



KEENE CITY COUNCIL  
Council Chambers, Keene City Hall  
December 6, 2018  
7:00 PM

Roll Call  
Pledge of Allegiance

MINUTES FROM PRECEDING MEETING

- November 15, 2018

**A. HEARINGS / PRESENTATIONS / PROCLAMATIONS**

1. Presentation of Retirement Resolution - Joanna Balcom

**B. ELECTIONS / NOMINATIONS / APPOINTMENTS / CONFIRMATIONS**

1. Appointments - Ad Hoc Committees  
Ad Hoc Comprehensive Economic Development Committee  
Ad Hoc Winchester Street Reconstruction Project Steering Committee
2. Nominations  
Airport Development and Marketing Committee  
Assessors Board  
Bicycle/Pedestrian Path Advisory Committee  
Energy and Climate Committee  
Conservation Commission  
Heritage Commission  
Historic District Commission  
Keene Housing Authority  
College City Commission  
Martin Luther King, Jr./Jonathan Daniels Committee  
Partner City Committee  
Trustees of Trust Funds

**C. COMMUNICATIONS**

**D. REPORTS - COUNCIL COMMITTEES**

1. Proposed Sustainable Energy Resolution – Energy and Climate Committee
2. Albert Grauer - Lodging House License Renewal - 85 Winchester Street
3. KeeneSnoRiders Snowmobile Club - Use of City Property - Public Works Department
4. Councilor Filiault - Supporting State Legislation that Would Standardize the Age Requirement for Tobacco and Vaping Products
5. Use of Unspent Project Balance to Improve Park Avenue - Public Works Department

6. Design Change Order – Cheshire Rail Trail - Phase III Project - Public Works Department
7. Project Evaluator for IMLS Grant- Little Makers: Library STEM and Maker Activities for Very Young Learners Contract - Keene Public Library

**E. REPORTS - CITY OFFICERS AND DEPARTMENTS**

1. City Manager Comments

**F. REPORTS - BOARDS AND COMMISSIONS**

**G. REPORTS - MORE TIME**

1. Vicki Bacon - Body & Soul Road Runners' Club - Request to Use City Property - Red Cap Run
2. Keene Lions Club - Request to Use City Property - Duck Race

**H. ORDINANCES FOR FIRST READING**

**I. ORDINANCES FOR SECOND READING**

1. Relating to the Purchase, Use, and Possession of Tobacco Products  
Ordinance O-2018-20

**J. RESOLUTIONS**

Non Public Session  
Adjournment

11/15/2018

A regular meeting of the Keene City Council was held Thursday, November 15, 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, Margaret M. Rice, Robert B. Sutherland, George S. Hansel, Gary P. Lamoureux, Bettina A. Chadbourne, Stephen L. Hooper, Philip M. Jones, and Mitchell H. Greenwald were present. Bartolmiej K. Sapeta and David C. Richards were absent. Councilor Jacobs led the Pledge of Allegiance. A motion by Councilor Greenwald to accept the minutes from the November 1, 2018 regular meeting was duly seconded. The motion passed with a unanimous vote in favor.

#### ANNOUNCEMENTS – MAYOR

The Mayor announced that the Standing Committee meetings scheduled for November 21 and 22, 2018, have been rescheduled to November 28 and 29, 2018. The Standing Committee meetings of December 26 and 27, 2018 have been canceled. The Mayor went on to announce there has been a concern raised about the use of school buildings as polling places for voting purposes. He went on to advise the City Council that the selection of voting locations in the City of Keene is a decision of the elected Selectmen, and would not be a City Council matter.

#### PRESENTATION OF RETIREMENT RESOLUTION – TIM CLARK

The Mayor presented a Resolution to Tim Clark in honor of his recent retirement. The Resolution noted his many accomplishments during his tenure with the City and expressed gratitude for his years of service.

#### PRESENTATION OF RETIREMENT RESOLUTION – JAMES MCLAUGHLIN

The Mayor presented a Resolution to James McLaughlin in honor of his recent retirement. The Resolution noted his many accomplishments during his tenure with the City and expressed gratitude for his years of service.

#### PRESENTATION - BUILDING BETTER TOGETHER PRESENTATION ON FORM BASED ZONING CONCEPT FOR DOWNTOWN KEENE

The Mayor Lane recognized Medard Kopczynski, Economic Development Director, and Tara Kessler, Planner. Mr. Kopczynski spoke briefly about the Building Better Together effort and introduced the project consultants, Chris Jennette and Arista Strungys from Camiros Ltd. They have been working with the City on this important initiative relating to form based zoning in the downtown area. He noted that Camiros has over 40 years of experience in working in multiple states around the country. They are extremely well qualified and versed in downtowns in particular and advising as to form based zoning. The Mayor added that several of the Council had the opportunity to attend a session recently and the consultants did an excellent job explaining form based zoning using language that everyone could grasp.

Project consultants Chris Jennette and Arista Strungys from Camiros Ltd came forward to address the Council. Mr Jennette began that they wanted to provide a brief update on where we are with the downtown zoning initiative. He recapped that back in the spring they did some data

gathering and document review to determine what is currently happening in Keene. When they were here in July various “key person” interviews were conducted with local business owners, officials, architects, developers and other interested residents of downtown to get their ideas of what they would like to see change in the future. They also surveyed the downtown and created a photo library to understand the conditions on the ground here in downtown Keene. Since then they have been working on approaches for a new downtown form based coding and have come up with a series of potential approaches as well as some key questions that frame those approaches.

Mr. Jennette continued that in contemplating where the downtown really is they have come up with a proposed project boundary, which he displayed for review. He went on to explain that this is largely based on the current Central Business and CBL districts. They have made some assumptions based on the form and use of the buildings in this area to determine the boundaries. He went on to name the boundary streets around the perimeter, including: Mechanic Street to the north, Ashuelot Street and the Center of Keene to the west, Davis and Winchester Streets to the south, and to the east largely by the course of Beaver Brook. He noted they are looking for feedback on this geographic boundary in terms of whether it needs to be pulled back or expanded in certain areas to make more sense.

In terms of what the downtown zoning should include, Mr. Jennette stated that to reach the goals articulated in the City’s Master Plan, the following key areas will be addressed in the new zoning for downtown. The first key area would be permitted uses. The boundaries identified previously include various current zoning districts, as well as a number of overlay districts that may actually overlap and create a confusing web of regulations. They are looking to simplify those uses and ensure that there is flexibility for a wide range of commercial, residential, and other uses that may be appropriate in an active and walkable downtown. Secondly, dimensional characteristics such as lot areas will need to be evaluated and adjusted as needed to ensure existing patterns are allowed to continue. He noted that the median lot size in the downtown is 13,000 square feet; however, there are some zoning districts in the downtown that have no minimum lot area, while there are others that do. When implementing a sub-district structure we will need to determine where we want to do away with these minimums or keep them in place to reinforce existing patterns found in the downtown. The locations of buildings and setbacks will also need to be reviewed, while acknowledging existing patterns and facilitating new development to compliment them. This means there may be areas where there is a minimum setback requirement while other areas may include a build-to zone/line as appropriate, which might be appropriate in areas like Central Square where buildings butt up against the sidewalk. Building height will be respected and will complement the established character, allowing greater height where appropriate with consideration of transitions. Minimum ground floor heights, blank wall limitations and building entry spacing standards will also be considered. Mr. Jennette noted this project does not address streetscape elements.

Mr. Jennette went on to explain that the city already has design standards such as those delineated in the Historic District regulations and the Planning Board development standards, but the downtown should have its own specific set of standards. He added the intent should not be to control architecture, but rather to really control basic tenets of good building design. He went on to describe what some of those tenets are and noted that they are looking to implement objective

standards and move toward standards that can be administratively reviewed. Mr. Jennette continued that the downtown is not just one place, but rather is comprised of a series of character areas or place types; each possessing a unique development character, scale and pedestrian orientation. Based on the initial physical analysis of downtown patterns, and review of the City's planning documents, they have identified some preliminary place types. Some reflect existing conditions, while some are oriented toward establishing the vision of the City's master plan. They are asking for feedback on these types which have been identified as follows. Core 1 is the heart of downtown including Central Square and Main Street where the uses are the most diverse in terms of uses and the most walkable. Core 2 would also accommodate dense, walkable, mixed use development in the areas radiating off Core 1. Core 3 would be to the north and south of downtown and would be lower intensity with smaller scale development. Downtown generally would include the transitional areas that are halfway between pedestrian and automobile oriented towards the southern end of downtown. Downtown growth would encourage reuse and flexibility in uses. Finally, downtown transition would provide areas for transition into surrounding neighborhoods. Mr. Jennette stated that they have been asking the community for feedback on these sub-districts in terms of their locations and how they are defined. He went on to talk about a community forum that was held and stated that they will define their technical review based on the feedback they received.

Councilor Sutherland asked about building heights that were noted in the presentation and stated he does not think we have any seven story buildings at this time. He stated we will need to consider how this might impact adjacent lower buildings.

Councilor Jones stated he has been pointing people with questions to the Buffalo, New York zoning districts that were implemented to provide them with an understanding of this project. He went on to inquire if there have been many changes to that plan since it was implemented. Ms. Strungys stated there are always minor tweaks to these plans as they are implemented and she assumes that would be the case in Buffalo.

Mayor Lane asked if the office zone areas that are a transition between commercial and residential districts were intentionally included in this plan. Mr. Jennette answered yes, stating they are a buffer between the commercial and residential zones and it made sense to include them. As there were no further questions, the Mayor thanked the presenters. Ms. Strungys added that those areas create the perception of where downtown is. Mayor Lane stated he appreciates the outside perspective on this and certainly it validates the development direction that has occurred over the years.

Ms. Kessler came forward to wrap up the presentation and provided some future meeting dates of note: the Joint PB/PLD meeting of December 10<sup>th</sup> will include a discussion on the concepts and proposal that Camiros has developed and they will review a map of these sub-areas and take feedback on the proposed plan. They are hoping all Councilors can attend this meeting. She went on to mention the Zoning 101 workshop will be held a second time, this time for the public to learn about zoning. She added they are happy to meet with the Councilors or members of the public who might have questions.

CONFIRMATION – MARTIN LUTHER KING JR./JONATHAN DANIELS COMMITTEE

A motion was made by Councilor Greenwald and duly seconded to confirm the following nomination: Nancy Salwen to serve as a regular voting member on the Martin Luther King Jr./Jonathan Daniels Committee for a term to expire December 31, 2021. On a roll call vote, with 13 Councilors present and voting in favor the nomination was confirmed. Councilors Sapeta and Richards were absent.

COMMUNICATION – ALBERT GRAUER – LODGING HOUSE LICENSE RENEWAL – 85 WINCHESTER STREET

A communication was received from Albert Grauer requesting the renewal of the Lodging House License for 85 Winchester Street. The request was referred to the Planning, Licenses and Development Committee.

COMMUNICATION – BODY & SOUL RUNNERS CLUB – REQUEST TO USE CITY PROPERTY – RED CAP RUN

A communication was received from Vicki Bacon of Body & Soul Runners Club, requesting permission to hold the annual Red Cap Run on February 9, 2019. The request was referred to the Planning, Licenses and Development Committee.

COMMUNICATION – KEENE LIONS CLUB – REQUEST TO USE CITY PROPERTY – DUCK RACE

A communication was received from Christine Greenwood of the Keene Lions Club, requesting permission to hold the annual Great Ashuelot River Duck Race on June 29, 2019. The request was referred to the Planning, Licenses and Development Committee.

COMMUNICATION – COUNCILORS MANWARING AND HOOPER – DEFINITIONS IN THE LAND USE CODE AS IT RELATES TO HUNDRED NIGHTS SHELTER

A communication was received from Councilors Manwaring and Hooper asking that a discussion occur relative to various definitions in the Land Use Code as they relate to the Hundred Nights Shelter and their attempt to find a new and larger facility that will meet the zoning requirements. The communication was filed into the record as informational.

COMMUNICATION – COUNCILOR FILIAULT – SUPPORTING STATE LEGISLATION THAT WOULD STANDARDIZE THE AGE REQUIREMENT FOR TOBACCO AND VAPING PRODUCTS

A communication was received from Councilor Filiault requesting that the City Council communicate its interest to the Legislative Delegation in support of a standard age requirement for tobacco and vaping products from 18 to 21 statewide. The request was referred to the Planning, Licenses and Development Committee.

MSFI REPORT – SYD’S CARPET AND SNOOZE ROOM – REQUEST FOR LOADING ZONE – 41 ST. JAMES STREET

Municipal Services, Facilities and Infrastructure Committee report read recommending this item be accepted as informational and handled administratively. The report was filed into the record as informational.

MSFI REPORT – TODD TOUSLEY – REQUEST FOR THE INSTALLATION OF A SIDEWALK – CHAPMAN ROAD

Municipal Services, Facilities and Infrastructure Committee report read recommending this item be handled administratively and that staff reports back to Council with updates as needed. The report was filed into the record as informational.

MSFI REPORT – WEST STREET DAM – PUBLIC WORKS DEPARTMENT

Municipal Services, Facilities and Infrastructure Committee report read recommending this item be accepted as informational. The report was filed into the record as informational.

