



KEENE CITY COUNCIL
Council Chambers, Keene City Hall
November 7, 2019
7:00 PM

Roll Call
Pledge of Allegiance

MINUTES FROM PRECEDING MEETING

- October 17, 2019

A. HEARINGS / PRESENTATIONS / PROCLAMATIONS

B. ELECTIONS / NOMINATIONS / APPOINTMENTS / CONFIRMATIONS

1. Confirmations
Ashuelot River Park Advisory Board
Bicycle/Pedestrian Path Advisory Committee

C. COMMUNICATIONS

1. Kathy Frink - Resignation - Partner City Committee
2. Denise Burchsted - Resignation - Conservation Commission
3. Mark Rebillard and Roger Weinreich/Keene Downtown Group - Requesting the Establishment of a Free Parking Program
4. Councilor Philip Jones - Maintenance of the Wilson Pond Dam on Arch Street

D. REPORTS - COUNCIL COMMITTEES

1. Attorney Thomas R. Hanna/BCM Environmental & Land law, PLLC - Recently Discovered Title Problem Relating to the Commercial Street Parking Area
2. Councilor Greenwald – Request that Crosswalks be Marked at Hillside Village – Wyman Road
3. Ashuelot Court Sewer and Water Main Replacement – In Response to Request to Partner in the Installation of Water and Sewer Lines on Ashuelot Court, a designated Private Road – Public Works Department.
4. Mark Rebillard/Keene Downtown Group and Jim Narkiewicz/Keene Ice and Snow Festival Committee Chair – Request to Use City Property
5. Rob Robbins/Keene SnoRiders – Request to Use City Rights of Way
6. Bulletproof Vest Partnership Grant Program – 2019 – Police Department
7. Highway Safety Agency Grant – Keene – Police Department
8. Beaugard Trust Property – 0 Chapman Road

9. Tax Deeds and Waivers for 2009, 2010, 2015, and 2016 Tax Years – Finance Department
10. Periodic Reports from Standing Committees: Trustees of Trust Funds

E. CITY MANAGER COMMENTS

F. REPORTS - CITY OFFICERS AND DEPARTMENTS

1. Canvass of Election Returns - Municipal General Election
2. Adjournment for Collective Bargaining - Keene City Employees

G. REPORTS - BOARDS AND COMMISSIONS

H. REPORTS - MORE TIME

1. James Phippard/Brickstone Land Use Consultants, LLC - Request to Discontinue Easement for Possible Future Road Extension at Black Brook Road
2. Tad Schrantz/The Colonial Theatre Group – Various Licenses Needed for the Renovation and Addition to the Colonial Theatre

I. ORDINANCES FOR FIRST READING

1. Juvenile Conference Committee
Ordinance O-2019-17
2. Relating to Small Wireless Facility Deployments in the Public Rights of Way
Ordinance O-2019-18

J. ORDINANCES FOR SECOND READING

K. RESOLUTIONS

1. Relating to the Official Trail Name Designations
Resolution R-2019-38
2. Discontinuance of a Portion of the Commercial Street Parking Lot
Resolution R-2019-36
Resolution R-2019-37

Non Public Session
Adjournment

10/17/2019

A site visit was held Thursday, October 17, 2019 at 5:45 PM relative to a petition from Attorney Thomas Hanna, representing the Colonial Theatre, to consider Resolution R-2019-36, Relative to the Absolute Discontinuance of a Portion of the Commercial Street Parking Lot and Resolution R-2019-37, Relative to the Acceptance of a Warranty Deed to Correct the Sidewalk and Curbing Encroachment Problem – Commercial Street Parking Lot. City Councilors in attendance included: Carl B. Jacobs, Janis O. Manwaring, Thomas F. Powers, Terry M. Clark, Randy L. Filiault, Kate M. Bosley, Robert J. O'Connor, Robert B. Sutherland, George S. Hansel, Gary P. Lamoureux, Bettina A. Chadbourne, David Richards and Mitchell H. Greenwald. Mayor Kendall W. Lane and City staff in attendance included: the City Attorney, City Manager, and the Public Works Director. Councilors Philip M. Jones and Steven L. Hooper were absent.

The Mayor called the site visit to order at 5:45 PM. The Public Works Director, Kurt Blomquist, informed the attendees of the scope of this project indicating that this project has come to fruition due to the selling of the property located 20 Commercial Street to the Colonial Theatre. The property is currently owned by Jeanna Hamblet Revocable Trust. It was noted there are issues within the current title of the property that need to be resolved in order to have a clear title to sell the property.

The 1969 discontinuance layout had taken the property that is in question, 22 feet in depth and 60 feet in length in front of the current building, formerly known as the Downtown Fitness for Women. Then in 1970, the Planning, Land and Licenses Committee wanted to undo the discontinuance in 1969. The process that was completed was not sufficient to codify the change. This was determined through the disclosure process when reporting to the Savings Bank of Walpole. The petition for the discontinuance is intended to correct the errors in 1970. The portion being discontinued includes about 8 parking spaces and has been privately used by the Hamblet Family. They have been paying taxes on the portion that was thought to be theirs since the 1970s.

Attorney Thomas R. Hanna recapped the events that the Public Works Director stated. He also explained the need to correct the sidewalk and curbing encroachment problem. The sidewalk, from the side of the building to the backside of the building, is owned by the Hamblet family and they have been paying taxes on this portion of the property. In the process of selling, the piece of the property needs to have an easement to allow pedestrians to continue to use this sidewalk.

Attorney Thomas R. Hanna continued to explain the third and final issue will be addressed at tonight's meeting as a communication. He stated that the Savings Bank of Walpole will go forward on the loan as long as the errors that have been addressed at this Site Visit and the future Site Visit will be corrected in the future as needed.

The Public Works Director answered questions from the City Councilors in attendance. As there were no further comments, the Mayor declared the site visit closed at 5:57 PM.

A true record, attest:


Assistant City Clerk

10/17/2019

A regular meeting of the Keene City Council was held Thursday, October 17, 2019. 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, Kate M. Bosley, Robert J. O'Connor, Robert B. Sutherland, George S. Hansel, Gary P. Lamoureux, Bettina A. Chadbourne, Stephen L. Hooper, Philip M. Jones, David C. Richards and Mitchell H. Greenwald were present. Councilor Hansel led the Pledge of Allegiance. A motion by Councilor Greenwald to accept the minutes from the October 3, 2019 regular meeting was duly seconded by Councilor Jones. The motion passed with a unanimous vote in favor.

ANNOUNCEMENTS – MAYOR

The Mayor announced that the Veteran's Council is extending its annual welcome for all City Councilors to attend and participate in the Veteran's Day Ceremony, which will be held at the Veteran's Monument at the Keene Parks and Recreation Center on Monday, November 11, 2019 at 11:00 AM.

PUBLIC HEARING – KENO ON THE 2019 MUNICIPAL GENERAL BALLOT

The Mayor opened the public hearing at 7:03 PM. The Notice of Hearing and Certificate of Publication were read. The Mayor recognized Kelly Jane Cleland Director of Sales and Product Development for the New Hampshire Lottery Commission. Ms. Cleland began by explaining that she is present to answer questions about keno. She noted that this was before the City Council two years ago just prior to the launch of keno in January of 2017. Since then 84 municipalities, including cities, towns and one unincorporated township have voted to allow keno, and it is now occurring at 190 establishments. One thing to note is that recently there was a change with keno funding. With the passage of HB 4, keno funding will now go into the Education Trust Fund, rather than solely being used to fund full day kindergarten programs. Everything else about keno is exactly the same. Ms. Cleland clarified that she represents the Lottery Commission, not the Department of Education. She offered to answer any questions that would fall within her purview.

Councilor Jones noted the last time this happened, all it said on the ballot was "Should Keene have Keno?" with no explanation that it would only happen in places holding liquor licenses or that it is one central keno operation – not individual games. There was not a lot of education to assist the public, nor was the wording on the ballot particularly helpful. It did not pass in Keene, and that may have been due to lack of information. He added that within the State, often money is said to be funding something specific and then that changes with time and it becomes part of the general budget. He asked if there are any stopgaps to prevent that. Ms. Cleland responded to the first question, noting that the phrasing of the question on the ballot is dictated by SB 191, something that is out of the Lottery's control. She agreed that more information is needed, and that is why the Lottery Commission visits communities to answer questions and engages in public awareness campaigns. She went on to state with regard to funding, all lottery funds collected since the passage of the lottery in 1964 have gone toward education and been deposited in the Education Trust Fund. She noted that it was a surprise to the Lottery Commission that this new shift would occur at this time.

Councilor Greenwald asked Ms. Cleland to explain where keno can occur. Ms. Cleland noted that it may only occur in pouring establishments like bars and taverns. Many times family restaurants do not qualify. Each location receives a visit to determine if it can be approved.

The Mayor noted this hearing is an opportunity to educate the public about keno. The question will be on the ballot on November 5, 2019, and this hearing is meant to provide information about keno and the use of the funds collected.

Councilor Sutherland asked what impact of the introduction of keno has had on overall revenue growth, and he asked for demographics regarding keno gamblers in terms of education level, levels of disposable income, etc. Ms. Cleland stated they do not have information on who is engaging in keno games, but they do have some information from an economic impact study, which showed that establishments operating keno are seeing new customers at their locations, as well as an increase in sales of alcohol and food, which has resulted in a need to increase their staffing levels. Offering keno has been very positive for the establishments that have keno. They are not seeing any issues stemming from this. They are seeing sales of other lottery products increase, which may be attributable to the addition of keno, but they may also be due to more product offerings generally, such as the iLottery app and fast-play games. Meaning there are more opportunities for lottery sales to occur. The Lottery Commission had a record year this year, returning over \$106,000,000 to the Department of Education. Part of that is due to keno and part of it is due to general lottery growth.

Councilor Clark stated the State of NH is now changing what this funding will be used for after saying it would be used to fund kindergarten. Keno has been able to expand the habit of gambling, according to the chart provided by the Lottery Commission, and extract even more money from people who cannot afford it.

The Mayor opened the floor to public comments. There being none, the Mayor closed the public hearing at 7:14 PM. He noted the City Council having authorized the question on the Municipal General ballot, the purpose this evening was to notify the public and provide information for them to be prepared to vote on the question at the election on November 5, 2019.

A True Record, Attest:


Assistant City Clerk

PUBLIC HEARING – DISCONTINUANCE OF A PORTION OF COMMERCIAL STREET PARKING LOT

The Mayor opened the public hearing at 7:15 PM. The Notice of Hearing and Certificate of Publication were read. The Mayor recognized Public Works Director Kurt Blomquist. He noted that as the notice stated, the City of Keene has received a petition from the Colonial Theatre, which is represented this evening by Attorney Thomas Hanna. He continued that the petitioner has requested the discontinuance of a public way. What this means is they have requested that a right the public has to pass and repass on this property associated with the Commercial Street

parking lot be discontinued. To orient the public, Mr. Blomquist noted this parking lot is located off Main Street, Gilbo Avenue and Emerald Street, directly behind Margarita's and the Colonial Theatre. The particular property involved is known as 20 Commercial Street, the location of the former Lady of America gym. Mr. Blomquist noted the process for the discontinuance includes submittal of a petition, a site visit of the location – which happened earlier this evening, and a public hearing. The petitioner will explain the need for the discontinuance this evening and then the matter will be referred back the Municipal Services, Facilities and Infrastructure Committee for further review and a recommendation back to the full City Council. He provided some historical details relative to the need for this petition, stating that in 1969 the City was acquiring properties to create the Commercial Street parking lot area and working with a number of private property owners in the area. At that time, the City Council laid out a public way over the City owned land as well as some private property located in this area for this purpose. Within about a year, there was an interest to narrow down a particular area of the original layout, so at that time in 1970 the City Council passed another layout for the Commercial Street lot. Unfortunately, in 1970 the process was not followed correctly resulting in that layout not being valid. So, what has remained in effect has been the 1969 layout of the Commercial Street lot. He ended by introducing Attorney Hanna to address the Council.

Attorney Thomas R. Hanna of the law firm BCM Environmental Land Law stated that he represents the Colonial Theatre. He continued the Colonial Theatre has a contract to purchase 20 Commercial Street from Jeanna Hamblet. Unfortunately, when they discovered this mistake of the 1969 layout, it caused the bank, that is financing the purchase and some substantial renovations to the main Theatre at 95 Main Street, to require that this “cloud” on the title created by the 1969 taking and layout be resolved. With the aid of a map, Attorney Hanna pointed out the area in question, noting it is a rectangular parcel approximately 60 feet long by 20 feet wide adjacent to 20 Commercial Street. The property was taken in 1969. He went on to explain that within months of the recording of the Resolution to layout this area, the then Planning, Lands and Licenses Committee sent a memo to the Mayor and City Council trying to retract or indicate that it no longer recommended that the 60 foot by 20 foot area be included in the Commercial Street parking lot. He added that as Mr. Blomquist had indicated, not many months after that in 1970 there was a new layout of the Commercial Street parking lot that did not include this affected area, the subject rectangular spot. However, that 1970 layout did not undo the taking in 1969. So, for all these years technically that 1969 layout and taking of the subject property was effective – notwithstanding the fact that the City Council and the property owner understood that that was private property. Taxes have been paid on the area for the last 50 years, and for all that time it has been accommodating parking. Again, the action taken by the City Council in 1970 with the intent of rectifying this situation was not legally adequate. The only way that you can undo a layout is for the same body that laid out the area to formally discontinue that area and hence that never having happened before. We are now doing what is being required by the bank to accommodate the closing on this property in as timely a fashion as State Statute will allow.

Attorney Hanna went on to reference a letter he submitted to the City Council on September 17, 2019 that involves a request to have the City accept an easement from the land owner for a section of sidewalk that was installed in 2015 on the west side of 20 Commercial Street which was built on private property. This needs to clearly be a City sidewalk, and the best way to accomplish that is through the granting of an easement.

Councilor Jones noted he missed the site visit and therefore cannot vote on the discontinuance. He asked if he is able to vote on the easement. The City Attorney answered in the affirmative.

Attorney Hanna made reference to another defect in the 1969 layout relative to the rear of the Colonial Theatre that was discovered, and a further petition to discontinue which will be submitted to remedy this. In the meantime, the bank is asking some sort of affirmative action from the Council on November 7, 2019. The Mayor noted this will need to be a separate action from that of the request for discontinuance before the Council this evening. Attorney Hanna agreed and stated a second petition to discontinue will be submitted at a later time.

The Mayor opened the floor to public comments. There being none, the Mayor closed the public hearing at 7:30 PM. He noted the hearing would remain open for written public comments until 1:00 PM on Tuesday October 22, 2019. Comments must be signed and submitted to the City Clerk's Office by the deadline for consideration by the Municipal Services, Facilities and Infrastructure Committee prior to their vote on a recommendation.

A True Record, Attest:


Assistant City Clerk

CONFIRMATION

A motion was made by Councilor Greenwald and duly seconded by Councilor Jones to confirm the following nomination: Kathleen Kennedy Burke to serve as a regular member of the Library Board of Trustees with a term to expire June 30, 2023. On a roll call vote, with 15 Councilors present and voting in favor, the nominations were confirmed.

NOMINATIONS

The following nominations were received from the Mayor: Thomas Haynes to serve as an alternate member on the Ashuelot River Park Advisory Board with a term to expire December 31, 2022; and David Souther to serve as a regular member on the Bicycle Pedestrian Path Advisory Committee with a term to expire December 31, 2019 . The nominations were tabled until the next regular meeting.

COMMUNICATION – CATHERINE SOUTHER – RESIGNATION – AGRICULTURAL COMMISSION

A communication was received from Catherine Souther, submitting her resignation effective immediately to the Agricultural Commission. A motion by Councilor Greenwald to accept the resignation with regret and appreciation of service was duly seconded by Councilor Jones. The motion passed with a unanimous vote in favor.

COMMUNICATION – MARK REBILLARD/KEENE DOWNTOWN GROUP AND JIM NARKIEWICZ/KEENE ICE & SNOW FESTIVAL COMMITTEE CHAIR – REQUEST TO USE CITY PROPERTY

10/17/2019

A communication was received from Mark Rebillard, Keene Downtown Group, and Jim Narkiewicz, Keene Ice & Snow Festival Committee, requesting to use City property for the 17th annual Keene Ice and Snow Festival to be held on February 1, 2020. The communication was referred to the Planning, Licenses and Development Committee.

COMMUNICATION – ROB ROBBINS/KEENE SNORIDERS – REQUEST TO USE CITY RIGHTS OF WAY

A communication was received from Rob Robbins, Keene Snoriders, requesting to use City rights of way along Krif Road from the Ashuelot Rail Trail to Winchester Street from December 15, 2019 to March 30, 2020. The communication was referred to the Planning, Licenses and Development Committee.

COMMUNICATION – JEANNE MCCLIMENT – BANNING ROOSTERS WITHIN THE CITY LIMITS

A communication was received from Jeanne McCliment, requesting that the City Council consider a ban on roosters within the City limits. The communication was filed into the record as informational.

COMMUNICATION – TAD SCHRANTZ/THE COLONIAL THEATRE GROUP – VARIOUS LICENSES NEEDED FOR THE RENOVATION AND ADDITION TO THE COLONIAL THEATRE

A communication was received from Tad Schrantz, The Colonial Theatre Group, requesting several licenses from the City to accommodate the renovation and addition to the Colonial Theatre. The communication was referred to the Planning, Licenses and Development Committee.

COMMUNICATION – ATTORNEY THOMAS R. HANNA/BCM ENVIRONMENTAL & LAND LAW, PLLC – RECENTLY DISCOVERED TITLE PROBLEM RELATING TO THE COMMERCIAL STREET PARKING AREA

A communication was received from Attorney Thomas R. Hanna, BCM Environmental & Land Law, PLLC, relative to their petition to discontinue a portion of the Commercial Street Parking Lot. While reviewing the documents and plans associated with that discontinuance another title problem was discovered. This problem relates to the Hamblet property that was also included in the 1969 layout of the parking area. This second title defect affects the proposed addition to the existing theatre building. The communication was referred to the Municipal Services, Facilities and Infrastructure Committee. The Mayor set the Site Visit for November 7, 2019 at 5:45 PM and the Public Hearing for November 7, 2019 at 7:00 PM. Note: Subsequent to the Oct. 17th Council meeting, the Mayor canceled the site visit and public hearing because the petition for discontinuance had not yet been received.

COMMUNICATION – JAMES PHIPPARD/BRICKSTONE LAND USE CONSULTANTS, LLC – REQUEST TO DISCONTINUE EASEMENT FOR POSSIBLE FUTURE ROAD EXTENSION AT BLACK BROOK ROAD

A communication was received from James Phippard, Brickstone Land Use Consultants, LLC, requesting to discontinue an easement that was acquired by the City to allow for the possibility of a second means of access to the Black Brook Road subdivision. The communication was referred to the Municipal Services, Facilities and Infrastructure Committee.

COMMUNICATION – COUNCILOR GREENWALD – REQUEST THAT CROSSWALKS BE MARKED AT HILLSIDE VILLAGE – WYMAN ROAD

A communication was received from Councilor Greenwald, requesting crosswalks be marked at Hillside Village on Wyman Road. The communication was referred to the Municipal Services, Facilities and Infrastructure Committee.

COMMUNICATION – COUNCILORS O’CONNOR AND FILIAULT – PROPOSED NEW BUS ROUTE THROUGH THE WHEELOCK STREET, NEWMAN STREET AND PINE AVENUE NEIGHBORHOOD

A communication was received from Councilors O’Connor and Filiault, requesting that the City Council review the proposed new bus route through the Wheelock, Newman and Pine Avenue neighborhood. The Mayor announced that there is a public meeting sponsored by Symonds School scheduled for October 23, 2019 at 6:00 PM. The communication was referred to the November 13, 2019 Municipal Services, Facilities and Infrastructure Committee.

