



City of Keene
New Hampshire

KEENE CITY COUNCIL
Council Chambers, Keene City Hall
May 21, 2020
7:00 PM

Roll Call
Pledge of Allegiance

MINUTES FROM PRECEDING MEETING

- May 7, 2020

A. HEARINGS / PRESENTATIONS / PROCLAMATIONS

B. ELECTIONS / NOMINATIONS / APPOINTMENTS / CONFIRMATIONS

C. COMMUNICATIONS

1. Petition - Reduction in Speed Limits to Mitigate Issues Resulting from Route 10 Sewer Work
2. Lori Schreier - In Support of Ordinance O-2019-18-A and the 5G Moratorium
3. Councilor Greenwald - Expansion of Outdoor Dining and Retail Sales on Main Street
4. Councilor Bosley - Conflict of Interest - Outside Agency Funding - Southwestern Community Services

D. REPORTS - COUNCIL COMMITTEES

1. Background Presentation – Ammi Brown Trail – Public Works Department; Edgar Hastings/Summit Ridge Association – Ammi Brown Trail Entrance; Debra & Mike Hart – Ammi Brown Trail Entrance; Nancy Sporborg – Ammi Brown Trail Entrance
2. Ashley Sheehan/Modestman Brewing – Request to Serve Alcohol on City Property
3. Request to Sign on to the Clean Energy New Hampshire “Common Sense Net Metering Letter” - Energy and Climate Committee
4. Acceptance of Donations – Fire Department
5. Acceptance of Donation – Fire Department
6. Municipality Services Agreement with Keene State College - City Manager
7. City Leases - City Manager
8. Abating Interest Charged for Late Payment of Property Taxes – City Assessor
9. Filter Media Replacement and Underdrain Repairs - Public Works Department

E. CITY MANAGER COMMENTS

10. Governor’s Office for Emergency Relief and Recovery (GOFERR) Funds Authorization

F. REPORTS - CITY OFFICERS AND DEPARTMENTS

1. State of New Hampshire Department of Justice Coronavirus Emergency Supplemental Funding Program Grant Award
2. Transfer Funds From ESCO Project and Fire Station Replacement Project to the General Fund

G. REPORTS - BOARDS AND COMMISSIONS

1. Relating to Zoning Map Change - Krif Road - Industrial to Commerce Limited
Ordinance O-2020-04

H. REPORTS - MORE TIME

I. ORDINANCES FOR FIRST READING

1. Relating to Class Allocation and Salary Schedule
Ordinance O-2020-06
2. Relating to No Parking Specific Streets - Summit Ridge Drive
Ordinance O-2020-08

J. ORDINANCES FOR SECOND READING

1. Relating to Small Wireless Facility Deployments in the Public Rights-of-Way
O-2019-18-A

K. RESOLUTIONS

1. Relating to the Establishment of a Road and Sidewalk Infrastructure Capital Reserve; Relating to the Establishment of an Emergency Communication Capital Reserve; Relating to the Establishment of a Reappraisal Capital Reserve; Relating to the Establishment of an Information Technology Systems and Infrastructure Capital Reserve
Resolution R-2020-14
Resolution R-2020-17
Resolution R-2020-18
Resolution R-2020-19
2. Relating to an Appropriation to the Road and Sidewalk Infrastructure Capital Reserve
Resolution R-2020-15
3. Relating to the Establishment of a Police Special Detail Revolving Fund Pursuant to RSA 31:95-h for the Purpose of Receiving Revenues and Expending Funds Relative to Police Special Details
Resolution R-2020-20
4. Relating to the Reallocation of Bond Proceeds from the Rose Lane Wastewater Treatment Plant Cleanup Project (08094) to the Waste Water Treatment Plant Generator Replacement Project
Resolution R-2020-23
5. Relating to the Reallocation of Bond Proceeds Airport Terminal to Fuel Tanks
Resolution R-2020-21
6. Relating to the Appropriation of Funds for the Airport Fuel Tanks; Relating to an Appropriation of Funds for the Arts & Culture Corridor; Relating to the Appropriation of Funds for Flood Management; Relating to the Appropriation of Funds for Road Rehabilitation; Relating to an

Appropriation of Funds Colony Court - Bloomer Swamp Main; Relating to the Appropriation of Funds for Municipal Building Improvements

Resolution R-2020-05

Resolution R-2020-06

Resolution R-2020-07

Resolution R-2020-08

Resolution R-2020-09

Resolution R-2020-11

Resolution R-2020-12

7. Relating to an Appropriation - Salt Shed Replacement

Resolution R-2020-16

Non Public Session

Adjournment

A regular meeting of the Keene City Council was held Thursday, May 7, 2020. The Honorable Mayor George S. Hansel called the meeting to order at 7:00 PM. Mayor Hansel read into the record the Emergency Order #12, issued by the Governor of the State of New Hampshire pursuant to Executive Order #2020-04. He continued the members of the City Council would be participating remotely. The Mayor asked that during the roll call for attendance, each Councilor identify their on-line presence and if there are others with them in the room. Roll called: Stephen L. Hooper, Michael J. Remy, Janis O. Manwaring, Michael Giacomo, Randy L. Filiault, Robert C. Williams, Philip M. Jones, Gladys Johnsen, Terry M. Clark, Raleigh C. Ormerod, Bettina A. Chadbourne, Catherine I. Workman, Mitchell H. Greenwald, Kate M. Bosley and Thomas F. Powers were present. A motion by Councilor Powers to accept the minutes from the April 16, 2020 regular meeting was duly seconded by Councilor Bosley. The motion passed on a roll call vote with 15 Councilors present and voting in favor. The Mayor led the Pledge of Allegiance.

ANNOUNCEMENTS – MAYOR

Mayor Hansel announced that the budget books have been distributed. The Finance, Organization, and Personnel Committee will start their review of the budget at their special Finance, Organization and Personnel Committee on Tuesday, May 12th, this will be followed by their regular Finance, Organization and Personnel Committee on Thursday, May 14th. Then on Monday, May 18th they will continue their review. There is one additional meeting tentatively scheduled for the Wednesday, May 20th. All of the Finance, Organization and Personnel meetings will start at 5:30 PM. The Municipal Services, Facilities and Infrastructure Committee for next week would start at 5:30 PM. The Planning, Licenses and Development Committee will start at their normal meeting time of 7:00 PM.

The Mayor announced the Memorial Day Parade has been canceled due to the COVID-19 pandemic.

COMMUNICATION – GARY BOES – OFFER OF SALE – 0 OLD GILSUM ROAD

A communication was received from Gary Boes, offering to sell property that he owns to the City at 0 Old Gilsum Road. The communication was referred to the Finance, Organization and Personnel Committee.

COMMUNICATION – NANCY SPORBORG – AMMI BROWN TRAIL ENTRANCE

A communication was received from Nancy Sporborg, requesting the City reconsider its planned upgrade to the Ammi Brown Trail and instead use the path off of Summit Road, just up from the planned parking lot and divert traffic away from the Summit Ridge neighborhood. The communication was referred to the Municipal Services, Facilities and Infrastructure Committee.

COMMUNICATION – EDGAR HASTINGS/SUMMIT RIDGE ASSOCIATION – AMMI BROWN TRAIL ENTRANCE

A communication was received from Edgar Hastings, Summit Ridge Association, raising the issue of trail users of the Ammi Brown Trail parking on private property near the entrance to the

trail and the use of private driveways to turn around. The communication was referred to the Municipal Services, Facilities and Infrastructure Committee.

COMMUNICATION – DEBRA AND MIKE HART – AMMI BROWN TRAIL ENTRANCE

A communication was received from Debra and Mike Hart, requesting that the City design the entrance to the Ammi Brown Trail so no cars can park at the entrance, and that no parking signs be installed, as well as a sign explaining where parking is available and that the Police Department enforce the no parking policy. The communication was referred to the Municipal Services, Facilities and Infrastructure Committee.

COMMUNICATION – LORI SCHREIER – IN SUPPORT OF ORDINANCE O-2019-18-A

A communication was received from Lori Schreier, expressing her recommendation that the City Council support Ordinance O-2019-18-A. The communication was filed into the record.

