



City of Keene
New Hampshire

KEENE CITY COUNCIL
Council Chambers, Keene City Hall
October 4, 2018
7:00 PM

Roll Call
Pledge of Allegiance

MINUTES FROM PRECEDING MEETING

- September 20, 2018

A. HEARINGS / PRESENTATIONS / PROCLAMATIONS

1. Presentation of Retirement Resolution - Elizabeth Sayre

B. ELECTIONS / NOMINATIONS / APPOINTMENTS / CONFIRMATIONS

1. Nomination
Energy and Climate Committee

C. COMMUNICATIONS

D. REPORTS - COUNCIL COMMITTEES

1. Roxbury Street Bridge Replacement – Selection of Preferred Alternative – Public Works Department
2. Cheshire Coalition for Tobacco Free Communities – Raising the Legal Minimum Age for the Sale and Possession of all Tobacco and Nicotine Products

E. REPORTS - CITY OFFICERS AND DEPARTMENTS

1. City Manager Comments
2. West Street Well Repairs - Public Works Department

F. REPORTS - BOARDS AND COMMISSIONS

1. Monadnock Conservancy - Conservation Easement Fees for 105 Daniels Hill Road Property

G. REPORTS - MORE TIME

H. ORDINANCES FOR FIRST READING

I. ORDINANCES FOR SECOND READING

J. RESOLUTIONS

Non Public Session
Adjournment

A regular meeting of the Keene City Council was held Thursday, September 20, 2018. The Honorable Mayor Kendall W. Lane called the meeting to order at 7:00 PM. Roll called: Carl B. Jacobs, Janis O. Manwaring, Thomas F. Powers, Terry M. Clark, Randy L. Filiault, Bartolmiej K. Sapeta, Margaret M. Rice, Robert B. Sutherland, George S. Hansel, Gary P. Lamoureux, Stephen L. Hooper, Philip M. Jones, David C. Richards, and Mitchell H. Greenwald were present. Councilor Bettina A. Chadbourne was absent. Councilor Clark led the Pledge of Allegiance. A motion by Councilor Greenwald to accept the minutes from the September 6, 2018, regular meeting was duly seconded. The motion passed with a unanimous vote in favor.

ANNOUNCEMENTS

The Mayor announced the Planning, Licenses and Development Committee meeting for September 26th has been canceled to allow the Municipal Services, Facilities and Infrastructure Committee to use the full Council Chambers that evening.

The Mayor continued that October 18th City Council Meeting is canceled as he and several councilors will be in Einbeck, Germany with Keene's Sister City. The Standing Committee meetings scheduled for October 10th and October 12th are being canceled as well.

The Mayor reminded the Council that the registrations will soon close for the Radically Rural Summit on September 27 and 28. The Partner City Committee is having their community night fundraiser with a German Dinner on September 25 at the Fireworks Restaurant.

The Mayor invited the Councilors to attend the annual Fire Prevention Parade on Sunday, October 7 at 1:00 PM. The viewing stand will be located on Railroad Square. Also the Councilors were invited to attend the Annual Inspection Dinner at Central Station on October 11 at 6:00 PM.

PRESENTATION – ROXBURY STREET BRIDGE REPLACEMENT PROJECT

Mayor Lane recognized Civil Engineer Brett Rusnock who was accompanied by representatives from the design consulting firm, McFarland Johnson. Mr. Rusnock explained that Josh Lund, Transportation Structures Manager, and Brian Colburn, Senior Transportation Engineer were present this evening to go over the planned Roxbury Bridge Replacement project scheduled for next year.

With the aid of a PowerPoint, Mr. Lund explained that this bridge is being funded and designed through the State Bridge Aid Program, and is scheduled for construction in 2019. He went on to point out the location of the bridge on a displayed map. He also showed an elevation view of the bridge showing the deterioration that has put this list on the Municipal Red List at the State. Issues include that the superstructure of the bridge is rated "poor", the substructure is rated "serious" due to deteriorated concrete and the need for a replacement box. He described the dimensions of the bridge and noted that the area where the bridge is located will be widened from 16 feet to 22 feet for better hydraulics. Mr. Lund went on to show an aerial view of the construction zone, noting the project scope will also include utility reconstruction, paving and sidewalks. Mr. Lund stated the sewer line under the bridge will be relocated to provide better

water flow was well. Mr. Lund stated the volume of traffic on the bridge is 5,300 vehicles per day. In terms of the associated utility work, this will involve moving above ground utilities below ground. Gas, sewer and water lines will also be replaced in the vicinity of the bridge.

Mr. Lund went on to describe the two options that were before the Council for construction. Option one is an Accelerated Bridge Construction (ABC), which would encompass a 30 to 60 day timeframe during which the entire bridge would be closed, including sidewalks. This gives the contractor full access to the site and expedites the process. Option two is a phased construction, which would maintain access by one lane of traffic during the entire process of construction. This option would take four to six months. Mr. Lund went over the detours or traffic signals that would be necessary during the construction period for each option.

He stated that a neighborhood meeting was held on September 5, 2018 and those attending preferred the short-term closure presented in option one. There were concerns not only with traffic but with flooding during the longer construction duration in option two. Residents also preferred the Beaver Street detour over the originally suggested Spring Street detour. Finally, residents prefer that an aesthetic rail be installed to replace the chain link fence that is currently there. He also noted that meetings have been held with the Fire and Police Departments and they also felt that option one was the best alternative for traffic and safety. Concerns with access to the area have been addressed to the satisfaction of the emergency services personnel as well.

Mr. Lund stated they are recommending the City move forward with option one for several reasons. He went over the reasons including: cost savings, less vehicular traffic impact, pedestrian access, constructability, etc. At this point Mr. Lund stated he would be happy to answer any questions.

Mayor Lane asked when this project would start. Mr. Lund stated that is still under discussion. They are looking at the timeframe when school is out of session in July/August. This is also a time we are less likely to experience flooding issues.

Councilor Jones asked if they would dredge the area to provide more flood storage. Mr. Lund stated the area is cast concrete so they would not be able to dredge. He added there is enough flow to keep sediment from building up.

Councilor Sutherland asked for clarification regarding the width of the bridge. Mr. Lund stated they will be widening the footprint of the bridge from 16 feet to 22 feet.

Councilor Sapeta asked the design consultant to consider the design of the bridge and the fencing to include an artistic aesthetic.

Mayor Lane thanked the presenters for their presentation and stated this will be before the Municipal Services, Facilities and Infrastructure Committee next week for consideration.

CONFIRMATION

A motion was made by Councilor Greenwald and duly seconded to confirm the following nomination: Joshua A. Greenwald to serve as a regular member of the Zoning Board of Adjustment, with a term to expire December 31, 2020. On a roll call vote, with 14 Councilors present and voting in favor the nominations were confirmed. Councilor Chadbourne was absent.

COMMUNICATION – JONATHAN SHAER/NEW ENGLAND CONVENIENCE STORE AND ENERGY MARKETERS ASSOCIATION – IN OPPOSITION TO RAISING THE MINIMUM LEGAL AGE OF PURCHASE FOR TOBACCO AND NICOTINE PRODUCTS FROM 18 TO 21

A communication was received from Jonathan Shaer, of New England Convenience Store and Energy Marketers Association, submitting a petition with 332 signatures stating their objection to the proposal to raise the minimum legal age of purchase for tobacco and nicotine products from 18 to 21. The communication was filed into the record.

MSFI REPORT – CAMERON TEASE/KEENE SENIOR CENTER – ELIMINATION OF A PARKING SPACE ON COURT STREET

Municipal Services, Facilities and Infrastructure Committee report read recommending staff implement the proposed plan north of the driveway and draft an ordinance to eliminate a space south of the driveway at 70 Court Street. A motion by Councilor Manwaring to accept the intent of the report was duly seconded. The motion passed with a unanimous vote in favor.

MSFI REPORT – REVISIONS TO KEENE’S ENFORCEMENT RESPONSE PLAN FOR THE INDUSTRIAL PRETREATMENT PROGRAM

Municipal Services, Facilities and Infrastructure Committee report read recommending the City Council approve this update to the proposed revised enforcement response plan and direct staff to do all things necessary to submit this plan to the EPA. A motion by Councilor Manwaring to accept the intent of the report was duly seconded. The motion passed with a unanimous vote in favor.