MSFI REPORT – COUNCILORS BOSLEY & RICHARDS – COMPREHENSIVE REVIEW OF NEIGHBORHOOD SPEED LIMITS

Municipal Services, Facilities and Infrastructure Committee report read recommending that City staff be directed to conduct an analysis of speed limits in the City of Keene. A motion by Councilor Manwaring to carry out the intent of the report was duly seconded by Councilor Filiault. A brief discussion took place. A motion by Councilor Greenwald to refer back to the Municipal Services, Facilities and Infrastructure Committee was duly seconded by Councilor Clark. A brief discussion took place. A motion by Councilor Greenwald to withdraw his motion to refer back to the Municipal Services, Facilities and Infrastructure Committee was duly seconded by Councilor Clark. A motion by Councilor Greenwald to amend the committee report to recommend the City Manager to be directed to provide a scope of the work necessary to determine whether or not to lower the speed limits to 25 miles per hour in appropriate areas of the City was duly seconded by Councilor Clark. The motion to amend passed with a unanimous vote in favor. The amended committee report passed with a unanimous vote in favor.

MSFI REPORT – AUTHORIZATION TO GRANT A UTILITY EASEMENT – PUBLIC WORKS DEPARTMENT

Municipal Services, Facilities and Infrastructure Committee report read recommending that the City Manager be authorized to do all things necessary to negotiate and execute an amendment to the existing easement with Central Square Terrace Housing Associates Limited Partnership to allow for conduit and appurtenant equipment between the transformer and the Central Square Terrace building across the City of Keene parcel that contains the City Hall parking structure. A motion by Councilor Manwaring to carry out the intent of the report was duly seconded by Councilor Filiault. The motion passed with a unanimous vote in favor.

MSFI REPORT – KATIE SCHWERIN – PUBLIC ART PROPOSAL

Municipal Services, Facilities and Infrastructure Committee report read recommending that the proposed public arts display by Katie Schwerin to be placed at the Dillant Hopkins Airport be referred to the City Manager to review the proposed display in accordance with Resolution R-2018-22 and possible acceptance by the City. A motion by Councilor Manwaring to carry out the intent of the report was duly seconded by Councilor Filiault. The motion passed with a unanimous vote in favor.

CITY MANAGER COMMENTS

The City Manager advised that the Police Department is going through their accreditation process. An assessment team from the Commission of Accreditation for Law Enforcement Agencies, otherwise known as CALEA, will arrive on October 28, 2019 and will remain on site until October 30, 2019. The purpose is to examine all aspects of the Keene Police Department's policies, procedures, management, operations and support services. As part of this process, agency employees, members of the community are invited to comment at a public information session, which will be held on Tuesday, October 29, 2019 at 5:00 PM, at the Michael E.J. Blastos Room, located at 380 Marlboro Street. CALEA is internationally recognized organization that establishes standards for law enforcement agencies, assesses agency compliance with these standards and confers the accreditations upon qualified agencies. The accreditation lasts for four years.

The City Manager advised a new resident that moved from the mid-west pitched an idea of art on the snowplows. Public Works Department thought it would be a wonderful idea to engage the students and have one plow be painted by those students for the upcoming winter would be a great way to begin the process. The Monadnock Waldorf School children have finished their masterpiece and is currently on display at Railroad Square. The plow is also featured on the Keene Public Works Department Facebook page. It is the desire to engage other schools in the Keene District to participate next year.

The City Manager advised that she met with the Downtown Coordinator, Beth Wood, on Tuesday, October 15, 2019. She provided a great summary of some of the activities she has been involved with, including the Radically Rural Event. She was co-leading the Main Street track and will be doing the same next year. Ms. Wood is also very active in the Arts and Culture

10/17/2019

Corridor, has been working on a pop-up event that will be on Saturday, October 19, 2019 in Railroad Square from 11:00 AM to 3:00 PM. She has been working on the First Friday initiative to connect Keene State College students with the downtown business event and networking opportunities as a way to encourage grad-students to remain in community. She is a member of the downtown group, which is now taking on the Snow & Ice Festival. Ms. Wood has been working with Paragon Digital on the community calendar. She has also been visiting with Main Street business.

The City Manager provided an update on the Kingsbury Project. On October 10, 2019, there was a successfully executed tax payment arrangement for 2009 and 2010 taxes, interest and penalties due for the former Kingsbury property. The total amount due is \$710,025.27. Payment #1, the amount of \$115, 833, had been deposited. Payment # 2 is due next week on October 21, 2019 in the amount of \$119,000. Payments will be applied to the oldest year taxes first. Starting with payment #4, the 2009 taxes, interest and penalties will be paid in full, then payments will be then applied to the 2010 taxes, interest and penalties. This payment schedule was important to minimize any potential return of funds should the property owner default, which we are not anticipating. In addition, language was included so if payment was not received on the date specified for each payment, the City will send notice via email that the payment was not received. The property owner will then have seven days to make the payment, if still not received, the City will immediately begin the process of issuing a tax collector's deed for the property under RSA 80:76. Once the tax payment arrangement had been executed, she began negotiations related to the land matters. The City Manager is still waiting for a response for the last offer.

The City Manager explained the new change for vehicle registrations, Clerk Works, in the Revenue Department. The financial software that the City uses does not interface with the State's Vehicle Registration software. Clerk Works is the only State approved Motor Vehicle software and it will eliminate the need of duplicate entry by staff. About 21,000 vehicle registrations are processed each year. This will make the process more efficient and the only change the customer will see is that they will sign on the digital signature pads, they only have to sign their name once and it prints on all three copies of the registration.

PLD REPORT AND ORDINANCE O-2019-12: RELATING TO ZONE CHANGE – 560/580 MAIN STREET

Planning, Licenses and Development Committee report read recommending the adoption of Ordinance O-2019-12: Relating to Zone Change – 560/580 Main Street. The report was filed into the record. Ordinance O-2019-12 was read for the second time. A motion by Councilor Richards for adoption of the Ordinance was duly seconded by Councilor Jones. On roll call vote, 15 Councilors were present and voting in favor. Ordinance O-2019-12 declared adopted.

The Mayor adjourned the meeting at 8:20 PM.

A true record, attest:


Assistant City Clerk



City of Keene, N.H.
Transmittal Form

October 15, 2019

TO: Mayor and Keene City Council

FROM: Mayor Kendall W. Lane

ITEM: B.1.

SUBJECT: Confirmations

COUNCIL ACTION:

In City Council November 7, 2019.

Voted unanimously to carry out the intent of the report.

In City Council October 17, 2019.

Tabled until the next regular meeting.

RECOMMENDATION:

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

Ashuelot River Park Advisory Board

Thomas Haynes, alternate slot 8
531 Marlboro Street

Term to expire Dec. 31, 2022

Bicycle Pedestrian Path Advisory Committee

David Souther, slot 4
82 Meadow Road

Term to expire Dec. 31, 2019



City of Keene, N.H.
Transmittal Form

November 5, 2019

TO: Mayor and Keene City Council

FROM: Kathy Frink

THROUGH: Patricia A. Little, City Clerk

ITEM: C.1.

SUBJECT: Kathy Frink - Resignation - Partner City Committee

COUNCIL ACTION:

In City Council November 7, 2019.

Voted unanimously to accept the resignation with regret and appreciation for service.

ATTACHMENTS:

Description

Communication_Frink

BACKGROUND:

Kathy Frink has submitted her resignation from the Partner City Committee, effective December 31, 2019.

Kathy has been a member since the Committee's creation in 2008.

Kathy Frink
29 Hallwood Drive
Surry, NH 03431
603-352-6416

October 29, 2019

Mayor and Keene City Council
City Hall
3 Washington Street
Keene, NH 03431

Dear Mayor and Council:

Please accept this letter of my resignation effective December 31, 2019 from the Partner City Committee.

It has been a pleasure to serve on the committee for many years and I will treasure the memories and friendships I have made here as well as in Germany.

Respectfully,

A handwritten signature in cursive script that reads "Kathy Frink".

Kathy Frink



City of Keene, N.H.
Transmittal Form

November 5, 2019

TO: Mayor and Keene City Council

FROM: Denise Burchsted

THROUGH: Patricia A. Little, City Clerk

ITEM: C.2.

SUBJECT: Denise Burchsted - Resignation - Conservation Commission

COUNCIL ACTION:

In City Council November 7, 2019.

Voted unanimously to accept the resignation with regret and appreciation for service.

RECOMMENDATION:

Denise Burchsted has submitted her resignation from the Conservation Commission. Denise has been a member of the Commission since November 2015.

ATTACHMENTS:

Description

Communication_Burchsted

Denise Burchsted
93 Grant Street
Keene, NH 03431

October 21, 2019

Rhett Lamb, Planning Director
City of Keene
3 Washington Street
Keene, NH 03431

Re: Resignation from the Conservation Commission

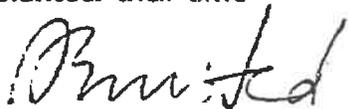
Dear Mr. Lamb:

I write, with great disappointment, to resign from the City of Keene Conservation Commission.

I am saddened to write this letter; however, it is necessary as I am dealing with residual medical issues from a serious burn. These are forcing me to limit my commitments to the bare minimum, and I will not be able to attend the commission meetings or contribute in other ways for the foreseeable future.

I am very disappointed that I cannot be more active at this point, and I hope that I will be able to return to a higher level of participation in the future.

With sincere apologies, and with appreciation for the commissioners who are able to volunteer their time



Denise Burchsted

cc:

Eloise Clark, co-chair, conservation commission
Sparky von Plinsky, co-chair, conservation commission



City of Keene, N.H.
Transmittal Form

November 5, 2019

TO: Mayor and Keene City Council

FROM: Mark Rebillard, President and Roger Weinreich, Board Member - Keene Downtown Group

THROUGH: Patricia A. Little, City Clerk

ITEM: C.3.

SUBJECT: Mark Rebillard and Roger Weinreich/Keene Downtown Group - Requesting the Establishment of a Free Parking Program

COUNCIL ACTION:

In City Council November 7, 2019.

Referred to the Finance, Organization and Personnel Committee.

ATTACHMENTS:

Description

Communication_Keene Downtown Group

BACKGROUND:

This is a request from the Keene Downtown Group to increase downtown business and social activity by inviting people to visit "Main Street in the Morning" by establishing free parking between the hours of 8:00 AM to 11:00 AM on Main Street in the downtown area.



City of Keene

Mayor Kendall Lane and Keene City Council
City Hall
3 Washington Street
Keene, NH 03431

October 30, 2019

Dear Honorable Mayor Lane and City Council Members,

The Keene Downtown Group is writing to ask the City of Keene to establish a free parking program, to operate between the hours of 8 and 11 am on Main Street in the downtown area.

We propose to work in partnership with the Parking Department to help design and implement this program. Our goal is to positively shift public perception regarding the availability and convenience of downtown parking.

At this time, there appears to be an abundance of open parking spaces along Main Street in the morning. Parking revenue for this time period has likely diminished and this is an excellent time to try some new ideas.

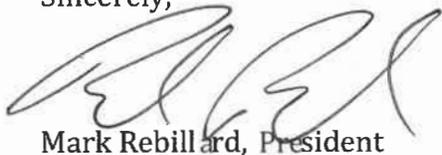
The feasibility of this project, including specific details regarding the location of the parking area, as well as the duration of time allowed for free parking will be determined by the Parking Department. The program can be evaluated, adjusted or terminated if it becomes unsustainable or does not achieve desired results.

The intention of the Keene Downtown Group is to increase downtown business and social activity by inviting people to visit "Main Street in the Morning". The Magical History Tour, featuring the Walldog Murals is a wonderful addition to our downtown. It is our hope, that the new parking program will serve as a gateway that will encourage more people to conveniently visit both the murals and our downtown community.

We believe that this welcoming gesture of controlled, free parking will enhance the overall experience for both Keene residents and new visitors as they continue to discover our beautiful downtown.

Thank you for your consideration.

Sincerely,



Mark Rebillard, President



Roger Weinreich, Board Member

The Keene Downtown Group PO Box 80 Keene, NH 03431



City of Keene, N.H.
Transmittal Form

October 23, 2019

TO: Mayor and Keene City Council

FROM: Councilor Philip M. Jones

THROUGH: Patricia A. Little, City Clerk

ITEM: C.4.

SUBJECT: Councilor Philip Jones - Maintenance of the Wilson Pond Dam on Arch Street

COUNCIL ACTION:

In City Council November 7, 2019.

Referred to the Municipal Services, Facilities and Infrastructure Committee.

ATTACHMENTS:

Description

Communication_Jones

BACKGROUND:

Councilor Jones is recommending that the City of Keene take over the maintenance of the Wilson Pond Dam on Arch Street.

In City Council November 7, 2019.
Referred to the Municipal Services,
Facilities and Infrastructure Committee.

Patricia Castle

CITY OF KEENE

October 23, 2019

FROM: Councilor Philip M. Jones 
TO: The Honorable Mayor and City Council
SUBJECT: Maintenance of Wilson Pond Dam on Arch Street

Recommendation:

Recommend that the City take over the maintenance of Wilson Pond Dam on Arch Street.

BACKGROUND:

The Keene School District is considering removing the dam from Wilson Pond on Arch Street. The School System's Board of Education Committee on Building Facilities and Ancillary Services has voted to recommend that the School Board appropriate \$430,000 in the fiscal year 2020-2021 school budget to repair the dam, subject to a third party (the City of Keene) agreeing to take over maintenance of the dam after it is repaired. If a third party has not agreed to take over maintenance of the dam by January 3, 2020, then the appropriation would be reduced to \$230,000, to be used for removal the dam.



City of Keene, N.H.
Transmittal Form

October 23, 2019

TO: Mayor and Keene City Council

FROM: Municipal Services, Facilities, and Infrastructure Committee

ITEM: D.1.

SUBJECT: Attorney Thomas R. Hanna/BCM Environmental & Land law, PLLC - Recently Discovered Title Problem Relating to the Commercial Street Parking Area

COUNCIL ACTION:

In City Council November 7, 2019.

Voted unanimously to carry out the intent of the report.

RECOMMENDATION:

On a vote of 3-0, the Municipal Services, Facilities & Infrastructure Committee recommended that the City Attorney be authorized to work with the Colonial Theatre Group, Inc., to develop and submit a petition for the discontinuance of that section of the Commercial Street Parking Area that encumbers property now owned by Colonial Theatre Group, Inc., at 89-95 Main Street as shown on a preliminary plan prepared by David A. Mann, LLS, dated October 15, 2019, with the understanding that the formal discontinuance of such section of the Commercial Street Parking Area will occur after the Colonial Theatre Group, Inc.'s loan closing.

BACKGROUND:

Chair Manwaring welcomed Thomas Hanna of Concord & Portland, who provided history. He said that in 1969, the City established the Commercial Street parking lot, including a low, 20' strip at the rear of the existing Colonial Theater building at 95 Main Street. Within a few months following, Mr. Hanna said that the City Council determined they did not need the 20' strip as a part of the lot. A new layout of the lot in 1970 did not include this strip, but he said that was not the way to undo something done legally. The Colonial Theater has since used the strip to house their HVAC equipment.

Mr. Hanna said this situation has become a problem for the theater now, with a loan closing for 20 Commercial Street and substantial renovations to the theater. He said the bank indicated that if City Council acknowledges this situation behind the theater at their November 7 meeting, as discussed in a recent public hearing, then City staff would be able to work with the Colonial to discontinue that portion of the Commercial Street lot. In this case, the Savings Bank of Walpole would move forward with loan closing. Failing to discontinue would be a bad situation for the theater from a timing standpoint. The City Attorney said he would be happy to go forward working with Mr. Hanna to make a petition and fix the problem, similar to one the Council saw previously.

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

On a vote of 3-0, the Municipal Services, Facilities & Infrastructure Committee recommended that the City Attorney be authorized to work with the Colonial Theatre Group, Inc., to develop and submit a petition for the discontinuance of that section of the Commercial Street Parking Area that encumbers property now owned by

Colonial Theatre Group, Inc., at 89-95 Main Street as shown on a preliminary plan prepared by David A. Mann, LLS, dated October 15, 2019, with the understanding that the formal discontinuance of such section of the Commercial Street Parking Area will occur after the Colonial Theatre Group, Inc.'s loan closing.

The Chair noted that the Mayor had canceled the site visit and public hearing on November 7 for this discontinuance. The hearing and site visit would be established when the petition for discontinuance and accompanying plans are submitted.



City of Keene, N.H.
Transmittal Form

October 23, 2019

TO: Mayor and Keene City Council

FROM: Municipal Services, Facilities and Infrastructure Committee

ITEM: D.2.

SUBJECT: Councilor Greenwald – Request that Crosswalks be Marked at Hillside Village – Wyman Road

COUNCIL ACTION:

In City Council November 7, 2019.

Voted unanimously to carry out the intent of the report.

RECOMMENDATION:

On a vote of 3-0, the Municipal Services, Facilities & Infrastructure Committee recommends that the correspondence from Councilor Mitch Greenwald, dated October 14, 2019, be referred to the Planning Board for consideration in accordance with Condition #3 of the Board's Conditions of Approval for Site Plan Review No. SPR-11-16, dated November 28, 2016.

BACKGROUND:

Chair Manwaring welcomed Councilor Greenwald, who said he spoke to many Hillside Village residents and staff at a recent open house who seek a crosswalk for safe crossing between the two buildings on either side of Wyman Road. He showed the Committee an architectural rendering of the possible crosswalk. He questioned how quickly City staff could accomplish this. He said it seemed extremely simple to him and he hoped staff came prepared to propose a solution before the weather changes. He provided several pages of signed petitions in support.

Chair Manwaring recognized Gregg Burdett, Director of Human Resources for Hillside Village, who said that 180 employees are approved and there will be almost 300 residents within the year. With the tremendous amount of traffic and guests, people walk across Wyman Road on a daily basis. He noted that Wyman Road has become a thoroughfare, with speeds approaching 50mph coming downhill. He said many residents are seniors and it takes them time to cross the road. Mr. Burdett respectfully requested that the Council grant Hillside Village permission for a crosswalk.

The Community Development Director, Rhett Lamb, said much time has passed since the Planning Board spent substantial time reviewing site plans for this property in 2015-2016, when Engineering and Public Works staff worked with the designers and owners to develop the safest solution. He said it was clear from the beginning that it was necessary to address these concerns and he shared the site plan approval from that time. A condition of site plan approval was that the developer must install a crosswalk at the location in question or elsewhere. He said the record is clear that Hillside Village designed the site to direct all pedestrian traffic through an underground tunnel below Wyman Road that connects the two buildings. At the time of approval, the Planning Board expressed concern that people would want to cross Wyman Road at street level; they wanted more information and therefore reached a compromise. Mr. Lamb read the third condition of site plan approval:

“Between twelve and eighteen months following the issuance of Certificate of Occupancy, the Applicant will hire an independent consultant to complete an assessment of pedestrian traffic and safety along the area of Wyman Road adjacent to the site. If the Public Works Director determines that the pedestrian volumes and assessed safety conditions warrant changes to the site and/or roadway design, the Applicant will work with the Public Works Director and Planning Department to implement the agreed upon changes at the expense of the Applicant.”

The Community Development Director explained that the 18-month time period provided in that condition ended in June 2019. The Community Development Director shared two possibilities from his view: 1) recognize that the jurisdiction for this matter is with the Planning Board and to refer the applicant there, or 2) accept this matter as informational. He said that referral to the Planning Board follows the path this project is already on in terms of evaluating and reporting back to the Planning Board. He said there is no reason Hillside Village cannot between looking at a solution right away and staff will work with them to do so as soon as possible.