COMMUNICATION – BETHANNE COOLEY/CTIA – IN OPPOSITION OF ORDINANCE O-2019-18-A

A communication was received from Bethanne Cooley, representing CTIA, the trade association for the wireless industry asking that the City Council defeat Ordinance O-2019-18-A because the Ordinance violates both State and Federal law and it will hamper the wireless industry's ability to provide enhanced wireless services and deploy the latest technology to the citizens of Keene. The communication was filed into the record.

COMMUNICATION – FRED LEUCHTER AND BARBARA JANSEN – IN OPPOSITION OF ORDINANCE O-2019-18-A

A communication was received from Fred Leuchter and Barbara Jansen expressing their opposition to Ordinance O-2019-18-A. The communication was filed into the record.

COMMUNICATION – COUNCILOR CLARK – FEDERAL LEGISLATION THAT WOULD HINDER NET-METERING IN NEW HAMPSHIRE

A communication was received from Councilor Clark requesting that the City Council instruct the Mayor to write a letter to the Federal Regulatory Commission to oppose a petition that would hinder net-metering in New Hampshire. A motion by Councilor Clark to suspend the rules of order was seconded by Councilor Bosley. The motion passed on a roll call vote with 15 Councilors present and voting in favor. A motion by Councilor Clark to direct the Mayor to send a communication to the Federal Energy Regulatory Commission and our Federal Congressional Delegation opposing petition docket number EL20-42 was seconded by Councilor Greenwald. Dr. Ann Shedd addressed the Council on the subject. The motion passed on a roll call vote with 15 Councilors present and voting in favor.

MSFI REPORT – BRICKSTONE LAND USE CONSULTANTS, LLC – REQUEST TO DISCONTINUE EASEMENT FOR POSSIBLE FUTURE ROAD EXTENSION, BLACK BROOK ROAD – PUBLIC WORKS DEPARTMENT

Municipal Services, Facilities and Infrastructure Committee report read recommending that the City Manager be authorized to do all things necessary to release and discharge a certain easement granted to the City for the possible future extension of Black Brook Road, being 60 feet in width located on the north side of the existing cul-de-sac, and as more particularly described in the Subdivision and Easement Plan recorded at the Cheshire County Registry of Deeds in Cabinet 12, Drawer 3, #90 and #91, the Warranty Deed recorded in Volume 1659, page 276, and in the Return of Layout, recorded in Volume 1687, page 855; and further that the City Manager be authorized to negotiate and execute an amendment to a certain Cross Easement Agreement recorded in Volume 3001, page 450, necessary to provide for the continued emergency access to properties located on Wyman Road and on Black Brook Road. A motion by Councilor Manwaring to carry out the intent of the report was duly seconded by Councilor Giacomo. The motion passed on a roll call vote with 15 Councilors present and voting in favor.

PLD REPORT – CHESHIRE HOUSING TRUST – APPLICATION FOR A LODGING HOUSE LICENSE

Planning, Licenses and Development Committee report read recommending that a lodging license be issued to Cheshire Housing Trust for property located at 86 Winter Street for a period of one year from the date of issuance. Said license is conditional upon the following:

1. No more than 20 persons may reside on the premises.
2. Compliance with all applicable laws, ordinances, codes, and rules and regulations.
3. The continuation of the license is subject to and conditioned upon the successful passage of an inspection to be conducted by the City.
4. Continued violation of any parking ordinances by residents of the premises or their guests, may be grounds for suspension or revocation of the license, as determined by the Police or the Community Development Departments.
5. Access to the common areas of the licensed premises shall be granted to the Police, Community Development, and Fire Departments at all reasonable times
6. The owner shall notify City staff of any change in the building operator; failure to do so may be grounds for suspension or revocation of this license.

This license expires on the 17th day of May, 2021, and may be revoked by the City Council in accordance with Sec. 46-590 "Suspension or Revocation." It was noted in the report that the license term will extend out to July 1, 2021 when Ordinance O-2020-03 becomes effective on July 2, 2020. Ordinance O-2020-03 established a consistent license expiration date for all lodging house licenses to be July 1st of the year subsequent to the issuance date. A motion by Councilor Bosley to carry out the intent of the report was duly seconded by Councilor Greenwald. The motion passed on a roll call vote with 15 Councilors present and voting in favor.

PLD REPORT – ANTHONY AND FANELLA LEVICK – GRANITE ROOTS BREWING – REQUEST TO SERVE ALCOHOL ON CITY PROPERTY

Planning, Licenses and Development Committee report read recommending that Granite Roots Brewing be granted permission to sell alcohol at the 2020 Keene Farmer's Market on City property licensed to the Farmer's Market of Keene. Said permission is contingent on the following: submittal of a signed letter of permission from the Farmer's Market of Keene, obtainment of all necessary permits and licenses and compliance with all laws.

During and following the State of New Hampshire Emergency Declaration due to the Novel Coronavirus (COVID-19) and as amended, Granite Roots Brewing shall be subject to, and shall comply with the licensing conditions applied to all vendors participating in the Farmer's Market of Keene; provided, however, that the City Manager is authorized to allow Granite Roots Brewing to offer individual product samples to patrons in accordance with the requirements of the State Liquor Commission, either at the conclusion of the State of Emergency as declared by the Governor, or at such time thereafter as determined to be appropriate by the City Manager. A motion by Councilor Bosley to carry out the intent of the report was duly seconded by Councilor Greenwald. The motion passed on a roll call vote with 15 Councilors present and voting in favor.

FOP REPORT – ACCEPTANCE OF A STATE DRUG FORFEITURE – POLICE DEPARTMENT

Finance, Organization and Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to accept a State drug forfeiture in the amount of \$123.98. A motion by Councilor Powers to carry out the intent of the report was duly seconded by Councilor Hooper. The motion passed on a roll call vote with 15 Councilors present and voting in favor.

FOP REPORT – ACCEPTANCE OF A DONATIONS– POLICE DEPARTMENT

The Chair indicated he would be taking the next two recommendations together. Finance, Organization and Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to accept a donation in the amount of \$100. Finance, Organization and Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to accept a donation in the amount of \$100. A motion by Councilor Powers to carry out the intent of the reports was duly seconded by Councilor Hooper. The motion passed on a roll call vote with 15 Councilors present and voting in favor.

FOP REPORT – LIFE INSURANCE AND LONG TERM DISABILITY INSURANCE – HUMAN RESOURCES DEPARTMENT

Finance, Organization and Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to enter into and execute a new multi-year contract with Symetra to administer the City's Life and Long Term Disability Insurance program. A motion by Councilor Powers to carry out the intent of the report was duly seconded by Councilor Hooper. The motion passed on a roll call vote with 15 Councilors present and voting in favor.

CITY MANAGER COMMENTS

The City Manager began her comments with an update on the State of Emergency orders. On April 24, 2020, the Governor extended the State of Emergency for an additional 21 days. If he wishes to continue the order he must renew it every 21 days. In addition, May 1, 2020, the Governor modified the Stay at Home Order calling it Stay at Home 2.0. The modifications allow for partial opening of businesses this month. On Monday, May 11, 2020, retail stores can open at 50% occupancy, drive-ins can begin to operate, public and private golf courses can open and barbers and hair salons can open. Each industry has specific guidelines to follow to protect both their staff and their clients. On Monday, May 18, 2020, there will be several outside sidewalk café's open in Keene. The City has been working with restaurants to come up with plans to accommodate outside seating. It has been a challenge. Temporarily they will need to utilize more public space to provide the appropriate six feet distances between tables, ultimately needing more real estate. The City is working with all of them to be as flexible as can be while protecting the safety of their patrons. Because indoor dining is not currently allowed under the Governor's orders, there are some establishments looking to set up temporary outside sidewalk cafés for the first time. Places like Machina Arts and Spice Chambers are in the process of working out some temporary plans. There are some restaurants looking to utilize their own property, such as utilizing a tent with no sides in a parking lot. During this emergency, the City has the ability to give expanded licenses for more temporary space and temporary new licenses for those who have not had a sidewalk café in the past. We are reviewing each unique situation and working with businesses throughout the community. Starting on Monday, May 18, 2020, there will be several restaurants moving to outdoor dining in some fashion in addition to their take out service.