FOP REPORT – ACCEPTANCE OF DONATION IN MEMORY OF HOWARD KERBAUGH – 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 a donation of \$265.00 in memory of Howard Kerbaugh to be used for general upkeep and maintenance of the Parks and Recreation Center. 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 DONATION – YOUTH BASKETBALL – 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 a donation of \$3000.00 from Yankee Lanes and that the money be used to purchase youth basketball jerseys. 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 – MONADNOCK CONSERVANCY – CONSERVATION EASEMENT FEES FOR 105 DANIELS HILL

Finance, Organization and Personnel Committee report read recommending that the City Council authorize a \$15,000 contribution from the Land Use Change Tax Fund to the Monadnock Conservancy for the Domina property conservation easement project. 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.

## CITY MANAGER COMMENTS

The Manager stated she had a few items from the Public Works Department to share. On October 24<sup>th</sup> the City of Keene was awarded the Industrial Pretreatment Program (IPP) Excellence Award by the United States Environmental Protection Agency at their 20<sup>th</sup> annual workshop. This award was established to recognize and honor employees of publicly owned wastewater treatment plants for their commitment to improving water quality through outstanding oversight of its industrial users which are discharging into the municipal sewer system. Ms. Dragon noted our Pretreatment Coordinator is Eric Swope, and went on to say this was an outstanding acknowledgement of that work. Ms. Dragon went on to announce a reminder that the winter parking ban is now in effect and will go until April 30<sup>th</sup>. During this time, parking on-street is restricted during the hours of 1:00 AM to 6:00 AM. This ban covers the entire right of way, not just the paved portion of the street. The restrictions allow for snow and ice control operations. The Manager went on to state that the City is prepared for its first winter storm event that will occur this evening and extend into Friday. She stated that as a result of the storm, leaf collection activities have been interrupted. Following clean-up from the storm, it is expected that Public Works crews will continue leaf pick-up next week. Ms. Dragon ended by recognizing Med and Dawn Kopczynski who are present this evening. They are celebrating their 47<sup>th</sup> wedding anniversary. Lastly, Ms. Dragon wished everyone a Happy Thanksgiving.

## MORE TIME

More time was granted by the Chair for the following items in Committee: Nancy Gillard and Suzanne Butcher – New Energy Goals for the Community; Land at 0 Apollo Avenue – Parks, Recreation and Facilities Director; and, Keene SnoRiders Snowmobile Club – Request to Use City Property.

## MEMORANDUM – CITY ATTORNEY AND ORDINANCE O-2018-20: RELATING TO THE PURCHASE, USE AND POSSESSION OF TOBACCO PRODUCTS

A memorandum was received from the City Attorney along with Ordinance O-2018-20: Relating to the Purchase, Use and Possession of Tobacco Products. The memorandum was filed into the record. Ordinance O-2018-20 was referred by the Chair to the Municipal Services, Facilities and Infrastructure Committee.

## PLD REPORT AND RESOLUTION R-2018-33: RELATING TO ADOPTING THE PROVISIONS OF RSA 79-E “COMMUNITY REVITALIZATION TAX RELIEF INCENTIVE”

Planning, Licenses and Development Committee report read recommending the adoption of Resolution R-2018-33: Relating to Adopting the Provisions of RSA 79-E “Community Revitalization Tax Relief”. The report was filed into the record. A motion by Councilor Jones for adoption of the Resolution was duly seconded. The motion passed with a unanimous vote in favor. Resolution R-2018-33 declared adopted.

## RESOLUTION R-2018-34: IN APPRECIATION OF JOANNA M. BALCOM UPON HER

11/15/2018

RETIREMENT

Resolution R-2018-34: In Appreciation of Joanna M. Balcom 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.

RESOLUTION R-2018-35: IN APPRECIATION OF RICKY A. PLANKEY, SR. UPON HIS RETIREMENT

Resolution R-2018-32: In Appreciation of Ricky A. Plankey, Sr. Upon His 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 8:53 PM, there being no further business, the Mayor adjourned the meeting.

A true record, attest:

  
Deputy City Clerk



City of Keene, N.H.  
*Transmittal Form*

December 5, 2018

**TO:** Mayor and Keene City Council

**FROM:** Mayor Kendall W. Lane

**ITEM:** B.1.

**SUBJECT:** Appointments - Ad Hoc Committees

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**COUNCIL ACTION:**

In City Council December 6, 2018.

Voted unanimously to confirm the appointments.

**RECOMMENDATION:**

I hereby appoint the following individuals to serve on the designed ad hoc committees:

Ad Hoc Comprehensive Economic Development Committee:

Melinda Treadwell  
President, Keene State College  
229 Main Street

Ad Hoc Winchester Street Reconstruction Project Steering Committee

Sandra Clark  
Keene Housing Authority  
831 Court Street



City of Keene, N.H.  
*Transmittal Form*

December 5, 2018

**TO:** Mayor and Keene City Council

**FROM:** Kendall W. Lane, Mayor

**ITEM:** B.2.

**SUBJECT:** Nominations

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**COUNCIL ACTION:**

In City Council December 6, 2018.  
Tabled until the next regular meeting.

**RECOMMENDATION:**

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

Airport Development and Marketing Committee

Elizabeth Bendel, slot 9	Term to expire Dec. 31, 2021
Re-nomination	

Assessors Board

Rita Johnson, slot 2	Term to expire Dec. 31, 2021
Re-nomination	

Bicycle/Pedestrian Path Advisory Committee

Dillon Benik, slot 7	Term to expire Dec. 31, 2021
Re-nomination	

Energy and Climate Committee

Kenneth Dooley, slot 1	Term to expire Dec. 31, 2021
Re-nomination	

Jessica Baum, slot 7	Term to expire Dec. 31, 2021
Re-nomination	

Larry Dachowski, alternate, slot 10	Term to expire Dec. 31, 2021
Re-nomination	

College City Commission

Bettina Chadbourne, slot 4	Term to expire Dec. 31, 2021
Re-nomination	

Dick Berry, slot 5	Term to expire Dec. 31, 2021
Re-nomination	

Conservation Commission

Alexander VonPlinsky, slot 1	Term to expire Dec. 31, 2021
Re-nomination	

Heritage Commission

Charlotte Schuerman, slot 6	Term to expire Dec. 31, 2021
Re-nomination	

Erin Benik, slot 7	Term to expire Dec. 31, 2021
Re-nomination	

Historic District Commission

Hans Porschitz, slot 3	Term to expire Dec. 31, 2021
Re-nomination	

David Bergeron, alternate, slot 9	Term to expire Dec. 31, 2021
Re-nomination	

Paul Cooper, alternate, slot 10	Term to expire Dec. 31, 2021
Re-nomination	

Keene Housing Authority

Pamela Russell Slack, slot 5	Term to expire Dec. 31, 2023
Re-nomination	

Martin Luther King, Jr./Jonathan Daniels Committee

William Hay, slot 2	Term to expire Dec. 31, 2021
Re-nomination	

Jan Manwaring, slot 3	Term to expire Dec. 31, 2021
Re-nomination	

Partner City Committee

Dawn Thomas Smith, slot 4	Term to expire Dec. 31, 2021
Re-nomination	

Kathy Frink, slot 7	Term to expire Dec. 31, 2021
Re-nomination	

Trustees of Trust Funds

Kathy Snow, slot 2	Term to expire Dec. 31, 2021
Re-nomination	



City of Keene, N.H.  
*Transmittal Form*

November 28, 2018

**TO:** Mayor and Keene City Council

**FROM:** Municipal Services, Facilities and Infrastructure Committee

**ITEM:** D.1.

**SUBJECT:** Proposed Sustainable Energy Resolution – Energy and Climate Committee

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**COUNCIL ACTION:**

In City Council December 6, 2018.

Voted with one opposed to carry out the intent of the report.

**RECOMMENDATION:**

On a vote of 4-1, the Municipal Services, Facilities & Infrastructure Committee recommends that full Council direct staff to introduce a resolution regarding sustainable energy, as recommended by the Energy and Climate Committee. Councilor Sutherland was opposed.

**BACKGROUND:**

Chair Manwaring welcomed Ann Shedd (59 Greenwood Avenue, Keene), Chair of the Energy and Climate Committee (ECC), who recommends that Council adopt the proposed resolution. The resolution will help the transition to safe, clean, economically sustainable energy, which aligns with the City's master plan community visions and the ECC mission defined by the City. The ECC began working on a sustainable energy plan in 2017. While a lot of work remains to complete the plan, adoption of the 100% renewable goals would give direction to that planning process. There is a scope of work for the plan and there is active data collection of Keene's baseline energy use. Peter Hansel and Mari Brunner have been helping the ECC to identify how much installed renewable infrastructure already exists in the City. Once the 350 Marlboro Street project is complete, they anticipate the City will have 1.7 MW of installed solar capacity. Like many, when she first heard about 100% renewable energy goals, she thought it sounded great but questioned the ability to get there; this is something that the energy plan will help identify even if not by the April 2020 deadline. In reviewing other communities' plans, some strategies have been identified that Keene could consider:

- Do nothing: The state's renewable portfolio standard would require NH source 25% of its electricity from renewable sources by 2025, which is far short of 100%.
- Energy conservation and efficiency: The grid operator, ISO New England, projects the demand would fall if solar, renewables, and energy efficiency were incorporated. Keene's energy efficiency would lower demand to nearly level over the next 15 years. Increase local renewable energy generation and storage: Storage in particular is important to community resilience. Other communities have considered participating in non-local renewable energy generation. Some have considered ways of aggregating consumer purchases without involving the municipality from competitive energy suppliers.

Dr. Shedd continued listing opportunities for energy conservation in Keene. Conserving energy is highly cost effective. The City's energy service is contracted with Honeywell, which has contributed to significant cost avoidance for the City that should help with the tax base. Burlington, VT began promoting energy efficiency actively in the 1990s and as of 2016 their community-wide energy use is 4% less than it was in 1989. NH has

utility programs to support commercial and residential energy conservation and efficiency. Several regions in NH have conducted weatherized campaigns (largely volunteer led) geared toward residential and small business customers. In the last two years in the upper valley 900 customers expressed interest, 500 had energy audits, and 200 have completed weatherization projects, approximately. In the next two years there will be solarized campaigns in Peterborough, Hancock, Rindge, and Jaffrey. All of these in the Monadnock region are based on successful campaigns in other regions of the state. The energy plan would not expect every home to add solar; not every home or building—including some commercial buildings—can accommodate solar. Additionally, solar is cost prohibitive for some families. With group net metering and financing models, however, solar is more accessible increasingly across a range of incomes.

Dr. Shedd continued explaining how important battery storage is for resilience. Sterling, MA has a municipal combination solar and storage project that is able to isolate from the grid in case of a power outage and provide backup power to the police and dispatch center for up to 12 days. They draw on the battery during peak hours of demand and thus decrease capacity and transmission charges, which saves rate payers \$400,000 annually. She said Liberty Utilities will begin a pilot project soon installing batteries in homes, with or without rooftop solar, as a form of distributed storage; this has the potential to provide energy to the peak at demand hours and provide savings for all customers. She said there was not time at this meeting to discuss all models of aggregating purchase of clean energy from competitive energy suppliers or investment in non-local energy projects. Still, these are options being reviewed by communities like Hanover, who are happy with their projects and eager to share what worked well for them with others. The ECC has also communicated with representatives from Concord, who are interested in working with Keene.

Dr. Shedd concluded that in recommending that Council adopt this resolution, the ECC looks forward to working with Council, staff, and a broad range of community stakeholders to complete the sustainable energy plan. Like the City's land use code update and Building Better Together project, the sustainable energy plan is a vital project that aligns with City goals, giving Keene the tools and energy to build for the future.

Councilor Lamoureux thanked Dr. Shedd and everyone who has worked on the sustainable energy plan for their persistence. He said this is not an easy subject for many to hear about and there are many philosophies. Still, he said Keene has already taken great steps thanks in part to the ECC, which he appreciates. His constituents ask him how realistic it is to think Keene can reach 100% renewable energy by 2030 and what it will cost the City to do so. Dr. Shedd replied most will be market driven as the cost of renewables becomes comparable to fossil fuels, which has already occurred in some places. Some efforts will require no City investments beyond time to develop policies that enable residents and businesses to easily find investment opportunities; she cited the example of the community-supported solar project at the Co-Op, where local investors kept their money local by investing in a solar array. The City can provide structural changes without a significant investment, like: facilitating the permitting process, having up-to-date energy codes, and having building codes that encourage energy efficiency. The City has already done very well reducing its greenhouse gas emissions with energy savings.

Councilor Hooper thanked the ECC for their due diligence and research. He said he heard a balanced and pragmatic approach working with everyone to build something for the community, as opposed to one solution only, which impresses him.

Councilor Sutherland said he appreciates the work and energy being devoted to this vision for the City. He thinks the City is doing well and working in the best interest of the taxpayers by working with consultants to look for alternatives and minimize the City's footprint. He cited the solar project at 350 Marlboro Street, where the City had checked assertions that solar panels will be effective more than 40 years when the reality is 20 years. He said the City is taking measured approaches on sustainability and he will oppose this resolution because the City is already taking steps as a part of the master plan, which will be updated again in a few years. He thinks setting goals is more appropriate than creating policy on this matter without knowing what the future holds. He said the example of Sterling, MA is fascinating but he does not know how the hospital would do if

the batteries do not work. He thinks a measured approach to understand and balance the needs of all stakeholders is a goal. He agreed the market is beginning to dictate this shift already; he thinks enough of this will be addressed over time and the market will bear this out. As a former physician, Dr. Shedd said that what struck her when Puerto Rico was devastated by Hurricane Maria were photos of surgical teams treating patients by head lamp; they had diesel generators but could not get them to the facility because the roads were impassible. She said the Sterling, MA model also estimates 12 days of back-up power; if that were possible for all emergency centers it would be a tremendous advancement for Keene. She added that the EPA has a list of 500 entities that are already 100% renewable; she said it can be done.