MSFI REPORT – KATIE SCHWERIN – PROPOSAL FOR PERMANENT ART INSTALLATION – AIRPORT PROPERTY

Municipal Services, Facilities and Infrastructure Committee report read recommending the City Council accept the proposed public art display by Katie Schwerin, Mount Monadnock Labyrinth, to be placed at the Keene City Airport and to authorize the City Manager to do all things necessary to implement the project. A motion by Councilor Manwaring to accept the intent of the report was duly seconded. The motion passed with a unanimous vote in favor.

PLD REPORT – ATTORNEY HOMER S. BRADLEY, JR. – REQUEST TO UNMERGE LOTS – 15 AND 19 GIFFIN STREET

Planning, Licenses and Development Committee report read recommending that the lots currently located at 15 and 19 Giffin Street be unmerged in accordance with the request from

Attorney Bradley, and as provided by RSA 674:39-aa. A motion by Councilor Richards to carry out the intent of the report was duly seconded. The motion passed with a unanimous vote in favor.

PLD REPORT – STEVE PIISPANEN/KEENE AUTO BODY – REQUEST TO DISCHARGE FIREWORKS

Planning, Licenses and Development Committee report read recommending that Keene Auto Body, Inc. be granted permission for the discharge of fireworks on Saturday, September 29th on a site to be coordinated with City staff no later than 10:00 PM subject to the customary licensing requirements of the City Council; submittal of a signed letter of permission from the appropriate property owner for use of the property; and obtainment of a Class B fireworks permit for the display date. Said permission is subject to approval of the site and display from the appropriate City Departments and other regulatory agencies. This permission is conditional upon the Petitioner absorbing the charges for any City services provided. Said payment shall be made within 30-days of the date of invoicing. A motion by Councilor Richards to carry out the intent of the report was duly seconded. The motion passed with a unanimous vote in favor.

PLD REPORT – PEG BRUCE/KIWANIS CLUB OF KEENE – REQUEST TO USE CITY PROPERTY – TREE LIGHTING EVENT

Planning, Licenses and Development Committee report read recommending that the Keene Kiwanis Club be granted permission to use downtown City rights-of-way on November 23, 2018 for the Tree Lighting Festival from 5pm to 8pm conditional upon the customary licensing requirements of City Council, and that the Petitioner complies with any recommendations of City staff. In addition, the Petitioner is granted permission to erect a holiday tree on the Main/Marlboro/Winchester Street roundabout, and to decorate the downtown light poles on a date to be determined in conjunction with City staff. The Petitioner agrees to absorb the cost of any City services over and above any amount of City funding allocated in the FY 19 Community Events Budget. Said payment shall be made within 30-days of the date of invoicing. A motion by Councilor Richards to carry out the intent of the report was duly seconded. The motion passed with a unanimous vote in favor.

PLD REPORT – ANNUAL FIRE PREVENTION PARADE – FIRE DEPARTMENT

Planning, Licenses and Development Committee report read recommending that the Fire Department be granted permission to use City property for the 2018 Annual Fire Prevention Parade to be held on Sunday, October 7, 2018. A motion by Councilor Richards to carry out the intent of the report was duly seconded. The motion passed with a unanimous vote in favor.

FOP REPORT – ACCEPTANCE OF A DONATION – FIRE DEPARTMENT

Finance, Organization and Personnel Committee report read recommending the City Manager do all things necessary to accept a donation of \$1000.00. A motion by Councilor Greenwald to carry out the intent of the report was duly seconded. The motion passed with a unanimous vote in favor.

FOP REPORT – ACCEPTANCE OF A DONATION – FIRE DEPARTMENT

Finance, Organization and Personnel Committee report read recommending the City Manager do all things necessary to accept a donation of \$25.00. A motion by Councilor Greenwald to carry out the intent of the report was duly seconded. The motion passed with a unanimous vote in favor.

FOP REPORT – ACCEPTANCE OF FUNDS FROM CHESHIRE COUNTY – YOUTH SERVICES

Finance, Organization and Personnel Committee report read recommending the City Manager be authorized to do all things necessary to accept and administer funds provided by Cheshire County for Youth Services programs. A motion by Councilor Greenwald to carry out the intent of the report was duly seconded. The motion passed with a unanimous vote in favor.

FOP REPORT – ACCEPTANCE OF NATIONAL LEADERSHIP LIBRARY GRANT FROM THE INSTITUTE OF MUSEUM AND LIBRARY SERVICES – LIBRARY DEPARTMENT

Finance, Organization and Personnel Committee report read recommending the City Manager be authorized to do all things necessary to accept a \$244,142 Institute of Museum and Library Services National Leadership grant. A motion by Councilor Greenwald to carry out the intent of the report was duly seconded. The motion passed with a unanimous vote in favor.

FOP REPORT – INTENT TO SELL FORMER ALPS PROPERTY - AIRPORT DEPARTMENT

Finance, Organization and Personnel Committee report read recommending the City Manager be authorized to do all things necessary to proceed with the Notice of Intent to Sell the former ALPS property. A motion by Councilor Greenwald to carry out the intent of the report was duly seconded. The motion passed with a unanimous vote in favor.

FOP REPORT – GILBO EAST PARKING LOT – FUNDS FOR UNDERGROUND STORAGE TANK – PUBLIC WORKS DEPARTMENT

Finance, Organization and Personnel Committee report read recommending that the City Council reallocate \$25,000 from the unspent balance of the Jordan Road Rehabilitation Project (90249) to the Gilbo East Parking Lot Improvement Project (90153). A motion by Councilor Greenwald to carry out the intent of the report was duly seconded. The motion passed with a unanimous vote in favor.

FOP REPORT – CITY HALL MURAL – PARKS, RECREATION AND FACILITIES DEPARTMENT

Finance, Organization and Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to accept the donation of a mural located on the

north side of City Hall through the Walldogs project scheduled for summer 2019. A motion by Councilor Greenwald to carry out the intent of the report was duly seconded. The motion passed with a unanimous vote in favor.

FOP REPORT – SALE OF TAX DEEDED PROPERTIES – PARKS, RECREATION AND FACILITIES DEPARTMENT

Finance, Organization and Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to execute the sale of tax deeded properties at 54 Stanhope Avenue and 15 Cross Street. A motion by Councilor Greenwald to carry out the intent of the report was duly seconded. The motion passed with a unanimous vote in favor.

FOP REPORT – LAND ACQUISITION REQUEST – BEAUREGARD PROPERTY OFF CHAPMAN ROAD (TMP# 241-018-000 000-000) – CONSERVATION COMMISSION

Finance, Organization and Personnel Committee report read recommending the City Manager be authorized to do all things necessary to negotiate the purchase of 27.5 acres of land off Chapman Road belonging to the Beauregard family. A motion by Councilor Greenwald to carry out the intent of the report was duly seconded. The motion passed with a unanimous vote in favor.

FOP REPORT – COUNCILORS GREENWALD AND RICHARDS – USE OF REMAINING FUND BALANCES AT THE END OF THE FISCAL YEAR

Finance, Organization and Personnel Committee report read recommending accepting this item as informational. The Chair filed the report into the record as informational.

CITY MANAGER COMMENTS

The City Manager congratulated Andy Bohannon, Parks, Recreation and Facilities Director, as the winner of this year's Wink Tapply Professional Award. This award is the highest professional honor awarded by the New Hampshire Park and Recreation Association. It's named for Richard Wink Tapply who was highly regarded individual in New Hampshire, for his contributions to improving recreational opportunities in local and state government. She was proud that Mr. Bohannon has received this award.

The City Manager announced that the City was awarded the Safe Route Grants and that the Jonathan Daniels School will be benefitting from the Safe Route to School Grant. The City also received word from New Hampshire Department of Transportation that the project is in the final phase of the grant that was received in 2016 to benefit students who live within walking and biking distance of the schools. The City plans to hire a temporary part-time contract to conduct the scope of work which includes developing educational materials, conducting a survey for residents in the area, and working with the school to coordinate a walk/bike to school day event in the spring of 2019.