The Public Works Director, Kurt Blomquist, recalled that there were significant conversations with the Hillside Village development team about this need to cross Wyman Road. He did recognize the difference between the development team several years ago when built and the operational team there now. He said this is not a simple conversation of crosswalks, but also where they go and end. During design development, City staff wanted Hillside Village to put sidewalks along Wyman Road to provide safe passage; complaints continue today that there is inadequate walking space along the roadway. The developers countered saying the internal paths would be sufficient and they saw no need for sidewalks along Wyman Road. Thus, the third condition of site plan approval was the compromise for Hillside Village to come back and do it. Because there are no sidewalks on Wyman Road, there is nowhere for a crosswalk to begin and end, so Hillside Village might need additional right-of-way to accomplish managing their facilities on each side. The Public Works Director recommended continuing this through the Planning Board.

Councilor Filiault said it was clear that all agreed there is a problem and sidewalks are the solution. He asked the most expedient process to follow. The Public Works Director recommended that Hillside Village return with their proposed plan, which is their responsibility. The Community Development Director said it might seem obvious that a crosswalk is necessary, but said that the location of that crosswalk is very important in relation to the vertical hill and steep turn. He said the crosswalk's location is not as obvious as it may seem and professional analyses are needed to ensure standards are met; doing so might require on-site improvements via Hillside Village because there is currently no sidewalk on site to lead pedestrians to a crosswalk. Councilor Filiault questioned the speed limit on Wyman Road. The Public Works Director said the current posted speed limit is 30mph and there is a speed table in front of the facility. He agreed that City engineers recommended Hillside Village would need to create walking space on Wyman Road to connect to their internal paths. The development engineers disagreed, however, which is part of why the speed table was installed.

Chair Manwaring asked if there are signs alerting motorists to the speed table. The Public Works Director confirmed and said there are speed limit signs as well. The City Council agreed to change the speed limit to 30mph there, which is uncommon for a road in the Rural Zone, but was done to protect residents. The Community Development Director said staff was in favor of making this happen and would make every effort to work with Hillside Village. Chair Manwaring asked Mr. Burdett why residents could not use the underground tunnel developed for that reason. Mr. Burdett said it is a wonderful walkway but it is impractical for those crossing the street regularly, when the weather is clear. He said most people park 30' from the Community Center but must walk into the Health Center and take the elevator to the lower level and tunnel; he said it is a maze to get there. He added that he understood fully that there is no sidewalk leading to the speed table and he added that it has become an incentive for young kids to “catch air.” Hearing this concern, Councilor Lamoureux asked if police units could be posted there to generate information for the Planning Board. The Community Development Director said he would coordinate that with the Police and Public Works Departments.

Councilor Greenwald said it was obviously a simple situation with a complex process to get to it. He thanked staff for doing anything possible. He asked if Hillside Village could put signs on their own property directing pedestrians to cross at the speed hump. The Public Works Director said that they could not legally place signs in the public right-of-way. They could put signs on their own property but said the speed table is not a crossing and it would not be appropriate or safe as such. He said it is complex, and he admitted frustration because he told the development team that this would likely happen and they countered saying pedestrians would be directed to use the tunnel. It is currently laid out unsafely and it needs to be corrected. Councilor Greenwald said that was a more positive response than he anticipated. He suggested they could put signs on their property during the interim of Planning Board decision. The City Attorney, Tom Mullins, cautioned that although they can do what they wish on their own property, they would in this case be directing people across the City right-of-way, which from staff's perspective is unsafe. He was concerned with a background of the City supporting that unsafe usage in some way. He understood frustration over this process, but said that jurisdiction was with the Planning Board and that was where this issue should go. Councilor Greenwald appreciated anything that would fast track the process and hoped Hillside Village would cooperate.

Chair Manwaring recognized Councilor Philip Jones, who thanked Councilor Greenwald for bringing this forward, as safety is a big concern, and thanked Mr. Burdett for protecting his residents. He requested that the City does anything they can in the interim to make this safer. The Public Works Director did not think more speed tables would help. He said anything suggesting to pedestrians that cars would stop when they enter the roadway provides a false sense of safety for pedestrians and there would be no way to alert public drivers to a crossing. The Public Works Director ensured there would be sufficient signage moving forward to alert drivers of a denser pedestrian population for a rural area. He recommended against anything in the interim encouraging people to cross Wyman Road where it is unsafe. Safety is staff's concern.

Councilor Lamoureux asked Mr. Burdett if he objected to the City proceeding as quickly as possible. Mr. Burdett said he was not present for the development of Hillside Village and appreciates the City's willingness to consider this issue again; he said Hillside Village would do everything possible within financial reason. He understood it is a dangerous spot on Wyman Road and was happy to comply with the City moving forward.

Chair Manwaring recognized Councilor Carl Jacobs, who said he heard nothing keeping Hillside Village and City staff from working together immediately to ensure there are no loose ends when the matter goes to the Planning Board. The Community Development Director agreed completely, saying he was ready to work with Hillside Village immediately following the meeting.

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

On a vote of 3-0, the Municipal Services, Facilities & Infrastructure Committee recommends that the correspondence from Councilor Mitch Greenwald, dated October 14, 2019, be referred to the Planning Board for consideration in accordance with Condition #3 of the Board's Conditions of Approval for Site Plan Review No. SPR-11-16, dated November 28, 2016.



City of Keene, N.H.
Transmittal Form

October 23, 2019

TO: Mayor and Keene City Council

FROM: Municipal Services, Facilities and Infrastructure Committee

ITEM: D.3.

SUBJECT: Ashuelot Court Sewer and Water Main Replacement – In Response to Request to Partner in the Installation of Water and Sewer Lines on Ashuelot Court, a designated Private Road – Public Works Department.

COUNCIL ACTION:

In City Council November 7, 2019.

Voted unanimously to carry out the intent of the report.

RECOMMENDATION:

On a vote of 3-0, the Municipal Services, Facilities & Infrastructure Committee recommends that the City Manager be authorized do all things necessary to negotiate and execute agreements with the property owners of Ashuelot Court for the purpose of financing the replacement of the existing sewer and water mains and to accept the mains after work is completed. Any payment plan shall be up to 20 years with annual interest rate of 2.25%. That the City Engineer is authorized to do all things necessary to size the sewer and water mains. Further, the City Manager is authorized to do all things necessary to use Water and Sewer Fund unallocated fund balance to fund the design and construction of the sewer and water main replacement work.

BACKGROUND:

The Public Works Director, Kurt Blomquist, recalled that this was a request from residents on Ashuelot Court, a privately owned street. The water and sewer mains on Ashuelot Court date to the 1930s as a part of the original Faulkner-Colony complex. There are three properties on Ashuelot Court, though one has been subdivided into two residential properties in use. Over time dating back to 1993-1994, residents of Ashuelot Court have requested assistance from the City to replace water and sewer lines there, but the residents and Council never reached a final agreement. The current request from residents is for the same issue, requesting that the City work with them on main replacement, turning the infrastructure over to the City for continued upkeep.

The Public Works Director explained the options. He researched establishing a water and sewer district at this location, in addition to City and state law. The City Code allows for acquisition of private streets and utilities when they are at City standard. He referenced the section of code for sewer improvements, which allows the City to act as a bank for a loan for sewer improvements that can be repaid over 20 years; that section also creates a lien on the property if not repaid. He referenced NH RSA-38 for water utilities, with similar language allowing City Council to assess on persons served by the water system and for those assessments then to create a lien on the property.

The Public Works Director noted that the property owners offered to contribute \$10,000 upfront to be split

between the water and sewer components, and thus showing their willingness to participate in this with the City. He provided what residents would see in cost on top of their normal water and sewer. The City Engineer, Don Lussier, did a preliminary design and estimated the sewer costs at \$33,800 and the water costs at \$50,500 for a total cost of \$82,000 estimated now. The cost per property was distinguished based on frontage. He explained the three decisions before Council: 1) whether to act in a loan capacity, 2) to determine the length of time for the loan, which residents hoped would be 20 years, and 3) whether to change the interest rate suggested. He indicated what the cost ranges would be for the three property owners. Generally, over a 20-year loan of \$82,000, the payment for each property would range from \$995-1,300 annually. If construction costs less, then the loan would be less. Staff recommended authorizing the City Manager, Elizabeth Dragon, to negotiate an agreement that would be filed with the Registry of Deeds to follow the properties, not the owners. Staff also recommended authorizing the City Engineer to size the mains. City Code thinks of sewer mains that would support larger developments, but because there is no chance of significant further development near this site, staff believes the 10' water main suggested would be oversized, and thus could create other issues like standing and stale water. The City Engineer would like the flexibility to change the pipe size to avoid such issues.

Councilor Lamoureux asked if the City would take over maintenance of water and sewer at this site once the loan is paid in full. The Public Works Director anticipated six water mains and six sewer mains becoming part of the City system that the City is currently not responsible for maintaining. Services would continue between the mains under Ashuelot Court and the private properties there. For water, the City of Keene is responsible for the pipes between the main and curb stop; from the curb stop to building is the private owners' responsibility. For sewer, private property owners are responsible for lines from the main to buildings. These rules would remain upon completion of the project. Councilor Lamoureux asked if the payments would be a part of the residents' quarterly or annual billing. The Public Works Director thought that would be a part of the City Manager's negotiation. He annualized the cost to describe the estimate to the Committee.

Chair Manwaring recognized Rich Kalich (of Ashuelot Court), who appreciated staff and Council's consideration of the long-term issues with the mains under Ashuelot Court. He recalled that in the past residents of Ashuelot Court could not reach consensus on this issue; he said that all residents today want to move forward, so they hoped Council would consider this solution. He added that the residents hoped for 0% interest as opposed to the 2.25% proposed, which was at the Council's discretion; he said the residents have been paying normal water and sewer forever, as if the City maintained the lines. The residents would continue paying those rates and so he said the City is getting something in return from his perspective. He said the residents would bare the price of lines that would become City property for nothing, and thus he hoped the Council would consider 0% interest. He questioned if the lien requirement on each property would be an encumbrance to selling any of the properties during those 20 years; he questioned if there was a way around the lien requirement during negotiations.

The City Attorney replied saying the lien is a statutory requirement. He added that he and the Public Works Director worked months to find a solution for the residents and the City. They are operating under statutory authority to do this work on private property and there are very limited ways to do so, and thus the lien is to protect the taxpayer. He recognized the downside of liens, but if the legislature expends public funds for this purpose, then there must be a way to recollect at the end of the process if not repaid.

Councilor Lamoureux asked if this would include an easement because it is on private property. The Public Works Director said that the City owns the land under Ashuelot Court dating back to when the City acquired rights to the West Street Dam, when Keene Housing Authority acquired the Court from the Faulkner-Colony Mill housing complex in the 1960s. These complex technicalities, like easements, would be negotiated by the City Manager. He did not anticipate needing easements because the City is entering land they already own. Mr. Kalich said the property owners there would be happy if the City took ownership of the Court, which the Public Works Director said would likely cost double what was presented at this meeting to rebuild the entire street that is currently gravel. Mr. Kalich said the City taking care of the water and sewer would be a huge step.

Councilor Lamoureux thought there was merit to reducing the interest rate from the 2.25% presented. He thought it was a good point that the residents have paid more than everyone else has because they own the infrastructure. The Assistant City Manager, Beth Fox, referenced the meeting packet and language in the Code, which suggests there must be some simple interest rate if not paid in full up front. Councilor Filiault said he understood Councilor Lamoureux's point but said it was not an option so he did not want to complicate it more. The Public Works Director said there must be an interest rate, which could be as low as 0.1%. The City Attorney appreciated that Councilors wanted this to be uncomplicated but assured them that arriving at the solution presented to them was very complicated, and that this was just a glimpse at the efforts to accommodate it all. Councilor Filiault suggested passing the motion as presented because the Council could amend the interest rate when voting on the matter, knowing it would not exceed 2.25%. He did not think the three Councilors voting were comparable to a full Council making the decision with the City Manager's advice. Staff agreed.

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

On a vote of 3-0, the Municipal Services, Facilities & Infrastructure Committee recommends that the City Manager be authorized do all things necessary to negotiate and execute agreements with the property owners of Ashuelot Court for the purpose of financing the replacement of the existing sewer and water mains and to accept the mains after work is completed. Any payment plan shall be up to 20 years with annual interest rate of 2.25%. That the City Engineer is authorized to do all things necessary to size the sewer and water mains. Further, the City Manager is authorized to do all things necessary to use Water and Sewer Fund unallocated fund balance to fund the design and construction of the sewer and water main replacement work.



City of Keene, N.H.
Transmittal Form

October 23, 2019

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

SUBJECT: Mark Rebillard/Keene Downtown Group and Jim Narkiewicz/Keene Ice and Snow Festival Committee Chair – Request to Use City Property

COUNCIL ACTION:

In City Council November 7, 2019.

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 The Keene Downtown Group be granted a street fair license to use downtown City rights-of-way for purposes of conducting merchant sidewalk sales, as well as use of downtown City property on Central Square, Railroad Square, and designated parking spaces on Central Square and Main Street to conduct the Ice and Snow Festival on Saturday, February 1, 2020 from 10:00 AM to 4:00 PM. In addition, the applicant is permitted to close off a portion of Railroad Street from Main Street to the exit of the Wells Street Parking Garage. This permission is granted subject to the customary licensing requirements of the City Council, submittal of signed letters of permission from the owner for any use of private property, and compliance with any recommendations of City staff. In addition, the petitioner is granted use of the requested parking spaces free of charge under the provisions of the Free Parking Policy. The Petitioner agrees to absorb the cost of any City services over and above the amount of City funding allocated in the FY 20 Community Events Budget.

BACKGROUND:

Chair Richards asked the petitioners to speak. Mark Rebillard, of 64 Blackberry Lane, and Jim Narkiewicz, of 3 Ashbrook Road, introduced themselves. Mr. Narkiewicz stated that the Travel Council is phasing it out and handing it over to the Downtown Group to continue with the Ice and Snow Festival. Mr. Rebillard stated that the Travel Council has been the fiscal sponsor for about 10 years, and now the Downtown Group is taking over that responsibility. Mr. Narkiewicz added that the Keene Chamber of Commerce has also been the fiscal sponsor. Mr. Rebillard continued that he is Chair of the Downtown Group this year and will also take over as Coordinator of the festival. The group would like to see the festival changed a bit and offer an opportunity for sidewalk sales; that has changed in the application. Last year the event had shrunk to just Railroad Square and Central Square, and this year they want to expand it to the alley between Miller Brothers and the Colonial Theatre, and across the street.

Kürt Blomquist, Public Works Director/Emergency Management Director, stated that staff has had an opportunity to have their protocol discussions with Mr. Narkiewicz and Mr. Rebillard. He continued that Mr. Narkiewicz is owed a lot for the work he has done to keep this festival alive. When he (Mr. Blomquist) first came to Keene and started working on this, the festival was much larger. In the last couple years Mr. Narkiewicz

and the Travel Council have worked hard to get the carvers and to keep the event going. So, Mr. Narkiewicz and the Travel Council are owed a big thank you. Mr. Rebillard and the Downtown Group are excited to take this over and bring it back.

Mr. Blomquist continued that the recommended motion includes authorizing the festival the ability to have sidewalk sales if they so choose, and if that comes to fruition, that would be great. It also includes an increase in area, increased number of carving stations, and so on and so forth, as well as the fun things the festival have always had, like the train for kids and the kids' events on Railroad Square. Staff recommends the City Council give the Ice and Snow Festival the license.

Chair Richards asked if the downtown merchants would be the ones taking advantage of the opportunity to have sidewalk sales, or if others would be brought in. Mr. Blomquist replied that the recommended motion is to authorize this for the Downtown Group, and he expects that the intent is to give the downtown merchants the opportunity to have sidewalk sales. Mr. Rebillard replied that that is correct.

Councilor Hansel stated that this is one of his favorite events. He continued that he is really happy that it is moving to the Downtown Group and that the downtown merchants will be involved. He asked if the downtown merchants will sponsor the spaces in front of their businesses. Mr. Rebillard replied that that is how it has worked in the past, but they are trying something new for raising money this year. Councilor Hansel stated that he understands the Downtown Coordinator was involved in helping make this transition and has been lending a lot to help get this festival going again, which is nice to see. Mr. Rebillard replied that that is correct.

Councilor Jones stated that he wants to thank Mr. Narkiewicz for his years of doing this festival. He continued that it has been great, and no matter the weather, they have always pulled it off. He continued that he has a question for staff: the end of the recommended motion talks about funding allocated in the FY 20 Community Events Budget. If he remembers correctly, that money is not transferable and the request would have to go to the Finance, Organization, and Personnel (FOP) Committee for a waiver.

Mr. Blomquist replied no, within the FY 20, which they are currently in, there is already funding available. There are no City Council actions required. Councilor Jones replied that he is talking about a different licensing issue. He continued that for example, the Fourth of July Fireworks were always funded by the Rotary Club, and then when it switched over to the Swamp Bats, the City Council had to waive its policy which says that a group has to do it for three years before they can apply. He would like to see it waived for these people.

Rebecca Landry, Assistant City Manager, stated that there are a couple options here. She continued that one option is staff can commit to the PLD Committee and the City Council that they will bring it back to the FOP Committee if necessary, so they could move forward with it tonight. Another option is for the PLD Committee to wait, but she recommends moving forward tonight and having it brought back if necessary.

Chair Richards replied that it makes sense to move forward tonight. He asked if there were further questions from the public or the committee. Hearing none, he asked for a motion.

Councilor Jones made the following motion, which was seconded by Councilor Hansel.

On a vote of 4-0, the Planning, Licenses, and Development Committee recommends that The Keene Downtown Group be granted a street fair license to use downtown City rights-of-way for purposes of conducting merchant sidewalk sales, as well as use of downtown City property on Central Square, Railroad Square, and designated parking spaces on Central Square and Main Street to conduct the Ice and Snow Festival on Saturday, February 1, 2020 from 10:00 AM to 4:00 PM. In addition, the applicant is permitted to close off a portion of Railroad Street from Main Street to the exit of the Wells Street Parking Garage. This permission is granted subject to the customary licensing requirements of the City Council, submittal of signed letters of permission from the owner for any use of private property, and compliance with any recommendations

of City staff. In addition, the petitioner is granted use of the requested parking spaces free of charge under the provisions of the Free Parking Policy. The Petitioner agrees to absorb the cost of any City services over and above the amount of City funding allocated in the FY 20 Community Events Budget.

Chair Richards stated that they will get the waiver through the FOP Committee quickly, if such a waiver is necessary. He thanked Mr. Rebillard and Mr. Narkiewicz.



City of Keene, N.H.
Transmittal Form

October 23, 2019

TO: Mayor and Keene City Council
FROM: Planning, Licenses and Development Committee
ITEM: D.5.

SUBJECT: Rob Robbins/Keene SnoRiders – Request to Use City Rights of Way

COUNCIL ACTION:

In City Council November 7, 2019.
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 Keene SnoRiders be granted permission to use the following locations on City property for a snowmobile trail: the right-of-way along the north side of Krif Road from Krif Court to Winchester Street; City property identified by tax map numbers 911-26-015, 909-05-012, 909-03-210 and 707-02-009; the crossing of Winchester Street at Krif Road; and, The crossing of Production Avenue approximately 200 +/- feet south of NH Route 9. As well as access to the Class VI Portion of the Old Gilsum Road starting approximately one mile from the Gilsum Town Line and going north, (“Premises”) for the following purpose: for a snowmobile trail, and under the following conditions:

Said use shall commence on December 15, 2019, and expire on March 30, 2020, 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 Keene SnoRiders, Inc. will be responsible (including cost) for the installation and maintenance of all signage/markings, which will be in accordance with Snowmobile Trail Standards published by NH Business and Economic Affairs; 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 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 Keene SnoRiders, Inc. shall be responsible for the repair of any damage (including costs) and the City right-of-way and property shall only be used when there is snow cover.

BACKGROUND:

Ron Robbins of Swanzey, NH, introduced himself and stated that he is the President of Keene SnoRiders and the trail administrator. He continued that the club is asking for the renewal of the license allowing crossings.