Chair Manwaring recognized Peter Hansel, Vice Chair of the ECC, who said he had similar concerns about this being an easy goal to set but creating a roadmap for how to get there is a challenge. As a business person in this community, he said he has tried to be sustainable and he understands taking the leap of faith to 100% renewable energy was one to consider carefully. He has been working on baseline research of what renewable energy Keene already has, which can be used to measure Keene's progress over time citywide. He said the City has already made great progress; in 2009 there were only six solar installations in Keene and today there are 75-90. He cited a recent example where the City and KSC had the opportunity to buy 1 MW of energy from a solar array in Hillsboro. He said this is an example of how technology now allows group net metering so the City can feel good about its energy consumption. He learned recently there is little cost difference between renewable energy and the gas people already pay for, so his business adopted 100% renewable. He said if the City adopts this resolution, it will encourage other businesses, residents, and cities to question their energy suppliers and explore new ways to conserve energy. He wants to see the City produce more than the current 5% of its energy not by adding more solar, but by conserving more energy. Any business or institution can do these things; KSC is doing well to create a renewable energy plan. Now we need to reach all organizations consuming energy, like the hospital and school district, to help them do the same. He said setting a goal helps encourage others to learn more and try to participate. Chair Manwaring asked if part of the charge of the ECC is to educate the public. Mr. Hansel stated that he and Dr. Shedd agree an education component must be a part of the energy plan but he is unsure who would do the education; the room was full, he said, because the education had already begun.

Chair Manwaring continued recognizing members of the public:

Dee Robins (11 Hancock Street, Keene) read a statement from Nancy Gillard (72 Reservoir Street, Keene) and Suzanne Butcher (44 Felt Road, Keene), the cosigners of the proposed resolution. They represent a group of citizens called the Clean Energy Team:

The sustainable energy resolution has been presented to the City by a group of citizens committed to a renewable energy future. We believe that a 100% renewable energy future is in everyone's best interest and that this resolution is an important next step for moving forward that goal. Keene is not the first City in NH to adopt 100% renewable energy goals. Concord and Hanover voted to adopt the same goals we have proposed and now both cities are developing plans to implement these goals. Our City can learn from their process and planning, and from experiences nationwide officially committed to similar goals. Keene has been a leader in climate change preparedness and we consider this resolution a natural extension of the City's efforts to address this need. The goals are aligned with the City's greenhouse gas emission reduction efforts, energy efficient initiatives, and with renewable energy projects that have contributed to cost savings for Keene taxpayers. We believe that existing and emerging technologies create important economic opportunity and make this resolution for 100% renewable energy goals achievable. According to the Governor's Millennial Advisory Report, the clean tech business sector is attractive to millennials and estimated to become a \$5 trillion business by the mid-2020s. There is wide local support for increasing the energy efficiency of our buildings and expanding our clean energy options. In addition to our City government, many businesses, organizations, educational institutions, churches, residents, and property owners are setting examples of how to accomplish this. Subsequent speakers will read some of the many letters of support that we have so far received. Our group will continue to collaborate with community stakeholders to raise awareness of the economic and environmental benefits of energy conservation and clean energy choices. Working together we can build a future that is sustainable for us all. If you would like to learn more about this initiative, we have established a website: [cleanenergykeene.org](http://cleanenergykeene.org).

Ms. Butcher continued reading a statement about the global and national context:

Clean energy is the future, fossil fuels are becoming obsolete, we need to do everything we can to facilitate and accelerate that transition. Climate change is not just a global and national issue, Keene is already experiencing its effects, from more intense rainfall to ticks and Lyme disease. Both the Intergovernmental Panel on Climate Change (IPCC) and the US Government's National Climate Assessment (NCA) make clear that the world is warming far beyond natural variability and human activities are the dominant cause. You no doubt have seen the headlines. Last month the IPCC reported that global average temperatures have already increased 1 degree Celsius and highlighted the devastating impacts that could be lessened if we take action now to limit warming to 1.5 degrees instead of 2 degrees.

Then, the fourth NCA was released last Friday and made clear the economic cost to the US of continued warming—hundreds of millions of dollars per year. The IPCC report and NCA are not new science; they are international synthesis of published papers every year to provide a summary for policymakers, including local policy makers like the Keene City Council. Beyond temperature, both reports describe many other impacts of climate change such as impacts on agriculture, infrastructure, and health. The new US assessment provides a wealth of information about regional impacts. For example the increased drought and reduced snowpack that contribute to incidents of large forest fires in the west; with the footage from CA, we see the human impacts of such trends. Closer to home in the northeast, we are experiencing increased frequency and intensity of heavy precipitation; a 71% increase from 1958 to 2012, far more than the rest of the country. Irene, microbursts, and six inches of precipitation in Keene already this month are all part of huge trends that have costs at the local level (road washouts in Dublin in August 2018 and deaths during the 2005 flood). The NCA reports that the northeast is warming faster than the rest of the continental US and project that we will warm by 2 degrees Celsius two decades before average global temperatures reach that level. The NCA concludes that current mitigation and adaptation efforts “do not yet approach the scale considered necessary to avoid substantial damages to the economy, environment, and human health over the coming decades.” The IPCC finds that limiting warming to 1.5 degrees would require rapid and far reaching transitions in land, energy, industry, buildings, transport, and cities.

Global net human cost emissions of CO<sub>2</sub> need to fall 45% from 2010 levels by 2030, just 12 years from now, and reach net zero by 2050. Across the US, citizens, states, cities, and businesses are taking action. Last year a bipartisan group of governors from states who produce nearly half of the US's GDP launched the climate alliance pledging to work toward the goal the US set for itself under the Paris Agreement. Business leaders from General Motors to Walmart joined George Schultz and James Baker, both Secretaries of State and Treasury in republican administrations, in proposing a gradually rising carbon fee, with all revenue rebated to the American people. But businesses large and small are not waiting for a national policy; many have set their own goals and are reducing emissions. At least 99 cities have set a goal that 100% of their energy will come from renewable resources. We have to expand and accelerate our efforts now. Setting the 100% goal and developing a plan to reach that goal will help Keene to do our part and will help our own citizens take advantage of the opportunities renewable energy brings.

Caroline Jones (14 Monadnock Street, Keene), a member of the Clean Energy Team of the Monadnock Progressive Alliance, read a statement about the health and safety dangers of burning and distributing fossil fuels:

Burning of fossil fuels and their pollutants sulfur dioxide and nitrogen oxide add particulates of these pollutants to the air and can contribute to the increase of diseases such as heart disease, cancers, stroke, and lung diseases such as asthma, emphysema, and bronchitis. These health issues particularly affect our children, elderly, infirmed, and those marginalized in some way, especially poor and underprivileged populations. Fossil fuel burning can also cause extreme weather conditions, which we have seen, because of its effect on the jet stream. Flooding can cause water contamination, which increases the risk of gastrointestinal illness such as retrovirus, salmonella, and fish and shellfish contamination. Contamination of recreational water can lead to injuries such as blood stream and wound infections; it is the cause of drownings and serious illnesses. Changes in temperature

have influenced the spread of ticks north increasing Lyme diseases in addition to mosquitos carrying West Nile Virus. Increases in temperature, humidity, and seasonal length can affect our food security by causing more contamination and scarcity of some vital crops.

The distribution of fossil fuels poses a danger as well because the fuels have to be delivered over long distances; over oceans and highways, and in miles of old underground pipelines. Dangerous accidents do occur. We have seen oil spills endangering our ocean populations and explosions such as the recent ones in Andover and Lawrence (MA), causing loss of life and destroying neighborhoods. Trucks carrying oil and gas crashing on our highways have caused oil spills, explosions, fires, and severe human injuries and deaths. There are costs related to all of the fossil fuel burning effects that can be remedied by changing our thinking and choosing remedies that have fewer ill effects. We can have clean, renewable, sustainable energy right here, right now. We have a moral obligation to care for everything that lives and breathes on our planet. The Chinese proverb says, "The journey of a thousand miles begins with a single step." The City of Keene has already taken some very important single steps, time is getting short, let us continue marching forward to clean energy for Keene by saying yes to this proposal.

Connor Hill (Winchester), the senior class president at KHS and president of the KHS Sierra Club, read a letter signed by 80 KHS students:

The Keene High School Sierra Club and the members of the student body that have signed this letter endorse the goals set by the Sustainable Energy resolution, set forth by the Keene Renewable Energy Campaign. Keene High School has been looking into the idea of having solar energy become a larger part of the way the school operates, in large part because of the efforts of the Sierra Club's research, partnership with the staff, and organizing the past few years. We cannot easily move forward on clean energy without the leadership of the local government and community. It is imperative that Keene High School works with the community in the pursuit of taking advantage of this up-and-coming technology, and make the most of the many advantages it holds. Adopting this resolution would be a huge step in moving towards 100% renewables not just for the benefit of the high school but for the entire City.

We believe that the City of Keene, by adopting this resolution, will inspire more rural communities across the state and nation to reach these goals, and act rigorously to combat the climate crisis that threatens the future of each and every student that is enrolled in Keene High School. It is vital that every community does what it can to contribute to the international mobilization on climate change, to avoid further damage to our planet. We strongly encourage you to move forward on this resolution, and to join a community that has already shown a dedication and excitement for transitioning to 100% clean energy.

Mr. Hill posed a question in response to Councilor Sutherland's stance on the resolution and if he is excited with the City taking steps for sustainability. Councilor Sutherland said the master plan articulates the City's plans to mitigate climate change and investing in renewable resources clearly; it is a large document that can be found online. He added the City is working with consultants to manage energy use and sources of energy. He said as a City Councilor he has to balance the needs of taxpayers who are going to incur the costs borne by the City. The City also has fiscal responsibilities and limitations; the City is at the maximum it can borrow, which is a lot, including 14% of the budget just servicing debt. When we talk about projects in the City and different ways to meet the needs of constituents we have to balance these issues. He thinks the City is doing a good job already, will be updating the master plan in the next two years, and he is opposing this because it seems like more of the same. He said we have goals and a City Manager whose role it is to follow through on those goals, brings information to us, and balance stakeholders. He does not want to create policies that conflict with fiscal goals. He said we are all together in this and moving in the right direction. Mr. Hill thanked Councilor Sutherland for the explanation and said it would be a shame to see the City pass on this opportunity to join the international community and everyone at the meeting who know this is the future that will engage members of his age group and attract young people to Keene.

Susan Hay (22 Middle Street, Keene) said, from her perspective, this is the most important MSFI meeting there has been or will be for many years. She said the City's master plan will be disrupted by climate change and the question is if we pay now or later. Her experience on the school board helped her understand the need to balance long-term needs with short-term finances. Still, she thinks the Council has the ability and moral imperative to think better. She agrees that Keene has done some good things but disagrees with Councilor Sutherland that they are enough for what we will be facing. She asked the Committee to think about the fact that their children and grandchildren will be asking us what we were thinking and what could have been more important than this. She thinks this is a glorious opportunity and we do not have the option to stay as we are.

Pat Martin (Rindge) read a statement about access to renewable energy across the socioeconomic spectrum: Rural and low income households spend 40% more for their energy than the national average. They drive longer distances in older, less fuel efficient cars and live in buildings that often do not meet the latest codes. According to the Council of State Governments' website, rural and low income households experience the highest energy burdens across all regions. These households have a median energy burden of 9%, more than twice that of rural median and three times higher than their non-low income counterparts. In several rural regions this burden exceeds 15% for ¼ low income households. The highest median burden for rural low income households are in New England and the mid-Atlantic regions. The good news is energy efficiency is the most cost effective decision we can make and reduces how much renewable energy must be generated to meet our needs.

Currently, NH is rated a dismal #21 nationally by the American Council for an Energy Efficient Economy, but our neighbor to the south, MA, is ranked #1. NH and MA share many of the same utility companies and both use utility-based core programs to deliver energy efficiency services. NH consumers can advocate for access to the same benefits enjoyed by utility customers in MA. NH programs such as the home energy assistance program offer income qualified households an average \$8,000 to seal, weatherize, and make their homes more energy efficient. Unfortunately this program is not adequately funded and as a result there are 10,000 low income households in NH on a waiting list for weatherization services. As a community we can work with the utilities, the legislature, the community action program agencies, and the Public Utilities Commission to provide adequate funding for this critically important program.