The City Manager welcomed home 3 out of 4 of Keene firefighters who were deployed to assist North Carolina. The New Hampshire team was still working in Pittsboro, NC. The team

consisted of Deputy Chickering, Firefighter Cate, and Firefighter Holmes. They were deployed as the Swift Water Group. The fourth member, Lieutenant Phillips still has not returned yet, as he is part of FEMA crew. He remains active in working to remove people from the flooded areas of NC. The units are working in Riegelwood, NC and are expected to be there for a couple more days. She wanted to recognize these four individuals, who volunteered to be deployed, and those who remained back here who took their positions and shifts while they were gone.

MORE TIME

More time was granted by the Chair for the following items in Committee: Daron Friedman – Request to Acquire Property – Washington Street; Christine and Edward Sweeney – Offer of Donation to the City – Land at 0 Apollo Avenue.

MEMORANDUM – CITY MANAGER AND ORDINANCE O-2018-19: RELATING TO PARKING

A memorandum was received from the Director of Economic Development, Initiatives and Special Projects along with Ordinance O-2018-19. The memorandum was filed into the record. Ordinance O-2018-19 was referred to the Finance, Organization and Personnel Committee.

FOP REPORT AND ORDINANCE O-2018-11: RELATING TO THE TAX LIEN PROCESS

Finance, Organization and Personnel Committee report read recommending the adoption of Ordinance O-2018-11 Relating to the Tax Lien Process. The report was filed into the record. Ordinance O-2018-11 was read for the second time. A motion by Councilor Greenwald for adoption of the Ordinance was duly seconded. On roll call vote, 14 Councilors were present and voting in favor. Councilor Chadbourne was absent. Ordinance O-2018-11 declared adopted.

RESOLUTION R-2018-30: IN APPRECIATION OF ELIZABETH C. SAYRE UPON HER RETIREMENT

Resolution R-2018-30: In Appreciation of Elizabeth C. Sayer Upon Her Retirement was read by title only. A motion by Councilor Greenwald for adoption of the Resolution was duly seconded. The motion carried with a unanimous vote in favor.

ADJOURNMENT

At 8:17 PM, there being no further business, the Mayor adjourned the meeting.

A true record, attest:


City Clerk



City of Keene, N.H.
Transmittal Form

October 2, 2018

TO: Mayor and Keene City Council

FROM: Kendall W. Lane, Mayor

ITEM: B.1.

SUBJECT: Nomination

COUNCIL ACTION:

In City Council October 4, 2018.

Tabled until the next regular meeting.

RECOMMENDATION:

I hereby nominate the following individual to serve on the designated Board or Commission:

Energy and Climate Committee

Kenneth M. Dooley, Jr., slot 1

Term to expire Dec. 31, 2018

ATTACHMENTS:

Description

Background - Dooley

Kenneth M. Dooley Jr.

Director of Buildings and Grounds
Keene School District SAU 29
77 Arch Street
Keene, NH

I was born and raised in Cheshire County and graduated from Keene High School. I attend Unity College in Unity Maine where I graduated in 2006 with a Bachelor of Science in Conservation Law Enforcement and associates in Wildlife Biology.

During college I worked for the US Army Corps of Engineers and then after college I worked for the Cheshire County Department of Corrections for almost five years. In 2011 I changed careers and began working for the Keene School District as the Supervisor of Custodial Services. Then in the summer of 2013 I changed roles in the School District and was hired as the Director of Buildings and Grounds.

Over the past 5 years as the Director I have overseen a variety of different energy projects. From simple energy contracts to complex renovations of existing buildings. Below is just a sample of some of these projects.

- Securing heating oil / propane contracts annually
- Installation of new energy management systems district wide
- Developed a district energy benchmarking program – using SchoolDude Utility Direct
- High School parking lot LED conversion (2017)
- High School Café LED conversion (2017)
- High School hallway LED conversion (2018)
- High School gym LED conversion (2018)
- Fuller Life safety and energy project (2015)
- Symonds Elementary Life Safety and energy project (2016-2017)
- Franklin Elementary Life safety and energy project (2018-2019)
- Alumni Field electric service and baseball lights (2016)

Although a majority of the project I've worked on are related to lighting I also have experience in fuel tank management and the purchasing of energy efficient equipment district wide. I bid out the district propane and heating oil each year. I'm directly involved in the decisions across the school district involving energy management and projects that have an impact on the districts energy usage.

My involvement in the School District's energy procurement, projects, and management of systems makes me a perfect representative from the Keene School District to serve on the Keene Energy and Climate Committee.



City of Keene, N.H.
Transmittal Form

September 26, 2018

TO: Mayor and Keene City Council

FROM: Municipal Services, Facilities and Infrastructure Committee

ITEM: D.1.

SUBJECT: Roxbury Street Bridge Replacement – Selection of Preferred Alternative – Public Works Department

COUNCIL ACTION:

In City Council October 4, 2018.

Vote unanimously to carry out the intent of the report.

RECOMMENDATION:

On a vote of 3-0, the Municipal Services, Facilities and Infrastructure Committee recommends that the rigid frame structure, as presented, be selected as the preferred alternative for the replacement of the Roxbury Street Bridge over Beaver Brook, and that “Accelerated Bridge Construction” be selected as the preferred construction method.

On a vote of 3-0, the Municipal Services, Facilities and Infrastructure Committee recommends that the City Manager be authorized to do all things necessary to implement the preferred structure type and construction method for the replacement of the Roxbury Bridge over Beaver Brook.

BACKGROUND:

The City Engineer introduced the consulting engineers for this project from McFarland Johnson: Josh Lund and Brian Colburn. The City Engineer said selecting an alternative is the next step in acquiring state funding for the bridge. Staff is asking the Committee to recommend the bridge type and construction method identified as Option 1 to Council. This project is not scheduled until 2019 and staff has put an aggressive deadline on the consultants to go through this process. He cannot answer questions yet about aesthetics or other fine details; they will present before this Committee again in a few months once the preliminary design is clearer. This formal action requested is necessary to continue per Department of Transportation (DOT) procedure.

Mr. Lund said the consultants developed two alternatives for replacement structures, which they briefly presented to Council the previous week. This is for bridge replacement on Roxbury Street over Beaver Brook. The consultants and staff recommend option one of two. He went on to describe each option as follows:

- Option 1: Three-Sided Precast Concrete Rigid Frame
 - This option is recommended because it will facilitate water diversion to run a pipe through that area
 - There are two construction possibilities for this option:
 - Accelerated Bridge Construction
 - 30-60 day full bridge closure
 - Signed detours to Beaver Street will be posted

- Less cost
- Easier construction – because the contractor has access to the whole site, which means fewer safety concerns
- Phased Construction
 - Maintain one lane of traffic for cars and pedestrians
 - 4-6 month construction
 - Higher cost
 - More difficult construction
 -
- Option 2: Four-Sided Precast Concrete Box
 - Not recommended because it would complicate construction and interfere with the water diversion pipe

Mr. Lund continued discussing hydraulics in Beaver Brook related to this project. Beaver Brook is a flood-prone area. At the existing bridge opening, a sewer line extends 1' above the bottom of the culvert. They propose a 22' structure that matches the flares as well as a new sewer line below the stream bed at the culvert. Still, the bridge will need a waiver from the state for 50-year flood requirements.

The City Engineer explained the two staff-proposed motions for the Committee's consideration. The first allows the City to report back to DOT with their preferred alternative. The second allows staff to continue this process, like moving forward with waiver requests that might be necessary because of conditions downstream or talking to adjacent property owners about access.

Vice Chair Filiault asked the timeframe for construction if all goes well. The City Engineer replied that construction will occur during optimum conditions, likely beginning between July 1 and August 1, 2019. Vehicles will be encouraged to detour via Beaver Street and pedestrians will be encouraged to detour via 93rd and Church Streets. Staff are also exploring where parking might need to be blocked around the construction area to ensure turning radius.

The City Attorney asked if all these infrastructure changes can occur in the existing City right-of-way. The City Engineer replied yes, though he expects some temporary construction agreements with adjacent property owners.

Vice Chair Filiault recognized Peter Hartz (Brook Street, Keene) who asked if, during construction, Roxbury Street will be open to Norway Avenue and if Norway Avenue will remain open. The City Engineer replied yes to both. Councilor Sutherland made the following motion, which Councilor Lamoureux seconded.