There are no changes from last year's request.

Chair Richards asked if all of the City's requirements have been met.

Mr. Blomquist stated that this has been going on for at least eight years now. He continued that the SnoRiders are not changing anything regarding their request. There have not been any issues. Along with allowing them to cross Krif Road and Production Avenue, this license would give them permission to use the upper portion of the class 6 portion of Old Gilsum Road, which is closed to vehicle traffic but the City Council can authorize vehicle traffic when it wishes, and also two pieces of City property off of Krif Road, that they use to cross to get to Krif Road. Everything on the renewal request is the same. The PLD Committee has a recommended motion before them.

Chair Richard thanked Mr. Robbins and the club for taking care of the trails so well. He continued that the trails and the SnoRiders are a real asset.

Chair Richards asked if there were questions or comments from the public or the committee. Hearing none, he asked for a motion.

Councilor Hansel made the following motion, which was seconded by Councilor Jones.

Move to recommend the Keene SnoRiders be granted permission to use the following locations on City property for a snowmobile trail: the right-of-way along the north side of Krif Road from Krif Court to Winchester Street; City property identified by tax map numbers 911-26-015, 909-05-012, 909-03-210 and 707-02-009; the crossing of Winchester Street at Krif Road; and, The crossing of Production Avenue approximately 200 +/- feet south of NH Route 9. As well as access to the Class VI Portion of the Old Gilsum Road starting approximately one mile from the Gilsum Town Line and going north, ("Premises") for the following purpose: for a snowmobile trail, and under the following conditions:

Said use shall commence on December 15, 2019, and expire on March 30, 2020, 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 Keene SnoRiders, Inc. will be responsible (including cost) for the installation and maintenance of all signage/markings, which will be in accordance with Snowmobile Trail Standards published by NH Business and Economic Affairs; 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 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 Keene SnoRiders, Inc. shall be responsible for the repair of any damage (including costs) and the City right-of-way and property shall only be used when there is snow cover.

Ms. Landry noted, for the minute-taker, that the motion mistakenly referenced an older title to a State department, in the third paragraph. She continued that it should be changed to "Business and Economic Affairs." Chair Richards noted the change. He asked if there were questions or comments from the public or the committee. Hearing none, he called for a vote. The motion passed on a vote of 4-0.



City of Keene, N.H.
Transmittal Form

October 24, 2019

TO: Mayor and Keene City Council
FROM: Finance, Organization and Personnel Committee
ITEM: D.6.

SUBJECT: Bulletproof Vest Partnership Grant Program – 2019 – Police Department

COUNCIL ACTION:

In City Council November 7, 2019.
Voted unanimously to carry out the intent of the report.

RECOMMENDATION:

On a vote of 5-0, the Finance, Organization, and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept \$3,637.73 from the Bulletproof Vest Partnership Grant Program funds of the US Department of Justice, Bureau of Justice Programs.

BACKGROUND:

Captain Todd Lawrence, from the Keene Police Department (KPD), stated that this is a grant they apply for every year. He continued that the department supplies all officers with bulletproof vests. They have a five-year warranty. They purchase vests for new officers and replacement vests for current officers. The grant will give an additional \$3,637.73. The KPD budgets \$3,950 for this. So the grant will cover about 40% of the total cost.

Chair Greenwald asked if there were questions from the committee.

Councilor Clark asked if officers are each issued one vest. Captain Lawrence replied yes, they are custom fit, and each officer gets one, which expires in five years and then they are issued a new one.

Councilor Jacobs asked what happens to the bulletproof vests after they can no longer be worn. Captain Lawrence replied that there used to be a program that would accept donated vests to be turned into bulletproof vests for working dogs, but that program went away so now they are in storage.

Councilor Chadbourne asked what happens if an officer gains or loses weight and their vest no longer fits. Captain Lawrence replied that that does not really happen, but if it did, the officer would get a new vest.

Chair Greenwald asked if the public had questions or comments. Hearing none, he asked for a motion.

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

On a vote of 5-0, the Finance, Organization, and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept \$3,637.73 from the Bulletproof Vest Partnership Grant Program funds of the US Department of Justice, Bureau of Justice Programs.



City of Keene, N.H.
Transmittal Form

October 24, 2019

TO: Mayor and Keene City Council
FROM: Finance, Organization and Personnel Committee
ITEM: D.7.
SUBJECT: Highway Safety Agency Grant – Keene – Police Department

COUNCIL ACTION:

In City Council November 7, 2019.
Voted unanimously to carry out the intent of the report.

RECOMMENDATION:

On a vote of 5-0, the Finance, Organization, and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept the grant from the New Hampshire Highway Safety Agency to fund Highway Safety Grant- Keene.

BACKGROUND:

Police Captain Todd Lawrence stated that this is a statewide initiative and a grant the KPD applies for annually. He continued that it used to be subdivided into three grants: the DWI grant, the Sustained Traffic Enforcement Patrol (STEP) grant, and the Bicycle and Pedestrian grant. The three have been combined into one, so now there is just one application process. The DWI side of the grant is to combat DWIs and related fatal accidents, and the STEP grant is a directed patrol for the more prevalent motor vehicle infractions, such as hands-free driving, speed, stop signs, and so on and so forth. There are some programs within that, such as Operation Safe Commute, where the KPD is designated to patrol Route 101 for people speeding. The Bike and Pedestrian side of the grant is designated for the downtown area for the KPD to look for bike infractions.

Captain Lawrence continued that this grant runs from October 1, 2019 to September 30, 2020. The allocated funds for the STEP grant that they are looking for are \$13,689; the Bicycle and Pedestrian grant is \$4,602, and the DWI grant is \$9,000. The total cost is \$27,291, which will be reimbursed to the KPD from the New Hampshire Highway Safety Agency.

Chair Greenwald asked if there were questions from the committee or public. Hearing none, he asked for a motion.

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

On a vote of 5-0, the Finance, Organization, and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept the grant from the New Hampshire Highway Safety Agency to fund Highway Safety Grant- Keene.



City of Keene, N.H.
Transmittal Form

October 24, 2019

TO: Mayor and Keene City Council
FROM: Finance, Organization and Personnel Committee
ITEM: D.8.
SUBJECT: Beaugard Trust Property – 0 Chapman Road

COUNCIL ACTION:

In City Council November 7, 2019.
Voted unanimously to carry out the intent of the report.

RECOMMENDATION:

On a vote of 5-0, the Finance, Organization, and Personnel Committee recommends that the City Manager be authorized to do all things necessary to negotiate and execute the sale of City owned property, consisting of approximately 50% of the width of the frontage on Chapman Road, and being a portion of tax map #241018, to Edward and Kathleen Burke, including but not limited to the retention of any easement necessary to the City for continued non-public access by the City to the remaining parcel.

BACKGROUND:

Parks, Recreation, and Facilities Director Andrew Bohannon distributed copies of a map. He stated that this is an issue that has come off more time. He continued that it was first brought before the FOP Committee in April and it regarded the sale of the Beaugard property. At the time when Mr. and Mrs. Burke had brought this forward staff was working on the sale of the property of the Beaugard's and had to finalize that before they could address the Burkes' concern.

The map shows a large parcel, #18, with 27 acres, and there is a small strip that is labeled 4B, about 50 feet three inches wide, and it dissects 17 and 19 Chapman Road. This was a lot that was subdivided. Seventeen is 4A, and then there is 4B, 4C, and 4D. There is a driveway that goes through there, known as Lilac Lane. That kind of works towards the three properties and actually would go over to 17 if it had ever been continued. The Burkes' concern is: many years ago, as shown on the map, there is a pool and there is a corner that is not 90 degrees that had been over the property line. The previous owners adjusted that when they moved in. What the Burkes brought forward is: this piece of land that goes up to the larger property is basically unused but the City has an easement in case the City would ever need to gain access to the Beaugard property.

Mr. Bohannon continued that after much consideration City staff met with the Burkes and can bring this off of more time and before the committee tonight. Staff recommend a motion authorizing the City Manager to negotiate and execute the sale of the property, consisting of about 50% of what the map shows along 4B, which is about 25 feet. That would give them the access they need, and the retention of the easement necessary to the City continued for non-public access.

Councilor Chadbourne asked Mr. Bohannon to explain the location of Lilac Lane. Mr. Bohannon replied that it

is the driveway for 19 and 20 Chapman Road. Chair Greenwald added that it is where it says "250" on the map. Councilor Chadbourne asked if the reason they would be giving 50% is because that is the only other access to lot #18. Mr. Bohannon replied that that is correct.

Councilor Clark asked, doesn't the City own the adjacent property above #18 and have access from there? Mr. Bohannon replied yes, but it is not something the City has complete access to. He continued that the general access to the property connects over off of Woodland Avenue or higher up on Chapman Road. Yes, there is an access point but is not wide enough for City vehicles to access, to his knowledge.

Councilor Jacobs stated that they are using the word "easement," but it is not really an easement. The lot would extend down to the road. The City Attorney replied that that is correct. He continued that the City retains the fee under the 25' that the City is keeping. The easement portion is to maintain the easement across Lilac Lane into the City's piece that the City is going to keep. They already technically have the easement but he wanted to put that in just to make sure. Councilor Jacobs asked, so they would not have to put a separate access in from Chapman Road; the City could come in Lilac Lane. The City Attorney replied yes.

Councilor Jacobs made the following motion, which was seconded by Councilor Chadbourne.

On a vote of 5-0, the Finance, Organization, and Personnel Committee recommends that the City Manager be authorized to do all things necessary to negotiate and execute the sale of City owned property, consisting of approximately 50% of the width of the frontage on Chapman Road, and being a portion of tax map #241018, to Edward and Kathleen Burke, including but not limited to the retention of any easement necessary to the City for continued non-public access by the City to the remaining parcel.



City of Keene, N.H.
Transmittal Form

October 24, 2019

TO: Mayor and Keene City Council

FROM: Finance, Organization and Personnel Committee

ITEM: D.9.

SUBJECT: Tax Deeds and Waivers for 2009, 2010, 2015, and 2016 Tax Years – Finance Department

COUNCIL ACTION:

In City Council November 7, 2019.

Voted unanimously to carry out the intent of the report.

RECOMMENDATION:

On a vote of 4-0, the Finance, Organization and Personnel Committee referred the recommendations for the following properties that are eligible for tax deed for unpaid 2009, 2010, 2015 and 2016 property taxes to the City Council.

For the following (10) properties city staff is recommending to waive deeding until February 28, 2020 when staff will review status of accounts and advance additional recommendations.

399 Elm St.
139 Carroll St.
0 Off Maple Ave
80 Laurel St.
493 Elm St.
163 Island St.
810 Court St. I
44 Sparrow St.
71 Oriole Ave
17 Chickadee Court

For the following properties city staff is recommending to take deed.

888 Marlboro Road
0 Old Gilsum Road
198 Baker St.
9 Marshall St.
0 Grove St.
366 Roxbury St.

BACKGROUND:

Councilor Clark stated that he represents one of these taxpayers, but for different properties, not one listed for deeding tonight. He continued that he has been told this does not mean he has a conflict, but he wanted to say that. He asked if anyone wanted to talk about it.

Chair Greenwald stated that he does not have an issue with that but the committee has fiduciary responsibility to the person, not the property.

Chair Greenwald made a motion to recuse Councilor Clark. Councilor Jacobs seconded.

Chair Greenwald stated that this would be for the abundance of clarity. He continued that he would not want to see Councilor Clark in the position of choosing or being accused of anything. There are an additional 14 councilors that can deal with the situation.

Councilor Jacobs asked if the recusal would be just for the property owned by the person Councilor Clark represents, or all of the properties being voted on. Chair Greenwald replied that he would not need to be recused for the entire discussion. Councilor Clark replied that the vote will just be one up and down vote, however. The City Attorney replied yes, that is correct, and it would be cleaner to leave Councilor Clark out of the motion entirely. Chair Greenwald replied okay, then his motion is to recuse Councilor Clark for the whole thing.

The motion passed on a vote of 5-0.

Mary Alther, Revenue Collector, stated that staff's recommendation is to waive deeding until February 20, 2020, when staff will review the status of accounts and advance additional recommendations, for the ten properties listed. She continued that the owners of those properties have made payments and are continuing to make payments and she believes they will be paid by then. There are seven other properties listed for which the City was recommending taking the deed of, but now there are six, because one was paid today: 5 May Ave.

Chair Greenwald stated that he wants to explain for the public's benefit that Ms. Alther has been constantly working with any of these property owners that are delinquent in taxes, trying her hardest to work out a payment deal or something of that sort. He continued that the property owners in the first list are in the process of solving their delinquency, and the property owners in the second list are not. Ms. Alther replied that is correct. She continued that the property owners in the second list have received their letters, and have had communication with the City, and the payments are just not going to happen. Chair Greenwald stated that as time goes by with this process, those property owners still have the opportunity to jump in and cure the delinquency. Ms. Alther replied yes, after the City takes deed, people still have that opportunity; there is a process for that. Chair Greenwald stated that the object is not for the City to take the property. Ms. Alther replied that that is correct.

Councilor Powers asked, haven't there always been dealings with 888 Marlboro Road? The City Attorney replied that the City has been working with the owner and on that property for some time. He continued that there has been a court order for quite some time now. The property owner is continuing to not comply, and not paying taxes, so tax deeding is the recommendation.

Chair Greenwald asked if there were questions or comments from the public. Hearing none, he asked for a motion.

Councilor Chadbourne made the following motion, which was seconded by Councilor Powers.

On a vote of 4-0, the Finance, Organization and Personnel Committee referred the recommendations for the following properties that are eligible for tax deed for unpaid 2009, 2010, 2015 and 2016 property taxes to the City Council.

For the following (10) properties city staff is recommending to waive deeding until February 28, 2020 when staff will review status of accounts and advance additional recommendations.

399 Elm St.
139 Carroll St.
0 Off Maple Ave
80 Laurel St.

493 Elm St.
163 Island St.
810 Court St. I
~~44 Sparrow St.~~
71 Oriole Ave
17 Chickadee Court

For the following properties city staff is recommending to take deed.

~~888 Marlboro Road~~
0 Old Gilsum Road
198 Baker St.
9 Marshall St.
0 Grove St.
366 Roxbury St.



City of Keene, N.H.
Transmittal Form

October 24, 2019

TO: Mayor and Keene City Council

FROM: Finance, Organization and Personnel Committee

ITEM: D.10.

SUBJECT: Periodic Reports from Standing Committees: Trustees of Trust Funds

COUNCIL ACTION:

In City Council November 7, 2019.
Report filed as informational.

RECOMMENDATION:

On a vote of 5-0, the Finance, Organization, and Personnel Committee accepted the presentation as informational.

BACKGROUND:

Chair Greenwald stated that periodically they hear from the different standing committees, regarding their activities, so this is a presentation to the FOP Committee as well as the general public.

Michelle Howard, Chair of the Trustees of Trust Funds and Cemetery Trustees, and Sue Silver, Vice Chair, introduced themselves. Ms. Howard read the following report:

“The Trustees of the Trust Funds and Cemetery Trusts are the custodian of the City’s Common Trust funds that include perpetual care and cemetery funds, charitable trusts and privately donated funds. The Trustees are also custodian of the City’s Capital Reserves and Expendable Trust funds. We act in a fiduciary capacity and make decisions regarding expenditures from these funds based on the wishes of the donor in the case of privately donated funds as well as release capital reserve funds and expendable trust funds to the appropriate city officials upon request. We also make the decisions on how these funds are invested, based upon the statutes and the investment policies adopted by the Trustees.

There are five trustees who meet monthly (on the third Wednesday at 9:30 AM) to review any requests for funds from the trust and capital reserves. Our role is to ensure the request(s) adhere to the wishes of the funds’ grantor in both intent as well as the amount that can be disbursed (income only or income and principal). The requests are voted upon and withdrawals approved in writing for each request. Funds are transferred from the investments to the City of disbursement. Our meetings are open to the public and everyone is invited to attend.

There are currently 46 individual trusts with a total market value in excess of \$10 million, each with its own trust document and intent. The trust funds range in value of less than one thousand dollars to over a million dollars. Trusts are co-mingled to maximize investment but all activity is tracked by the individual trust.

Last year the Trustees completed a 3-year review of each of the individual trusts originating documents to

ensure that the current practices are still in line with the trust documents and to compile a recap document for easy reference.

There are currently 16 capital reserve funds established by the City Council with a market value of almost thirteen million. These funds are raised through taxes and managed for longer term projects such as equipment replacement, infrastructure, sewer infrastructure, etc.

In addition, in 2015 the Library Renovation Restricted Trust fund was established for the short term housing of the donations from the capital campaign.

In addition to reviewing requests, we oversee the investment of the trust funds and capital reserves. We have three investment policies (Common Trust Fund, Capital Reserve and Library Renovation) that we review annually and govern the investment decisions for each account. We currently use the services of Cambridge Trust Company to manage the three accounts according to their individual investment policies. Cambridge meets with us on a quarterly basis, provide monthly statements and work closely with the finance staff to disburse funds as approved by the Trustees.

The Common Trust funds are long term funds so we are able to invest these funds with a longer term strategy to maximize income as well as safety. Our investment strategy is a mix of stocks and bonds using the 'prudent investor' strategy.

The Capital Reserve funds are tax funded and more short term than the trust funds; as such the primary goals for these funds are liquidity and safety. These funds are invested primarily in money market funds, government obligations and treasuries and certificates of deposit. The Trustees work closely with the finance department staff to maximize earnings by utilizing tiered investments while meeting the cash flow needs of the projects.

The Library Renovation Trust funds were very short-term funds and invested in government money market funds.”

Chair Greenwald asked what sort of return these funds typically generate. Ms. Howard replied that right now with the Common Funds it is about a \$300,000 return. She continued that the Capital Reserve funds return is in the range of \$250,000 to 275,000.

Chair Greenwald asked what the interest rate is. Ms. Howard replied about 3%. Chair Greenwald replied that that sounds good.

Councilor Powers stated that some of these trusts were set up years and years ago for a very valid purpose which was very necessary at the time, but over time, needs are different – do the parameters of the trust mean they just sit there and accumulate interest? Ms. Howard replied that that could happen, but when they did the review, in the past, they did a cy-pres to go in and see if the funds could be used within the spirit of the trust but to bring it up to modern times. Councilor Powers stated that if anyone from the public is thinking about leaving money to the City for a particular program, they should pay attention to how they do it. Ms. Howard agreed. Chair Greenwald replied yes, they want to keep it general enough so it is still usable years from now.

Chair Greenwald asked if any of the more obscure funds come to mind. Councilor Powers replied that there is the Renault fund. Ms. Howard replied yes, that had cy-pres. She continued that they brought it to the Probate Court. The fund was set up for police officers before worker's compensation insurance existed, but now worker's compensation exists, so they asked the court for cy-pres to use the fund to help police officers in a different way. Councilor Clark stated that now that money is used for exercise equipment in a gym that is just for KPD Officers.

Councilor Jacobs asked for an explanation of cy-pres. The City Attorney stated that the Renault fund is a great

example – it was created in the late 1890s for medical care for injured police officers, and it became unnecessary. He continued that a cy-pres (Latin for “making it right”) action is the action of going before the Probate Court to explain what a trust is, when it was created, how much money it has, and how the purposes of it can no longer be accomplished. One can request to use the funds for something as similar as possible to what the original gift was for. Thus, the Renault fund was health related and the City was allowed to use the funds for providing gym equipment to police officers.

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

On a vote of 5-0, the Finance, Organization, and Personnel Committee accepted the presentation as informational.



City of Keene, N.H.
Transmittal Form

November 5, 2019

TO: Mayor and Keene City Council

FROM: Patricia A. Little, City Clerk

ITEM: F.1.

SUBJECT: Canvass of Election Returns - Municipal General Election

COUNCIL ACTION:

In City Council November 7, 2019.