The City Manager stated that COVID-19 testing is becoming more widely available. The State is setting up an online web portal starting tomorrow for residents to set up an appointment online to get tested. Must self-attest that you have one of the recognized symptoms. Anyone with symptoms, underlying conditions, over the age of 60 or is a healthcare worker/first responder can schedule an appointment to be tested. Convenient MD can perform testing on any of the above population. A primary care physician is no longer needed to order a test. Anyone, regardless of insurance status, can be tested. In addition, any critical business that would like employees tested prior to returning to full operations can call the State's Central Coordinating Office to schedule testing or have employees sign up individually for an appointment online.

The City Manager continued that the Governor announced first responder stipends for the Police, Fire, EMS and Correction workers. Fulltime employees will receive \$300.00 per week and part time will receive \$150.00. There is not a ton of guidance yet on how this will be handled. The City will likely do a lump sum payment at the end of the eight weeks so that the timesheets can be easily reconciled. We are grateful for this funding and our teams are certainly deserving of it. The Manager continued that she would have preferred that the State had given the City an allocation of money to distribute more broadly because we have many more deserving people who continue to stick it out with us and provide essential services, such as the transfer station, Public Works, the Revenue Office who are still registering cars. Not to mention our Emergency

Management Director and entire Emergency Management Team, who has really been in the forefront managing the crises every single day, and they have been long days.

The City Manager announced that Keene State College President, Dr. Treadwell, presented a fall reopening plan to the University System New Hampshire Board of Trustees on May 7, 2020. The presentation explained the conditions under which the fall semester will open at Plymouth, University of New Hampshire, Granite State and KSC. There will be a meeting with Cheshire Hospital on May 8, 2020, to present KSC plans and discuss testing needs if they were to bring students back to campus in the fall. Dr. Treadwell is planning to do a press release soon.

The City Manager stated that she has made some changes to the Assistant City Manager portfolio, so they would be more appropriately align the Assistant City Manager portfolios with our current department needs. These adjustments mean that Rebecca Landry will be at Municipal Services, Facilities and Infrastructure Committee meetings. This is due to her involvement over the last few years with the airport. The airport and the library will be shifted to her portfolio. Rhett Lamb will remain involved with Planning, Licenses and Development Committee meetings. Given the long range planning, the Parks, Recreation and Facilities Department is currently involved in has now being shifted to his portfolio. Beth Fox will now be attending Finance, Organization and Personnel Committee meetings. Given her past experience as both a Town Manager and our Finance Director, the Finance Department and the Human Resources Department are now included in her portfolio.

The City Manager revealed that the Library is preparing for the return to curbside services. On May 11, 2020, the book drops will be reopened for the return of library materials. These will be loaded onto carts, marked by date and rolled into the Atrium to pass a four day quarantine. On the fifth day, the books will be checked back in. Furloughed pages will return to work on Monday, May 18, 2020 to re-shelve materials. Library staff who have been working at home are shifting to working all of their hours at the library by May 15, 2020. A few staff who do virtual programs on nights and weekends will continue to do some of their work at home. On May 26, 2020, the first round of furloughed circulation staff will return. Curbside pickups will start on Thursday, May 28, 2020 during advertised hours.

The City Manager continued that City services at all of the facilities, with the exception of the Library and Recreation Center, have been open, but restricted, during this COVID-19 emergency. She has asked the Library Director and Parks and Recreation Director to share our plans for the gradual re-opening of facilities and addition of services as we begin to flex open at the Municipal Services, Facilities and Infrastructure Committee meeting later this month. This committee was chosen for the informational presentation because of the workload of the Finance, Organization and Personnel Committee at the moment with the budget process.

The City Manager announced that in addition to our ability to recoup 75% of eligible COVID-19 response related expenses the Governor authorized the allocation of \$32 million to municipalities to cover eligible expenses from March 1, 2020 to August 31, 2020. These funds have been allocated based on population and Keene is eligible for up to \$552,034.

These funds will be used to cover things like increased welfare costs, telework costs, paying the wage and benefits required by Families First Coronavirus Response Act, municipal building modifications and cleaning/disinfecting, etc. Lost revenues continues to be an area where grant funding or reimbursement is not currently available.

There are variety of grant funding sources available right now to cover expenses. We are tracking all COVID-19 related response expenses separately and next week will be strategizing which funding source maximizes our opportunity reimbursement. In addition, there are discussions on modifications in the buildings, especially to the third and fourth floor of City Hall to create more separation for our employees to maximize the availability of funding sources and prepare for the future.

In regards to General Fund Revenues, motor vehicle revenues appear are continuing and they appear to match the projected revenue. Other miscellaneous charges for services which includes things like ambulance revenues are down about \$22, 000; Park and Recreation is down about \$20,000. Overall various charges for services are down right now a total of about \$90,000 and are projected to be down in total for the year around \$145,000; however, a couple of stimulus checks for the ambulance services will offset a portion of that loss.

The good news is, because we collected delinquent property taxes for the Kingsbury property for over \$700,000. The bottom line General Fund Revenues are estimated to exceed our budgeted number by about \$640,000. The Cares Act Funding is meant to be a bridge funding not a stimulus funding. We are still expecting stimulus for potential infrastructure projects.

The City Manager recognized the City Clerk's office as a vital part of our local government and important link between citizens and the local governing bodies. She took a moment to recognize them as this week is Clerk Week.

MORE TIME - PLD REPORT – ASHLEY SHEEHAN/MODESTMANN BREWING – REQUEST TO SERVE ALCOHOL ON CITY PROPERTY

The Chair indicated he was taking the more time report off of the Planning, Licenses and Development Committee agenda for purposes of acting upon the request to serve alcohol. The Mayor noted that a recent Executive Order will be allowing restaurants to offer outdoor seating (with the appropriate social distancing). The Chair recognized Councilor Bosley for a motion.

Councilor Bosley moved that Modestmann Brewing be granted permission to serve alcoholic beverages in connection with their Sidewalk Café License, subject to the customary licensing requirements of the City Council, and compliance with the requirements of Sections 46-1191 through 46-1196 of the City Code.

As part of the license conditions during and following the State of New Hampshire Emergency Declaration due to the Novel Coronavirus (COVID-19) and as amended, the petitioner shall:

- Maintain and monitor social distancing practices of at least six feet for customers and restaurant staff;

- Provide adequate space for patron seating and flow to maintain 6 foot social distancing practices;
- Use non-porous tables that can be easily disinfected;
- Discontinue the use of table items that cannot be cleaned and sanitized;
- Have access to and utilize hand sanitizer for use between customers;
- Disinfect customer surfaces between customers;
- Remain in strict compliance with the Seating Location Plan, which plan may be further altered or discontinued at the discretion of the City; and,
- Follow any other requirements that may be issued by the City and/or the State for health and safety of the restaurant staff and the public.

This license shall expire on March 1, 2021.

During the Emergency Declaration issued by the Governor due to the Novel Coronavirus (COVID-19) crisis, or until such time thereafter as determined by the City in its sole discretion, the Licensee shall comply with the recommendations of the Federal Center for Disease Control, the State of New Hampshire (with specific reference to Executive Order #40, Exhibit C, subsection A), and the City of Keene, with respect to the operation of a sidewalk café restaurant.

Councilor Greenwald seconded the motion. A brief discussion took place relative to the service of food in conjunction with the service of alcohol. A motion by Councilor Filiault to send the item back to Committee was seconded by Councilor Greenwald. On a roll call vote, 9 Councilors present and voting in favor, six opposed. Councilors Hooper, Remy, Giacomo, Williams, Chadbourne, and Workman opposed.

PLD REPORT AND ORDINANCE O-2019-18-A: RELATING TO SMALL WIRELESS FACILITY DEPLOYMENTS IN THE PUBLIC RIGHTS-OF-WAY

The Mayor referred Ordinance O-2019-18-A: Relating to Small Wireless Facility Deployments in the Public Rights-of Way back to the Planning, Licenses and Development Committee. He encouraged those Councilors who wish to make amendments to speak with the City Attorney who can assist with developing any language.

RESOLUTION R-2020-13: IN APPRECIATION OF TIMOTHY I. READ UPON HIS RETIREMENT

Resolution R-2020-13: In Appreciation of Timothy I. Read Upon His Retirement was read by title only. A motion by Councilor Powers to carry out the intent of the report was duly seconded by Councilor Bosley. The motion passed on a roll call vote with 15 Councilors present and voting in favor. Resolution R-2020-13 declared adopted.