On a vote of 3-0, the Municipal Services, Facilities and Infrastructure Committee recommends that the rigid frame structure, as presented, be selected as the preferred alternative for the replacement of the Roxbury Street Bridge over Beaver Brook, and that "Accelerated Bridge Construction" be selected as the preferred construction method.

Councilor Sutherland made the following motion, which Councilor Lamoureux seconded.

On a vote of 3-0, the Municipal Services, Facilities and Infrastructure Committee recommends that the City Manager be authorized to do all things necessary to implement the preferred structure type and construction method for the replacement of the Roxbury Bridge over Beaver Brook.

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External Communication

Transmittal Form

September 26, 2018

TO: Mayor and Keene City Council

FROM: Municipal Services, Facilities and Infrastructure Committee

ITEM: D.2.

SUBJECT: Cheshire Coalition for Tobacco Free Communities – Raising the Legal Minimum Age for the Sale and Possession of all Tobacco and Nicotine Products

COUNCIL ACTION:

In City Council October 4, 2018.

Vote with two opposed to carry out the intent of the report.

RECOMMENDATION:

On a vote of 3-1, the Municipal Services, Facilities and Infrastructure Committee recommends to full Council that staff draft an ordinance to change the age of sale and possession of all tobacco and nicotine products from 18 years-old to 21 years-old for review and consideration by the MSFI Committee. Councilor Sutherland opposed.

BACKGROUND:

Vice Chair Filiault invited the petitioner, Kate McNally, to speak first and instructed subsequent speakers to limit their comments to three minutes when recognized.

Ms. McNally, the Program Manager for the Cheshire Coalition for Tobacco Free Communities at Cheshire Medical Center, thanked the Committee for this continued discussion about increasing the minimum age for sale and possession of tobacco and nicotine products. She said the real goal of this initiative is minimize tobacco and vaping devices in middle and high schools. Since beginning this process in July 2018, other NH towns have voted in favor of these measures and Massachusetts passed a statewide Tobacco 21 law that is now in six states. Community members have been working toward this initiative for one year, including local school programs. Keene Middle School students presented about youth tobacco threats to Mayor Lane, who still had doubts about Tobacco 21 implementation. In Dover, the program (first in the state) is working well. She appreciates this conversation and sees both sides of the issue. The biggest concerns she has heard in the community are that the City will begin criminalizing youth tobacco use. She said this community has never done that and the Coalition simply wants to help anyone who wants to quit. They want to avoid penalizing tobacco use because they know it is an addictive substance; this is not a new initiative to harass teens. She only proposes prohibiting sales to people between ages 18-21 to help keep tobacco out of schools. There are 76,000 residents of Cheshire County; 3,500 are ages 18-21 and 7,696 are under 18 years old. Thus, the goal is to improve the health and future for nearly 8,000 county residents. She said the Institute of Medicine, a trusted source, predicts a 12% revenue reduction for businesses because of this age change, which only amounts to approximately 0.5% reduction in tobacco sales overall. She said this is minimal compared to offsetting the \$735 million per year state and federal tax burden of annual health care costs. She referred to other trusted sources and endorsements, which can be found in the meeting packet. This ordinance is expected to reduce youth initiation of tobacco use 25%, which is significant for ages 15-17. She responded to the critique that if

individuals can serve their country in the military at 18 years-old they should be able to choose to smoke. Her response is that the legal age for alcohol consumption is 21 and it would be easier for clerks and retailers if these legal ages were the same. Her father was a veteran who died of tobacco use and she thinks we should give veterans the best quality of life. She said, contrary to others arguments, there is evidence that vaping leads to tobacco use. Many who never smoked before report using cigarettes because they started vaping first because they thought it was safer. Monadnock youth (46%) report borrowing vape devices from social sources, not buying them (15%). This ordinance will help reduce tobacco products—including electronic nicotine devices—that we do not want in schools. Additionally, the Coalition will offer free educational materials to stores and restaurants and will continue vendor compliance checks to ensure retailers are being responsible. She recalled that former Mayor Blastos was one of the greatest advocates of smoke-free restaurants and helped Keene set an example for the rest of the state. Initiatives like this start here locally and send a message to Concord that we want a state law. Council has always protected the youth of this community and, therefore, she hopes they will support drafting an ordinance.

Vice Chair Filiault continued the public hearing. He recognized members of the public one at a time to speak for no more than three minutes:

Jonathan Shaer, Executive Director of New England Convenience Store and Energy Marketers Association – His organization represents legislative and regulatory issues across New England. There are 20 retailers with approximately 100 employees in Keene. These stores hire locally and provide valuable services to the community; they are also the primary line of defense in restricting tobacco access to minors. He argued that increasing the legal age will only export customers to neighboring towns; this is not only about tobacco products, but all the other convenience items sold to customers when they are at stores. He said it is unrealistic to think 18-20 year olds will not drive to neighboring towns to buy the same products. Elected officials have an obligation to both businesses and general public health. He said this issue should be addressed on a more macro level; this should be directed to Concord to take action at the state level, which has limitations but would make access equal statewide. He also suggested stricter punishments for underage users or those who give tobacco to minors. He said Council should be certain this will actually limit youth tobacco use in the City before taking action to justify potential harm to local businesses. He agreed that everyone, including retailers, want to keep tobacco from minors. Still, in FY18, tobacco-related revenue in NH was \$261.3 million and state funding for cessation and education programs was \$1.3 million, only .0047% of that revenue, which he said is shameful. He said the FDA should take a science-based, thoughtful approach to increase the age nationally and Keene should allow them time to come to that conclusion.

Daniel Cavallero, Owner of Monadnock Vapors, 341 Court Street – He said the Committee has read his letters and already know how he feels about this issue. He said while it seems like there will be no significant effect on his business, that is a macro-level viewpoint; not the micro-level perspective of his business and what he will lose. He added that increasing the age will not actually solve the problem of youth tobacco use because if a person wants something they will get it despite their age; he has never sold to minors, yet the devices end up in schools. Increasing the age to 21 will create a black market and he thinks the opioid epidemic is giving the Keene Police Department enough work. It offends him as a small business owner and a libertarian, who thinks youth should make their own choices and they are adults at 18 years old.

Sierra Quigley, 7th Grade Keene Middle School Student, 9 Drummer Road – She said three important words come to mind when she hears the word tobacco: family, safety, and addiction. Tobacco harms many families and she fears it will affect hers in the future. Tobacco poses safety risks like cancer, stroke, and death at higher rates. She said 9/10 adults began smoking as minors and still smoke. Tobacco companies target youth with enticing candy-like flavor in e-cigarettes, which seem less risky but are just as addictive and unsafe. Other towns have increased the legal age and she thinks Keene should join them because the brain does not develop fully until age 25; this will allow Keene's youth more time to be healthy and make good decisions to protect their futures. She is surprised there are already 20,000 kids under 18 years-old in NH who will eventually die from smoking related illnesses. Smoking is responsible for \$506 million in productivity loss. She hopes the

Committee will consider raising the minimum age to purchase tobacco.

Andy Huneck, 50 Dover Street – He is opposed to increasing the minimum age because it will hurt local smoke and vape shops because they rely on that revenue; it will send people and tax revenue to other towns. Additionally, the legal age in NH is 18 and he does not see how it is legal to increase the age in only one jurisdiction.

Robert Call, 109 Kendall Road – He cannot support any legislation that takes rights from any NH citizens. He said it is ridiculous to advocate this will keep tobacco out of schools; he would like to know the percentage of 18 year-old high school students in NH. He said most students graduate by age 19. He said, with this line of reasoning, they should just increase the age to 30. This will not keep tobacco out of schools effectively.

Christopher Wade, 109 Kendall Road – He proposed eliminating nicotine and coffee use for everyone, not just those between ages 18-21. He said there are risks from many things in life and we do not have a right to decide what risks others choose to take. He has never smoked or drank coffee, but he does not want to take rights from others at any age. He thinks it is absurd to manipulate children, making them pawns of a school system manipulated by tax dollars and bringing them to this meeting with a script. By passing this law, kids can go to other towns and just order electronic devices online, thus sending money to other towns and businesses in other countries. His business has been affected by Supreme Court rulings that make NH businesses collect taxes for other states. He said increasing the legal age of tobacco will do the same thing effectively.