Voted unanimously that those candidates receiving the highest number of votes for the respective offices are declared elected.

RECOMMENDATION:

Move that the candidates receiving the highest number of votes for their respective offices are declared elected.

ATTACHMENTS:

Description

Return of Votes

Statistics Spreadsheet

BACKGROUND:

Pursuant to Section 5 of the Keene City Charter, the City Council needs to canvass the votes cast at each Municipal General Election. Those candidates receiving the highest number of votes for the respective offices are declared elected. The term of office will begin January 1, 2020.

The official Return of Votes completed by the Ward Clerks and a spreadsheet containing the election results are attached for the City Council's information.

**RETURN OF VOTE AT THE MUNICIPAL GENERAL ELECTION
WARD ONE
November 5, 2019
Keene, New Hampshire**

FORM F

MAYOR

Mitchell "Mitch" Greenwald
George S. Hansel

191
250

WARD MODERATOR

Colin R. "Bob" Lyle

360

WARD COUNCILOR (4 YEAR)

Robert S. Crowell
Raleigh Ormerod

140
224

WARD SELECTMEN

Marcia Kayser
Kim Maleski
Ruzzel Zullo

266
287
240

COUNCILOR-AT-LARGE

Bettina Chadbourne
Randy L. Filiault
Steve Hooper
Allen Raymond
Michael Remy
Todd A. Rogers
Peter Starkey
Nathaniel M. Stout
John Therriault
Kate Bosley

224
182
237
87
190
81
137
157
78
234

WARD CLERK

Elizabeth C. Sayre

355

CHECKLIST SUPERVISOR

Jane Ellsworth

366

RETURN OF VOTE AT THE MUNICIPAL GENERAL ELECTION
WARD ONE (page 2)
November 5, 2019
Keene, New Hampshire

FORM F

KENO

YES

156

NO

170

TOTAL NUMBER OF NAMES ON THE CHECKLIST AT BEGINNING OF DAY 3801

TOTAL NUMBER OF NAMES ADDED TO THE CHECKLIST 29

TOTAL NUMBER OF ABSENTEE BALLOTS CAST 15

TOTAL NUMBER OF REGULAR BALLOTS CAST 430

TOTAL NUMBER OF (REGULAR & ABSENTEE) BALLOTS CAST 445

At the Municipal General Election in Ward 1, Keene, New Hampshire, held Tuesday, November 5, 2019, the above votes of those present and qualified to vote for the candidates for election to the above offices, were by them given to the Moderator, and said Moderator, in the presence of the Ward Selectmen and Clerk, and assisted by them, sorted and counted said votes, and at the close of the poll made a public declaration of the whole number of ballots given in, with the name of every person voted for, and the number of votes for each person, as indicated above.

A true record, attest: _____ Clerk

RETURN OF VOTES AT THE MUNICIPAL GENERAL ELECTION – WRITE IN
November 5, 2019
Keene, New Hampshire

WARD ONE

WRITE-IN MAYOR candidate's name	Total votes	WRITE-IN MODERATOR candidate's name	Total votes
<u>Scattered</u>	<u>1</u>	<u>Scattered</u>	<u>1</u>

WRITE-IN WARD COUNCILOR candidate's name	Total votes	WRITE-IN WARD SELECTMEN candidate's name	Total votes
<u>Scattered</u>	<u>1</u>	<u>Scattered</u>	<u>3</u>

WRITE-IN COUNCILOR-AT-LARGE candidate's name	Total votes	WRITE-IN WARD CLERK candidate's name	Total votes
<u>Jan Freeman</u>	<u>2</u>	<u>Scattered</u>	<u>1</u>
<u>Scattered</u>	<u>7</u>		

WRITE-IN CHECKLIST SUPERVISOR candidate's name	Total votes
<u>Scattered</u>	<u>1</u>

A true record, attest:

_____ Clerk

RETURN OF VOTE AT THE MUNICIPAL GENERAL ELECTION
WARD TWO
November 5, 2019
Keene, New Hampshire

FORM F

MAYOR

Mitchell "Mitch" Greenwald

565

George S. Hansel

483

WARD MODERATOR

Matthew McKeon

755

WARD COUNCILOR (4 year)

Teresa "Terri" O'Rorke

427

Bobby Williams

453

WARD SELECTMEN

Carl B. Jacobs

469

Chuck Weed

531

Nancy M. Wilkinson

449

Robert H. Beard

170

Wes Cobb

249

COUNCILOR-AT-LARGE

Bettina Chadbourne

543

Randy L. Filiault

471

Steve Hooper

391

Allen Raymond

226

Michael Remy

393

Todd A. Rogers

167

Peter Starkey

357

Nathaniel M. Stout

316

John Therriault

196

Kate Bosley

537

WARD CLERK

Jamie L.J. White

773

CHECKLIST SUPERVISOR

Linda Haas

774

RETURN OF VOTE AT THE MUNICIPAL GENERAL ELECTION

FORM F

WARD TWO (page 2)

November 5, 2019

Keene, New Hampshire

KENO

YES

326

NO

470

TOTAL NUMBER OF NAMES ON THE CHECKLIST AT BEGINNING OF DAY

3894

TOTAL NUMBER OF NAMES ADDED TO THE CHECKLIST

36

TOTAL NUMBER OF ABSENTEE BALLOTS CAST

37

TOTAL NUMBER OF REGULAR BALLOTS CAST

1019

TOTAL NUMBER OF (REGULAR & ABSENTEE) BALLOTS CAST

1056

At the Municipal General Election in Ward 2, Keene, New Hampshire, held Tuesday, November 5, 2019, the above votes of those present and qualified to vote for the candidates for election to the above offices, were by them given to the Moderator, and said Moderator, in the presence of the Ward Selectmen and Clerk, and assisted by them, sorted and counted said votes, and at the close of the poll made a public declaration of the whole number of ballots given in, with the name of every person voted for, and the number of votes for each person, as indicated above.

A true record, attest:

Thy Cook

Clerk

RETURN OF VOTES AT THE MUNICIPAL GENERAL ELECTION – WRITE IN
November 5, 2019
Keene, New Hampshire

WARD TWO

WRITE-IN MAYOR candidate's name	Total votes	WRITE-IN MODERATOR candidate's name	Total votes
Scatter	3	Scatter	2

WRITE-IN WARD COUNCILOR candidate's name	Total votes	WRITE-IN WARD SELECTMEN candidate's name	Total votes
		Scatter	1

WRITE-IN COUNCILOR-AT-LARGE candidate's name	Total votes	WRITE-IN WARD CLERK candidate's name	Total votes
Bob Williams	2	Scatter	1
Mike Diacoma	4		
Anthony Boame	3		
Scatter	4		

WRITE-IN CHECKLIST SUPERVISOR candidate's name	Total votes

A true record, attest:

 Clerk

**RETURN OF VOTE AT THE MUNICIPAL GENERAL ELECTION
WARD THREE
November 5 2019
Keene, New Hampshire**

FORM F

MAYOR

Mitchell "Mitch" Greenwald 491
George S. Hansel 554

WARD MODERATOR

Lucinda McKeon 780

WARD COUNCILOR (4 year)

Mike Giacomo 485
David Richards 399

WARD SELECTMEN

Cheryl Kahn 638
John McKeon 555
Charlie Stone 586

COUNCILOR-AT-LARGE

Bettina Chadbourne 486
Randy L. Filiault 423
Steve Hooper 389
Allen Raymond 203
Michael Remy 435
Todd A. Rogers 146
Peter Starkey 385
Nathaniel M. Stout 334
John Therriault 191
Kate Bosley 611

WARD CLERK

Kathleen M. Richards 797

CHECKLIST SUPERVISOR

Carol A. Lynch 786

RETURN OF VOTE AT THE MUNICIPAL GENERAL ELECTION
WARD THREE (page 2)
November 5, 2019
Keene, New Hampshire

FORM F

KENO

YES	<u>475</u>
NO	<u>507</u>

TOTAL NUMBER OF NAMES ON THE CHECKLIST AT BEGINNING OF DAY	<u>3218</u>
TOTAL NUMBER OF NAMES ADDED TO THE CHECKLIST	<u>52</u>
TOTAL NUMBER OF ABSENTEE BALLOTS CAST	<u>36</u>
TOTAL NUMBER OF REGULAR BALLOTS CAST	<u>1015</u>
TOTAL NUMBER OF (REGULAR & ABSENTEE) BALLOTS CAST	<u>1051</u>

At the Municipal General Election in Ward 3, Keene, New Hampshire, held Tuesday, November 5, 2019, the above votes of those present and qualified to vote for the candidates for election to the above offices, were by them given to the Moderator, and said Moderator, in the presence of the Ward Selectmen and Clerk, and assisted by them, sorted and counted said votes, and at the close of the poll made a public declaration of the whole number of ballots given in, with the name of every person voted for, and the number of votes for each person, as indicated above.

A true record, attest: James Richard Clerk

RETURN OF VOTES AT THE MUNICIPAL GENERAL ELECTION – WRITE IN
November 5, 2019
Keene, New Hampshire

WARD THREE

WRITE-IN MAYOR candidate's name	Total votes	WRITE-IN MODERATOR candidate's name	Total votes
* Aggregate	1	* Aggregate	2
WRITE-IN WARD COUNCILOR candidate's name	Total votes	WRITE-IN WARD SELECTMEN candidate's name	Total votes
* Aggregate	2	* Aggregate	1
WRITE-IN COUNCILOR-AT-LARGE candidate's name	Total votes	WRITE-IN WARD CLERK candidate's name	Total votes
* Aggregate	13	* Aggregate	1
		WRITE-IN CHECKLIST SUPERVISOR candidate's name	Total votes
		* Aggregate	2

A true record, attest:

Patricia G. Chaudy Clerk

**RETURN OF VOTE AT THE MUNICIPAL GENERAL ELECTION
WARD FOUR
November 5, 2019
Keene, New Hampshire**

FORM F

MAYOR

Mitchell "Mitch" Greenwald

499

George S. Hansel

648

WARD COUNCILOR (4 year)

Robert J. Call

262

Gladys Johnsen

682

WARD COUNCILOR (2 year)

Robert J. O'Connor

437

Catherine "Catt" Workman

528

WARD FOUR

COUNCILOR-AT-LARGE

Bettina Chadbourne

518

Randy L. Filiault

519

Steve Hooper

455

Allen Raymond

190

Michael Remy

500

Todd A. Rogers

142

Peter Starkey

428

Nathaniel M. Stout

382

John Therriault

215

Kate Bosley

633

WARD MODERATOR

Ellen Wishart

840

WARD SELECTMEN

Nancy Ancharski

623

Paul Krautmann

641

Margaret Simonds

682

RETURN OF VOTE AT THE MUNICIPAL GENERAL ELECTION
November 5, 2019
Keene, New Hampshire

FORM F

WARD CLERK

KENO

Claudette Nicholas

858

YES

377

NO

451

CHECKLIST SUPERVISOR

Claire Coey

842

TOTAL NUMBER OF NAMES ON THE CHECKLIST AT BEGINNING OF DAY 3658

TOTAL NUMBER OF NAMES ADDED TO THE CHECKLIST

48

TOTAL NUMBER OF ABSENTEE BALLOTS CAST

30

TOTAL NUMBER OF REGULAR BALLOTS CAST

1131

TOTAL NUMBER OF (REGULAR & ABSENTEE) BALLOTS CAST

1161

At the Municipal General Election in Ward 4 Keene, New Hampshire, held Tuesday, November 5, 2019, the above votes of those present and qualified to vote for the candidates for election to the above offices, were by them given to the Moderator, and said Moderator, in the presence of the Ward Selectmen and Clerk, and assisted by them, sorted and counted said votes, and at the close of the poll made a public declaration of the whole number of ballots given in, with the name of every person voted for, and the number of votes for each person, as indicated above.

A true record, attest: Claudette Nicholas Clerk

RETURN OF VOTES AT THE MUNICIPAL GENERAL ELECTION – WRITE IN
November 5, 2019
Keene, New Hampshire

WARD FOUR

WRITE-IN MAYOR candidate's name	Total votes	WRITE-IN MODERATOR candidate's name	Total votes
<i>Aggregate</i>	<i>2</i>	<i>Aggregate</i>	<i>1</i>
WRITE-IN WARD COUNCILOR (4-Yr) candidate's name	Total votes	WRITE-IN WARD SELECTMEN candidate's name	Total votes
	<i>0</i>	<i>Aggregate</i>	<i>1</i>
WRITE-IN WARD COUNCILOR (2-Yr) candidate's name	Total votes	WRITE-IN WARD CLERK candidate's name	Total votes
<i>Aggregate</i>	<i>3</i>		<i>0</i>
WRITE-IN COUNCILOR-AT-LARGE candidate's name	Total votes	WRITE-IN CHECKLIST SUPERVISOR candidate's name	Total votes
<i>Aggregate</i>	<i>5</i>		<i>0</i>

A true record, attest:

Clerk

RETURN OF VOTE AT THE MUNICIPAL GENERAL ELECTION
WARD FIVE
November 5, 2019
Keene, New Hampshire

FORM F

MAYOR

WARD MODERATOR

Jim Fay

951

Mitchell "Mitch" Greenwald

567

George S. Hansel

652

WARD SELECTMEN

Richard Berry

765

Nancy Lane Stone

747

Sandra Van de Kauter

735

Thomas Powers

961

WARD COUNCILOR (4 year)

WARD CLERK

Barbara Berry

946

COUNCILOR-AT-LARGE

Bettina Chadbourne

568

Randy L. Filiault

539

Steve Hooper

473

Allen Raymond

210

CHECKLIST SUPERVISOR

Michael Remy

521

Todd A. Rogers

139

Sylvie L. Rice

943

Peter Starkey

471

Nathaniel M. Stout

432

John Therriault

291

Kate Bosley

680

RETURN OF VOTE AT THE MUNICIPAL GENERAL ELECTION
WARD FIVE (page 2)
November 5, 2019
Keene, New Hampshire

FORM F

KENO

YES

409

NO

555

TOTAL NUMBER OF NAMES ON THE CHECKLIST AT BEGINNING OF DAY 4386
TOTAL NUMBER OF NAMES ADDED TO THE CHECKLIST 57

TOTAL NUMBER OF ABSENTEE BALLOTS CAST

39

TOTAL NUMBER OF REGULAR BALLOTS CAST

1193

TOTAL NUMBER OF (REGULAR & ABSENTEE) BALLOTS CAST

1232

At the Municipal General Election in Ward 5 Keene, New Hampshire, held Tuesday, November 5, 2019, the above votes of those present and qualified to vote for the candidates for election to the above offices, were by them given to the Moderator, and said Moderator, in the presence of the Ward Selectmen and Clerk, and assisted by them, sorted and counted said votes, and at the close of the poll made a public declaration of the whole number of ballots given in, with the name of every person voted for, and the number of votes for each person, as indicated above.

A true record, attest:

Marilyn Snowell

RETURN OF VOTES AT THE MUNICIPAL GENERAL ELECTION – WRITE IN
November 5, 2019
Keene, New Hampshire

WARD FIVE

WRITE-IN MAYOR candidate's name	Total votes	WRITE-IN MODERATOR candidate's name	Total votes
<i>Bernier Sanders</i>	1	<i>John DiBernardo</i>	1
<i>Spencer Spangberg</i>	1		
<i>Robert Sutherland</i>	1		
<i>No candidate name listed</i>	1		

WRITE-IN WARD COUNCILOR candidate's name	Total votes	WRITE-IN WARD SELECTMEN candidate's name	Total votes
<i>Richard Chas. Wells</i>	1		
<i>Howard DeLeon</i>	1		
<i>John DiBernardo</i>	2		
<i>Carl Nelson</i>	1		

WRITE-IN COUNCILOR-AT-LARGE candidate's name	Total votes	WRITE-IN WARD CLERK candidate's name	Total votes
<i>Dave Wickland</i>	1	<i>John DiBernardo</i>	1
<i>Dave Cavallaro</i>	1		
<i>Terri O'Rourke</i>	1		
<i>Mike Higgins</i>	4		
<i>Anthony Beome</i>	1		
<i>Robert Williams</i>	1		
<i>Dillon Burt</i>	1		
<i>Gary Tomarney</i>	1		
<i>Robert Connor</i>	1		

WRITE-IN CHECKLIST SUPERVISOR candidate's name	Total votes
<i>John DiBernardo</i>	1
<i>Madry</i>	2
<i>John DiBernardo</i>	1

A true record, attest:

Marilyn Conwell Clerk

2019 MUNICIPAL GENERAL RESULTS							11/5/2019	
November 5, 2019								
			Ward 1	Ward 2	Ward 3	Ward 4	Ward 5	TOTAL
<u>TOTAL NAMES ON CHECKLIST</u>			3801	3894	3218	3658	4386	18957
		Added	29	36	52	48	57	222
		Total for day	3830	3930	3270	3706	4443	19179
<u>TOTAL ABSENTEE BALLOTS CAST</u>			15	37	36	30	39	157
<u>TOTAL ELECTION DAY BALLOTS CAST</u>			430	1019	1015	1131	1193	4788
<u>GRAND TOTAL BALLOTS CAST AT POLLS</u>			445	1056	1051	1161	1232	4945
Activity Percentage			12%	27%	32%	31%	28%	26%

City of Keene
New Hampshire

November 8, 2019

TO: File

FROM: Patricia A. Little, City Clerk

SUBJECT: Adjournment for Collective Bargaining – Keene City Employees

At a regular meeting of the Keene City Council, held on November 7, 2019, the following motion was approved by unanimous vote:

That the City Manager be authorized to do all things necessary to execute the negotiated contract with Keene City Employees, AFT Local #6288, AFT-NH, AFL-CIO to be effective July 1, 2019 through June 20, 2022.

Attest:

A handwritten signature in cursive script, appearing to read "Patricia Little".

City Clerk



City of Keene, N.H.
Transmittal Form

October 23, 2019

TO: Mayor and Keene City Council

FROM: Municipal Services, Facilities and Infrastructure Committee

ITEM: H.1.

SUBJECT: James Phippard/Brickstone Land Use Consultants, LLC - Request to Discontinue Easement for Possible Future Road Extension at Black Brook Road

COUNCIL ACTION:

In City Council November 7, 2019.
More time granted.

RECOMMENDATION:

The consensus of the Committee was to put this item on more time.

BACKGROUND:

The Chair postponed this matter until the next meeting so the applicant could be present.



City of Keene, N.H.
Transmittal Form

October 23, 2019

TO: Mayor and Keene City Council

FROM: Planning, Licenses and Development Committee

ITEM: H.2.

SUBJECT: Tad Schrantz/The Colonial Theatre Group – Various Licenses Needed for the Renovation and Addition to the Colonial Theatre

COUNCIL ACTION:

In City Council November 7, 2019.

More time granted.

RECOMMENDATION:

On a vote of 4-0, the Planning, Licenses and Development Committee placed the communication on more time to allow staff to work with the Colonial Theatre Group to determine the impacts of the construction on City infrastructure.

BACKGROUND:

Tad Schrantz, of Warren Street, Keene, stated that he is representing the Colonial Theatre as owner representative and chair of the Building Committee. He continued that they are undertaking a substantial renovation project, in the front of the house and also with an addition to the back. That is represented in the documents provided to the PLD Committee. They have been through all sorts of committee meetings trying to gain approvals and have been successful and they are making sure they are able to proceed with the design as intended. They need to talk with the PLD Committee about issues specified in the document. In general, there are some licenses they want to request from the committee tonight. Those will allow them to proceed with the design as intended. They have a parcel of land behind the theatre they want to extend into. They have to provide access to the property and to the design itself. That is related to handicapped accessibility, ramps, and the dumpster location – currently the dumpster is right behind the theatre in the land they want to extend into. He asked if there were questions.

Chair Richards asked Mr. Lamb why this comes to City Council instead of the Planning Board and how the process works.