The Home Performance with Energy Star program of NH Saves targets the most inefficient homes, with matching grants up to \$4,000, and no income qualification required to participate. This program helps moderate income home owners who are burdened with higher than average energy debt. Even with the matching grant, some families are unable to cover the up-front costs for 50% of the weatherization project. Some of the utilities are considering extending on-bill financing to allow homeowners to pay back a loan through monthly payment or a portion of the monthly savings they realize on their bills. Having the community work with these programs and the utilities to raise awareness about their availability is critical to the success. The Clean Energy Team and Monadnock Energy Hub are actively working on programs and initiatives to support households and businesses that do not qualify for existing programs. Programs such as solarized, weatherized, and heat pump purchases have been successful in the upper valley and seacoast. The Keene Housing Authority approach to bringing energy efficiency and renewable energy supply to affordable housing at Harper Acres is an exemplar of a path forward for all income groups in Keene. As Keene Housing Authority Director Joshua Meehan conveyed to the Keene Sentinel, "In addition to taking the first major step toward Keene Housing's renewable energy goal, installing solar arrays and decreasing electricity costs means the organization can spend more money on its mission of creating affordable housing." Keene Housing had no up-front cost for the solar installation as they lease their rooftops to a solar developer who sells them the renewable power produced through a power-purchaser agreement. Energy efficiency and renewable energy projects by the municipality reduce energy costs and provide a direct benefit to taxpayers through reduced operational costs and taxes. We propose to take the lessons learned and share them with residents and businesses in Keene and advocate for expanded access to programs that already exist.

Taryn Fischer (302 Court Street, Keene) read a letter on behalf of Valerie Piedmont, Pablo Fleischmann, and the Green Energy Options Team (37 Roxbury Street, Keene):

Green Energy Options of Keene supports the goals of: 1) having all of the electricity consumed by the entire City of Keene, (not just municipal government operation) be sourced from renewable energy sources by the year 2030; 2) having 100% of all thermal energy and energy used for transportation be sourced from renewable energy sources by the year 2050; and 3) having the City of Keene develop a strategic plan by April 2020 to meet these renewable energy goals. We look forward to a thorough, transparent and inclusive stakeholder process.

Ms. Fischer continued speaking personally and said she encounters many people who want to know how to offset their use of fossil fuels. She said it can be expensive, complicated, and overwhelming for consumers to understand the transition to renewable energy. Education and helping consumers understand the journey is critical. As a resident, she thinks the City should take aggressive, proactive steps to support renewable energy because energy independence will prepare Keene for an uncertain future; she does not think 2030 is aggressive enough. She wants to belong to a community that presents itself as proactive, forward thinking, and bold. She noted examples of how hard it has been for consumers to understand audits and other technicalities of transitioning to renewable energy and how those technicalities can actually put more financial strain on consumers trying to do the right thing. In closing, she asked the City to be a proactive and bold leader and to provide education to help citizens realize the possibilities of renewable energy.

Mary Ewell (Spofford) said she spends a lot of time in Keene so she wanted to support this resolution. She spent 22 years as a university professor and was always amazed at engineering students looking toward a future they want to be better. She said we cannot dismiss the future generation's ability to lead the way if we show our support; she thinks this resolution provides that support. People hear 2030 or 2050 and think it is far away but they forget how much has changed and advanced in the last 10 years (climate change and energy efficient technology); the cost of wind power has decreased 69% and the cost of solar arrays has decreased 88%. She noted that MA is seeking to invest in utilities with solar and reflective properties that increase the energy produced by 30% approximately. She cited the example of VT among other communities in the country who are taking advantage of modern technology and saving their rate payers \$600,000 during peak summer months. She hopes Keene joins this group of forward thinking municipalities, embraces future innovations, thinks less about today, and believes in young people who will do amazing things.

Hans Porchitz (46 Probate Street, Keene) spoke for himself and as an owner of Benson Woodworking Company, which recently opened a new plant behind Subaru of Keene. He said he is excited about this resolution and that it is a good policy to help support the goals in the master plan. He has experienced zero net out-of-pocket for solar on his garage because of net metering in NH. He said there are opportunities here to find low cost entry points to educate and encourage others to seek these opportunities. He thinks this resolution is a great way to achieve the goals already stated in the master plan.

Craig Rice (17 Lamson Street, Keene) said like many voters he is looking for more accountability from elected representatives. He said this policy for 100% renewable energy is better for health, quality of life, and general well-being. Regardless if the City is doing some things already, he said people want more commitment and accountability. He said faith is lost in all forms of government when people do not feel their interests are heard. He asked City representatives to do what the people want and act on a more global level.

Peter Wotoweic (Langdon) is a Benson Woodworking employee, who said wind energy is now the cheapest source of electricity the world has seen and solar now costs similar to or less than fossil fuels. Two major US electric utilities announced recently that they will no longer build natural gas powered electricity plants; instead, all new facilities will be solar or wind. General electric gas sales are challenged by solar and wind sales. Studies show renewable energy technologies have become cheaper over time, while fossil fuel generation costs are increasing. He said we are living in a new renewable energy paradigm and fossil fuel demand is on the decline. He said even though the demand is declining, we still must act to recognize the sustainable energy shift in society and that public planning needs to align clearly with that paradigm shift. The costs of inadequate, outdated, or inefficient infrastructure are always borne by taxpayers, like the people at this meeting. Thus, he hopes the Committee votes yes on this resolution to have clear policies and pathways forward. He read a letter

on behalf of the Green Energy Options Team (Tedd Benson, Kevin Bittenbender, Chris Carbone, Jay Lepple, Bob Oberlander, Hans Porchitz, and Randall Walter):

Bensonwood fully endorses the Sustainable Energy Resolution for the City of Keene, as presented by the Clean Energy Team of the Monadnock Progressive Alliance. The costs of climate change—including destabilized weather patterns, rising sea levels, extreme weather events, and other serious impacts—now pose a substantial threat to the health, prosperity, and security of Americans. The costs are real, they are growing, and they are already burdening businesses, taxpayers, municipal budgets and families. Our economy, infrastructure, public safety and health are directly at risk.

Prudent action taken now will be far less costly than the consequences of delayed response and will create a more stable business environment for our community. We urge the City councilors to support the resolution that calls for the City of Keene to create a plan for 100% renewable electricity by 2030, 100% renewable energy for all other sectors by 2050, followed by the creation of a plan for how to accomplish these goals by April 2020. Enacting such a policy will: 1) send a clear signal to new and existing businesses to invest in the clean energy economy; 2) protect economically disadvantaged households who are disproportionately affected by climate change; 3) create local jobs and business opportunities since renewable energy is one of the nation's fastest-growing employment sectors; 4) position Keene as a leader in renewable energy and encourage other communities to enact their own forward-thinking policies.

Toby Tousley (499 Washington Street, Keene) said having goals is great but he offered a solution. Whether the City adopts this ordinance or not, he suggests they raise the exemption on solar panels, which is \$30,000 currently. That is affordable for some businesses but not those like his, which are taxed. To increase the volume of sustainable electricity, the City should encourage larger buildings to do this; people will never incur a tax to do something with no benefit. He noted Walpole eliminated the exemption and he is unsure that is the solution, but thinks it should be raised to at least a few hundred thousand dollars. If he were to invest that much money in a building for energy conservation he would not be taxed, but can be taxed for installing solar panels to help solve the problem. Councilor Sutherland recalled an earlier speaker said the impacts of energy costs are disproportionately high for lower income people; he asked if raising the exemption would shift the tax burden from the business owner/solar investor to lower income people who did not invest in solar. Mr. Tousley said that is incorrect and cited his building on Emerald Street, for which he pays \$100,000 in taxes annually whether or not he has solar panels. If he installs solar panels he pays \$4,000 more in taxes approximately.

James Holcomb (641 Court Street, Keene), the Sustainability Coordinator for the Monadnock Food Co-op read a letter on behalf of the Co-op to encourage the Council to support the sustainable energy resolution: The Monadnock Food Co-op values a triple bottom line: people, planet and profit. We have over 3,000 members from the Monadnock region who share these values and we do everything we can to reflect those values back to our community. The roof of the Co-op is home to NH's first Community Supported Solar program, a locally developed, funded, owned and controlled initiative. These hidden solar panels generate more than 500,000 kWh per year, saving 37 tons of carbon dioxide and generating enough energy to power four homes for an entire year. This solar program, paired with the \$100,000 plus we have invested in making our building more energy efficient, is a testament to the Co-ops and our member-owners strong commitment to sustainability.

The Monadnock Food Co-op is on track to run on 100% renewable energy long before 2030. It is my hope that this letter of support shows that the Monadnock region's community is already invested in pursuing 100% renewable energy; and that by seeing the passion and commitment the community puts behind these values, you accept the resolution presented by the Keene Renewable Energy Campaign.

Katelyn Hatzel (Peterborough) and Shaylyn Solace (Keene) are Antioch University students, who read a statement together about the urgency of climate change for young people:

According to the 2017 report issued by the NH Governor's Millennial Advisory Council, the policy section states it is overwhelmingly clear through polls and studies that a proactive and progressive stance on climate

change and climate policy is important to members of the millennial generation. The report found that approximately 71% of millennials believe that we should explore renewable energy generation over oil, gas, and coal exploration; 82% support increased funding for wind, solar, and hydrogen technology. This reveals that we millennials favor clean, sustainable energy over other sources. A Nielsen report also showed that 73% of millennial consumers are willing to spend more on a product if it comes from a sustainable brand. We are attracted to businesses that use clean, sustainable energy and are socially responsible. We want to remind you of the policy recommendation of the business subsection of this report that wants to create stable incentive and rebate programs to encourage NH residents and businesses to invest in sustainable energy and clean technology. The report also stated that if we want to foster higher paying jobs in the state that attract young professionals then we must foster these innovative industries and the clean tech sector. If we cannot support these industries and jobs we can expect skilled millennials to find them in other states.

Ms. Hatzel said the data was sitting in front of the councilors at this meeting. Two weeks ago, she and other students in an Environmental Advocacy class at Antioch taught by Abigail Abrash, traveled to Washington DC for the Citizens Climate Lobby event to learn about programs and how to talk about these climate programs to congressional representatives. As students, they took time away from class and work to support this and they hope the Council will as well. The night before this meeting five congressmen received preliminary approval for a bipartisan legislation to transition Washington DC's power grid to 100% renewable energy by 2032, placing the nation's capital on the front lines of climate change. Because they are the generation that will see and experience the growing effects of climate change, they urged the City of Keene to become a responsible leader in this renewable energy movement.

Dori Drachman (Peterborough) is the Chair of Peterborough's Energy Committee. She noted many people in the room were not from Keene, which just shows Keene has a very large voice in the Monadnock region; what happens here impacts the whole region and what other towns think they can do. When the Peterborough Energy Committee formed in 2017, they talked about pursuing goals like those in this resolution but people were not ready for it yet. There is more enthusiasm now because they can see possibilities starting in Keene for regional changes and partnerships.

John Condos (Chesterfield) spoke on behalf of the Monadnock Sustainability Network, a small non-profit working on renewable energy for a long time. He urged the Committee to be cognizant that the costs of not doing this could be much greater than of doing so, especially for a geographically vulnerable location like Keene. He was in the renewable energy industry for 20 years and the price of batteries is falling like the price of solar panels did, allowing it to be the highest source of new electricity in 2017. He urged the Council to continue being sustainability leaders, like former Mayor Blastos was, and send a message to a region looking for leadership. Momentum is needed at the local level to seize this opportunity.

Peter Mayjoy (South Lincoln Street) spoke as a member of the Monadnock Progressive Alliance and thanked everyone present for trying to help the planet globally and locally. He submitted a letter to the NH Public Utilities Commission in August 2018, which he read to demonstrate why it is important for Keene to pass this resolution:

It is a civil, human, environmental responsibility that PUC not allow Liberty Utilities to move forward with the goal of increasing its availability of natural gas in Keene, NH without allowing people to publically share their feelings, knowledge, and deep concern that must be part of the decision making process. What follows is several reasons I hope Liberty Utilities will not be allowed to move forward with its dark vision: 1) although there will apparently be no pipeline, fracking, or shale development in NH, there may be a Liberty Utilities attempt to do so in its connection with Kinder Morgan, in order for the natural gas to be delivered to Keene, and beyond Keene to other states in the northeast as well as other countries. Whatever steps Liberty Utilities attempts are and will not be compatible with Keene's agreement with the Paris Climate Accord. Furthermore, it is important that you study Kinder Morgan's very dark history. To do so, Google: Kinder Morgan accidents and safety violations. The piece covers from 2003-2014 and is enough to make the decision that honors civil, human, and environmental rights.

2) Go to Bill Moyer's website to read "What the Anti-Fracking Movement Brings to the Climate Movement" and click on a section of the article that will bring you to the 103 page compendium document. In my opinion this document is one of the most important ones you can read to prepare for opposition to fracking, the construction and placement of pipelines, and the continued pressure to promote fossil fuel use. Such a document helps us stay focused on healthy environmental respect for planet earth and all who live here. In the forward to the compendium document, the following is referenced as one of the emerging trends of the new data: "Natural gas is a bigger threat to the climate than previously supposed."

3) If the PUC is fearful of taking a step in the right direction, consult with the Community Environmental Legal Defense Fund, whose executive director is Thomas Lindsay, Esq. CELDF has a wonderful history of helping cities to ban fracking, etc. There is a local NH CELDF organizer that you can contact and discuss this with. Her name is Michelle Sanborn.

Alberto Galarza (55 Gunn Road, Keene) made a statement on behalf of Phil Suter, CEO of the Greater Keene Chamber of Commerce:

First, many in the business community care deeply about these issues and perhaps nowhere more than in the Monadnock region, where we are thoughtful and collaborative about our future. Second, there are many examples of businesses in the region that are already engaged in these issues (renewable energy), whether through their business practices or public policy discussions, debates, and action. Third, change is happening. This can be an important part of our brand as a City, a region, and a state.