Chuck Redfern, 9 Colby Street – He said this is reminiscent of when Council voted to prohibit smoking in restaurants; Keene was the first in the state and it was controversial, but now it is a state law. He said it was a hard decision because they knew business owners would be effected but the City decided those effects were outweighed by the public health benefits. He said this should not be a debate about revenue loss or lobbyists but about public health. He agreed this should be addressed by the state but in the meantime Keene can set an example for the state as they have with many initiatives. He added that the City will not lose tax revenue because the state does not share the tobacco tax income; they keep it for their own funds. He sympathizes with small business owners who, he assumes, will be marginally affected but the City will not lose money.

Dennis Lane, Executive Director-Coalition for Responsible Retailing, MA resident – He understands this is an emotional issue for both sides. He countered Ms. McNally's assertion that this initiative will help protect young military heroes. He trains his store staff to thank veterans for their service. He never wants to tell a veteran who made the decision to serve that they cannot purchase a vaping device if they are over age 18. If individuals put themselves on the line, can vote, and can get married they should be able to choose to purchase tobacco. He does not think increasing the age will work because 15% of people buy their devices online or get them from social sources. He said that retailers are actually the first defense between tobacco and minors; he does not think retailers should be penalized for following the rules. He called for increased education in schools instead of increasing the age. His retail business is already threatened by increasing minimum wage, workers compensation, and taxes; taking even a small part of a retailer's business profitability reduces their ability to hire from the community.

Jeannine Leclerc, Integration Specialist and Wellness Coordinator-Monadnock Middle and High Schools, 20 Knight Street – In recent years, she has integrated wellness throughout all subject areas and all ages as part of a mission statement committed to providing resources to staff and students to make good life choices; based on the Youth Risk Behavior Survey. Right now, e-cigarettes are a primary topic in the high school. Area communities are high risk with 1/10 people smoking and 1/3 people vaping. She said vaping companies market to youth and design discrete devices that are indistinguishable from other objects in class, like USB drives. She loves living in this community and believes people come here because we make good decisions for greater good and health. Her parents did not know the impacts of smoking and therefore she has secondhand smoke damage. She said there is not enough information about vaping but kids are trying it and adults/teachers are struggling to combat it. Chewing tobacco is also a big problem with the students. She said this is not about Keene or

Concord but about healthy youth and communities. She said Ms. McNally has demonstrated commitment working with students on tobacco issues. She understands both sides but hopes Council will support this ordinance.

Ian Matthews, 10 Sesame Street – He said he did not have a wellness committee or child reading a script, which he said is despicable. He has asthma and COPD and has vaped for the last three years. It made a world of difference for him because he can breathe again. His fiancée has also not smoked in more than one year because of vaping. Dover made the change but Keene is a college town with a high population boom every August. Therefore, he said, this ordinance would exacerbate a lot of issues for local businesses and he does not think it will be beneficial for the City.

Pam Rogerson-Ruiz, 32 Washington Street – She said she was speaking as a mom and grandma. She is a smoker but has never smoked in the house or car with her children, which she says is why only one of her five children and none of her adult grandchildren smoke. She said while the liquor law is for age 21, there are still minors drinking every weekend. She said we do not want kids on drugs but most have marijuana. Even when things are illegal, kids will still find ways to get them whether we raise the age or not. She switched to vaping, which her 16 year-old granddaughter said is better than smoking two packs of cigarettes per day, and she agrees. She does not think increasing the age is a solution.

Richard Durkee, Senior at Keene High School, 27 Old Chesterfield Road, Spofford – He goes to Concord for the Governor's Youth Council monthly. Every time he enters a bathroom at the high school there are students vaping. He will be 18 years-old soon and many of his friends are of age and buying products; he said this age is when kids have the most pressure to fit in and have the comfort of living at home. He does not think 18 year olds are old enough to make decisions that will affect them for years to come. He does not want to go school where people are vaping on the bus or in the bathroom. He also does not want to live in a city where people can be legally exposed to addictive substances.

Ian Freeman, 63 Emerald Street – He said it is refreshing to hear the petitioner does not want tobacco prohibition but this is personal when it impacts peoples businesses. He added that doctors tell us many things are dangerous, like fast food and soda, but people should be free to make their own choices, the City should not prohibit them. Prohibition clearly does not work because youth are still accessing products and will continue to whether use and sale are limited or not. He said the solution is education and demonstrating consequences to youth. He said initial results show vaping is better and he knows many people who have used vaping to stop smoking. He suggested collaborating with law enforcement, many of whom do not think prohibition works. He agrees it will not work and creates unintended consequences.

David Souther, Meadow Road – He is a parent, resident, and community volunteer. He got involved with the Coalition in 2017 because of secondhand smoke at bus stops. He thinks increasing the legal age and restricting access by the most vulnerable is a good action to stop the cycle of nicotine addiction; it is less about tobacco and more about nicotine. Both tobacco and vapes deliver nicotine, which is why vapes are included in this category. Nicotine is physically, mentally, and behaviorally addicting making users habitually require nicotine in certain stressful situations. It is difficult to correlate brain development issues with nicotine use, but animal models show parts of the brain are developing under age 21 and are particularly vulnerable to nicotine addiction. He cited a recent study that e-cigarette vapor may be less dangerous but many of the chemicals in vapes are carcinogenic, whether the product contains nicotine or flavoring. As a veteran, he said the minimum age of military service does not equal readiness to enlist in a lifetime addiction to nicotine. Like military service, tobacco use is not a right or a privilege; nicotine is addictive and deadly and has been shown to negatively impact military readiness. He said the possible revenue losses do not counter the \$735 million in annual tobacco-related health costs adequately. He asked how much businesses are losing compared to the quality of life people you love are losing.

Bradford Hutchinson, 35 Baker Street – He supports the spirit of increasing the minimum age but he thinks it is

wrong and suggests the Committee not recommend further action to Council. He recalled a problem several years ago with products containing unlabeled chemicals sold in local stores. He agreed with the City regulating that because every store in town needs licenses. He said vaping is different. He does not think Council is the appropriate venue for these laws; the state has tobacco laws and tax but the City has no tobacco tax and does not have the legislative authority to increase the age for a product the City cannot otherwise regulate or tax. Instead, he recommended the City write a resolution or proclamation to Council to issue a statement to state legislature. The City is not the appropriate level for this and will not keep tobacco out of schools.

Daniel Cavallero, Owner of Monadnock Vapors, 341 Court Street – He thinks it is contradictory to pass an ordinance that restricts vapes when others admit we do not know enough about the risks of vaping. He said there is enough proof of vaping safety and cited a top global lung specialist who studied people vaping for 3.5 years, who never vaped or smoked previously, and found no effects at the end of the study. There is additional research from Public Health of England. He said the FDA has not been effective because studies show that vaping is at least 95% safer than smoking. He asked how the City can pass an ordinance when we do not know enough about vaping.

Skylar Rice, 238 Base Hill Road – He purchased a vape in Keene a few years ago, which he recently gave to a neighbor to encourage them to quit smoking. Vaping helped him quit smoking because you can reduce the nicotine levels over time. He said it seems politically expedient to target youth and take rights from them, but he thinks they should have freedom to make poor choices (like drinking soda or eating red meat) that carry inherent risks. He said it is ironic, in this situation, that a right like voting can be used to cause harm to one group of people by extracting rights from them.

Jay Edison, 433 Main Street, Marlborough – He is a retired physician and is amazed people are concerned about individual rights when talking about a poison. He has been involved with smoking programs at churches, prisons, and schools for many years and is involved with the Coalition. There are people suffering the effects of nicotine. He said vaping is not safer because it is purposefully flavored like candy. He cited an article from the NE Journal of Medicine (9/20/18) that said vaping devices could deliver an addictive level of nicotine without adverse user experience or other tobacco-related deterrents, which might be why 80% of 15-20 year-olds who try Juul vapes continues using them. He said they make devices like candy to trap kids into getting addicted to poison. He said more people die from nicotine than opioids, just not as fast or with the same headlines. Some of these devices are inconspicuous and look like other electronics that people can conceal readily or use on school grounds. The vaping flavors are not safe and aerosols can include volatile additive compounds that can be harmful to adolescent users. Nicotine affects the brain and vapes can be gateways to cigarette use. In April 2018, six public health organizations urged the FDA (who regulate e-cigarettes) to take action to prevent youth Juul use. He said comprehensive actions are needed for this crucial age group.