Mr. Lamb stated that a component of the Planning Board site plan review has already received conditional approval by the Planning Board. He continued that the Planning Board anticipated that the Colonial Theatre would need some assistance, some rights to use City property for the accessibility ramps and trash removal. Tonight Mr. Schrantz is following up on the conditions set in place by the Planning Board, regarding the awning, the ramp, and the dumpster, which were intended to be dealt with through the City Council after the Planning Board review.

Mr. Lamb continued that staff's recommendation is to place this on more time. During the Planning Board

review, it became clear that the design that the theatre is pursuing may require other rights as well as the licenses they are asking for tonight in order to be successfully constructed. There is not a lot of room for the contractor to stage construction equipment, except on City land, so there might need to be temporary construction rights for that on City land. There may be a necessity for permanent rights because the footings of the pilings that will be installed may need more room than they currently own on their pieces of land, so there are other things to work out. Staff spoke with Mr. Schrantz and the Public Works Department about how there is more work to do to determine how these issues would be resolved. Staff is recommending for this to be placed on more time so that staff can work with the Colonial Theatre and sort all of this out, instead of addressing issues one by one.

Chair Richards replied yes, they understand the recommendation to place this on more time, but that said, if the Colonial needs easements and whatnot, as long as they are within reasonable parameters, the Colonial is “the jewel of downtown” and they should do everything they can to make sure the Colonial can do what they need to do. He assumes the City will say yes, if the Colonial needs, for instance, ten feet here or there or room to stage construction, and there will not be any issue.

Mr. Schrantz stated that just for clarification, the Colonial Theatre sees it as two phases: the first is the design phase so they can figure out what they want to build, and tonight’s requests were related to design. He continued that he and Mr. Lamb have been talking about various issues, including the Colonial using City property temporarily for staging, and that was considered part of the second, construction phase. The Colonial planned on coming back with a second round of requests for that second phase. First they needed to make sure their requests were considered so they could confirm the design they are proposing and estimating, and make sure the costs were going to be acceptable. Then they could make adjustments, if necessary, based on the requests. They saw it as two phases, design and construction. Now that they have engaged DEW as a construction manager, they were going to come back to the City Council with him to ask for temporary access to use some parking spaces to put down materials for building. The Colonial is happy to work with the City however they need to; he just wanted to provide clarification on the process the Colonial was going through.

Chair Richards asked if the Colonial Theatre is a non-profit. Mr. Schrantz replied yes. Chair Richards stated that in that case, perhaps the City should be looking at not charging the Colonial for their temporary use of City property/parking spaces, as is typical for non-profits. Mr. Lamb replied that they can keep that in mind as they move forward.

Councilor Jones stated that the only other time he remembers when the City Council allowed someone to put their dumpster on City property, the property owner was surprised to learn that he had to meet all of the City’s standards for that at his own cost, such as having the dumpster screened. Mr. Schrantz replied that the Colonial understands and they are happy to comply with the City’s requirements.

Mr. Lamb replied that Councilor Jones is correct. He continued that in the Commercial Street parking lot, directly adjacent to the theatre, the City built a small area for businesses to deal with their dumpster needs. So yes, the City has this in mind and he is sure Mr. Schrantz does, too. Mr. Schrantz agreed. He stated that if they need to figure out an enclosure or the next steps, they are happy to work with the City on that.

Chair Richards asked if anyone from the committee or public had further questions or comments. Hearing none, he asked for a motion.

Councilor Bosley made the following motion, which was seconded by Councilor Hansel.

On a vote of 4-0, the Planning, Licenses and Development Committee placed the communication on more time to allow staff to work with the Colonial Theatre Group to determine the impacts of the construction on City infrastructure.



City of Keene, N.H.
Transmittal Form

October 28, 2019

TO: Mayor and Keene City Council

FROM: Andy Bohannon, Parks, Recreation and Facilities Director

THROUGH: Elizabeth A. Dragon, City Manager

ITEM: I.1.

SUBJECT: Juvenile Conference Committee

COUNCIL ACTION:

In City Council November 7, 2019.

Referred to the Finance, Organization and Personnel Committee.

RECOMMENDATION:

Move that the Finance, Organization and Personnel Committee recommend to the City Council to delete in its entirety Division 11 "Juvenile Conference Committee" of Article V "Boards and Commissions" of Chapter 2 entitled "Administration" from the City Code of Ordinances.

BACKGROUND:

To create efficiencies in the recruitment process and to protect the confidentiality of the volunteers who serve on the Juvenile Conference Committee (JCC), this ordinance was changed to an Administrative Directive. This allows the City Manager to assign volunteers to the JCC in a much timelier manner than the City Council process.

The administrative directive still provides that same oversight and purpose as stated in the original ordinance.



City of Keene, N.H.
Transmittal Form

November 7, 2019

TO: Mayor and Keene City Council

FROM: Rhett Lamb, Asst. City Manager/Community Development Director and Kurt Blomquist, DPW Director

THROUGH: Elizabeth A. Dragon, City Manager

ITEM: I.2.

SUBJECT: Relating to Small Wireless Facility Deployments in the Public Rights of Way

COUNCIL ACTION:

In City Council November 7, 2019.

Referred to the Planning, Licenses and Development Committee.

RECOMMENDATION:

That Ordinance O-2019-18, relating to Small Wireless Facility Deployments in the Public Rights of Way, be referred to the Planning, Licenses and Development Committee for consideration and recommendation.

ATTACHMENTS:

Description

Ordinance O-2019-18

BACKGROUND:

Small wireless facilities (SWFs), also called “small cells,” are a new generation of wireless technology that consist of small radio equipment and antennas that can be placed on structures such as streetlights, the sides of buildings, or poles. Following direction from City Council, staff has drafted an ordinance that would establish a license to regulate the placement and design of SWFs in the public rights of way. The issuing authority for the license would be the Public Works Director or his designee.

The purpose of the SWF license is to promote economic development by creating opportunity for high quality, advanced wireless services, protect and preserve the public rights of way, ensure compatibility with the City’s aesthetic character, and establish reasonable standards and procedures in compliance with the FCC Small Cell Order.

In general, the FCC Small Cell Order: (1) restricts the fees and other compensation state and local governments may receive from applicants; (2) requires all aesthetic regulations to be reasonable, no more burdensome than those applied to other infrastructure deployments, objective and published in advance; and (3) mandates that local officials review permit applications within significantly shorter time frames than previously allowed.



CITY OF KEENE

Ordinance O-2019-18

Nineteen

In the Year of Our Lord Two Thousand and
Relating to Small Wireless Facility Deployments in the Public Rights of Way

AN ORDINANCE

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

That the City Code of the City of Keene, New Hampshire, as amended, is hereby further amended by adding the text in the following article to Chapter 82 of the City of Keene Code of Ordinances as follows:

ARTICLE VIII. SMALL WIRELESS FACILITY DEPLOYMENTS IN THE PUBLIC RIGHTS OF WAY

Section 82-201. Purpose and Intent

1. The purpose of this article is to establish reasonable standards and procedures for the siting, construction, installation, collocation, modification, operation, relocation and removal of SWFs (SWF) in the city’s public rights-of-way, consistent with and to the extent permitted under federal and state law.
2. The standards and procedures of this Article are intended to protect and promote public health, safety and welfare. They are also intended to reflect and promote the community interest by:
 - a. protecting and preserving the city’s public rights-of-way and municipal infrastructure;
 - b. maintaining the balance between public and private interests;
 - c. protecting the city’s visual character from potential adverse impacts;
 - d. protecting and preserving the city’s environmental resources; and,
 - e. promoting access to high-quality, advanced wireless services for the city’s residents, businesses and visitors.
3. This Article is intended to establish procedures for application intake and completeness review, and encourage applicants to timely respond to incomplete notices.

Section 82-202. Applicability

1. Except as expressly provided otherwise, the provisions in this Article shall be applicable to all SWFs constructed and in operation as of the date of the adoption of this Article, and to all applications and requests for authorization to construct, install, attach, operate, collocate, modify, reconstruct, relocate, remove or otherwise deploy SWFs within the public rights-of-way after the date of the adoption of this Article.
2. To the extent that other infrastructure deployments involve the same or substantially similar structures, apparatus, antennas, equipment, fixtures, cabinets, cables or improvements within the public rights-of-way, the Director or other official responsible to review and approve or

deny requests for authorization in connection with such other infrastructure deployment shall apply the provisions in this Article, unless specifically prohibited by applicable law or ordinance.

Section 82-203. Required license and approvals

1. **SWF License.** A “SWF License,” subject to the Director’s review and approval in accordance with this Article, shall be required for all SWFs and other infrastructure deployments located in whole or in part within the public rights-of-way.
 - a. **Indemnification Requirement.** The SWF License shall contain the City’s usual and customary indemnification provisions.
2. **Other Licenses and Approvals.** In addition to a SWF License, an applicant must obtain all other licenses, permits and regulatory approvals as may be required by any other federal, state or local government agencies, which includes without limitation any approvals issued by other city departments or divisions.

Section 82-204. Exemptions.

1. Notwithstanding anything in this Article to the contrary, a SWF License shall not be required for the following:
 - a. Wireless facilities or other infrastructure deployments owned and operated by the city,
 - b. Over-the-air reception device (OTARD) facilities.
 - c. Requests for approval to collocate, modify, replace or remove transmission equipment at an existing wireless tower or base station submitted pursuant to 47 U.S.C. § 1455(a).
2. An exemption from the SWF License requirement under this Section does not exempt the SWFs or other infrastructure deployments from any other permits or approvals as may be required by any other federal, state or local government agencies, which includes without limitation any approvals issued by other city departments or divisions.

Section 82-205. Location standards

1. **Location Preferences.** To better assist applicants and decision makers in understanding and responding to the community’s aesthetic preferences and values, this section sets out listed preferences for locations to be used in connection with SWFs in an ordered hierarchy. An applicant is required to demonstrate with clear and convincing evidence that the higher priority locations are not technically feasible in order for the Director to approve a SWF in a lesser-preferred location.
 - a. The order of preference for locating SWFs from most preferred to least preferred is as follows:
 - i. locations within non-residential districts;
 - ii. any location within 400 feet from an existing small cell;
 - iii. any location within 400 feet from any structure approved for a residential use;
 - iv. any location on Central Square or on Main Street between Central Square and

the Marlboro Street/Winchester Street intersection.

2. **Prohibited Support Structures.** SWFs shall not be permitted on the following support structures:
 - a. new wood poles, unless it is a replacement for an existing wood pole
 - b. existing City-owned decorative poles
3. **Encroachments Over Private Property.** No SWF antennas, accessory equipment or other improvements may encroach onto or over any private or other property outside the public rights-of-way without the property owner's written consent.
4. **No Interference with Other Uses.** SWFs and any associated antennas, accessory equipment or improvements shall not be located in any place or manner that would physically interfere with or impede access to any:
 - a. above-ground or underground infrastructure;
 - b. street furniture;
 - c. fire hydrant or water valve; or
 - d. doors, gates, stoops, fire escape, windows, or other ingress and egress points to any building appurtenant to the rights-of-way.
5. **Replacement Pole Location.** All replacement poles must:
 - a. be located within five feet of the removed pole; and
 - b. be aligned with the other existing poles along the public rights-of-way.
6. **Additional Placement Requirements.** In addition to all other requirements in this Article, SWFs, other infrastructure deployments and all related equipment and improvements shall:
 - a. be placed as close as possible to the property line between two parcels that abut the public rights-of-way;
 - b. be placed so as to not obstruct a 200 foot all-season safe sight distance at any intersection;
 - c. be placed at least 5 feet away from any driveway;
 - d. be placed at least 50 feet away from any driveways for police stations, fire stations or other emergency responder facilities.

Section 82-206. Design standards

1. **Height.** New support structures for SWFs shall not be more than 35 feet in height, or 10% taller than nearby structures within the public right of way, whichever is greater. In no instance shall the overall height of an existing or new structure, including any antennas, exceed 50 feet.
2. **Colors and Finishes.** All exterior surfaces shall be painted, colored and/or wrapped in muted, non-reflective hues that match the underlying support structure and blend with the surrounding environment; provided, however, that SWFs located on Central Square or Main Street between Central Square and the Marlboro Street/Winchester Street intersection shall be black in color. All surfaces shall be treated with graffiti-resistant sealant. All finishes shall be subject to the Director's prior approval.
3. **Lights.** All lights and light fixtures must be fully shielded, dark skies compliant, and directed

downwards so that their illumination effects are confined entirely within the public rights-of-way in a manner consistent with specifications by the Director. All antennas, accessory equipment and other improvements with indicator or status lights shall be installed in locations and within enclosures that mitigate illumination impacts visible from publicly accessible areas.

4. **Trees and Landscaping.** SWFs and other infrastructure deployments shall not be installed (in whole or in part) within any tree drip line. SWFs and other infrastructure deployments may not displace any existing tree or landscape features unless:
 - a. such displaced tree or landscaping is replaced with native and/or drought-resistant trees, plants or other landscape features approved by the Director, and
 - b. the applicant submits and adheres to a landscape maintenance plan.

Replacement trees must be installed under the supervision of a NH licensed arborist. Any replacement tree must be substantially the same size as the damaged tree unless approved by the Director.

5. **Signs and Advertisements.** All SWFs and other infrastructure deployments that involve RF transmitters must include signage that accurately identifies the site owner/operator, the owner/operator's site name or identification number and a toll-free number to the owner/operator's network operations center. SWFs and other infrastructure deployments may not bear any other signage or advertisements, including logos, unless expressly approved by the city, required by law, or recommended under FCC or other United States governmental agencies for compliance with RF emissions regulations.

- a. RF warning signs, if required, shall be located as close to the antenna as possible and must face towards the street. Unless otherwise required by law or regulation, the background color of the sign must match the color of the pole or surface to which it is attached.

6. **Site Security Measures.** SWFs and other infrastructure deployments may incorporate reasonable and appropriate site security measures subject to approval by the Director. All exterior surfaces on SWFs shall be constructed from or coated with graffiti-resistant materials.

7. **Compliance with State and Federal Regulations.** All SWFs and other infrastructure deployments must comply with all applicable State and federal regulations, including without limitation all applicable regulations for human exposure to RF emissions and the federal Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 et seq.). In the event that applicable federal or State laws or regulations conflict with the requirements of this ordinance, the applicant shall comply with the requirements of this ordinance to the maximum extent possible without violating federal or State laws or regulations.

8. **Antennas.** The following provisions in this subsection are generally applicable to all antennas.

- a. **Shrouding / Concealment.** All antennas and associated equipment, including but not limited to cables, jumpers, wires, mounts, masts, brackets and other connectors and hardware, must be concealed from view within a single shroud or radome that is finished to match the color of the support structure.

- i. For pole-top antennas, the shroud shall not exceed one and half-times the median pole diameter and must taper down to pole.
- ii. For side-arm antennas, the shroud must cover the cross arm and any cables, jumpers, wires or other connectors between the vertical riser and the antenna.

b. **Antenna Volume.** Each individual antenna associated with a single SWF shall not exceed 3 cubic feet. The cumulative volume for all antennas on a single small SWF shall not exceed:

- i. 3 cubic feet in residential districts; or
- ii. 6 cubic feet in nonresidential districts.

c. **Overall Antenna Height.**

- i. Antennas placed on new structures may not extend more than 5 feet above the support structure, plus any minimum separation between the antenna and other pole attachments required by applicable health and safety regulations.
- ii. Antennas placed on existing structures that meet the definition of a collocation or modification application as defined in NH RSA 12-K shall not increase the height of the structure by more than 10% or 5 feet, whichever is greater.

d. **Horizontal Projection.** Side-mounted antennas, where permitted, shall not project:

- i. more than 18 inches from the support structure;
- ii. over any roadway for vehicular travel; or
- iii. over any abutting private property.
- iv. If applicable laws require a side-mounted antenna to project more than 18 inches from the support structure, the projection shall be no greater than required for compliance with such laws.

9. **Accessory Equipment Volume.** The cumulative volume for all accessory equipment for a single SWF or other infrastructure deployment shall not exceed:

- a. 9 cubic feet in residential districts; or
- b. 17 cubic feet in nonresidential districts.

The volume limits in this subsection do not apply to any undergrounded accessory equipment.

10. **Undergrounded Accessory Equipment.**

a. **Where Required.**

- i. For proposed facilities on Central Square or on Main Street between Central Square and the Marlboro Street/Winchester Street intersection, accessory equipment (other than any electric meter emergency disconnect switch, where permitted) shall be placed underground.
- ii. In all other locations, accessory equipment shall be placed underground unless the applicant demonstrates by clear and convincing evidence that compliance with this section would be technically infeasible.

b. **Vaults.** All undergrounded accessory equipment must be installed in a vault that is load-rated to meet the city's standards and specifications.

11. **Pole-Mounted Accessory Equipment.** The following provisions in this subsection are applicable to all pole-mounted accessory equipment in connection with SWFs and other infrastructure deployments.

- a. **Minimum Vertical Clearance.** The lowest point on any pole-mounted accessory equipment, which does not project over the travel way, shall be a minimum of 10 feet above ground level adjacent to the pole.
- b. **Horizontal Projection.** All pole-mounted accessory equipment shall be mounted flush to the pole surface. Pole-mounted accessory equipment shall not project:
 - i. more than 18 inches from the pole surface; or
 - ii. over any abutting private property.
- c. **Orientation.** Unless concealed in a manner approved by the Director, all pole-mounted accessory equipment shall be oriented so as to reduce visibility from the nearest abutting properties. In general, the proper orientation will likely be toward the street to reduce the overall profile when viewed from the nearest abutting property. If more than one orientation would be technically feasible, the Director may select the most appropriate orientation.

12. **Ground-Mounted or Base-Mounted Accessory Equipment.** The following provisions in this subsection are applicable to all ground-mounted and base-mounted accessory equipment in connection with SWFs and other infrastructure deployments.

- a. **Concealment.** Where permitted, ground-mounted accessory equipment shall be completely concealed/shrouded or placed in a cabinet substantially similar in appearance to existing ground-mounted accessory equipment cabinets. Exterior colors shall be muted, non-reflective, and blend with the colors of the surroundings.
- b. **Visibility.** No individual ground-mounted accessory equipment cabinet may exceed a height or width of 4 feet. Ground-mounted and base-mounted equipment cabinets shall not have any horizontal flat surfaces greater than 1.5 square feet.

13. **Support Structure Attachments.** The following provisions in this subsection are applicable to all support structure attachments (other than pole-mounted accessory equipment) and other related improvements that serve SWFs and other infrastructure deployments.

- a. **Overhead Lines.** The Director shall not approve any new overhead utility lines in areas within which wires, cables, cabinets and other equipment associated with SWFs or infrastructure deployment are primarily located underground. In areas with existing overhead lines, no new overhead utility lines shall be permitted to traverse any roadway used for vehicular transit.
- b. **Vertical Cable Risers.** All cables, wires, conduit attachments and other connectors must be routed through conduits within the support structure to conceal from public view. If this is technically infeasible, applicants shall route through a single external conduit or shroud that has been finished to match the underlying pole.

- c. **Spools and Coils.** To reduce clutter and deter vandalism, excess fiber optic or coaxial cables shall not be spooled, coiled or otherwise stored on the pole outside equipment cabinets or shrouds.
- d. **Electric Meters.** The Director shall not approve a separate ground-mounted electric meter pedestal. If the proposed project involves a ground-mounted equipment cabinet, an electric meter may be integrated with and recessed into the cabinet.
- e. **Existing Conduit or Circuits.** To reduce unnecessary wear and tear on the public rights-of-way, applicants shall use existing conduits and/or electric circuits whenever available and technically feasible. Access to any conduit and/or circuits owned by the city shall be subject to the Director's prior written approval, which the Director may withhold or condition as the Director deems necessary or appropriate to protect the city's infrastructure and/or prevent interference with the city's municipal functions and public health and safety.