RESOLUTION R-2020-22: RELATING TO THE FY 2021 PROPOSED FISCAL BUDGET

Resolution R-2020-22: Relating to the FY 2021 Proposed Fiscal Budget was read by title only. Resolution R-2020-22 was referred to the Finance, Organization and Personnel Committee. The Mayor set the Public Hearing for Thursday, June 4, 2020 at 7:00 PM.

RESOLUTION R-2020-14: RELATING TO THE ESTABLISHMENT OF A ROAD INFRASTRUCTURE CAPITAL RESERVE; RESOLUTION R-2020-17: RELATING TO THE ESTABLISHMENT OF AN EMERGENCY COMMUNICATION CAPITAL RESERVE; RESOLUTION R-2020-18: RELATING TO THE ESTABLISHMENT OF A REAPPRAISAL CAPITAL RESERVE; RESOLUTION R-2020-19: RELATING TO THE ESTABLISHMENT OF AN INFORMATION TECHNOLOGY SYSTEMS AND INFRASTRUCTURE CAPITAL RESERVE

Resolution R-2020-14: Relating to the Establishment of a Road Infrastructure Capital Reserve; Resolution R-2020-17: Relating to the Establishment of an Emergency Communication Capital Reserve; Resolution R-2020-18: Relating to the Establishment of a Reappraisal Capital Reserve; Resolution R-2020-19: Relating to the Establishment of an Information Technology Systems and Infrastructure Capital Reserve were read by title only. Resolutions R-2020-14; R-2020-17; R-2020-18; and R2020-19 were referred to the Finance, Organization and Personnel Committee.

RESOLUTION R-2020-15: RELATING TO AN APPROPRIATION TO THE ROAD INFRASTRUCTURE CAPITAL RESERVE

Resolution R-2020-15: Relating to an Appropriation to the Road Infrastructure Capital Reserve was read by title only. Resolutions R-2020-15 was referred to the Finance, Organization and Personnel Committee.

RESOLUTION R-2020-20: RELATING TO THE ESTABLISHMENT OF A POLICE SPECIAL DETAIL REVOLVING FUND PURSUANT TO RSA 31:95-h FOR THE PURPOSE OF RECEIVING REVENUES AND EXPENDING FUNDS RELATIVE TO POLICE SPECIAL DETAILS

Resolution R-2020-20: Relating to the Establishment of a Police Special Detail Revolving Fund Pursuant to RSA 31:95-h for the Purpose of Receiving and Expending Funds Relative to Police Special Details was read by title only. Resolutions R-2020-20 was referred to the Finance, Organization and Personnel Committee.

RESOLUTION R-2020-23: RELATING TO THE REALLOCATION OF BOND PROCEEDS FROM THE ROSE LANE WASTEWATER TREATMENT PLANT CLEANUP PROJECT (08094) TO THE WASTE WATER TREATMENT PLANT GENERATOR REPLACEMENT PROJECT

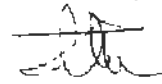
Resolution R-2020-23: Relating to the Reallocation of Bond Proceeds from the Rose Lane Wastewater Treatment Plant Cleanup Project (08094) to the Waste Water Treatment Plant Generator Replacement Project was read by title only. Resolutions R-2020-23 was referred to the Finance, Organization and Personnel Committee.

ADJOURNMENT

At 8:43 PM, there being no further business, the Mayor adjourned the meeting.

05/07/2020

A true record, attest:

A handwritten signature in black ink, appearing to be "J. L. Smith", written over a horizontal line.

City Clerk



City of Keene, N.H.
Transmittal Form

May 8, 2020

TO: Mayor and Keene City Council

FROM: Residents of Winchester Street, Bergeron Avenue and Magnolia Way

THROUGH: Patricia A. Little, City Clerk

ITEM: C.1.

SUBJECT: Petition - Reduction in Speed Limits to Mitigate Issues Resulting from Route 10 Sewer Work

COUNCIL ACTION:

In City Council May 21, 2020.

Petition tabled until the June 4, 2020 City Council Meeting to allow staff review.

ATTACHMENTS:

Description

Petition

BACKGROUND:

A petition has been received from several residents on Winchester Street, Bergeron Avenue and Magnolia Way. The petition describes recent sewer work on Route 10 that has resulted in an uneven pavement, which has caused issues for these residents. They are requesting a temporary reduction of the speed limit until the road is fixed and then a permanent reduction in the speed limit to mitigate safety issues for their children.

30 April 2020

In City Council May 21, 2020.
Petition tabled until the June 4, 2020 City
Council Meeting to allow staff review.

Mayor Hansel & Keene City Counsel
3 Washington Street
Keene, NH 03431


City Clerk

Dear Mayor Hansel and Keene City Counsel,

On the weekend of April 11, 2020, sewer work was performed on Route 10 in Keene near the corner of Winchester Street and Bergeron Avenue. The work left a significant dip in the road that causes passing vehicles to create quakes, which shake nearby residences. On April 16, we worked with William (last name unknown), an engineer in the Department of Public Works, to have the hole leveled by the business that performed the work. The workers returned on April 17 and filled in the dip with more asphalt but the problem persists. When we spoke with William again on April 22, we were told that there is nothing more that can be done by the Business or by the DPW in the near future and that it could take up to a year for the problem to be mitigated. According to William, more freezing and thawing will need to occur before the edges of the hole can be routed out in order to match the adjacent asphalt.

Some of the issues we are experiencing include but are not limited to:

- Houses shaking significantly when vehicles pass
- Recent cracks in walls signifying probable foundation damage
- Items falling from walls
- An interior basement window fell out in one home, causing hundreds of dollars in damage
- Excessive Noise Pollution

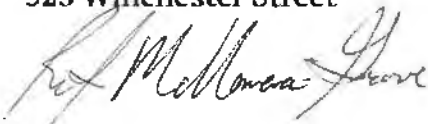
Accordingly, we are requesting that the speed limit be lowered to 15 MPH and clearly posted between 497 Winchester Street and 537 Winchester Street until the road can be fixed.

Additionally, once the road is fixed, we request that the speed limit be permanently lowered to 20 MPH and clearly posted to mitigate safety issues, namely danger to our children while playing and to our families while entering traffic on Route 10.

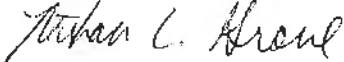
Please take these issues seriously, as they pose an imminent threat to the structural integrity of our homes and have a direct impact on our general wellbeing as residents of Keene.

Sincerely,

Rebecca McNamara-Grove
523 Winchester Street



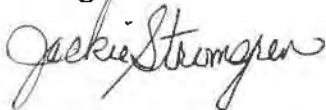
Nathan Grove
523 Winchester Street



Allison Carey
3 Bergeron Avenue



Jackie Stromgren
7 Bergeron Avenue



Charl Lewis
528 Winchester Street



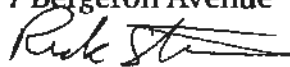
Michael Ginsberg
530 Winchester Street



Stephen Johnson
530 Winchester St.



Rick Stromgren
7 Bergeron Avenue



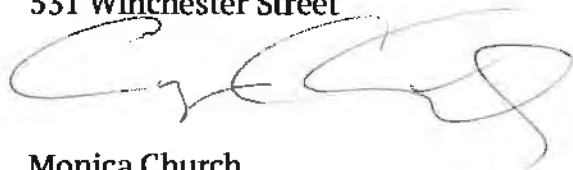
Becky Tinnin
2 Magnolia Way



Larry Tinnin
2 Magnolia Way



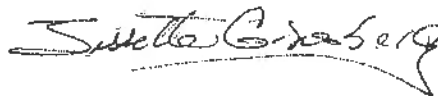
Casey Church
531 Winchester Street



Monica Church
531 Winchester Street



Lissette Ginsberg
530 Winchester Street





City of Keene, N.H.
Transmittal Form

May 19, 2020

TO: Mayor and Keene City Council

FROM: Lori Schreier

THROUGH: Patricia A. Little, City Clerk

ITEM: C.2.

SUBJECT: Lori Schreier - In Support of Ordinance O-2019-18-A and the 5G Moratorium

COUNCIL ACTION:

In City Council May 21, 2020.
Communication filed as informational.