Kylie Tenney, 122 Ian Road – She is 18 years-old and already graduated high school and thus cannot bring tobacco to school. She started smoking when she was age 17 but mixed it with vaping when she turned 18 in high school. She only vaped off-campus during study hall, not at school. She said the problem is students who are already troublemakers who vape at school to make more trouble. She is not friends with anyone in high school and does not bring them vapes but there are other 18-19 year olds who might still have those friendships. She does not want to have to quit vaping because of other's bad choices.

Jonathan Shaer, Executive Director of New England Convenience Store and Energy Marketer Association – He agreed the FDA declared a vaping epidemic but they said their primary target is online sales, not local businesses. They could have suggested raising the legal age but they recognize the internet is the first place to start. He agreed everyone is against the potential harm of this product/addiction and that keeping tobacco out of schools is a good thing. He urged Council to ensure this will have the intended results for both public health and businesses before passing an ordinance.

Richard Durkee, Senior at Keene High School, 27 Old Chesterfield Road, Spofford – He responded to the

argument that this ordinance is taking rights away from individuals. He said the City needs some regulation otherwise tobacco should just be available to all kids. He does not know what the appropriate age is but thinks there does need to be an age limit. With what we know about how the brain develops, he does not think 18 is the right age for individuals to make that decision. He is unsure if 21 is the right age but it should be higher than it is now.

Skylar Rice, 238 Base Hill Road – He said this would be taking away people’s right to quit smoking, which vaping has helped many to do. He thinks that protecting people is a noble aspiration but asked where it stops; it is a right to make bad decisions as an adult. There are many risks to young people, like driving. He asked where the line is between the ability to make responsible decisions and where government needs to step in to parent us. It is important for youth to learn life skills and make decisions on their own with proper education.

Dennis Lane, Executive Director-Coalition for Responsible Retailing, MA resident – he said age 18 is exciting because society finally recognizes you as an adult—you can vote, take loans, or stay out late. Adults make responsible decisions because they are treated that way. He asked if we should reevaluate the age of maturity, the benefits of turning 18, and if it is worth it to take away a few rights because they are not 21 years-old.

Kate McNally, Petitioner – She showed the Committee and public what a Juul looks like and how its discreet design facilitates discreet use. The Juul is just one product getting FDA attention. She is concerned about the extremely high use and prevalence of that kind of device in schools. She said policies work for prevention and they are fairly inexpensive. There is not funding for more school programs; policies are the most effective practices to prevent mortality or morbidity of things that are dangerous to us. Tobacco kills more people than any other preventable causes of death combined. The Coalition is concerned with preventing kids from starting and creating a gap so products are less accessible in schools; both tobacco and vapes are dangerous because of addictive nicotine. She agreed this ordinance will not solve the problem but it is a multifaceted approach that will lead to change and reduced mortality. Reducing access is just one way to prevent adult use as well. She responded to the individual who spoke from Massachusetts; she said MA has passed this law statewide and have reported no difficulties. She recalled, again, letters of support for various organizations and individuals, like the Leadership Council for Healthy Monadnock who created a regional health improvement plan. She appreciates that vaping may help some people quit smoking; there are many ways to quit and she thinks they can be considered as an option when there is sufficient evidence of their safety. She said this cannot wait until Concord takes action; the City needs to take grassroots action to protect this community. Council did the right thing in the past and she hopes they will again. She added the City does have authority to pass this ordinance via NH statute RSA-126.

Councilor Sutherland thanked Ms. McNally for bringing this forward. No one at this meeting argued against what we know about the harms of tobacco. He said the legal age of 18 dates back to 1998 when communities were allowed to choose the legal age of 18 or older. He noted she has worked with other cities in NH and asked about the speaker at a previous meeting from Ohio. Ms. McNally replied that speaker was from the National Tobacco 21 Organization. He asked why the Coalition is not working with Dover and other towns to more appropriately make this change at the state level. Ms. McNally replied they are working on that as a community and they know local action will drive state action; still, the political climate in Concord is difficult right now.

Councilor Sutherland asked if the Coalition is working with Swanzey as well. Ms. McNally replied yes. Councilor Sutherland noted Swanzey would likely benefit from the age increase in Keene. Ms. McNally replied children are sensitive to price and transportation issues. Research shows changing a location does make a difference in access and rates of abuse. She said there will always be outliers, for example people do not obey the smoke free policy at the hospital. She said this is for the greater good and the best outcome is to institute this method proven to work in other communities around the country.

Chair Manwaring thanked everyone for their input. Next, this will go before City Council, which people can attend but the public are not invited to speak. Chair Manwaring closed the public hearing so the Committee

could discuss their decision.

Councilor Sutherland asked the City Attorney if the City does, in fact, have authority to enforce this sort of regulation. The City Attorney replied yes, per RSA-126.14, which gives local law enforcement authority to enforce a legal tobacco age, much like they do with alcohol. Councilor Sutherland asked about a minor in possession that purchased the product outside Keene. The City Attorney replied he thinks the law gives Council the right to regulate sale but not necessarily possession. He said this is uncharted territory for the City; Dover, however, prohibits sale and possession under age 21. He thinks writing an ordinance that way would limit ambiguity. It will be the court's decision, however, to allow a bifurcated ordinance.

Councilor Lamoureux thanked everyone for the information and research shared. He does not believe there is anyone unaffected by tobacco, including both his parent's deaths. Still, as an elected official, he needs to consider facts before emotions. He thinks both sides provided good facts but he believes increasing the age will have the desired effect on the school system. Many 18 year-olds in high school are already facing pressure. Still, he would prefer a phased-in program to increase the age incrementally over a few years to help businesses react and help people already using vaping devices to move forward.

Councilor Filiault agreed with Councilor Lamoureux. He has talked to his constituents who, much like the speakers at this meeting, are evenly divided as well. He is a veteran and was turned away at bars before he was 21 years-old; he does not agree with the comparison that being in the military equates to legal age to purchase potentially harmful substances. He thinks this is a flawed ordinance because it should be at the state level, but they have not acted so Keene must deal with it. He was planning to vote against this ordinance, but further research and FDA listing vaping as an epidemic in high schools changed his mind. He said that FDA report is informative whether you agree with government bodies or not. He said, as of this meeting, he is in favor of the ordinance; while his constituents are divided, public health is his greatest concern. He said the City faced similar challenges before when opioids were legal and thought to be harmless. He said if Council needs to step forward and take the risk to reduce sales of risky products, half of the community will agree and half will not, but that is what they are elected to do. He could still change his mind with further information before Council adopts an ordinance.

Councilor Sutherland recalled there is not an ordinance yet and drafting one will demand many conversations. He said it is interesting representatives from the hospital are pushing against tobacco distribution but are the biggest providers of opioids. He has listened to the community and business owners, read research, and cannot deny the potential benefits to public health. He thinks it is problematic for the City to address this before the state because of ambiguities over enforcement and possession. Most business owners argue they sell more gas and goods than cigarettes. His biggest concern is part of their business going to neighboring towns. He said this is not problematic because of taxes but because it creates an uneven playing field between towns. He would appreciate if the petitioner and Tobacco 21 focused more on Concord than changing this town-by-town. He agreed the health issue needs to be addressed, but will be voting against an ordinance at this time.

Chair Manwaring said she is voting in favor because it seems important to target youth. Unfortunately, the vaping community is lumped into tobacco sales because if we say we do not want kids smoking or chewing, we need to be consistent and include vaping. Her concern is that kids will think vaping is cool and without consequences. She said nicotine is a magic drug that has mental and emotional effects that often cloud how our brains think, which is dangerous. If we can keep young adults from abusing nicotine and give their brains a healthier chance she wants to do that.

Councilor Lamoureux confirmed an ordinance could address purchase and possession to eliminate conflict.