Section 82-207. Application Requirements

1. **All Applications.** All applicants for a SWF License must include the following information and materials as part of a formal SWF License application to the city:
 - a. **Application Form.** The applicant shall submit a complete, duly executed SWF License application on the then-current form prepared by the city.
 - b. **Application Fee.** The applicant shall submit the applicable SWF License application fee established in Appendix B of City Code. Batched applications must include the applicable SWF license application fee for each SWF in the batch.
 - c. **Project Narrative and Justification.** The applicant shall submit a written statement that explains in plain factual detail whether and why the proposed facility qualifies as a "SWF" as defined in this Article. A complete written narrative analysis will state the applicable standard and all the facts that allow the city to conclude the standard has been met. As part of the written statement, the applicant must also include the following:
 - i. Whether and why the proposed support is a "structure" as defined by this Article.
 - ii. Whether and why the proposed wireless facility meets each required finding for a SWF License as provided in Sec. 82-209, subsection (2), "Required Findings for Approval."
 - d. **Construction drawings.** The applicant shall submit true and correct construction drawings, prepared, signed and stamped by a New Hampshire licensed engineer that depict all the existing and proposed improvements, equipment and conditions related to the proposed project. This includes without limitation any and all poles, posts, pedestals, traffic signals, towers, streets, sidewalks, pedestrian ramps, driveways, curbs, gutters, drains, handholds, manholes, fire hydrants, equipment cabinets, antennas, cables, trees and other landscape features. The construction drawings must:

- i. contain cut sheets that contain the technical specifications for all existing and proposed antennas and accessory equipment, which includes without limitation the manufacturer, model number and physical dimensions;
 - ii. identify all potential support structures within 400 feet from the proposed project site and call out such structures' overall height above ground level; and
 - iii. depict the applicant's preliminary plan for electric and data backhaul utilities, which shall include the anticipated locations for all conduits, cables, wires, handholes, junctions, transformers, meters, disconnect switches, and points of connection.
 - e. **Photo Simulations.** The applicant shall submit site photographs and photo simulations that show the existing location and proposed SWF in context from at least three vantage points within the public streets or other publicly accessible spaces, together with a vicinity map that shows the proposed site location and the photo location for each vantage point. At least one simulation must depict the SWF from a vantage point approximately 50 feet from the proposed support structure or location.
 - f. **Radio Frequency Compliance Report.** The applicant shall submit a Radio Frequency (RF) exposure compliance report that certifies that the proposed SWF will comply with applicable federal RF exposure standards and exposure limits. The RF report must be prepared and certified by an RF engineer acceptable to the Director. If the applicant submits a batched application, a separate RF report shall be prepared for each facility associated with the batch, unless the same SWF and equipment is proposed for each location within the batch.
 - g. **Regulatory Authorization.** The applicant shall submit evidence of the applicant's regulatory status under federal and state law to provide the services and construct the SWF proposed in the application.
2. **Collocation Applications.** In addition to the application requirements listed in Sec. 82-207 subsection (1), all applicants proposing to place a SWF on an existing structure must include the following information and materials as part of a formal SWF License application to the city:
 - a. **Property Owner's Authorization.** For any SWF proposed to be installed on an existing support structure not owned or controlled by the city, whether in whole or in part, and which is not owned by the applicant, the applicant must submit a written authorization from the support structure owner(s).
3. **Applications to install a SWF on a New Support Structure.** In addition to the application requirements listed in Sec. 82-207 subsection (1), all applicants proposing to install a SWF on a new or replacement support structure must include the following information and materials as part of a formal SWF License application to the city:
 - a. **Public Notices.** For applications to locate a SWF on a new or replacement structure, the applicant shall include with the application a list that identifies all persons entitled to notice, including all owners of record and legal occupants of

properties within a 300-foot radius of the proposed SWF. In addition, the applicant shall submit two sets of mailing labels and pay a fee to cover the cost of mailing to each person entitled to notice.

- b. **Site Survey.** For applications to locate a SWF on a new or replacement structure, the applicant shall submit a survey prepared, signed and stamped by a New Hampshire licensed surveyor. The survey must identify and depict all existing boundaries, encroachments and other structures within 75 feet from the proposed project site and any new improvements, which includes without limitation all:
 - i. traffic lanes;
 - ii. all private properties and property lines;
 - iii. above and below-grade utilities and related structures and encroachments;
 - iv. fire hydrants, roadside call boxes and other public safety infrastructure;
 - v. streetlights, decorative poles, traffic signals and permanent signage;
 - vi. sidewalks, driveways, parkways, curbs, gutters and storm drains;
 - vii. benches, mailboxes, kiosks and other street furniture; and
 - viii. existing trees, planters and other landscaping features.

Section 82-208. Application Review Procedures

1. **Presubmittal Conference.** The City encourages applicants to schedule and attend a presubmittal conference with the Director and other City staff. This presubmittal conference does not cause the FCC Shot Clock or NH Shot Clock to begin and is intended to streamline the review process through collaborative, informal discussion that includes, without limitation, the appropriate project classification and review process; any latent issues in connection with the proposed project and/or project site, including compliance with generally applicable rules for public health and safety; potential concealment issues or concerns (if applicable); coordination with other city departments implicated by the proposed project; and application completeness issues.
 - a. To mitigate unnecessary delays due to application incompleteness, applicants are encouraged (but not required) to bring any draft applications, plans, maps or other materials so that city staff may provide informal feedback and guidance about whether such applications or other materials may be incomplete or unacceptable in their then-current form.
2. **Application Submittal Date.** All applications must be submitted to the city on the monthly application submittal date, which shall generally be the second Tuesday of every month unless specified otherwise by the Director. Prospective applicants may submit up to 5 individual applications at one time as a batch. Any purported application received on a date other than the application submittal date, whether delivered in-person, by mail or through any other means, will be considered filed as of the next applicable application submittal date.
3. **Additional Administrative Requirements and Regulations.** The City Council authorizes the Director to develop, publish and from time to time update or amend license application requirements and technical standards that the Director finds necessary, appropriate or useful for processing any application governed under this Article, not otherwise inconsistent with the requirements of this Article. The City Council further authorizes the Director to establish other reasonable rules and regulations for duly filed applications, which may include without limitation regular hours for appointments and/or submittals without appointments, as the

Director deems necessary or appropriate to organize, document and manage the application intake process. All such requirements, materials, rules and regulations must be in written form, on file with the Director, and publicly released, to provide all interested parties with prior notice.

4. **Incomplete Applications.**

a. **Initial Completeness Review.** Within fifteen (15) calendar days following the application submittal date, the Director shall complete an initial review of each application to evaluate whether the submission requirements set forth in Sec. 82-207 have been met. If the Director determines that an application is incomplete, the Director shall notify the applicant in writing of the application's nonconformance, including the specific deficiencies in the application, which, if cured, would make the application complete.

b. **Shot Clock Extensions**

i. *Collocation Applications.* Applicants proposing to collocate a SWF on an existing structure shall have fifteen days to cure all deficiencies in the application.

1. If the applicant submits all information required for an application to be deemed complete by the Director within 15 days, the shot clock shall not be suspended.

2. If the applicant submits all information required for an application to be deemed complete after fifteen days, the shot clock shall be extended by the number of days beyond the 15-day period that it takes for the applicant to submit this information in accordance with NH RSA 12-K:10.

ii. *Applications to install a SWF on a new structure.* Applicants proposing to install a SWF on a new or replacement structure shall have fifteen days to cure all deficiencies in the application. On the date of the issuance of a written incomplete notice, the shot clock shall be suspended until the applicant submits all information required for an application to be deemed complete by the Director.

c. **Incomplete Application Deemed Denied.** Any application governed under this Article shall be automatically denied when the applicant fails to submit a substantive response to the Director within 60 calendar days after the Director deems the application incomplete by written notice. A "substantive response" must include, at a minimum, the complete materials identified as incomplete in the written incomplete notice.

5. **Application Submittal Notice for SWFs Proposed on New Structures.** Within 15 calendar days after a complete application is received and prior to any approval, conditional approval or denial, the city shall mail public notice to all persons entitled to notice, including all owners of record and legal occupants of properties within a 300-foot radius of the proposed SWF. The notice must contain:

a. A general project description;

b. The applicant's identification and contact information as provided on the application submitted to the city;

- c. Contact information for the Director for interested parties to submit comments; and
 - c. The date by which comments must be submitted to the Director.
6. **Application Decision Notice.** Within five calendar days after the Director acts on a SWF License application, the Director shall provide written notice to the applicant. If the Director denies an application (with or without prejudice) for a SWF, the written notice must also contain the reasons for the denial.

Section 82-209. Decisions

1. Decision Deadlines.

- a. The Director shall make a final decision to approve, approve with conditions, or deny a completed application to collocate a SWF on an existing structure within 45 days of application submittal, unless the NH Shot Clock was extended according to Sec. 82-208 subsection (4)(b).
- b. The Director shall make a final decision to approve, approve with conditions, or deny an application to place or install a SWF on a new support structure within 90 days after the application is determined to be complete.

2. Required Findings for Approval.

The Director may approve or conditionally approve a complete application for a SWF License when the Director finds that the proposed project:

- a. meets the definition for a “SWF” as defined in this Article, if it involves a wireless facility,
- b. complies with all applicable location standards in this Article;
- c. complies with all applicable design standards in this Article;
- d. would not be located on a prohibited support structure identified in this Article; and
- e. will be in planned compliance with all applicable FCC regulations and guidelines.

3. Conditional Approvals / Denials Without Prejudice.

Subject to any applicable federal or state laws, nothing in this Article is intended to limit the Director’s ability to conditionally approve or deny without prejudice any SWF License application as may be necessary to ensure compliance with this Article.

4. Appeals.

Any decision by the Director shall not be subject to any administrative appeals, but may be appealable to a court of competent jurisdiction.

Section 82-210. Conditions of Approval

1. Standard Conditions.

Except as may be authorized in subsection (2) of this section, all SWF Licenses issued under this Article shall be automatically subject to the conditions in this subsection (1).

- a. **License Term.** This license will automatically renew 1 year from its issuance, and each year thereafter, conditional upon receipt of the annual license fee established in Appendix B of City Code prior to the date of license expiration.
- b. **Post-Installation Certification.** Within 60 calendar days after the final inspection for any building permit associated with a SWF, the applicant shall provide the Director with documentation reasonably acceptable to the Director that the SWF or

other infrastructure deployment has been installed and/or constructed in strict compliance with the approved construction drawings and photo simulations. Such documentation shall include without limitation as-built drawings, GIS data and site photographs.

- c. **Build-Out Period.** This SWF License will automatically expire 12 months from the approval date (the “build-out period”) unless the applicant obtains all other permits and approvals required to install, construct and/or operate the approved SWF or other infrastructure deployment. Upon written request, the Director may grant up to three extensions to the build-out period in 90-day increments if the applicant demonstrates justifiable cause. If the build-out period and any extension finally expires, the license shall be automatically revoked.
- d. **Site Maintenance.** The applicant shall keep the site, which includes without limitation all licensed improvements, in a safe condition in accordance with the approved construction drawings and all conditions in the SWF License. The applicant, at no cost to the city, shall remove and remediate any graffiti or other vandalism at the site within 48 hours after the applicant receives notice or otherwise becomes aware that such graffiti or other vandalism occurred.
- e. **Compliance with Laws.** The applicant shall maintain compliance at all times with all federal, state and local statutes, regulations, orders, permits or other rules (“laws”) applicable to the applicant, the subject property, the SWF or other infrastructure deployment or any use or activities in connection with the use authorized in this SWF License. The applicant expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the applicant’s obligations to maintain compliance with all laws. No failure or omission by the city to timely notice, prompt or enforce compliance with any applicable law shall be deemed to relieve, waive or lessen the applicant’s obligation to comply in all respects with all applicable laws.
- f. **Adverse Impacts on Other Properties.** The applicant shall avoid, or immediately remedy if necessary, any adverse impacts on nearby properties that may arise from the applicant’s or its authorized personnel’s construction, installation, operation, modification, maintenance, repair, removal and/or other activities on or about the site.
- g. **Inspections; Emergencies.** The applicant expressly acknowledges and agrees that local, state, and federal officers, officials, staff, emergency personnel, agents, contractors or other designees may inspect the licensed improvements and equipment to disable or remove any licensed improvements or equipment in emergencies or when such improvements or equipment threatens actual, imminent harm to property or persons.
- h. **Applicant’s Contact Information.** Within 10 days from the date of approval of the SWF License, the applicant shall furnish the city with accurate and up-to-date contact information for a person responsible for the SWF or other infrastructure deployment, which includes without limitation such person’s full name, title, direct

telephone number, mailing address and email address. The applicant shall keep such contact information up-to-date at all times and promptly provide the city with updated contact information if either the responsible person or such person's contact information changes.

- i. **Performance Security.** Before the city issues any permits required to commence construction in connection with this license, the applicant shall post a security in a form acceptable to the Director in an amount reasonably necessary to cover the cost to remove the improvements and restore all affected areas based on a written estimate from a qualified contractor with experience in wireless facilities or other infrastructure removal. The preferred forms of security are certified checks made out to the City of Keene and letters of credit.
- j. **Truthful and Accurate Statements.** The applicant acknowledges that the city's approval relies on the written and/or oral statements by applicant and/or persons authorized to act on applicant's behalf. In any matter before the city in connection with the SWF License or the SWF or other infrastructure approved under the SWF License, neither the applicant nor any person authorized to act on applicant's behalf shall, in any written or oral statement, intentionally provide information that is materially and/or factually incorrect or omit any material information necessary to prevent any material factual statement from being incorrect or misleading. Failure to comply with this condition shall be grounds for license revocation
- k. **License Revocation.** The Director may revoke a license granted under this Article when the Director finds substantial evidence that the facility is not in compliance with the requirements of this Article, and with any applicable laws, which includes without limitation, any license or permit issued in connection with the facility and any associated conditions required by such license(s) or permits.
 - i. Before any decision to revoke a license granted under this Article, the Director must issue a written notice to the applicant that specifies the facility, the violation(s) to be corrected, the timeframe within which the applicant must correct such violation(s), which shall be a minimum of 30 days, and that the Director may revoke the license for failure to correct such violation(s).
 - ii. If the applicant does not correct the violations as specified in the written notice within the timeframe stated, the Director may issue a decision to revoke the license. Within five (5) business days after Director makes a decision to revoke a license, the Director shall provide the applicant with a written notice that specifies the revocation and the reasons for such revocation.
- l. **Records.** Any and all documentation or data submitted to the City in connection with a SWF License application and license is a public record subject to the requirements of NH RSA 91-A, unless otherwise claimed to be confidential by the applicant and agreed to by the City in accordance with state law. In the event of a public record request for confidential information, the city shall notify the Licensee within 5 calendar days of receipt of the request, and the Licensee may, at its sole cost and expense, seek an immediate protective order from the NH Superior Court. In the event that the Licensee does not take such action within 30 days of notification, the city shall release the record subject to redactions required by law.

- m. **Abandoned Facilities.** The SWF or other infrastructure deployment authorized under this SWF License shall be deemed abandoned if not operated under a valid license for any period of time that is 90 days or longer. The City shall notify the applicant in writing of the abandonment. Once deemed abandoned, the applicant and/or SWF owner shall completely remove the SWF or other infrastructure deployment and all related improvements and shall restore all affected areas to a condition substantially similar to the condition at the time the license was initially granted. In the event that neither the applicant nor the SWF owner complies with the removal and restoration obligations under this condition within a 30-day period after the notice by the City, the city shall have the right (but not the obligation) to perform such removal and restoration without further notice, and the applicant and SWF owner shall be jointly and severally liable for all costs and expenses incurred by the city in connection with such removal and/or restoration activities.
- n. **Trees and Landscaping.** The applicant shall replace any landscape features damaged or displaced by the construction, installation, operation, maintenance or other work performed by the applicant or at the applicant's direction on or about the site. If any trees are damaged or displaced, the applicant shall hire and pay for a NH licensed arborist to select, plant and maintain replacement landscaping in an appropriate location for the species. Any replacement tree must be substantially the same size as the damaged tree or as otherwise approved by the city.
- o. **Utility Damage Prevention.** The applicant shall comply with the requirements of NH RSA 374:48 – 56, and any adopted administrative rules.
- p. **Rearrangement and Relocation.** The applicant acknowledges that the city, in its sole discretion and at any time, may perform any work deemed necessary, useful or desirable by the city (collectively, "city work") in the City right-of-way. If the Director determines that any city work will require the applicant's SWF located in the public rights-of-way to be rearranged and/or relocated, the Director shall issue written notice to the applicant of the work to be performed, and the action to be taken by the applicant. The applicant shall, at its sole cost and expense, do or cause to be done all things necessary to accomplish such rearrangement and/or relocation within 10 days after the Director's notice. If the applicant fails or refuses to either permanently or temporarily rearrange and/or relocate the applicant's SWF or other infrastructure deployment within 10 days after the Director's notice, the city may (but will not be obligated to) cause the rearrangement or relocation to be performed at the applicant's sole cost and expense.
 - i. The city may exercise its rights to rearrange or relocate the applicant's SWF or other infrastructure deployment without prior notice to applicant when the Director determines that city work is immediately necessary to protect public health or safety.
 - ii. The applicant shall reimburse the city for all costs and expenses in connection with such work within 10 days after a written demand for reimbursement and reasonable documentation to support such costs.

2. **Modified Conditions.** The City Council authorizes the Director to modify, add or remove conditions to any SWF License as may be necessary or required to ensure compliance with

the City of Keene Code of Ordinances, this Article or other applicable law. To the extent required by applicable FCC regulations, the Director shall take care to ensure that any different conditions applied to SWFs are no more burdensome than those applied to other similar infrastructure deployments. The Director shall provide written notice to the applicant of any required alteration to the license.

Section 82-211. Preapproved designs

1. **Purpose.** To expedite the review process and encourage collaborative designs among applicants and the city, the City Council authorizes the Director to designate one or more preapproved designs for SWFs and other infrastructure deployments. This Section sets out the process to establish or repeal a preapproved design and the expedited review procedures and findings applicable to these applications.
2. **Adoption.** The Director may, in the Director's discretion, establish a preapproved design when the Director finds that a proposed preapproved design meets or exceeds the design standards in this Article. The Director shall make preapproved designs publicly available at the offices of the Director and at the time of application.
3. **Repeal.** The Director may repeal any preapproved design by written notice posted at Keene City Hall and at the offices of the Director. The repeal shall be effective to any application received after the date of the repeal.
4. **Modified Findings.** When an applicant submits a complete application for a preapproved design, the Director shall presume that the findings for approval in Sec. 82-209 subsection (2)(c). of this Article are satisfied and shall evaluate the application for compliance with the remaining findings for approval listed in Sec. 82-209 subsection (2).
5. **Nondiscrimination.** Any applicant may propose to use any preapproved design whether the applicant initially requested that the Director adopt such preapproved design or not. The Director's decision to adopt a preapproved design expresses no preference or requirement that applicants use the specific vendor or manufacturer that fabricated the design depicted in the preapproved plans. Any other vendor or manufacturer that fabricates a facility to the standards and specifications in the preapproved design with like materials, finishes and overall quality shall be acceptable as a preapproved design.

Section 82-212. Definitions

The definitions in this Section shall be applicable to the terms, phrases and words in this Article. If any definition assigned to any term, phrase or word conflicts with any federal or state-mandated definition, the federal or state-mandated definition will control.

"Accessory equipment" means equipment other than antennas used in connection with a SWF or other infrastructure deployment. The term includes "transmission equipment" as defined by the FCC in 47 C.F.R. § 1.6100(b)(8), as may be amended or superseded.

"Antenna" means an apparatus designed for the purpose of transmitting or receiving electromagnetic radio frequency signals used in the provision of personal wireless service and any comingled information services.