ATTACHMENTS:

Description

Communication_Schreier

BACKGROUND:

Lori Schreier has submitted further information on Ordinance O-2019-18-A for the City Council's consideration. Ms. Schreier is recommending that the 5G moratorium remain as a component of the City Council's action.

TIME RECEIVED
May 19, 2020 at 12:36:11 PM EDT

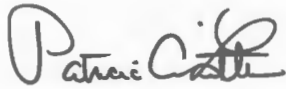
REMOTE CSID

DURATION
47

PAGES
1

STATUS
Received

In City Council May 21, 2020.
Communication filed as
informational.



City Clerk

To: Mayor Hansel and City Council members
From: Lori Schreier, Westmoreland, NH, Member of NH for Safe Technology
Re: Relating to Small Wireless Facility Deployments in the Public Rights of
Way Ordinance 0-2019-18-A and moratorium for 5G
May 21, 2020



At the Planning, Licensing and Development Committee meeting on May 13, 2020 I heard two major concerns about the 5G moratorium which I would like to address here.

The first are the health and environmental issues caused by 5G now being investigated by the NH 5G Commission, It was reported at the meeting by a member of your Council, that there are no published peer reviewed scientific studies showing harm. This assertion is not accurate. Here is a link to hundreds of published peer reviewed scientific studies showing biological harm to humans and animals from chronic conditions, serious diseases, to DNA damage and cancer from 3G, 4G and 5G radio waves. The studies include harm beyond the narrowly focused FCC exposure levels that only measure heating of the body.

If you read nothing else click the link here
<https://ehtrust.org/scientific-research-on-5g-and-health/>
which lists and summarizes each **scientific peer reviewed published study on diseases and DNA damage due to microwave radio frequencies, including 5G.** The first few articles are key and then work your way down.

There are also reports of illness occurring in neighborhoods where 5G is prevalent. See this article from Switzerland You can translate it into English after you open it by clicking on the upper right hand corner where it says translate.

https://www.illustre.ch/magazine/5g-sentons-cobayes?utm_source=facebook&fbclid=IwAR1kXKK1yWBDKoaZRVOQB7gRvC8o-1a3GyVbQHJPYPkAzzpl73iKYtaiA6Q..

The second issue I heard raised at the PLD meeting regarding the moratorium was the high legal costs of a lawsuit if one is brought by the industry.

Keene is not the only City taking action. This link shows many different cities taking a stand against the imposition of 5G antennae in their public rights of way.

<https://ehtrust.org/farragut-tennessee-passes-resolution-to-halt-5g-until-fcc-limits-ensure-safety/?fbclid=IwAR1Ubb-qxTLJtUnnsVteG RMW8hY4kiQ4paYo9RQr|469N8kTEPHZ2lwA0>

TIME RECEIVED

May 19, 2020 at 12:37:12 PM EDT

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DURATION
37

PAGES
1

STATUS
Received

FROM :

FAX NO. :

Jan. 01 2003 12:03AM P1

Even if the City were to be sued there are still options. If at that time, the City Council chooses not to go further it can withdraw the moratorium. It should also be noted that according to attorney Andrew Campanelli, (a 27 year litigator on cell tower issues handling over 7000 cases) the City has little to lose.

"The bottom line is, even if a local government enacts an ordinance which in some way violates the Telecommunications Act, there's minimal risk to the local government. If an applicant to install a wireless facility sues the local government, the only thing they get is an order directing the local government to allow them to build a wireless facility. They don't win damages. They don't get attorneys fees. So any threats of risks of bankrupting a local government are hollow. It's that simple."

In light of the foregoing, I respectfully request that the City Council maintain the 5G moratorium along with the Ordinance.

Thank you.



City of Keene, N.H.
Transmittal Form

May 19, 2020

TO: Mayor and Keene City Council

FROM: Councilor Mitchell H. Greenwald

THROUGH: Patricia A. Little, City Clerk

ITEM: C.3.

SUBJECT: Councilor Greenwald - Expansion of Outdoor Dining and Retail Sales on Main Street

COUNCIL ACTION:

In City Council May 21, 2020.

Referred by the Mayor to the Downtown Re-Opening Task Force (The "Keene Rebound" Committee).

ATTACHMENTS:

Description

Communication - Councilor Greenwald

BACKGROUND:

Councilor Greenwald is requesting that the City Council consider the expansion of outdoor dining and retail sales on Main Street in an effort to support downtown businesses.



Mitchell Greenwald
Planning, Lands, Development, Vice Chairman
Ward 2, City Councilor

In City Council May 21, 2020.
Referred by the Mayor to the Downtown Re-Opening
Task Force (The "Keene Rebound" Committee).

May 19, 2020


City Clerk

To: Mayor and Council

At the suggestion of several of my constituents, please place an item on the Council agenda regarding the expansion of outdoor dining and retail sales on Main Street.

I request that discussion occur at PLD, with the information referred to the City Manager for development of a plan.

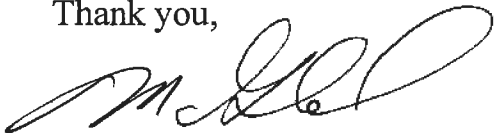
We need to support our downtown businesses during this extraordinary time. These plans also will create an outdoor festival feeling that can continue beyond the Covid crisis.

Among the potential ideas proposed:

- Expansion in front of abutting storefronts.
- Expansion into the parking spaces in front of the establishments.
- Closing one lane of traffic (both sides) to allow expansion.
 - Turning access to and from Roxbury, Washington, Court, West and Gilbo is still possible considering crosswalks.
 - Reduce the speed limit on Main Street to 20 mph.
- Implement the expansion / closure limited to specific days.

These ideas are creative and aggressive. They may cost money to implement, but I feel could be a great investment in our future.

Thank you,



Mitchell Greenwald



City of Keene, N.H.
Transmittal Form

May 12, 2020

TO: Mayor and Keene City Council

FROM: Councilor Kate M. Bosley

THROUGH: Patricia A. Little, City Clerk

ITEM: C.4.

SUBJECT: Councilor Bosley - Conflict of Interest - Outside Agency Funding - Southwestern Community Services

COUNCIL ACTION:

In City Council May 21, 2020.

Voted unanimously to grant Councilor Bosley's request to abstain from any discussion and vote on outside agency funding for the Southwestern Community Services.

ATTACHMENTS:

Description

Communication - Councilor Bosley

BACKGROUND:

Councilor Bosley is putting on record a potential conflict of interest relative to Southwestern Community Services, and is asking the Council to recuse her from voting on matters related to this entity.

KATE MICHELLE BOSLEY

111 Gunn Rd • Keene, NH 03431 • Phone (603) 493-4586

Email: katebosley603@gmail.com * www.hendersonbosley.com

May 12th 2020

In City Council May 21, 2020.

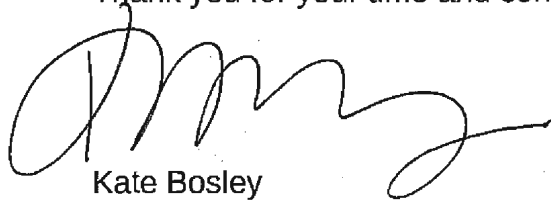
Voted unanimously to grant Councilor Bosley's request to abstain from any discussion and vote on outside agency funding for the Southwestern Community Services.

Dear Mayor and City Council,


City Clerk

I am writing this letter to address a conflict of interest I have identified for myself and ask for the council to consider recusing me in matters that deal with Southwestern Community Services. My spouse is a paid employee of Southwestern Community Services and I would like to put that on record. This matter has come to the forefront because we are currently reviewing outside agency funding and Southwestern is an agency applying for funds and I wouldn't want anyone to perceive a conflict.

Thank you for your time and consideration in this matter.



Kate Bosley
Keene City Council
At-Large



City of Keene, N.H.
Transmittal Form

May 13, 2020

TO: Mayor and Keene City Council

FROM: Municipal Services, Facilities and Infrastructure Committee

ITEM: D.1.

SUBJECT: Background Presentation – Ammi Brown Trail – Public Works Department; Edgar Hastings/Summit Ridge Association – Ammi Brown Trail Entrance; Debra & Mike Hart – Ammi Brown Trail Entrance; Nancy Sporborg – Ammi Brown Trail Entrance

COUNCIL ACTION:

In City Council May 21, 2020.