Councilor Sutherland said he is in favor of offering a resolution to the state. He wonders if it is a more appropriate process because there are many issues beyond possession and sale. He questioned the hospitals and other smoking cessation programs that provide nicotine products to people under age 21. He thinks there

are other things to evaluate before moving ahead with an ordinance hastily. He thinks Council should review a proposed ordinance before agreeing. Chair Manwaring clarified this vote would only instruct staff to return with a draft ordinance, which this Committee will review before it goes to Council. The City Attorney agreed staff would return with an unnumbered ordinance that can still be edited before going to Council. Councilor Sutherland said that makes sense but thinks there are things Council has not considered enough yet that they might want to address.

Councilor Filiault made the following motion, which Councilor Lamoureux seconded.

On a vote of 3-1, the Municipal Services, Facilities and Infrastructure Committee recommends to full Council that staff draft an ordinance to change the age of sale and possession of all tobacco and nicotine products from 18 years-old to 21 years-old for review and consideration by the MSFI Committee. Councilor Sutherland opposed.



City of Keene, N.H.
Transmittal Form

September 24, 2018

TO: Mayor and Keene City Council

FROM: Tom Moran, Utilities Maintenance Mgr; Donna Hanscom, Assistant Public Works Director/Laboratory Mgr

THROUGH: Elizabeth Dragon, City Manager; Kurt Blomquist, P.E. Public Works Director

ITEM: 2.

SUBJECT: West Street Well Repairs - Public Works Department

COUNCIL ACTION:

In City Council October 4, 2018.

Voted unanimously to suspend Section 26 of the Rules of Order to act upon the memorandum from the Public Works Department relating to West Street Well Repairs.

Voted unanimously to recommend that the City Manager be authorized to reallocate unspent project balances to replace the pump and motor at the West Street Well with \$22,000 to be reallocated from the Disinfection By Products II project (05079) and \$5,000 be reallocated from the Water Supply Protection project (05011).

RECOMMENDATION:

That the City Council recommend the City Manager be authorized to reallocate unspent project balances to replace the pump and motor at the West Street Well with \$22,000 to be reallocated from the Disinfection By Products II project (05079) and \$5,000 be reallocated from the Water Supply Protection project (05011).

BACKGROUND:

The West Street well was reconfigured as a gravel pack well with a 50 HP submersible pump in 1991 and was designed to have a flow of 450 gallons per minute (GPM). When the well became operational, it was observed to have flows that were consistently in the 570-580 GPM range and was deemed "acceptable" as it would fill the City's storage tanks quickly.

Since 1991, there have been five motor failures as shown in the chart below.

The following is a summary of the pump failures

Installation Date	Failure Date	Time To Failure
1991	2/24/1995	4 years
1995	2/12/2011	16 years
2011	9/29/2014	3 years
2014	4/22/2017	3 years
11/08/17	3/23/18	4 months

After the most recent failure in March of 2018, City Staff hired the engineering firm, Fuss and O'Neil, to evaluate the root cause of the pump failures. Based on their direct observations and the review and analysis of all available information, Fuss and O'Neil believes the most significant cause of the motor failure is the flow rates that were higher than originally designed.

The pump's high flow rates caused the motor to work harder, overheat, and eventually fail. The problem continued because after every failure, the replacement motor was matched to the original design. Fuss and O'Neil confirmed that 450 GPM is an appropriate flow rate for this well and specified that the motor and pump should be matched to this flow and the motor controls should limit the power draw to remain within the motor's design. A new pump and motor will be properly sized and will work in conjunction with a new variable frequency drive motor controller that will allow staff to adjust the pump flow to maintain the motor amperage within its design limit to prevent overheating. The estimate to purchase the equipment and perform the work as described is \$27,000. Purchase and installation of the new equipment was not included in the FY19 operating budget, so staff requests approval to use unspent project balances from other capital water projects to purchase and install the new pump and motor and associated equipment. Staff requests the Finance, Organization and Personnel committee recommend the City Council authorize the City Manager to reallocate \$22,000 from the Disinfection By Products II project (05079) and \$5,000 from the Water Supply Protection project (05011) to fund the Well 1 repairs as described.



City of Keene, N.H.
Transmittal Form

October 4, 2018

TO: Mayor and Keene City Council

FROM: W. Rhett Lamb, ACM/Community Development Director

THROUGH: Elizabeth Dragon, City Manager

ITEM: F.1.

SUBJECT: Monadnock Conservancy - Conservation Easement Fees for 105 Daniels Hill Road Property

COUNCIL ACTION:

In City Council October 4, 2018.

Referred to the Finance, Organization and Personnel Committee.

RECOMMENDATION:

Councilor Hansel moved for the Conservation Commission to recommend that City Council make the \$15,000 contribution from the Land Use Change Tax Fund to the Monadnock Conservancy for the Domina property conservation easement project. Mr. Reilly seconded the motion and the Conservation Commission carried it unanimously.

ATTACHMENTS:

Description

Background

BACKGROUND:

Chair Haynes welcomed Stacy Cibula, a project manager at the Monadnock Conservancy; she works with landowners to conserve their private property. This property on Daniels Hill Road, owned by Charles and Judith Domina for 80 years, is a great strategic property for the Conservancy to acquire; it is adjacent to many parcels of undeveloped land on West Hill. All properties abutting this 28,000 acre property are in conservation, making this an excellent addition to the wildlife corridor, which is the primary reason to acquire the property. The property also contributes to a scenic drive with stonewalls and woodlands along Daniels Hill Road, provides great wildlife habitat, and there are also some good water sources (streams and springs). This acquisition would place a conservation easement on the land: a permanent deed restriction to ensure it cannot be subdivided and developed. In this scenario, the family retains private ownership of the land but they and future owners can only use it for conservation. She demonstrated characteristics of the property on an aerial map.

The Conservancy requests \$15,000 to offset transaction costs for the project (the budget was included in the meeting packet). This amount would assist with boundary surveys, staff time, paying attorneys to review legal documents, and contribute to the Conservancy stewardship fund—a permanent endowment to ensure the more than 200 easements (19,000 acres) are monitored and enforced. Councilor Hansel asked if the City's contribution to this endowment will ensure stewardship of this property only, or all Conservancy properties. Ms. Cibula replied it is a communal fund for all properties, even those outside Keene. She did not breakdown exactly what the \$15,000 City contribution will be used for in the budget, but she does not believe the entirety

will go into the endowment. The landowners as well as the Conservancy Greenways and Corridor Fund are also contributing to the \$29,162 total cost of acquisition.

Chair Haynes asked, in the larger vision of greenways, if the Conservancy has any other parcels in mind to expand this network. Ms. Cibula replied there is another in West Chesterfield but she is unaware of others in Keene. The Conservancy always wants to enhance large unfragmented conservation areas. Ms. Clark noted she was on the Commission when they made contributions to acquire the Meyer and Snowman properties; she said this is a perfect extension of Commission work and she supports this donation.

Chair Haynes recalled that this donation would come from the Commission budget, which is comprised of the Land Use Change Tax fund (a commercial development tax) and a yearly contribution from the City (tax payers). Ms. Cibula said she can restructure the budget so the City's contribution goes toward staff costs, etc. as opposed to the endowment. Councilor Hansel said he supports the project but he is concerned about how tax payers will feel contributing to projects outside Keene. Ms. Cibula said she respects Councilor Hansel's concerns and understands, politically, if it is easier to restructure the budget. Mr. Lamb provided another perspective: the City's contribution to the endowment could pay staff to steward that land in Keene for 30 years.

Ms. Cibula continued that an easement base rate is typically \$7,500, but this project is \$15,000 because there are actually two parcels (north and south) because of the tax lots and will therefore create more stewardship work.

Councilor Hansel said he is comfortable moving forward contingent upon a more detailed budget, including a breakdown of easement costs over time; this will make the donation easier to justify to the Council and community. This is an informal recommendation to the petitioner to bring a more detailed budget to the Finance, Organization and Personnel Committee. Ms. Clark also recommended highlighting to Council how many parcels Keene already stewards to demonstrate a bigger picture of conservancy work.