“Antenna facility” means an antenna and associated accessory equipment.

“Applicant” means any person who submits an application and is a wireless provider.

“Batched application” means more than one application submitted at the same time.

“Collocation” means mounting or installing an antenna facility on a pre-existing structure, and/or modifying a structure for the purpose of mounting or installing an antenna facility on that structure, as defined by the FCC in 47 C.F.R. § 1.6102(g) (as may be amended or superseded). "Collocation" does not include a "substantial modification."

“Decorative pole” means any pole that includes decorative or ornamental features, design elements and/or materials intended to enhance the appearance of the pole or the public rights-of-way in which the pole is located.

“Director” means the Public Works Director or their designee.

“FCC” means the Federal Communications Commission or its duly appointed successor agency.

“FCC Shot Clock” means the presumptively reasonable timeframe, accounting for any tolling or extension, within which the city generally must act on a request for authorization in connection with a personal wireless service facility, as such time frame is defined by the FCC and as may be amended or superseded.

“Height” means the distance measured from ground level to the highest point on the structure, even if such highest point is an antenna. The term "ground level" means the average existing grade or elevation of the ground surface within the footprint of the structure prior to any alterations such as grading, grubbing, filling, or excavating.

“NH Shot Clock” means the presumptively reasonable timeframe, accounting for any tolling or extension, within which the city generally must act on a request for authorization in connection with a personal wireless service facility, as such time frame is defined in NH RSA 12-K:10 and as may be amended or superseded.

“Nonresidential district” means any zoning district that is not included in the definition of “Residential district.”

“OTARD” means an “over-the-air reception device” and includes all antennas and antenna supports covered by 47 C.F.R. § 1.4000(a)(1), as may be amended or superseded.

“Person” means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization.

“Personal wireless services” means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services. See 47 U.S.C. § 332(c)(7)(C)(i).

“Personal wireless service facilities” means facilities for the provision of personal wireless services as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended or superseded.

“Persons entitled to notice” means the record owners and legal occupants of all properties within a 300-foot radius of the proposed SWF. Notice to the legal occupants shall be deemed given when sent to the property’s physical address.

“Public right-of-way” or “Public rights-of-way” means land or an interest in land which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved for or dedicated to or open to the use by the general public for road or highway purposes, or other public access.

“Residential district” means a zoning district that is intended primarily for residential uses. This term includes the following zoning districts:

1. Rural
2. Low Density
3. Low Density-1
4. Medium Density
5. High Density
6. High Density-1
7. Residential Preservation

“RF” means radio frequency or electromagnetic waves.

“Shot clock days” means calendar days counted toward the presumptively reasonable time under the applicable FCC Shot Clock or NH Shot Clock. The term “shot clock days” does not include any calendar days on which the Shot Clock is tolled (i.e., “paused”).

“Small Wireless Facility” or “SWF” means the same as defined by the FCC in 47 C.F.R. § 1.6002(l), as may be amended or superseded, except as modified in this Article. A SWF meets each of the following conditions:

1. The facility is mounted on a structure that:
 - a. is 50 feet or less in height including the antenna; or
 - b. is no more than 10 percent taller than other adjacent structures; or
 - c. does not extend the existing structure on which it is located to a height of more than 50 feet or by more than 10 percent, whichever is greater.
2. Each antenna is located inside an enclosure of no more than three (3) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet.
3. All other wireless equipment attached directly to a structure associated with the facility is cumulatively no more than 28 cubic feet in volume.

“Support structure” means a “structure” as defined by the FCC in 47 C.F.R. § 1.6002(m), as may be amended or superseded. This section states that a “structure” means a pole, tower, base station, or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types of

services).

“Technically infeasible” means a circumstance in which compliance with a specific requirement within this Article is physically impossible and not merely more difficult or expensive than a noncompliant alternative.

Kendall W. Lane, Mayor



City of Keene, N.H.
Transmittal Form

November 1, 2019

TO: Mayor and Keene City Council

FROM: Will Schoefmann, GIS Technician

THROUGH: Elizabeth A. Dragon, City Manager

ITEM: K.1.

SUBJECT: Relating to the Official Trail Name Designations

COUNCIL ACTION:

In City Council November 7, 2019.

Referred to the Municipal Services, Facilities and Infrastructure Committee.

RECOMMENDATION:

That Resolution R-2019-38 be referred to the Municipal Services, Facilities and Infrastructure Committee for their review and recommendation.

ATTACHMENTS:

Description

Map of Cheshire Rail Trail and Proposed Thom Little Way

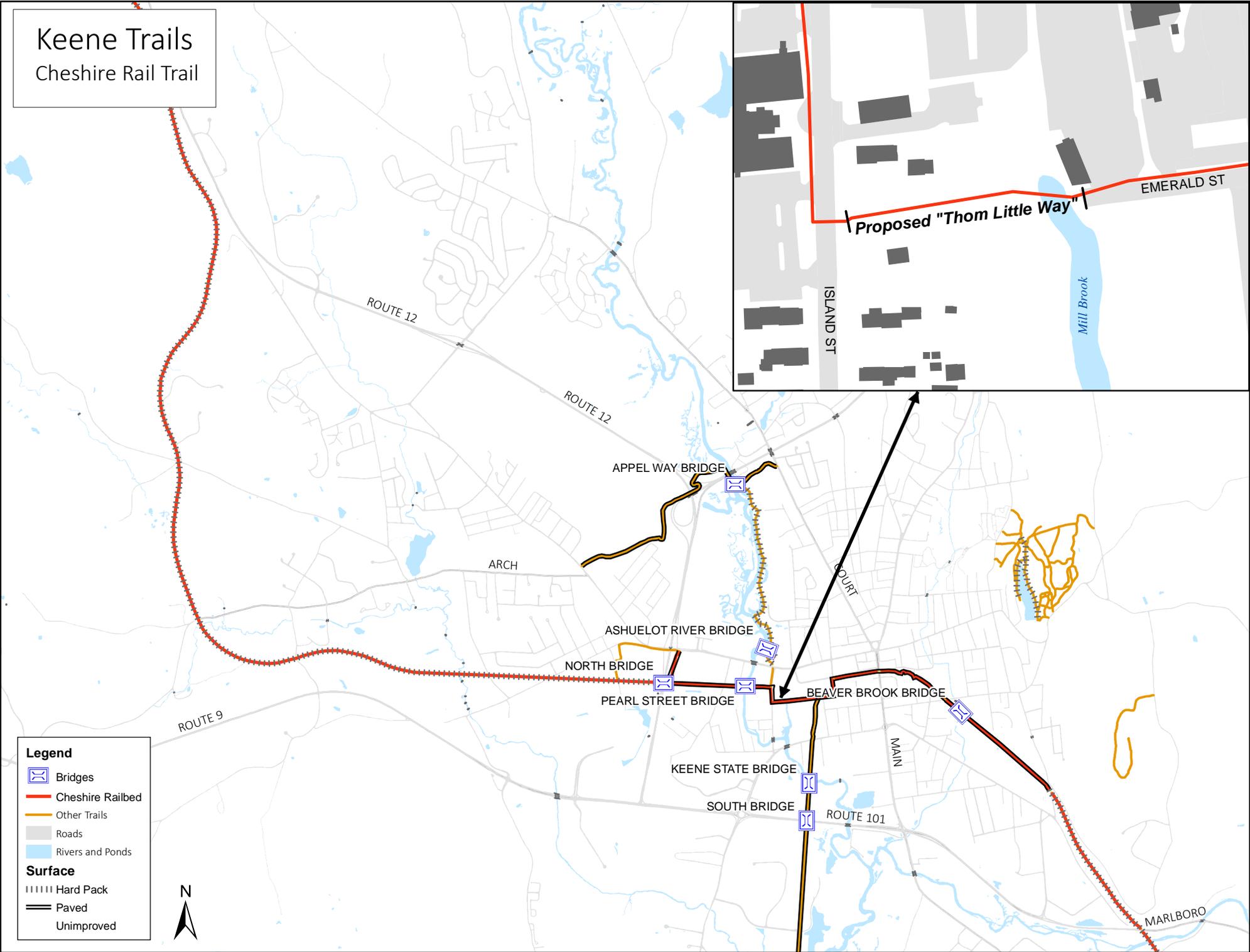
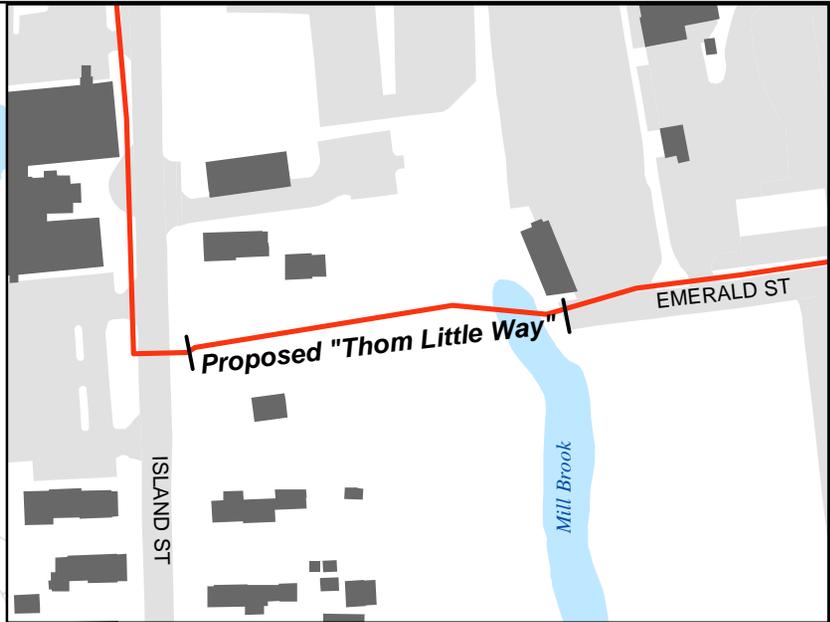
Resolution R-2019-38

BACKGROUND:

On October 3, 2019, the City Council voted unanimously to carry out the intent of the MSFI report from September 25 which was to direct staff to draft a resolution dedicating a section of the Cheshire Rail Trail to the memory of Thom Little.

Keene Trails

Cheshire Rail Trail



Legend

-  Bridges
-  Cheshire Railbed
-  Other Trails
-  Roads
-  Rivers and Ponds

Surface

-  Hard Pack
-  Paved
-  Unimproved



CITY OF KEENE

R-2019-38

Nineteen

In the Year of Our Lord Two Thousand and
RELATING TO THE OFFICIAL TRAIL NAME DESIGNATIONS

A RESOLUTION

Resolved by the City Council of the City of Keene, as follows:

WHEREAS: Chapter 82, Article IV of the City Code establishes criteria for the naming a facility after an individual; and

WHEREAS: Article IV requires that at least one of the following requirements be fulfilled:

- A well-known community leader, elected, appointed or volunteer.
- A person who has positively influenced a large populace of the City through a significant contribution of money, time, material or land.
- An individual who has had a major involvement in the acquisition or development of the facility.
- An individual whose civic leadership or volunteerism clearly has contributed to the betterment of the City.
- An individual who is deceased and whose personal attributes symbolized the principles and standards of a community organization; and

WHEREAS: The Bicycle Pedestrian Path Advisory Committee held discussions over several months to discuss official trail name designation of a section of the Cheshire Rail Trail in honor of its member Thom Little who passed away suddenly and who was a great long term servant to the City's multi-use trail system for more than two decades; and

WHEREAS: In addition to the criteria established by the Chapter 82, Article IV, the Bicycle Pedestrian Path Advisory Committee recognizes the historical significance and connectivity to the State-wide system as being important in any naming conventions; and

WHEREAS: Resolution R-2010-42, which previously designated the official trail names shall be rescinded.

NOW THEREFORE BE IT RESOLVED that the official trail network in the City of Keene shall encompass the Appel Way Trail (from Court Street to the entry way of Wheelock Park at Park Avenue); the Cheshire Rail Trail (from its northern extent adjacent to the Transfer Station southerly to its terminus in the vicinity of Joslin Station Road); the Jonathan Daniels Trail (from Ashuelot River Park to the Appel Way Trail); the Ashuelot Rail Trail (from Emerald Street and the Cheshire Rail Trail southerly past Krif Road and the boarder with the Town of Swanzey); and the Thom Little Way (from the end of Emerald Street to Island Street along the Cheshire Rail Trail) as the official trail name designations in the City of Keene.

PASSED

Kendall W. Lane, Mayor



City of Keene, N.H.
Transmittal Form

October 23, 2019

TO: Mayor and Keene City Council

FROM: Municipal Services, Facilities and Infrastructure Committee

ITEM: K.2.

SUBJECT: Discontinuance of a Portion of the Commercial Street Parking Lot

COUNCIL ACTION:

In City Council November 7, 2019.

Voted unanimously to carry out the intent of the first paragraph relative to an easement for a sidewalk on private property.

Voted with to abstentions to adopt Resolution R-2019-36.

Voted unanimously to adopt Resolution R-2019-37.

RECOMMENDATION:

On a vote of 3-0, the Municipal Services, Facilities & Infrastructure Committee recommends that the City Manager be authorized to do all things necessary to negotiate and execute an easement for the purpose of constructing and maintaining a public sidewalk on private property at 20 Commercial Street.

On a vote of 3-0, the Municipal Services, Facilities & Infrastructure Committee recommends the adoption of Resolution R-2019-36.

On a vote of 3-0, the Municipal Services, Facilities & Infrastructure Committee recommends the adoption of Resolution R-2019-37.

ATTACHMENTS:

Description

Resolution R-2019-36

Resolution R-2019-37

BACKGROUND:

Chair Manwaring welcomed Mr. Hanna again, who used a map to demonstrate the 1,372 square foot site, which Jeanna Hamblet agreed to sell to the Colonial Theater for small venues. The Hamblet family previously paid taxes on those parking spaces that the City took as a part of the Commercial Street lot and almost immediately tried to undo, but Mr. Hanna said they did so incorrectly. Mr. Hanna said that part of this petition is for Council to discontinue that portion of the Commercial Street lot to rectify the problem.

The City Attorney countered Mr. Hanna's comments that the Hamblet's have paid taxes on those spaces for 50 years, by noting that the owners have not been charged by the City to use those spaces for 50 years as well.

Mr. Hanna continued that the City has a constructed a sidewalk on the Hamblet's private property that will now

be owned by the Colonial Theater. They proposed granting an easement for the City to accept, and therefore protect the private property owner relative to the public use of this area. The City Attorney said staff is prepared to draft that easement.

Councilor Lamoureux made the following three motions, all of which Councilor Filiault seconded.

On a vote of 3-0, the Municipal Services, Facilities & Infrastructure Committee recommends that the City Manager be authorized to do all things necessary to negotiate and execute an easement for the purpose of constructing and maintaining a public sidewalk on private property at 20 Commercial Street.

On a vote of 3-0, the Municipal Services, Facilities & Infrastructure Committee recommends the adoption of Resolution R-2019-36.

On a vote of 3-0, the Municipal Services, Facilities & Infrastructure Committee recommends the adoption of Resolution R-2019-37.



CITY OF KEENE

Resolution R-2019-36

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

A RESOLUTIONRelating to the Discontinuance of a Portion of the Commercial Street
Parking Lot.....

Resolved by the City Council of the City of Keene, as follows:

WHEREAS: Commercial Street and the Commercial Street Parking Area are a public highway and a public parking area in the City of Keene;

WHEREAS: A Petition has been filed for the discontinuance of a section of the Commercial Street Parking Area that was included in the 1969 Return of Layout of Commercial Street and Parking Area;

WHEREAS: The City Council has determined that there is good reason for the requested discontinuance;

WHEREAS: The City of Keene and Jeanna C. Hamblet, as Trustee of the Jeanna C. Hamblet Revocable Trust dated January 30, 2007, are the only owners of property abutting the section of the Commercial Street Parking Area to be discontinued;

WHEREAS: Written notice has been given to said owners of the property abutting the section of the Commercial Street Parking Area to be discontinued as required by RSA 231:43; and

WHEREAS; Jeanna C. Hamblet, As Trustee of the Jeanna C. Hamblet Revocable Trust dated January 30, 2007, has given her consent to the discontinuance and waived any damages related thereto;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Keene:

That the City Council of the City of Keene hereby discontinues that portion of the Commercial Street Parking Area that was taken from Fred H. Hamblet and Sophie K. Hamblet by the 1969 Layout of Commercial Street and the Commercial Street Parking Area, more specifically bounded and described in said layout as follows:

Beginning at a bound on the southerly side of Commercial Street and being 20 feet easterly on the north easterly corner of the building on the premises;

Thence, S 87° - 35' E on the southerly side of Commercial Street 47 feet to a bound at a Right of Way;

Thence, S 4° W along a Right of Way 65' to a point;

Thence, N 89° - 10' W a distance of 47 feet to a point;

Thence, N 5° - 35' E a distance of 65 feet more or less to the point of beginning.

BE IT FURTHER RESOLVED:

That the City Manager be, and hereby is, authorized to give written consent to said discontinuance of a section of the Commercial Street Parking Area, and a waiver of damages, with the final form and content of the consent and waiver to be subject to review and approval by the City Attorney.

Dated:

11/8/2019



Kendall W. Lane, Mayor

In City Council September 19, 2019.

Site Visit set for October 17, 2019 at 5:45 PM.

Public Hearing set for October 17, 2019 at 7:05 PM.

In City Council September 19, 2019.

Site Visit set for October 17, 2019 at 5:45 PM.

Public Hearing set for October 17, 2019 at 7:05 PM.

Referred to the Municipal Services, Facilities and Infrastructure Committee.



City Clerk

City Clerk





CITY OF KEENE

Resolution R-2019-37

Nineteen

In the Year of Our Lord Two Thousand and

A RESOLUTION Relating to Acceptance of a Warranty Deed to Correct the Sidewalk and Curbing Encroachment Problem – Commercial Street Parking Lot

Resolved by the City Council of the City of Keene, as follows:

WHEREAS: Portions of the City’s sidewalk and related curbing in the Commercial Street Parking Lot (Tax Map 575-010-000-000-000) encroach on property owned by Jeanna C. Hamblet, as Trustee of the Jeanna C. Hamblet Revocable Trust dated January 30, 2007;

WHEREAS: The areas of encroachment are shown as Areas “A” and “B” and highlighted in red on a plan entitled “Boundary Survey Plan prepared for Jeanna C. Hamblet Revocable Trust” dated June 24, 2019, as revised through August 12, 2019; and

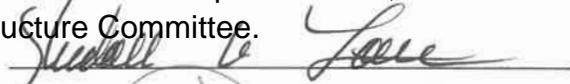
WHEREAS: Jeanna C. Hamblet, as Trustee of the Jeanna C. Hamblet Revocable Trust dated January 30, 2007, is willing to provide the City with a sidewalk easement to correct the sidewalk/curbing encroachment problem, and to waive any damages related thereto;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Keene:

That the City Manager be, and hereby is, authorized to accept and record a warranty deed from Jeanna C. Hamblet, as Trustee of the Jeanna C. Hamblet Revocable Trust dated January 30, 2007, or her successors or assigns, to the City of Keene conveying a sidewalk easement for City sidewalks that are currently encroaching on the Hamblet property. The final form and content of the deed to be subject to review and approval by the City Attorney.

In City Council September 19, 2019.
Site Visit set for October 17, 2019 at 5:45 PM.
Public Hearing set for October 17, 2019 at 7:00 PM.
Referred to the Municipal Services, Facilities and Infrastructure Committee.

Dated: 11/8/19


Kendall W. Lane, Mayor


City Clerk

In City Council September 19, 2019.
Site Visit set for October 17, 2019 at 5:45 PM
Public Hearing set for October 17, 2019 at 7:00 PM.
Referred to the Municipal Services, Facilities and Infrastructure Committee.


City Clerk

PASSED