Personally, Mr. Galarza thanked everyone for their patience. He said the little things we do daily matter. He encouraged adoption of this resolution because having a deadline to achieve goals helps keep momentum with a unified voice. As a newer resident of Keene, he thinks this is the most important resolution of his lifetime.

Marge Shepardson (94 Pleasant Street, Marlborough) said she is Chair of the Marlborough Energy Committee and was on the Science, Technology, and Energy Committee in the NH House of Representatives for six years. In 2014 the state did a 10-year energy strategy to be revised every four years; thus a new version was released in spring 2018. To the dismay of many on the Science and Energy Committee, the 2018 strategy was quite different than the previous one, focusing more on cost effective savings, which they believe is shortsighted. The goal is to have public policies that discourage natural gas. Members of the Marlborough Energy Committee wrote a report on 100% renewable strategies for NH's future to help the transition to clean energy, which will be less expensive, increase opportunities, and improve health. The strategies encourage neighboring states to work together on new options instead of competing. She said the price of renewable energy is decreasing, while the price of natural gas is increasing. She said the day before this meeting a new bill was introduced to congress called the Energy Conservation and Carbon Dividend act, which is the quickest, cheapest, and most fair way to get off fossil fuels and is a market driven approach. She concluded saying state policies like this and bills passed in Concord grow from grassroots movements in NH and if they see towns like Lebanon, Keene, and Portsmouth passing renewable energy goals, they will finally acknowledge that people want this and make it a policy statewide.

Kristen Snowman Shelley (Walpole) read a letter of support from the Tree Free Greetings Company on behalf of Steve Silverstein (3 Krif Court, Keene):

I would like to emphasize the importance of Keene's Sustainable Energy Resolution to my business, the City economy, and the broader region. We are currently hiring two high-level positions and five moderate-level ones. We anticipate doubling our workforce in the next five years. We must draw talent into our community to fill these slots. Across the board we see a huge increase in the environmental awareness of our applicants. Young families and workers may resonate with our business but they must also resonate with the values and opportunities in our community. They ask themselves, "Does Keene represent us?" It would be a huge, real, and symbolic selling point if we could tell prospective employees that Keene is at the forefront of renewable energy policy and use.

Our number one reason for locating in Keene is the exceptional natural environment and high quality of life for our employees. We deliberately choose to avoid smog and traffic, choke areas that are spreading like the plague across our national landscape. Sustainable energy independence would be a keystone issue that can put our community at the top of “best communities to live in” lists, especially with positively focused lifestyle enthusiasts. As a long-time resident and employer in Keene, I hope you pass this resolution speedily and with the full enthusiasm that it deserves.

April Galarza (55 Gunn Road, Keene) read a letter from Dr. Kerry Gaunt, the Director of Campus Sustainability at KSC:

I am writing to support the community-wide sustainable energy resolution initiated by the Monadnock Progressive Alliance’s Clean Energy Team. The proposed goals present a bold yet essential leadership vision for the City and region. By having these goals, clear implementation roadmaps can be developed. The goals presented in the sustainable energy resolution are compatible with KSC’s sustainability and renewable energy goals approved by President Treadwell and the College Cabinet during Earth Week 2017. KSC developed these goals after extensive research including stakeholder outreach, benchmarking analysis of our peers, and assessment of financial plausibility. The college wanted to strengthen its leadership position in environmental sustainability, while ensuring the financial sustainability of the institution. Innovative financing mechanisms and technological advances have dramatically increased the accessibility and viability of renewable energy and make these essential renewable energy goals attainable. I say essential renewable energy goals because the international scientific consensus is clear: to avoid catastrophic global climate disruption that will affect our region through more intense storm events, heat waves, and unpredictable weather, warming must be kept below 1.5 degrees Celsius. According to 2018 IPCC report, achieving this means all sectors of society must respond with plans to eliminate carbon dioxide emissions no later than 2050. The goals presented in the sustainable energy resolution effectively respond to this international call for action.

The KSC Office of Sustainability applauds the significant actions the City of Keene has already taken toward climate protection. Speaking as the Director of Campus Sustainability, I hope the City will approve the Sustainable Energy Resolution to underscore and expand its commitment to climate leadership. Furthermore, the Office of Sustainability looks forward to collaborating with the City to develop approaches that will help us both achieve our renewable energy goals and model effective responses to the climate challenge.

Personally, Ms. Galarza noted the concern for her and young peers about the future climate change prospects and urged the Council to favor this resolution.

Tamar Viscer (239 Beaver Street, Keene) thanked the Committee for their time recalled the saying “let us not wait to see what happens because then it will be too late.” She said this is an opportunity to address the role we have in education. She begged the Committee to not sit and wait on the master plan when there is the opportunity to partner with members of the community who can offer support to educate citizens. It would be sad to miss out on that opportunity.

Sarah Harpster (32 Old Walpole Road, Keene) spoke from her perspective on food security. Working at the Community Kitchen for five years, she sees the excess produce gleaned from farms across Cheshire County. She got used to receiving the same amount annually until a year of bad storms resulted in 10,000 pounds less of food gleaned for our food insecure neighbors. NH only grows 10% of what it eats and relies on the global food system, which can be dangerous when unexpected changes occur. She hopes everyone in and out of Keene will commit to understanding that this is about our security and she hopes this Committee will make a unanimous recommendation to Council.

Trish Steffanco (Langdon, NH) said this resolution and discussion made her think about the young people in her life, friends, neighbors, relatives, students, and employees. She noted the young people in the room would inherit the consequences of today’s decisions. She asked how we can, in good conscience and with good

evidence, not take action or do the right thing. She listed some of the 99 cities and towns whose citizens already committed to 100% renewable energy goals such as Denver, St. Louis, and Minneapolis. She thinks if all those cities can, then Keene can as well. She said Keene officials have an imagination and she hopes they will take action and do the right thing.

Jeff Scott (45 Crowningshield Road, Chesterfield) said like many towns in the region, Chesterfield is looking to Keene to be role models for this renewable energy transition. He said that fossil fuels, like life, are finite and will run out someday. Renewable and sustainable energy are the answer. The gas coming into Keene right now is fracked, meaning water is used to get fuel; and one day the water will be gone as well.

Mr. Fox said if we keep burning fossil fuels at current rates humans will not be around to see them run out. He retired to Keene one year ago and he would like to see his adopted hometown representing the large populations of the country that have signed on for renewable energy. He thinks this will attract people we want in Keene. He is a passionate environmental advocate and knows that with technological advances this will become a more reasonable goal. He suggested not waiting 20 years until the City is so far behind on technology and has to spend more money to recover.

Diana Damatto (17 Phil Lane, Keene) applauded the efforts of everyone who brought these wonderful points forward. She echoed the urgency of acting as soon as possible. She is terrified of what she sees as a result of climate change already and does not know what she will tell her grandkids when they ask why we did not act sooner. Maintaining the status quo is not enough because things are getting exponentially worse. She urged the Committee to vote in favor of this resolution.

Deborah Kelly (9 Sugar Maple Lane, Keene) shared an anecdote that her six-year-old grandson said they do not do science in school until high school. She said if that is the reality, we are in trouble, so everything needs to be focused on education.

Caroline Jones (14 Monadnock Street, Keene) submitted additional letters of support for the record that can be viewed at the City Clerk's office. Ms. Butcher added that at the end of the resolution there is reference to volume one of the National Climate Assessment for 2017 that should be changed to [nca2018.globalchange.gov](http://nca2018.globalchange.gov), which references the most recent report.

Bill Hay (22 Middle Street, Keene) said none of this urgency matters unless society believes that temperatures are increasing because of human beings; he used examples to demonstrate the rise in global temperatures with human activity. He said there is still a chance if everyone recognizes the climate change is caused by human beings.

Chair Manwaring closed the public hearing and thanked everyone who spoke for sharing their experiences, which helped her learn that individuals do not have to go into debt for renewable energy and leave that debt to her children.

The City Manager noted the proposed motion recommends that staff be directed to introduce a resolution regarding sustainable energy as recommended. She suggested the resolution would move forward in the Council's typical format, then come back to this Committee, which can refer it back to Council or not. She thinks the resolution needs to be amended to: 1) add effective dates; 2) at the end of the resolution, staff will recommend that it only says goals and not policies. She added that the reference to NCA 2018 is not a part of the resolution so it does not need to be addressed.

Councilor Filiault said this is his 21st year on the City Council and after thousands of meetings he has never sat in front of a more informed, impassioned, and enthusiastic group. He thanked everyone for that; Chair Manwaring agreed.

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

On a vote of 4-1, the Municipal Services, Facilities & Infrastructure Committee recommends that full Council direct staff to introduce a resolution regarding sustainable energy, as recommended by the Energy and Climate Committee. Councilor Sutherland was opposed.



City of Keene, N.H.  
*Transmittal Form*

November 28, 2018

**TO:** Mayor and Keene City Council

**FROM:** Planning, Licenses and Development Committee

**ITEM:** D.2.

**SUBJECT:** Albert Grauer - Lodging House License Renewal - 85 Winchester Street

---

**COUNCIL ACTION:**

In City Council December 6, 2018.

Voted unanimously to carry out the intent of the report.

**RECOMMENDATION:**

On a vote of 4-0, the Planning, Licenses and Development Committee recommends that a lodging license be issued to Mr. Albert Grauer for property located at 85 Winchester Street for a period of one year from the date of issuance. Said license is conditional upon the following:

1. No more than 8 persons may reside on the premises.
2. No less than 4 vehicular parking spaces must be provided on the premises.
3. Compliance with all applicable laws, ordinances, codes and rules and regulations.
4. The continuation of license is subject to and conditioned upon the successful passage of two inspections to be conducted by the City.
5. Owner shall notify City staff of any change in building operator; failure to do so may be grounds for suspension or revocation of this license.

This license expires on the 6th day of December, 2019 and may be revoked by the City Council in accordance with Sec. 46-590 "Suspension or Revocation."

**BACKGROUND:**

Mr. Albert Grauer's son, Mr. Trevor Grauer spoke on behalf of his father. Councilor Jones asked if Mr. Grauer wanted to add something to his petition. Mr. Grauer said this is the first year they have had to renew their license but he stated he does not have anything to add or have any questions. Councilor Jones asked Mr. Grauer if he is aware of the conditions that were set forth as part of the license. Mr. Grauer replied that he is aware of the annual inspection, which they have completed, and the annual renewal fee. Councilor Jones said there are two inspections one for building and the other for fire, and they can be done at the same time. Mr. Rogers, Building and Health official, conducted the inspection as required and there was only one minor issue that was taken care of by the property owner. Councilor Jones asked if there have been any complaints on this property. Mr. Rogers said none that he is aware of at this time and he recommends renewal of the license.

Councilor Jones asked if anyone from the public had any questions or comments.

Councilor Hansel made the following motion that was seconded by Councilor Rice.

On a vote of 4-0, the Planning, Licenses and Development Committee recommends that a lodging license be issued to Mr. Albert Grauer for property located at 85 Winchester Street for a period of one year from the date of issuance. Said license is conditional upon the following:

1. No more than 8 persons may reside on the premises.
2. No less than 4 vehicular parking spaces must be provided on the premises.
3. Compliance with all applicable laws, ordinances, codes and rules and regulations.
4. The continuation of license is subject to and conditioned upon the successful passage of two inspections to be conducted by the City.
5. Owner shall notify City staff of any change in building operator; failure to do so may be grounds for suspension or revocation of this license.

This license expires on the 6th day of December, 2019 and may be revoked by the City Council in accordance with Sec. 46-590 "Suspension or Revocation."

Councilor Jones stated that this recommendation will go to full City Council next Thursday. Mr. Grauer asked if he needed to be present at that public meeting and Councilor Jones replied that he could be but there are public comments so he does not have to be.



City of Keene, N.H.  
*Transmittal Form*

November 28, 2018

**TO:** Mayor and Keene City Council  
**FROM:** Planning, Licenses and Development Committee  
**ITEM:** D.3.

**SUBJECT:** KeeneSnoRiders Snowmobile Club - Use of City Property - Public Works Department

---

**COUNCIL ACTION:**

In City Council December 6, 2018.

Voted unanimously to carry out the intent of the report.

**RECOMMENDATION:**

On a vote of 4-0, the Planning, Licenses and Development Committee recommends the City Council grant permission to KeeneSnoRiders for use of the following City property for a snowmobile trail:

- The right-of-way along the north side of Krif Road from Krif Court to Winchester Street;
- City property identified by tax map numbers 909-05-012, 911-26-015 and 909-03-210;
- The crossing of Winchester Street at Krif Road ;and, Production Avenue approximately 200+/- feet south of NH Route 9, and
- Use of the Class VI Portion of the Old Gilsum Road starting approximately one (1) mile from the Gilsum Town line and going north.