Report filed as informational.

RECOMMENDATION:

On a vote of 5-0, the Municipal Services, Facilities & Infrastructure Committee moved to accept the communications as informational.

On a vote of 5-0, the Municipal Services, Facilities & Infrastructure Committee recommended that the City Manager be authorized to do all things necessary to develop and submit for consideration an Ordinance for the establishment of No Parking on Summit Ridge Drive from the intersection of Skyline Drive to Summit Road.

BACKGROUND:

The City Engineer, Don Lussier, provided background on this Cheshire Rail Trail (CRT) project, dating back to goals in the Keene 2010 Comprehensive Master Plan (CMP) to expand the CRT. The City Engineer said that actions began in earnest toward those goals in 2012 completing phase one of the project, with construction of the North Bridge extending the CRT to Whitcombs Mill Road. In 2014, the Keene Bicycle & Pedestrian Path Advisory Committee advised creating loops and connections to the CRT rather than more expansion. They felt the need to improve access from community neighborhoods to the trails that the City invested in already. In fall 2014, the City applied for a Transportation Alternatives Program (TAP) grant, which was approved in 2015. In 2015, phase two of the project was completed connecting the trail from Whitcombs Mill Road to Hurricane Road. With the TAP funding, phase three of the project began with design work in 2016 followed by three public engagement sessions in January/February 2017. In spring 2017, staff first presented recommendations for this project to the MSFI Committee. In fall 2019, City Council voted to approve reclassification of the Ammi Brown Road from a Class Six road to a Class A trail, between which there is a vague legal distinction allowing the City to continue maintenance and improvement of the trail once it is upgraded.

The City Engineer read project goals from 2014: “The objective of this project is to create safe access from neighborhoods in west Keene to the Rail Trail, establish a bicycle and pedestrian loop facility, and improve access to the downtown area. To accomplish this, concepts for connecting a connector gateway street – Park Avenue – commonly traveled by bicyclists and pedestrians to the Cheshire Rail Trail. The improvements

proposed include in-street bicycle and pedestrian facilities along the streets mentioned, improved connections to the Rail Trail at two locations north of the Keene YMCA along the Class Six Ammi Brown Road and by Pitcher Street. Development of two trailhead facilities at Whitcombs Mill Road and Summit Ridge Drive/Summit Road are also included.”

The City Engineer continued using graphics to provide a broad overview of the CRT area in question. He demonstrated how the CRT extends from the North Bridge over Rts-9/10/12 to Whitcombs Mill Road and then to Hurricane Road, where it essentially ends today. Recreation can continue past the formal trail at Hurricane Road but the conditions are unmaintained. The City Engineer said that Phase Three of this project would extend the trail from its formal end at Hurricane Road north to Westmoreland, between which there are already some very rustic trailheads. Ammi Brown Road was constructed by the railroad in the 1800s. Legal access to the Ammi Brown Trail (ABT) is not where people use it today, which was part of the impetus for its reclassification and layout, to make the trail coincide with what the public think is already available for their use. An official trailhead would be established at Hurricane Road, from which the ABT would extend to the intersection of Summit Ridge Drive/Summit Road, where another trailhead would be established before connecting to the existing trail by Kohl’s. The City Engineer said that there was a lot of feedback from the public engagements as well as online and paper surveys, from which he received five phone calls and emails, a few letters, and 22 survey responses that all became part of the consultant’s design alternatives package.

The Director of Parks, Recreation & Facilities, Andy Bohannon, spoke about the funding sources for this project. Mr. Bohannon said that the ABT grant required a 20% community match, toward which Pathways for Keene donated \$30,000 on September 3, 2015 and the Monadnock Conservancy donated \$15,000 on November 5, 2015. While it has been several years, Mr. Bohannon thanked both organizations for their continued support of this project. Those donations left the City with a necessary \$37,323.10.

The City Engineer discussed trailhead parking. He said that through the public process, staff heard from neighbors about their existing parking concerns, specifically visitors parking at the Ammi Brown trailhead on Summit Ridge Drive. He explained that it is legal currently to park there on Summit Ridge Drive but only if the vehicle is off the road entirely and not blocking traffic. Still, the neighbors describe a nuisance and request a No Parking zone.

Chair Manwaring asked if a designated parking area is planned as part of the project. The City Engineer replied in the affirmative that a parking area and informational kiosks would be established at the intersection of Summit Ridge Drive/Summit Road. Signs would be placed at the beginning of the woods trail directing users to the acceptable parking area.

Councilor Williams referred to apparent gaps in the ABT on the map. The City Engineer said that the map shown was from the original 2014 grant application, which was not final. Those gaps represent areas of sufficient sidewalk or trail where no improvements are necessary.

Councilor Giacomo asked if the planned parking area would be established where there is already dirt parking at the Summit Ridge Drive/Summit Road intersection. He said the lot seems to be good size currently but questioned apparent wetlands behind the lot. The City Engineer confirmed that the lot would be established at the dirt area in question. However, only part of that lot is in the City right-of-way and the rest is privately owned. The City Engineer said there is sufficient space for the City to establish a formal parking area but the lot is not yet formally designated. The City Engineer could not confirm whether the adjacent area was true wetland, but said there is an identified drainage problem in the area, for which the City is working with the property owner to fix and protect City infrastructure. Councilor Giacomo said it indeed appeared that a spring runoff would envelop the road there, which the City Engineer said has happened in years past with periods of standing water destroying the road over time.

Councilor Giacomo noted that visitors are already parking inappropriately at the trailhead and have for a long

time. He asked if there would be signs informing visitors that they cannot park at the trailhead on Summit Ridge Drive. The City Engineer said that he and Mr. Bohannon agreed that it is a great location for advertising and wayfinding signs directing users to the correct parking lot once constructed.

Chair Manwaring requested public comment and recognized Mike Kowalski (of Swanzy), who leads an informal Monadnock regional collaborative trying to improve Rail Trails throughout the region. Mr. Kowalski said that he lived on Summit Ridge Drive for 15 years near this trailhead and said that he saw no excessive parking. Still, he said he understands the current situation and thinks the proposed parking lot at the Summit Ridge Drive/Summit Road Intersection would handle traffic because it is not too far from the trailhead. He supported restoring the ABT to increase bike traffic on the CRT because the rocky and washed out conditions make it unsafe currently for cyclists to pass through. Mr. Kowalski thinks the City should do everything to promote citizen use of the CRT and therefore recreation, active living, and public health. He said that the seven-mile Ammi Brown-Park Avenue CRT loop is a great weekend activity for families.

Chair Manwaring heard the next three related agenda items before hearing a staff recommendation and voting on the matter.

Chair Manwaring recognized Edgar Hastings, President of the Summit Ridge Association. He represented the association's three-member board and 26 units. He said the association supports continued improvement of the Cheshire Rail Trail and Ammi Brown Trail. Still, they are concerned that as these improvements progress traffic would also increase. He said that without sufficient enforcement of No Parking at the trailhead there would be users who choose to still park there inappropriately. He said that long-time users see parking at the trailhead as their right. Mr. Hastings submitted a letter to the City from Mr. Mueller, who endures most of the traffic. Mr. Hastings said that cars park at the trailhead at all times of the year, day, and night, which is both a safety issue and nuisance to private property owners who withstand noise of car fobs, turning around in their driveways, parking on lawns, and blocking driveways.

Mr. Hastings said that the City requested an easement from the Summit Ridge Association to continue this project. He said that the association is in favor and want to cooperate dependent on sufficient enforcement of parking in the designated area. He cited examples of private property owners being rebuked for kindly requesting that trail users move their cars to appropriate areas. Mr. Hastings said that without proper enforcement of No Parking areas as the trail is completed and advertised, that residents' quality of life would continue being negatively affected and there are concerns that property values could decline.

