ordinance before the Council. Councilor Bosley agreed with Councilor Roberts that the proposed Ordinance moved the City in the direction of meeting its goals and she thought it was important for the Council to move in that direction. Still, after hearing from Councilor Favolise, Councilor Bosley said that if there would be a recommendation coming from the Energy and Climate Committee on a plan for this to be implemented across the Land Development Code in all uses, Councilor Bosley agreed that would be a much more appropriate way of managing this issue, versus assigning these erratically to uses as they come up. She referred back to developing the Cottage Court Ordinance and Councilor Madison's concern about Airbnbs, and the consultant's advice to not muddy the Ordinance with that type of restriction on short term rentals and to create an ordinance relating to the use of Airbnbs that covered the City as a whole. Councilor Bosley said she thought that was what the Council was getting at here too. She said she did not want to see this keep coming around on her agenda for three more months, so she said she would support Councilor Favolise's plan to remove it if it was accompanied by a plan to apply this more generally across all new uses in the Land Development Code, which she said would be more appropriate.

The City Attorney said that Councilor Bosley made an excellent point in that the Planning Board is statutorily is required to make a determination as to whether the Ordinance is in compliance with the Master Plan. The City Attorney could not tell the Council whether the Planning Board would make an opinion one way or the other on this, but he said that if the amendment passed, this would really need to go back into the Joint Committee process for that statutory reason alone.

Councilor Workman said that without having the general Land Development Code address this, the optics made her cringe because it looked as though the City was targeting one specific type of establishment. She said she understood that there was something in the works with the Energy and Climate Committee, but without that, she did not feel comfortable imposing this on one specific type of business at this time. So, Councilor Workman supported the amendment so it could go back to the Joint Committee for more discussion.

Councilor Greenwald stated that he agreed with the City Attorney.

Councilor Madison said this had been discussed ad nauseum, noting that it was a 2023 Ordinance, and it was approaching 2025. The Councilor expressed his discontent at how long this process might end up going on for. He said this needs to move forward because there had been ample time for Councilors and the public to comment on the Ordinance. Councilor Madison expressed that he was very unhappy with what he felt was a last-minute amendment when this had been discussed ad nauseum.

Councilor Haas said that there are plenty of other differences in the use standards between different occupancies. He said this is a new defined occupancy and that it is time to move forward into the future, which means bringing in electric charging stations where parking is required. Councilor Haas anticipated that any new occupancy that comes before the Council will have an obligation to provide electric charging stations as part of the parking. So, he thought this would be the first step in a direction that the City was going to go anyhow.

Councilor Williams supported including the electric charging stations because parking lots have a lot of negative environmental impacts, and this is a way of mitigating those. He was also concerned that without electric charging stations at the casinos, when people go and spend their whole day and need to plug in their cars, they will need to find some other charging stations in the City, which will limit the City's overall capacity. Councilor Williams noted that the City was looking into grants and probably having to spend money at some point on these charging stations, so he said this seemed like a good way to start.

Mayor Kahn commented that these charging stations are all over Europe.

On a vote of 8–7, the motion to amend the proposed Ordinance by deleting subparagraph six of the Parking and Traffic Use Standards carried. Councilors Tobin, Williams, Haas, Madison, Roberts, Lake, and Powers voted in the minority.

The City Attorney suggested a motion referring the Ordinance back to the Joint Committee to see if it would pass, and otherwise, it would revert to the main motion on the Ordinance.

A motion by Councilor Bosley to refer Ordinance O-2023-16-B to the Joint Committee of the Planning Board and the Planning, Licenses, & Development Committee was duly seconded by Councilor Jones.

Discussion ensued briefly to confirm that it would be in the background notes that there was an overall suggestion for this EV standard to be applied more generally across the Land Development Code.

The motion to refer Ordinance O-2023-16-B to the Joint Committee of the Planning Board and the Planning, Licenses, & Development Committee carried on a vote of 13–2. Councilors Madison and Roberts voted in the minority.