Said use shall commence on December 15, 2018 and expire on April 1, 2019, and is subject to the following conditions:

- The signing of a revocable license and indemnification agreement; and
- The submittal of a certificate of liability insurance in the amount of \$1,000,000, naming the City of Keene as an additional insured.
- In addition, the KeeneSnoRiders, Inc. will be responsible (including cost) for the installation and maintenance of all signage/markings, which will begin accordance with Snowmobile Trail Standards published by the NH Department of Resources and Economic Division of Parks and Recreation; that all signage/markings installed shall be removed from the City right-of-way and City property when there is no longer any snow cover, no structures, including buildings, shelters, lights, displays, walls, etc. shall be permitted within the City right-of-way or on the City property; no parking of motor vehicles or trailers and no catering servicing activities of any kind shall be permitted within the City right-of-way or on City property; grooming shall not extend outside the right-of-way of Krif Road, snow windows shall be groomed to provide adequate sight distances and a gentle sloping approach at all road and driveway intersections; no part of the City Street (paved surfaces) may be used by off-highway recreational vehicles (OHRV) or their operators for any purpose, other than direct crossing; and that KeeneSnoRiders, Inc. shall be responsible for the repair of any damage (including costs) and the City right-of-way property shall only be used when there is snow cover.

## **BACKGROUND:**

Mr. Blomquist said he spoke with Mr. Robinson who represents Keene SnoRiders. He said the City has not had any significant issues with snow riders and their trails as they have followed all requests of Staff. Today's motion will give the Keene SnoRiders permission to run their snowmobiles and trails this coming winter. Councilor Jones replied that he is on the Board of Pathways for Keene and he appreciates the job the SnoRiders does in maintaining those trails. Councilor Hansel said it is great to see the partnership between the City, State and the private entity and he would like to see more of these partnerships in the future, perhaps around mountain biking, and extending it beyond snowmobiles.

Councilor Hansel made the following motion that was seconded by Councilor Rice.

On a vote of 4-0, the Planning, Licenses and Development Committee recommends the City Council grant permission to KeeneSnoRiders for use of the following City property for a snowmobile trail:

- The right-of-way along the north side of Krif Road from Krif Court o Winchester Street;
- City property identified by tax map numbers 909-05-012, 911-26-015 and 909-03-210;
- The crossing of Winchester Street at Krif Road ;and, Production Avenue approximately 200+/- feet south of NH Route 9, and
- Use of the Class VI Portion of the Old Gilsum Road starting approximately one (1) mile from the Gilsum Town line and going north.

Said use shall commence on December 15, 2018 and expire on April 1, 2019, and is subject to the following conditions:

- The signing of a revocable license an indemnification agreement; and
- The submittal of a certificate of liability insurance in the amount of \$1,000,000, naming the City of Keene as an additional insured.
- In addition, the KeeneSnoRiders, Inc. will be responsible (including cost) for the installation and maintenance of all signage/markings, which will begin accordance with Snowmobile Trail Standards published by the NH Department of Resources and Economic Division of Parks and Recreation; that all signage/markings installed shall be removed from the City right-of-way and City property when there is no longer any snow cover, no structures, including buildings, shelters, lights, displays, walls, etc. shall be permitted with the City right-of-way or on the City property; no parking of motor vehicles or trailers and no catering servicing activities of any kind shall be permitted within the City right-of-way or on City property; grooming shall not extend outside the right-of-way of Krif Road, snow windows shall be groomed to provide adequate sight distances and a gentle sloping approach at all road and driveway intersections; no part of the City Street (paved surfaces) may be uses by off-highway recreational vehicles (OHRV) or their operators for any purpose, other than direct crossing; and that KeeneSnoRiders, Inc. shall be responsible for the repair of any damage (including costs) and the City right-of-way property shall only be used when there is snow cover.

Mr. Lamb stated that the parcel numbers appear to be the old assessing numbers and they have since changed those, so as this comes forward to Council next week, numbers on parcels will appear different to reflect the changes. Councilor Jones asked if anyone had any further comments. He said this motion will go before full City Council next Thursday.



City of Keene, N.H.  
*Transmittal Form*

November 28, 2018

**TO:** Mayor and Keene City Council  
**FROM:** Planning, Licenses and Development Committee  
**ITEM:** D.4.

**SUBJECT:** Councilor Filiault - Supporting State Legislation that Would Standardize the Age Requirement for Tobacco and Vaping Products

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**COUNCIL ACTION:**

In City Council December 6, 2018.  
Tabled until later in the meeting.

The Mayor removed the item from the table.  
Voted with 13 in favor and one opposed to carry out the intent of the report.

**RECOMMENDATION:**

On a vote of 3-1, the Planning, Licenses and Development Committee recommends that Staff be instructed to work with our Legislative Delegation to amend RSA-126-1C to increase the minimum age from 18 to 21 to purchase, use or possess tobacco products. Councilor Rice was opposed.

**BACKGROUND:**

It was noted that Councilor Filiault was still in the meeting in the adjacent room. Ms. Elizabeth Dragon, the City Manager, stated she is prepared to speak on Councilor Filiault's behalf on the intent of this request. She stated the City is currently considering a local ordinance for changing the age for tobacco purchase and possession from 18 to 21. She said some of the comments they have heard from both people testifying at meetings and from City Councilors relate to the concern that people may go to other towns to purchase tobacco products. Therefore, Councilor Filiault is asking for support from the Council to move forward with working with state legislators to draft a proposal that would make the age change from 18 to 21 statewide. Ms. Dragon said she met with Senator Kahn about this issue and if the Council decides they want to move forward he is prepared to put the legislation forward this session. Councilor Jones asked if he is asking for a letter or a resolution. Ms. Dragon replied that he is asking for support. Councilor Jones asked if it would be better to introduce their ordinance first so they have background to put into that letter. Ms. Dragon replied that her only concern with that approach is the timeline for putting bills forward as they will need to work with the Senator to get something in by December 20. She said it would be beneficial to work on both initiatives simultaneously so they do not miss the deadline.

Councilor Rice stated that she is not in support of raising the age for possession or purchase of tobacco products; however, if it is the intent of the City Council as a whole, she is in support of keeping consistency throughout the State. She said she would support a letter that all towns have the same age, rather than specifying what age that would be. Councilor Jones agreed, however, he said it does not necessarily go along with the

Councilor's request. Ms. Dragon stated that at tonight's meeting they did vote to move forward with that ordinance so next Thursday that ordinance will be in front of full Council, as well as the committee's recommendation depending on how they act, so they will have both in front of them. She said in terms of not putting an age in the letter that would be something that would not be in accordance with Councilor Filiault's, request but is certainly something that the Council could decide to amend. She added that the consistent age is 18 right now with the exception of the local ordinance and that is where the differences come in. She said a handful of communities have already made the change and as this continues to be a priority issue they will probably see more communities continue to do so. Councilor Rice asked Ms. Dragon if communities have already deviated from the rest of the State does that mean it would be difficult to pass legislation that would get those communities to lower the age again. Ms. Dragon replied that the State legislature could in fact require those communities to bring the age back down by making their ordinances invalid.

Councilor Hansel stated that the recommended motion has an instruction for Staff to work with the delegation. Ms. Dragon said the meeting is to draft legislative proposals, it will reference the statute number and cross out 18 and insert 21, with no other changes. Councilor Hansel said he does not understand why City staff is involved at all as a letter of support should be the extent of it. Ms. Dragon replied that it is mostly for convenience for State legislators as the City can easily provide correct references and statutes. Councilor Sapeta he supports discussion of both the ordinance and the proposed legislative amendment at the same time at full City Council as it is an important initiative and he support City staff involvement. Councilor Rice asked if Senator Kahn will be bringing this forward whether he gets support from the Committee or not. Ms. Dragon replied that he will only come forward with the support of the Committee.

Councilor Rice stated that because the age is specified she will not be voting in favor of this recommendation for the Council. Councilor Hansel stated that he also will not be voting in favor as it is the NH State legislature's job to legislate and if Senator Kahn feels strongly about this bill, he should be putting his name on it, drafting it and presenting it. He said the City can sit in a supportive role, perhaps through a letter of support, but it seems odd the way this is presented and he will be voting against it. Councilor Jones stated that in the interest of meeting the December deadline for bills, he will be voting in support of the recommendation.

Mr. Lamb stated that there will be a split vote which would imply "No Action." He said the other alternative is to place the item on more time to open up more opportunity for discussion, allow the discussion at City Council next week to take place, as well as give Councilor Filiault the opportunity to speak and possibly have a fifth member on the Committee. Councilor Jones said he is concerned about the time restraints and the Council does not vote on more time issues and asked if it is a tie vote if it still appears before the Council. Mr. Lamb replied yes it does.

Councilor Hansel stated that he would vote in favor of having this motion move forward, as it is somewhat a philosophical issue on how much the Council should weigh in on State issues, however, if the majority of the Council wants to weigh in on this, he would vote in favor of this motion tonight recognizing that he might not be in favor next week. Mr. Lamb withdrew his recommendation of placing the item on more time due to the December deadline. Councilor Sapeta stated that a "No Vote" today means they can still vote next week, so there is really no need for more time, just a straight vote and he is in favor of it.

Councilor Rice made the following motion that was seconded by Councilor Sapeta.

On a vote of 3-1, the Planning, Licenses and Development Committee recommends that Staff be instructed to work with our Legislative Delegation to amend RSA-126-1C to increase the minimum age from 18 to 21 to purchase, use or possess tobacco products. Councilor Rice was opposed.



City of Keene, N.H.  
*Transmittal Form*

November 29, 2018

**TO:** Mayor and Keene City Council  
**FROM:** Finance, Organization and Personnel Committee  
**ITEM:** D.5.

**SUBJECT:** Use of Unspent Project Balance to Improve Park Avenue - Public Works Department

---

**COUNCIL ACTION:**

In City Council December 6, 2018.  
Voted with two opposed to carry out the intent of the report.

**RECOMMENDATION:**

On 5-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to use \$438,000 in unspent balances from the completed FY18 Road Rehabilitation Projects (90018, 90237, and 90249) for the rehabilitation of Park Avenue and to move Park Avenue from Fiscal Year 2021 to Fiscal Year 2019.

**BACKGROUND:**

City Engineer Don Lussier stated the Cheshire Rail Trail phase three is scheduled for construction in 2019 – the Rail Trail extends beyond Hurricane Road where it ends today. Phase 3 also includes an on street portion which would loop back to the Cheshire Rail Trail bridge. This project is funded through the Transportation Alternatives Program grant funds where the city pays 20% and the Federal Government pays 80%. In the design of the project it was noted there would be bike lanes constructed on the side of Park Avenue. Mr. Lussier noted the condition of Park Avenue is rather poor and this roadway is scheduled to be overlaid in 2021 but this would not be an eligible cost under the Transportation Alternatives Program. Hence, staff is recommending accelerating the 2021 work to coincide with the Rail Trail project next summer.

The work for Park Avenue is in the budget for FY21 in the amount of \$447,000. The last few years road projects have come in under budget which leaves the city with \$438,000 in unspent road rehab funds and staff is suggesting using these funds to accelerate this work.

Chair Greenwald asked when Park Avenue was last overlaid and why this road keeps falling apart. Mr. Lussier stated it was overlaid in 1996 and he also knows part of this road is under-laid with concrete. Councilor Powers clarified the entire length of Park Avenue is going to be overlaid. Mr. Lussier stated the plan is to start at the intersection of Park Avenue through the fork at Summit Road. The improvements for the bike lanes would be this entire length as well. The Councilor did not feel the stretch from Arch Street to West Street was suitable for bike traffic as it is not that wide. Mr. Lussier stated the existing curbs are going to be realigned; the bike lanes will be five-foot bike lanes and the travel lanes will be about a foot narrower than it exists now.

Councilor Chadbourne asked when the city applies for this grant funding. Mr. Lussier explained the city was approved for this funding in 2014 and as the work moves forward, periodic reimbursements are submitted and as the money comes in it will go back into the particular fund the money came out of.

Councilor Clark made the following motion which was seconded by Councilor Powers.

On 5-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to use \$438,000 in unspent balances from the completed FY18 Road Rehabilitation Projects (90018, 90237, and 90249) for the rehabilitation of Park Avenue and to move Park Avenue from Fiscal Year 2021 to Fiscal Year 2019.



City of Keene, N.H.  
*Transmittal Form*

November 29, 2018

**TO:** Mayor and Keene City Council

**FROM:** Finance, Organization and Personnel Committee

**ITEM:** D.6.

**SUBJECT:** Design Change Order – Cheshire Rail Trail - Phase III Project - Public Works Department

---

**COUNCIL ACTION:**

In City Council December 6, 2018.

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

**RECOMMENDATION:**

On 5-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to negotiate and execute a design change order with CHA Consulting, Inc. for the Cheshire Rail Trail Phase III project in an amount not to exceed \$11,264.00, with funding for the participating and non-participating cost to come from the unspent project balance of the FY18 Road Rehabilitation projects.

**BACKGROUND:**

Mr. Lussier stated this item would use \$11,264 of the \$438,000 discussed previously to reimburse the consultant for additional design work for roadway improvements. Of the \$11,264 the city's share will be \$3,664.

Councilor Powers asked whether these accounts will be closed after this action or asked whether there is still money in these accounts. Mr. Lussier stated this would be a question for the Finance Director. Councilor Jacobs asked why this amount is not covered in what was just discussed – Mr. Lussier stated it is and the second item approves the change order for the design work for the consultant; it comes out of the first allocation which was discussed.

Councilor Powers made the following motion which was seconded by Councilor Jacobs.

On 5-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to negotiate and execute a design change order with CHA Consulting, Inc. for the Cheshire Rail Trail Phase III project in an amount not to exceed \$11,264.00, with funding for the participating and non-participating cost to come from the unspent project balance of the FY18 Road Rehabilitation projects.