Chair Manwaring recognized Mike Hart, who thanked Mr. Hastings for representing the Summit Ridge Association well. Mr. Hart said he lives directly across from the trailhead, has used the trail for 45 years, and therefore has firsthand knowledge of the situation. He never wants people to stop using the trail because it is a fantastic area. Still, he said parking is a problem and it has been worse this year with people out of work. He said that the New England Mountain Bike Association has publicized the area and it is common to see 20-50 bikes go up the trail in a day, which he said he has no problem with, but many people feel entitled to park in the road, on lawns, and blocking driveways. On four occasions, he has called the cops because of vehicles parked with four tires on the road and in one situation, two cars parked back-to-back on a corner, which was dangerous for vehicles and pedestrians. Mr. Hart said that on all four occasions he was impressed with how quickly the police responded, but disappointed that they took no action. He requested sufficient signage at the trailhead directing users to the parking area as well as police enforcement of parking rules by the Summit Ridge Condominiums.

Ms. Sporborg was not present.

Chair Manwaring welcomed public comment and recognized Gary Tochtermann (of 58 Skyline Drive, Keene), who said he wanted to provide a few facts. He said that the trailhead is only approximately 70' from the north side of the road to the building where Mr. Mueller and Mr. Hart live. He said that people park in yards on both

sides of the street. Mr. Tochterman thinks the plan for a parking lot is great, but questioned how to make people use the area after years of no enforcement. He said that there are already some signs saying where the trail is, but there are no regulatory No Parking signs, whereas on Eastern Avenue, he said the road is wider with homes further from the road and yet there are No Parking signs there. Mr. Tochterman said he heard that the proposed parking on Summit Road would be the largest of any Cheshire Rail Trail trailhead parking, which he thinks is a good idea. He said it makes the most sense for there to be regulatory No Parking signs and immediate enforcement even before project completion because changing long-time habits is challenging. Without enforcement, Mr. Tochterman said that inappropriate parking would continue, with damage to private property, threats to public safety, and the dissatisfaction of many homeowners. He hopes that proper enforcement will make this project a success.

The Public Works Director, Kurt Blomquist, added to earlier staff comments saying that it was always the intention for the dirt area in question on Summit Road to become a No Parking area upon completion of this project. He recognizes that it would take time for people to change habits. He explained that to establish an enforceable No Parking area on both sides of Summit Ridge Drive—from Summit Road to Skyline Drive—it must be written into City Code, which is why staff recommended moving forward with drafting an Ordinance.

The Public Works Director said that if the MSFI Committee made that recommendation at this meeting then the recommendation would go to City Council for a vote to draft an Ordinance, then staff would draft the Ordinance for Council consideration before coming back to the MSFI Committee, and then back to Council for final consideration of adoption. Due to timing, staff suggested that the Committee authorize at this meeting drafting an Ordinance to go to Council at the same time that they hear this Committee's recommendation. This would be possible because the Council agenda package would have a review first of this Committee's report before they are presented a draft Ordinance. He thinks the Council would support this process and have sufficient time to review the proposed Ordinance. If MSFI Committee made that recommendation to City Council, then the proposed draft would return to this Committee for review on May 27 before a final Council vote on June 4. As such, there could be legal authority to install signs and enforce No Parking as soon as June 5.

Chair Manwaring asked if there was a way to enforce No Parking on only one side of street while this process continues. The Public Works Director said there are general parking rules that vehicles must be parked completely off the road but without an Ordinance designating No Parking areas, the City can do nothing to enforce. Through the recommended process however, there could be No Parking on both sides of the road June 5. Councilor Filiault agreed with expediting the process. He walks the road past the trailhead daily, that there are cars everywhere on and off the road, and agreed that there are more people out right now.

Vice Chair Giacomo made the following two motions, both of which Councilor Filiault seconded, and passed by a unanimous roll call vote.

On a vote of 5-0, the Municipal Services, Facilities & Infrastructure Committee moved to accept the communications as informational.

On a vote of 5-0, the Municipal Services, Facilities & Infrastructure Committee recommended that the City Manager be authorized to do all things necessary to develop and submit for consideration an Ordinance for the establishment of No Parking on Summit Ridge Drive from the intersection of Skyline Drive to Summit Road.



City of Keene, N.H.
Transmittal Form

May 13, 2020

TO: Mayor and Keene City Council

FROM: Planning, Licenses and Development Committee

ITEM: D.2.

SUBJECT: Ashley Sheehan/Modestman Brewing – Request to Serve Alcohol on City Property

COUNCIL ACTION:

In City Council May 21, 2020.

Voted unanimously to carry out the intent of the report.

RECOMMENDATION:

On a vote of 5-0, the Planning, Licenses and Development Committee recommended that Modestman Brewing be granted permission to serve alcoholic beverages in connection with their Sidewalk Café License, subject to the customary licensing requirements of the City Council, and compliance with the requirements of Sections 46-1191 through 46-1196 of the City Code. As part of the license conditions during and following the State of New Hampshire Emergency Declaration due to the Novel Coronavirus (COVID-19) and as amended, the Licensee shall:

- Maintain and monitor social distancing practices of at least six feet for customers and restaurant staff;
- Provide adequate space for patron seating and flow to maintain 6 foot social distancing practices;
- Use non-porous tables that can be easily disinfected;
- Discontinue the use of table items that cannot be cleaned and sanitized;
- Have access to and utilize hand sanitizer for use between customers;
- Disinfect customer surfaces between customers;
- Remain in strict compliance with the Seating Location Plan, which plan may be further altered or discontinued at the discretion of the City; and,
- Follow any other requirements that may be issued by the City and/or the State for health and safety of the restaurant staff and the public.

This license shall expire on March 1, 2021.

During the Emergency Declaration issued by the Governor due to the Novel Coronavirus (COVID-19) crisis, or until such time thereafter as determined by the City in its sole discretion, the Licensee shall comply with the recommendations of the Federal Center for Disease Control, the State of New Hampshire (with specific reference to Executive Order #40, Exhibit C, subsection A), and the City of Keene, with respect to the operation of a sidewalk café restaurant.

BACKGROUND:

Ash Sheehan, speaking via phone from 100 Main Street, stated that his business is about six months old, and is a “Nano plus” brewery. He continued that this is their first time applying for a sidewalk café license. They are requesting permission to serve alcohol on the front sidewalk in front of their Main Street location.

Chair Bosley asked if staff could speak to this. Public Works Director Kürt Blomquist stated that this is the standard application for permission to serve alcohol in the public right-of-way with the intent of potentially getting a café license from the City.

Chair Bosley asked if the process has been completed for the café portion. Mr. Blomquist replied that he is not aware of that. Chair Bosley asked if Mr. Sheehan has spoken with the City Clerk's Office about getting the café portion of the license going. Mr. Sheehan replied yes, he has been through that process. He continued that they also have seating in the rear of the building, which is not City property, and that has been approved. The same aesthetics would be for the front. They applied in early March.

Chair Bosley stated that the food portion of a license can be approved administratively through the City Clerk's Office, but what has come before the PLD Committee is the first-time request to serve alcohol.

Zoning Administrator John Rogers stated that he wanted to confirm that Modestman Brewing has applied for a café license. He continued that Mr. Sheehan submitted a diagram for their sidewalk seating. It has been reviewed and appears to be compliant. They will do another review once the seating is set up.

Councilor Greenwald asked if food will be available at all times that there is seating out front. Mr. Sheehan replied yes. He continued that they comply with the Nano plus license issued by the State Liquor Commission. They have a kitchen in their restaurant and they have a menu that is available at all times that beer is served.

Councilor Workman thanked the petitioner for joining the meeting. She continued that Mr. Sheehan mentioned that they have will have seating out back. She asked why they are looking for the additional seating out front, and whether that seating out front will have a barrier around it.

Mr. Sheehan replied that everything they applied for is pre-Covid-19 and the NH Liquor Commission is strict on having all alcohol tightly secured. He continued the NH Liquor Commission has approved all of their outdoor seating and the front is very secure. The reason why they want a front and back patio is because people like to sit outside and have a cold beer.

Chair Bosley replied that that is accurate and people are probably ready, with the start of this beautiful weather and the Governor's orders opening things back up.

Councilor Johnsen asked Mr. Sheehan to explain what the food situation is like in the back. Mr. Sheehan replied that that is a separate LLC that he also owns, which is a food truck. It parks on their private property in the rear of the building. He continued that Mr. Rogers and his staff have deemed it safe. The food truck offers food whenever Modestman Brewing is open. To be compliant with the NH Liquor Commission Modestman Brewing also has a 5-item menu they do in the kitchen inside, which has refrigerators, hand-washing sinks, dishwashers, etc.