Councilor Hansel moved for the Conservation Commission to recommend that City Council make the \$15,000 contribution from the Land Use Change Tax Fund to the Monadnock Conservancy for the Domina property conservation easement project. Mr. Reilly seconded the motion and the Conservation Commission carried it unanimously.



MEMORANDUM

Date: October 2, 2018
To: Keene City Council and Mayor Kendall W. Lane
From: Stacy Cibula, Conservation Project Manager, Monadnock Conservancy
RE: Conservation Funding Request for Domina Property, 105 Daniels Hill Road, Keene

OVERVIEW

The Monadnock Conservancy requests **\$15,000** from the City of Keene to conserve approximately 60 acres of undeveloped woodland in west Keene. The property is bisected by Daniels Hill Road, with approximately 37 acres to the north and 23 acres to the south of the road. We will protect the land using a tool called a conservation easement—a permanent deed restriction which restricts future development of the land to protect wildlife habitat, scenic beauty, and other important natural resources. The property owners, Charlie Domina and Judith Dimock, will retain ownership of the property. As this property consists of two lots of record, it will be subject to two conservation easements—one on the northern lot and one on the southern lot. The Conservancy will hold the easements—ensuring that the property is protected in perpetuity. The Dominas are generously donating the easements to us, as well as \$7,500 towards the overall project costs.

CONSERVATION VALUES

The Domina property is located within the *California Brook Natural Area*—a conservation focus area containing over 9,000 acres of undeveloped land connecting the 645-acre Horatio Colony Nature Preserve to the 13,000-acre Pisgah State Park. In fact, this property is within the largest remaining unfragmented forest block (approximately 28,000 acres) in southern New Hampshire. The Domina land is also adjacent to 800 acres of conserved land on West Hill, including three other Conservancy easements (see attached map). The property's strategic location and the habitat connectivity it will expand upon is the primary reason why the Conservancy wishes to protect it. However, the property is also compelling to protect for its:

- **Important forestry soils.** The entire property consists of “Group 1” forestry soils, as determined by the Natural Resources Conservation Service. These soils are well suited for producing and harvesting quality timber.
- **Water resources.** There is approximately 1,200’ of stream frontage as well as several springs on the land.
- **Scenic rural landscape.** The property has approximately 2,000’ of scenic, forested frontage on Daniels Hill Road and another 1,400’ along Route 9.
- **Alignment with City conservation priorities.** The City of Keene Open Space Plan (1990) recommends “securing easements from property owners to establish permanent buffers along edge of all major roadways” to provide wildlife habitat and preserve rural character in Keene.

PROJECT BUDGET

A note on the budget below: at the request of Councilor Hansel, we are providing additional information about our Easement Stewardship Fund.

With every conservation easement we accept, we allocate funds to our Easement Stewardship Fund. This fund helps to cover the annual costs of monitoring and enforcing our 214 easements, which takes significant organizational resources. Staff inspect the properties annually to ensure that the easement terms are being met and also spend significant time communicating with landowners and resolving any issues, including possible violations. It costs us, on average, \$300 per easement annually to perform this work. Assuming a

4% rate of return, we need to request at least \$7,500 per easement to ensure that we have the \$300 needed to cover our stewardship obligations for that land.

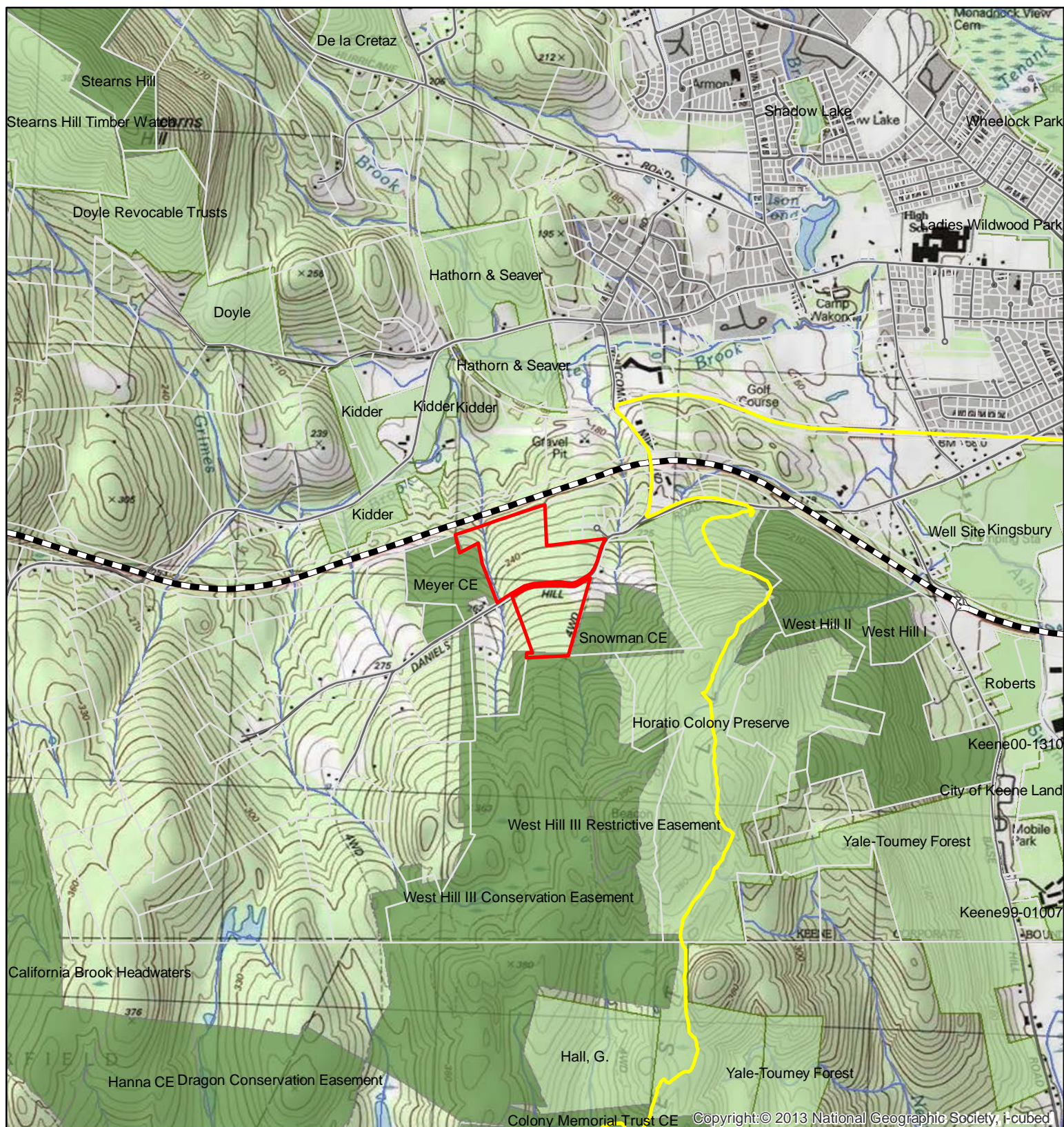
Since this property will be subject to two easements (one for the northern parcel and one for the southern parcel), we request \$15,000 for the total stewardship contribution.

Estimated Costs

Staff Time (84 hours @ \$60/hr.)	\$5,040
Legal Costs (includes title exam)	\$1,500
Boundary Survey	\$5,300
Environmental Assessment	\$350
Recording Fees	\$125
Admin (15% of transaction costs less stewardship allocation)	\$1,847
Easement Stewardship Fund (\$7,500 per easement)	\$15,000
TOTAL	\$29,162

Funding Sources

City of Keene (requested)	\$15,000
Monadnock Conservancy's Greenways and Corridor Fund (secured)	\$6,662
Landowner donation (committed)	\$7,500
TOTAL	\$29,162



Domina property, Keene, ~60 acres, Daniels Hill Road



NAD 83 - NH State Plane
S. Cibula, 7-12-18
Source: GRANIT & SWRPC

- Wantastiquet to Monadnock Trail
- Domina property
- Local Roads
- State Roads
- Parcel Bounds
- Monadnock Conservancy Lands
- Other Protected Lands
- Streams

Note: Map is not survey accurate.

1:24,000

0 1,000 2,000 4,000 Feet