City of Keene, N.H.  
*Transmittal Form*

November 29, 2018

**TO:** Mayor and Keene City Council

**FROM:** Finance, Organization and Personnel Committee

**ITEM:** D.7.

**SUBJECT:** Project Evaluator for IMLS Grant- Little Makers: Library STEM and Maker Activities for Very Young Learners Contract - Keene Public Library

---

**COUNCIL ACTION:**

In City Council December 6, 2018.

Voted unanimously to carry out the intent of the report.

**RECOMMENDATION:**

On 5-0 vote, the Finance, Organization and Personnel Committee recommends to the City Council that contract RFP 02-19-02 Project Evaluator for IMLS Grant be awarded to Peer Associates.

**BACKGROUND:**

Head of Engagement, Outreach, and Youth Services Gail Zachariah addressed the Committee. Ms. Zachariah stated the library was awarded the Institute of Museum and Library Services national leadership grant for their three year project for the little makers stem activities for young learners. This grant was accepted in September by the Council. The vital part of the grant is evaluation and it is important to assess the activities of this grant. Following the city's purchasing requirements, an RFP was sent out and only one response was received from Peer Associates; this is an entity the city has worked with in the past and they have always been responsive. Peer Associates is a small New England firm that specializes in science based education programs. Ms. Zachariah stated Peer Associates references came back positive and the selection committee recommends awarding them this contract.

Councilor Jacobs asked what formative and summative work with a naturalistic mixed-methodology means. Ms. Zachariah stated this is language used in the evaluation sector; parents are going to be required to complete a survey, librarians are also going to be trained in what to look for but added she was not sure what formative is and what summative work is.

A member of the audience asked what children will be learning in these focus groups what is going to be measured. Ms. Zachariah stated it is not so much the kids who would be responding to the focus groups but the parents who would be indicating what their kids have become interested in after attending the program. However, there will be an area where children would be also able to express themselves. Intellectual curiosity of the children is going to be encouraged.

Councilor Jacobs made the following motion which was seconded by Councilor Powers.

On 5-0 vote, the Finance, Organization and Personnel Committee recommends to the City Council that contract RFP 02-19-02 Project Evaluator for IMLS Grant be awarded to Peer Associates.



City of Keene, N.H.  
*Transmittal Form*

November 28, 2018

**TO:** Mayor and Keene City Council

**FROM:** Planning, Licenses and Development Committee

**ITEM:** G.1.

**SUBJECT:** Vicki Bacon - Body & Soul Road Runners' Club - Request to Use City Property - Red Cap Run

---

**COUNCIL ACTION:**

In City Council December 6, 2018.

More time granted.

**RECOMMENDATION:**

On a vote of 4-0, the Planning, Licenses and Development Committee recommends this item be placed on more time.

**BACKGROUND:**

Councilor Jones stated that City staff is asking to put this item on more time to allow staff to hold a protocol meeting with the applicant. Kurt Blomquist, Public Works Director and Emergency Management Director stated this meeting will be scheduled shortly. He went on to ask if the committee is comfortable with staff representing these routine licenses when they come back to Committee, or would they prefer the petitioners be present. Speaking on his own behalf, Councilor Jones responded that these are people that have done this before and because it is routine, he does not feel that they need to be present. Councilor Rice stated that Chair Richards usually asks the petitioner how many years the event has been held and felt it is could be a good promotional opportunity for them if they would like to come to the televised meeting.

Councilor Rice made the following motion that was seconded by Councilor Hansel.

On a vote of 4-0, the Planning, Licenses and Development Committee recommends this item be placed on more time.



City of Keene, N.H.  
*Transmittal Form*

November 28, 2018

**TO:** Mayor and Keene City Council

**FROM:** Planning, Licenses and Development Committee

**ITEM:** G.2.

**SUBJECT:** Keene Lions Club - Request to Use City Property - Duck Race

---

**COUNCIL ACTION:**

In City Council December 6, 2018.  
More time granted.

**RECOMMENDATION:**

On a vote of 4-0, the Planning, Licenses and Development Committee recommends this item be placed on more time.

**BACKGROUND:**

Councilor Jones stated the Keene Lions Club is requesting to use City property for their annual duck race. Mr. Blomquist stated the Keene Lions Club is looking at potential changes in where they drop ducks and where they take them out. He will be talking to them to see if he can frame the recommendation to the Committee to give the widest discretion at the next committee meeting. Councilor Jones said sometimes the location changes depending on the weather and flow of river. Mr. Blomquist replied that they have established some standard language so that if weather is an issue they can make a rain date in coordination with Staff.

Mr. Blomquist stated that the Keene Lions Club is aiming to shorten the race this year, as well change their locations of placement and retrieval of ducks in the river. He said the areas they are considering may be difficult and may not be safe and for this reason, he will be talking with them and coming up with a proposed motion in the next week. Councilor Jones said the only component the Council gives permission on is to use the bulldozer in the street; everything else is on private river property. Mr. Blomquist replied that typically they require permission to use the 350 Marlborough Street property to count the ducks, to utilize equipment, to close the City street and permission to use the park for that purpose. He agreed that activities taking place on private property do not require permission from City Council.

Councilor Sapeta made the following motion that was seconded by Councilor Hansel.

On a vote of 4-0, the Planning, Licenses and Development Committee recommends this item be placed on more time.



City of Keene, N.H.  
*Transmittal Form*

November 28, 2018

**TO:** Mayor and Keene City Council

**FROM:** Municipal Services, Facilities and Infrastructure Committee

**ITEM:** I.1.

**SUBJECT:** Relating to the Purchase, Use, and Possession of Tobacco Products

---

**COUNCIL ACTION:**

In City Council December 6, 2018.

Report filed as informational. Voted with 10 in favor and four opposed to adopt Ordinance O-2018-20.

**RECOMMENDATION:**

On a vote of 4-1, the Municipal Services, Facilities & Infrastructure Committee recommends that City Council adopt Ordinance O-2018-20. Councilor Sutherland was opposed.

**ATTACHMENTS:**

Description

Ordinance O-2018-20

**BACKGROUND:**

To begin, Chair Manwaring requested comments from the City Attorney, who listed the following changes to the proposed ordinance since it was before this Committee last:

- The ordinance is now numbered officially for adoption.
- A definition of person is now included in the ordinance, which is the same definition included in the state statute.
- The ordinance makes clear that the legal age to purchase and possess tobacco will change to 21 years old, while all other provisions for the possession and sale of tobacco in RSA 126-K:6 will remain the same (like posting and noticing).

The City Attorney advised the Committee to hold proposed amendments to the ordinance until they have heard public comments on the ordinance.

Chair Manwaring opened the public hearing and recognized Kate McNally, who proposed this ordinance initially. Ms. McNally thanked the Committee and City staff for their hard work on this legislation, which she said will help prevent youth access to tobacco and vapes. She said this is a great step for public health and to show the City is concerned with their citizen's well-being. She expressed no concerns with the ordinance, as written, but suggested a provision for treatment opportunities as a possible alternative for fines; she said the City has had similar practices in the past.

Chair Manwaring recognized Ian Freeman (63 Emerald Street, Keene), who said he thinks it is a shame this

Committee voted overwhelmingly to have this ordinance written. New Hampshire is the “Live Free or Die” state and he thinks is another way to criminalize a victimless act. He stated that police will spend more time ticketing people, that people’s bodies are not the government’s business, and that this is karma.

Chair Manwaring recognized Daniel Cavallero (341 Court Street, Keene), who questioned if there is a conflict of interest with this ordinance; he said Ms. McNally provides nicotine delivery systems, which is also what he sells. He said she is attacking local vape shops and businesses, which he sees as a conflict of interest. Chair Manwaring said Mr. Cavallero was personalizing the matter; he replied it is personal because this affects his business and profits. Chair Manwaring reminded Mr. Cavallero he would be asked to sit down if he did not speak to others respectfully. He replied that he is a citizen of Keene and has a right to speak; he asked again if it is a conflict of interest for someone who works at the cessation program to try to hurt local business by proposing an ordinance. He said one person and 14 Council members can enact a law that hurts his profits. He moved to Keene from New York because this is the “Live Free or Die” state to build his business from nothing, but those politics followed him here. Chair Manwaring asked for clarification because she did not understand the conflict of interest he was referring to. Mr. Cavallero replied it is a conflict of interest because Ms. McNally sells nicotine delivery systems; his doctor at Cheshire Medical said the cessation program is irrelevant and no one goes there. He wonders if there is an incentive to attack vape shops and the people that are actually saving lives. He said he has helped thousands of people in this community to stop smoking. He asked why more parents were not speaking in favor of this ordinance; he said it is because they are his customers and their kids are happy they are vaping instead of smoking combustible tobacco and all the carcinogens therein. He asked if the Committee read and did their due diligence, which he said is the job of Council members. Chair Manwaring said this was not a time for discussion but for Mr. Cavallero to make his public statement. He said he thinks the Committee made their decision when this ordinance was proposed and he does not think they did their due diligence.

Chair Manwaring continued recognizing members of the public to make statements:

Robert Call (109 Kendall Road, Keene) said there is no way he can support this ordinance because it is taking people’s rights away, when they should be able to make educated decisions on their own. He said the FDA is spreading false information about a vaping epidemic, which is a disservice to people. He said the Council should stop passing laws based on feelings; he added that Council members only care about posturing and making people think they accomplish things. Not allowing people to make their own decisions is not a compelling future. He said smoking rates are not decreasing because of prohibition, but because citizens are better educated or know people harmed by smoking. People on the other side already won when laws were passed to make people who smoke second class citizens. He concluded that NH citizens deserve the right to make decisions that only affect them as individuals.

Deborah Kelly (9 Sugar Maple Lane, Keene) said she started smoking at age 18 and wishes it had been illegal until she was age 21. She might have developed better and made better decisions. She noted family members affected gravely by smoking, so she supports any legislation that stalls people from smoking for an additional three years.

Craig Rice (17 Lamson Street, Keene) said when he was young it was a matter of being allowed to smoke if you were old enough to be drafted. He said it is ironic to try to save young people from themselves, even with the best intentions, but still allow military recruiters in local high schools. He said he knows people harmed far more from the decision to listen to a military recruiter as a young person than from smoking.

With no other public comment, Councilor Filiault said he supported keeping the law for age 18 initially, but when he did his homework he changed his mind to age 21. He said it is everyone’s choice to believe the FDA or not, but they say their research demonstrates an epidemic and Keene high school and college administrators agree. He said this is not about those who quit smoking with vapes; it is about young people that start smoking with vapes as their first nicotine delivery. Regarding the assertion that tobacco users between ages 18 and 21

will just go to neighboring towns to purchase, he suggested waiting to invest in neighboring towns because his conversations with state legislatures suggest actions to increase the legal age statewide are increasing.

Councilor Hooper agreed with Councilor Filiault and said he has been reading materials from both sides of this argument. The one thing that moved him was a letter to the editor from a Keene High School student in the Sentinel, who is living this problem present in high schools nationwide. This is why the FDA raised concerns about a public health epidemic and why Keene needs to do something to stop that epidemic.

Councilor Filiault moved to recommend that City Council adopt Ordinance O-2018-20, which Councilor Lamoureux seconded.

Councilor Sutherland introduced amendments he would propose for this ordinance:

- Effective Date: Establish an effective date for O-2018-20.
- Grandfather Clause: The prohibition on sales of tobacco products to persons under age 21 shall not prohibit such sales to persons who attained age 18 before the effective date.
- Tobacco/Nicotine Education Clause: Any fines incurred can be eliminated (or refunded if paid) given the offender completes the Tobacco/Nicotine Education course at Monadnock Hospital – Dartmouth Hitchcock Keene and produces a certificate of completion within 60 days of issuance of violation. Fees for Tobacco/Nicotine Education course may incur additional costs to offender and will be borne by offender.

Regarding the effective day, the City Attorney said this ordinance will be effective upon passage by City Council unless another date is included in the motion, which is Council's choice. Based on the Council cycle and calendar date, Councilor Sutherland suggested a logical effective date would be January 1, 2019.

Regarding the grandfather clause, Councilor Filiault said the legal age stays the same until the ordinance is in effect. Councilor Sutherland clarified he was suggesting that once the ordinance is in effect, anyone who is already age 18 before the effective date will not be subject to prohibition; the law would only apply to those who turn age 18 after the effective date. This grandfather clause would ensure the City is not revoking rights from anyone who already has the right; it is to delay the right for those who have not attained it yet.

Councilor Sutherland moved to amend Ordinance O-2018-20 to establish an effective date of January 1, 2019. With no second, the motion failed.

Councilor Sutherland moved to amend Ordinance O-2018-20 to add that prohibition on sales of tobacco products to persons under age 21 shall not prohibit such sales to persons who attained age 18 before the effective date. With no second, the motion failed.

Councilor Sutherland moved to amend Ordinance O-2018-20 to stipulate that any fines incurred can be eliminated (or refunded if paid) given the offender completes the Tobacco/Nicotine Education course at Monadnock Hospital – Dartmouth Hitchcock Keene and produces a certificate of completion within 60 days of issuance of violation; fees for Tobacco/Nicotine Education course may incur additional costs to offender and will be borne by offender. Councilor Hooper seconded the motion.