Councilor Madison stated his hope that those who decided this was the best time to discuss this matter would make their thoughts heard at the next several public meetings instead of at the last minute.

Councilor Roberts asked—hypothetically—what would happen if the Planning Board decides the two EV charging stations must remain in the Ordinance and the Council disagrees. Would it keep going back-and-forth? The City Attorney said that is not hypothetical, it is certainly possible, as the Planning Board would have to decide that the Ordinance as a whole—including or not including this language—is in compliance with the Master Plan. That is the Planning Board’s function.

Councilor Remy stated that he thought the Planning Board would have a hard time finding this Ordinance—as it was proposed at this time—not in compliance with the Master Plan. He said it is a black-and-white decision of yes-or-no it is in compliance or not.

Councilor Bosley asked, if the Joint Committee ultimately keeps the EV charging stations in the Ordinance, since there would have been no official material change, would the public hearing process have to reoccur or could the Ordinance return directly to Council. The City Attorney replied that the Council’s process is to appoint the Joint Committee for that public hearing process.

Councilor Favolise stated that while he could not speak for any other Councilor, he could certainly say that the minutes of the PLD, Planning Board, and Joint Committee meetings will reflect his presence there raising the question about the EV charging stations. So, for the benefit of members of the public who maybe do not inspect the minutes of the PLD, Planning Board, and Joint Committee, Councilor Favolise wanted to make that clear.

ORDINANCE FOR SECOND READING – RELATING TO AMENDMENTS TO THE CITY OF KEENE LAND DEVELOPMENT CODE, DEFINITION OF CHARITABLE GAMING FACILITY – ORDINANCE O-2023-17-B

A Planning, Licenses, and Development Committee report read, unanimously recommending the adoption of Ordinance O-2023-17-B. Mayor Kahn filed the report. A motion by Councilor Bosley to adopt Ordinance O-2023-17-B was duly seconded by Councilor Jones.

The City Attorney advised that because this is not technically a part of the Zoning Ordinance this would not go through the Joint Committee process so it should be referred back to the PLD Committee.

A motion by Councilor Bosley to refer Ordinance O-2023-17-B to the Planning, Licenses, and Development Committee was duly seconded by Councilor Filiault. On a vote of 13–2, the motion carried. Councilors Madison and Roberts voted in the minority.

RESOLUTION – IN APPRECIATION OF JASON K. THOMPSON UPON HIS RETIREMENT – RESOLUTION R-2024-30

A memorandum read from the HR Director, Elizabeth Fox, recommending the adoption of Resolution R-2024-30, in honor of Jason K. Thompson’s retirement after 18.5 years of service to the City with the Keene Police Department. A motion by Councilor Powers to adopt Resolution R-2024-30 with appreciation was duly seconded by Councilor Bosley. The motion carried unanimously with 15 Councilors present and voting in favor.

09/19/2024

RESOLUTION – IN APPRECIATION OF MARY F. LEY UPON HER RETIREMENT –
RESOLUTION R-2024-31

A memorandum read from the HR Director, Elizabeth Fox, recommending the adoption of Resolution R-2024-31, in honor of Mary F. Ley’s retirement after 15 years of service to the City with the Public Works Department. A motion by Councilor Powers to adopt Resolution R-2024-31 with appreciation was duly seconded by Councilor Bosley. The motion carried unanimously with 15 Councilors present and voting in favor.

TABLED ITEMS – REQUEST TO ACQUIRE PROPERTY LOCATED AT 0 WASHINGTON
ST. EXTENSION FOR CONSERVATION PURPOSES – CONSERVATION COMMISSION

Mayor Kahn noted that this was a housekeeping matter that he was taking from the table. The request was tabled at the July 18 Council meeting to the August 1 Council meeting. The Council neglected to take it from the table at their August 1 meeting, so this was to correct that omission by filing the request into the record as informational.

ADJOURNMENT

There being no further business, Mayor Kahn adjourned the meeting at 9:45 PM.

A true record, attest: 

City Clerk