The City Attorney recalled that the terms and conditions of RSA 126-K:6.V remain in place, and there is already a provision for education. This would be a violation-level offense, like a speeding ticket, where the offender still has to appear in circuit court. In the statute, it states, "a minor who is found guilty of the violation is punishable by a fine not to exceed \$100." In the proposed ordinance, the first offense results in a \$50 fine, and \$100 for subsequent violations. There are provisions in the statute as well allowing the court to order community service instead of a fine; where available, the court can also order completion of an education program. As a former public prosecutor, he said the court looks at each individual and tends to avoid monetary fines for minors in favor of more productive options. Just because this is already included in the statute, does not mean it cannot be included in the ordinance.

Chair Manwaring said she is not averse to a provision for education but she does not want it to state the program must be at Monadnock Hospital and/or Dartmouth Hitchcock Keene. She said the state provides minimal funding for prevention and it is not guaranteed how long that program will exist. Councilor Sutherland clarified that Ms. McNally indicated this program exists and they hope to recover some of the costs incurred. Thus he added this language to suggest any cost would be borne by the violator. The statute allows Council to add elements to the law without being more restrictive; the statute is ambiguous and could allow fines in addition to education programs and community service. Instead, he is suggesting that education is more effective than fines and he wants to enable a violator to pay a fee to complete an education program in lieu of a fine.

The City Manager said because the court would impose and collect this fine, administering the education provision at the City level could be problematic.

Ms. McNally suggested more general language that does not stipulate the local hospital must provide the education program. She noted there has been success in the past when violators are allowed to complete an education program in lieu of a fine. She does not want to add extra burden to prosecutors and thinks the language in the statute is clear and consistent enough to achieve the intent of this amendment.

Chair Manwaring recognized Dan Fox (18 Wildwood Road, Keene), who suggested the education alternative only be offered for first offenses because many education programs can be completed quickly and easily. He suggested sentencing violators to something that will make a difference.

Craig Rice (17 Lamson Street, Keene) asked if it is a right or a privilege to purchase tobacco at age 18. The City Attorney replied there is a difference between rights, obligations, and privileges in constitutional law. In reality, this is a privilege that is being allowed under state law, similar to licensing in some ways. He said the City Council is a part of a legislative process and, like the state, can restrict this privilege.

Dan Cavallero (341 Court Street, Keene) asked if a violator is fined and wants that fine dropped, then they could go to program of the person who proposed this ordinance. Chair Manwaring replied Council does not have the power to stipulate what program a violator must attend, the court does. Councilor Sutherland said the amendment he proposed would say in lieu of a fine the violator could complete the cessation program that the hospital offers currently. Mr. Cavallero asked if it is a conflict of interest for the person who proposed the ordinance to profit from the ordinance. Councilor Sutherland recalled Ms. McNally said she does not think it needs to be specific to that program. Chair Manwaring said they do not want to specify the program at the hospital because it might not always provide that service. Mr. Cavallero asked why his doctor at Dartmouth Hitchcock Keene said the cessation program there is irrelevant. Chair Manwaring said that is one person's opinion. Councilor Filiault agreed the Committee should remain a legislative body, not a judicial one; Council has opinions but it is up to the courts to make these decisions. Mr. Cavallero said caffeine is an addictive stimulant that also affects brain activity and asked why the Council is not taking steps to address it as well. He said the Committee would understand if they did their research.

Councilor Sutherland motioned to move the question, which Councilor Filiault seconded and the Committee carried unanimously.

On a vote of 0-5, the motion to amend Ordinance O-2018-20 failed.

Chair Manwaring welcomed concluding public comments on the proposed ordinance. Mr. Freeman asked about enforcement of this ordinance; as he understood from state law, police need reasonable suspicion of a crime to request identification from a citizen. He said enforcing purchase is easier, but asked what will constitute reasonable suspicion of possession for the difference between ages 18 and 21. The Police Chief replied that suspicion is based on appearance of age, as described in state statute currently. The Keene PD will not start questioning individuals during casual encounters; requesting identification is more common during a traffic stop

or in schools, for example. They will not be patrolling the streets to stop pedestrians; Mr. Freeman said they have the right to though. The Police Chief said he can discern age to a reasonable degree; just like if a person walking with beer appears underage, the police have a legal obligation to stop them. The same is true with tobacco legislation. Mr. Freeman said even if it is policy, it gives the police another reason to harass young people in this town, which he said they do regularly for victimless acts, like drinking. He suggested the police focus on crimes with victims.

Mr. Rice said young people are harassed enough today, if they are poor and black especially in many communities. He said stop-and-frisk affects some more than others and allows police to engage with young people in a negative manner or ask for identification.

With no further public comments, Chair Manwaring closed the public hearing. Councilor Lamoureux asked if the enforcement procedure will be any more stringent than it is today if this ordinance passes. The Police Chief replied no.

On a vote of 4-1, the Municipal Services, Facilities & Infrastructure Committee recommends that City Council adopt Ordinance O-2018-20. Councilor Sutherland was opposed.



# CITY OF KEENE

O-2018-20

Eighteen

In the Year of Our Lord Two Thousand and .....

Relating to the Purchase, Use, and Possession of Tobacco Products

AN ORDINANCE .....

*Be it ordained by the City Council of the City of Keene, as follows:*

That the Ordinances of the City of Keene, as amended, are hereby further amended by deleting in its entirety the stricken text being Article III - Tobacco, Division 2 – Environmental Tobacco Smoke Regulations for Restaurants, in Chapter 6, Alcoholic Beverages and Tobacco, and inserting the bolded text being a new Article III – Tobacco, Division 2 - Purchase, Use, and Possession of Tobacco Products, as follows:

~~DIVISION 2. ENVIRONMENTAL TOBACCO SMOKE REGULATIONS FOR RESTAURANTS~~

~~Sec. 6-81. Definitions.~~

~~The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Cocktail lounge* means that portion or specified area of a restaurant, hotel, motel, convention center or resort which is used primarily to serve liquor or other alcoholic beverages, irrespective of whether or not food is also served there.~~

~~*Effectively segregated* means an enclosed place separating the no smoking area from the smoking permitted area. For cocktail lounges, up to 30 cubic feet per minute of outdoor air per occupant shall be provided for 100 people per 1,000 square feet. Room air shall be discharged directly outdoors rather than recirculated. More air shall be exhausted from the room than is supplied to it.~~

~~*Employee* means any individual person who performs services for an employer.~~

~~*Employer* means an individual person, partnership, association, corporation, trust, or other organized group of individuals, including the city or any agency that utilizes the services of one or more individual employees.~~

~~*Person* means any person, firm, partnership, association, corporation, company or organization of any kind including, but not limited to an owner, operator, manager, proprietor or person in charge of any building, establishment, business, or restaurant or retail store, or the agents or designees of any of the foregoing. Person in charge shall not include the owner of the property unless he is routinely present and controls the day-to-day activities or sets the policy carried out on the premises upon which smoking is prohibited.~~

~~*Private club* means places owned by social, fraternal, or religious organizations.~~

~~Restaurant means any enclosed coffee shop, cafeteria, sandwich stand, private and public school cafeteria, and other eating establishment which gives or offers food for sale to the public, guests, or employees, as well as kitchens in which food is prepared on the premises, for serving elsewhere, including catering facilities.~~

~~Smoking means inhaling, exhaling, burning or possessing any lighted cigar, cigarette, or other tobacco product in any form.~~

~~City means the City of Keene.~~

~~This division is promulgated under the authority granted the city council by the state statutes.~~

~~Sec. 6-83.— Statement of purpose.~~

~~There is conclusive evidence that tobacco smoke causes cancer, respiratory and cardiac diseases, negative birth outcomes and irritations to the eyes, nose and throat. The harmful effects of tobacco smoke are not confined to smokers but also cause severe discomfort and illness to nonsmokers. Environmental tobacco smoke (ETS), more commonly known as "secondhand smoke," includes both exhaled smoke and the side stream smoke from burning cigarettes and causes the death of 53,000 Americans each year. The environmental protection agency (1993) has designated environmental tobacco smoke to be a Class A carcinogen similar to radon and asbestos with no known safe levels of exposure. In recognition of these facts, the city recognizes the right of those who wish to breathe smoke free air and establishes this regulation to protect and improve the public health and welfare by prohibiting smoking in restaurants.~~

~~Sec. 6-84.— Conflict with other laws or regulations.~~

~~Notwithstanding the provisions of the foregoing, nothing in this division shall be deemed to amend or repeal applicable fire, health or other regulations so as to permit smoking in areas where it is prohibited by such fire, health or other regulations.~~

~~Sec. 6-85.— Public health; food service establishment permit.~~

~~Upon application for a food service establishment permit, the applicant shall attest that the restaurant is in compliance with this division. If the applicant does not attest that it is in compliance with this division no permit may be issued. The person in charge of the restaurant shall allow access to the restaurant by health/inspections department personnel of the city to inspect the restaurant for compliance with this division. Any person in charge attesting on a food service establishment permit application found not to be in compliance with this division is in violation. Failure to comply with this division shall be grounds for withholding, suspension, or revocation of the food service establishment permit required by the city health ordinance as set forth in section 46-386.~~

~~Sec. 6-86.— Investigation.~~

~~Any complaint of violation of this division relative to ventilation, signage, physical barriers or related facility noncompliance shall be investigated by the city health/inspections department. All other complaints of violations shall be investigated by~~

~~the city police department. Any violation requiring a summons shall be served by the city police department.~~

~~Sec. 6-87. - Violations.~~

~~Any person who violates this division shall be subject to a fine in an amount of \$200.00 for a first offense, \$300.00 for a second offense and, \$500.00 for a third or subsequent offense. Failure to comply with this division shall be grounds for withholding, suspension or revocation of the food service establishment permit required by section 46-386. To constitute a violation of this division, the person in charge must first inform the customer or employee that smoking is prohibited.~~

~~Sec. 6-88. - Smoking prohibited.~~

~~No person shall smoke nor shall any person, employer, or other person having control of the premises upon which smoking is prohibited by this division, or the agent or designee of such person, permit a person to smoke in any restaurant. Additionally, no person shall smoke in any place in which a sign conforming to the requirements of this division is posted. No person shall remove a sign posted under the authority of section 6-89.~~

~~Sec. 6-89. - Posting notice of prohibition.~~

~~Every person having control of premises upon which smoking is prohibited by and under the authority of this division shall conspicuously display upon the premises "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it).~~

~~Sec. 6-90. - Exemption for cocktail lounges and private clubs.~~

- ~~(a) — Cocktail lounges are exempted from this division provided that they are effectively segregated from any nonsmoking area. An enclosed place must separate the no smoking area from the smoking permitted area. In addition, there must be a continuous, physical barrier such as a wall, partition or furnishing (that spans from the floor to the ceiling) that separates the no smoking area from a smoking permitted area. The barrier may contain doors or portals for exit and entry.~~
- ~~(b) — Buildings owned and operated by private clubs when used by the membership of the organization, their guests or families, or when they are rented or leased for private functions from which the public is excluded, and arrangements are under the control of the sponsor of the functions and not the organizations are exempted. Smoking shall be prohibited when such buildings are made available to the general public.~~

## **DIVISION 2. – PURCHASE, USE, AND POSSESSION OF TOBACCO PRODUCTS**

### **Sec. 6-81. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*E-cigarette* means any electronic smoking device composed of a mouthpiece, a heating element, a battery, and electronic circuits that provides a vapor of pure nicotine mixed with propylene glycol to the user as the user simulates smoking. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, or e-pipes, or under any other product name.

*Liquid Nicotine* means any liquid product composed either in whole or in part of pure nicotine and propylene glycol and manufactured for use with e-cigarettes.

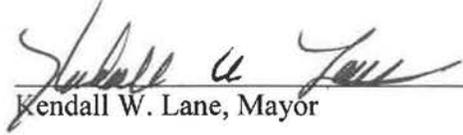
*Person* means any individual, firm, fiduciary partnership, corporation, limited liability company, trust, or association, however formed.

*Tobacco Product* means any product containing tobacco including, but not limited to, cigarettes, smoking tobacco, cigars, chewing tobacco, snuff, pipe tobacco, smokeless tobacco, and smokeless cigarettes.

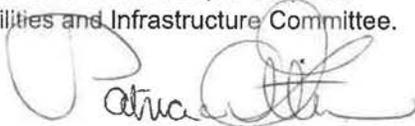
**Sec. 6-82. - Purchase, Use, and Possession of Tobacco Products.**

- (a) No person under the age of 21 shall:
  - (1) Purchase a tobacco product, e-cigarettes, or liquid nicotine.
  - (2) Use or possess a tobacco product, e-cigarettes, or liquid nicotine.
- (b) No person shall:
  - (1) Sell, give, furnish, provide, cause or allow or procure to be sold, given or furnished, a tobacco product, e-cigarette, or liquid nicotine, to a person under the age of 21.
  - (2) For the purposes of this ordinance, the terms "Tobacco Product," "E-cigarette," and "Liquid Nicotine," shall include any product or device defined herein.
- (c) Any person violating the provisions of this ordinance shall be subject to a fine of up to fifty dollars (\$50.00) for a first offense, and up to one hundred dollars (\$100.00) for a second or subsequent offense.

- (d) **Except as otherwise modified herein, the provisions and requirements of RSA 126-K:1, et seq, as may be amended from time to time, remain in effect.**

  
Kendall W. Lane, Mayor

In City Council November 15, 2018.  
Referred to the Municipal Services,  
Facilities and Infrastructure Committee.



City Clerk

A true copy;

Attest:   
City Clerk