Chair Bosley thanked Mr. Sheehan for the explanation, because there had been some questions about how the food truck and brewery worked together. She asked if the Committee had any more questions.

Councilor Jones stated that he wanted to say that he was one of the ones that voted to send this to committee, because it is the only time the public gets to speak to this. Otherwise there is no transparency. He continued that in the past they have had issues and one time they started the revocation process on someone's license. One of the complaints from the public was that the business was not serving food and the business's comeback was "We're serving ice, that's food." The City Council is glad to hear that Mr. Sheehan is compliant and they look forward to this.

Councilor Clark stated that he was one of the ones who had questions, and now they have been answered, and

he hopes the license is approved.

Councilor Greenwald made the following motion, which was seconded by Councilor Workman.

Move to recommend that Modestman Brewing be granted permission to serve alcoholic beverages in connection with their Sidewalk Café License, subject to the customary licensing requirements of the City Council, and compliance with the requirements of Sections 46-1191 through 46-1196 of the City Code. As part of the license conditions during and following the State of New Hampshire Emergency Declaration due to the Novel Coronavirus (COVID-19) and as amended, the Licensee shall:

- Maintain and monitor social distancing practices of at least six feet for customers and restaurant staff;
- Provide adequate space for patron seating and flow to maintain 6 foot social distancing practices;
- Use non-porous tables that can be easily disinfected;
- Discontinue the use of table items that cannot be cleaned and sanitized;
- Have access to and utilize hand sanitizer for use between customers;
- Disinfect customer surfaces between customers;
- Remain in strict compliance with the Seating Location Plan, which plan may be further altered or discontinued at the discretion of the City; and,
- Follow any other requirements that may be issued by the City and/or the State for health and safety of the restaurant staff and the public.

This license shall expire on March 1, 2021.

During the Emergency Declaration issued by the Governor due to the Novel Coronavirus (COVID-19) crisis, or until such time thereafter as determined by the City in its sole discretion, the Licensee shall comply with the recommendations of the Federal Center for Disease Control, the State of New Hampshire (with specific reference to Executive Order #40, Exhibit C, subsection A), and the City of Keene, with respect to the operation of a sidewalk café restaurant.

Chair Bosley asked if there was any additional discussion from the Committee or the public.

Councilor Johnsen asked if there is a way they can speed this up, since it is taking longer than expected. Chair Bosley replied that their recommendation is due to come to the City Council next Thursday. She continued that she does not think there can be a full vote on it any earlier than that. City Attorney Tom Mullins replied that that is correct. He continued that the process is in place for it to now go to the full City Council next Thursday. The only way to have it acted upon faster would be to call a special meeting. Councilor Johnsen stated that she appreciates that Mr. Sheehan got all of the material in on time. She continued that the delay happened because no one anticipated the Covid-19 crisis.

Mr. Rogers stated that he wanted to point out that the Community Development Department did work with Mr. Sheehan and approved the outdoor seating for the rear of the building and that the rear location will be able to open on Monday when outdoor seating is allowed by the Governor's orders.

Chair Bosley asked if the seating out front can be approved administratively and they could just have the service of alcohol held until it is approved by the City Council. The City Attorney replied that the sidewalk café license is administrative, so the action the City Council is taking is with respect to the serving of alcohol. Therefore the answer is yes. As soon as the City Clerk completes the process of the sidewalk café license they can start serving food. Chair Bosley replied that that is fantastic, because everyone is anxious to get back to business. She continued that even if the process is slow, as Councilor Johnsen pointed out, maybe they can at least get Modestman Brewery able to serve food per the Governor's orders on Monday. If everything goes smoothly at the City Council meeting the alcohol piece would follow.

The motion passed with a vote of 5-0.



City of Keene, N.H.
Transmittal Form

May 13, 2020

TO: Mayor and Keene City Council

FROM: Planning, Licenses and Development Committee

ITEM: D.3.

SUBJECT: Request to Sign on to the Clean Energy New Hampshire “Common Sense Net Metering Letter”
- Energy and Climate Committee

COUNCIL ACTION:

In City Council May 21, 2020.

Voted unanimously to carry out the intent of the report.

RECOMMENDATION:

On a vote of 5-0, the Planning, Licenses, and Development Committee recommends that the “Common Sense Net Metering Letter” shared by Clean Energy New Hampshire on May 5, 2020 be signed on behalf of the City of Keene in order to show support for expanding the net metering project cap size from 1 MW to 5 MW for political sub-divisions of the State and low-moderate income community solar projects.

BACKGROUND:

Chair Bosley stated that the Energy and Climate Committee (ECC) brought this before the City Council last week. She asked Peter Hansel to speak.

Peter Hansel, of 61 Bradford Road, stated that he is the Vice Chair of the ECC. He continued that this proposal is similar to one that the City Council voted on last year for a similar request to go to the Legislature to approve expanding the net metering from 1 megawatt to 5 megawatts. That proposal that was passed last year was vetoed by the Governor. This is a compromise proposal which basically adds several other categories into the existing legislation, allowing municipalities and other municipal organizations to go up to 5 megawatts. The second part of the letter says that projects that involve low-middle income projects would also be subject to the 5 megawatt cap instead of the 1 megawatt cap. The letter recommends that private businesses also be allowed to qualify if they have been approved after careful review by the PUC. The ECC met on May 5, reviewed this request, and voted unanimously to pass it along for the City Council’s approval.

Chair Bosley thanked Mr. Hansel and asked Mr. Lamb to speak. Mr. Lamb stated that he is just here as backup in case they have questions.

Councilor Johnsen asked if she is hearing that this is superimposing 5G on them. Mr. Lamb replied that this is not related in any way to telecommunications or 5G. He continued that what Mr. Hansel is referring to is solar energy generation and the current limit of 1 megawatt.

Councilor Johnsen asked for clarification about the move “from 1 to 5.” Mr. Lamb replied that currently net-metered connections to the electricity grid for solar generation on private property are limited to the size of 1

megawatt. The request was to raise the cap to 5 megawatts, allowing larger solar generation to take place on private property and be net metered into the electricity grid.

Councilor Greenwald stated that he is very much in support of this, and in support of the City Council weighing in on important issues that affects Keene. It is important that the Legislature hear from Keene. Solar is the way of the future, environmentally smart, and financially terrific. This letter of support is hopefully something the Governor and Legislature will pay attention to.

Chair Bosley stated that she agrees. She continued that they heard at the City Council meeting that this could negatively impact many solar arrays that have already been installed.

Councilor Jones stated that he wants to thank Mr. Hansel, Councilor Clark, Dr. Shedd, and everyone else on the ECC. He continued that he knows how difficult it is dealing with the NH when it comes to this, and the NH PUC, and he hopes they do adopt this letter.

Chair Bosley asked if there were any more comments from the Committee. Hearing none, she asked if there were comments from the public.

Mr. Hansel stated that he left out one item in his earlier comments – Governor Sununu came to Keene last fall and spoke to the Keene Rotary Club. The Governor was asked why he had vetoed the previous legislation raising the cap to 5 megawatts. Governor Sununu's reply was that he was preparing a compromise solution where municipalities like Keene would be eligible for the 5 megawatt proposal. Mr. Hansel continued that he thinks this compromise being proposed is partly what Governor Sununu has already publicly stated in Keene that he would endorse. There are a few other things that have been included, such as the low-middle income component, and the recommendation as described in the letter is to allow private businesses to also qualify as long as they go through the PUC review process.

Councilor Greenwald made the following motion, which was seconded by Councilor Workman.

On a vote of 5-0, the Planning, Licenses, and Development Committee recommends that the "Common Sense Net Metering Letter" shared by Clean Energy New Hampshire on May 5, 2020 be signed on behalf of the City of Keene in order to show support for expanding the net metering project cap size from 1 MW to 5 MW for political sub-divisions of the State and low-moderate income community solar projects.



City of Keene, N.H.
Transmittal Form

May 14, 2020

TO: Mayor and Keene City Council

FROM: Finance, Organization and Personnel Committee

ITEM: D.4.

SUBJECT: Acceptance of Donations – Fire Department

COUNCIL ACTION:

In City Council May 21, 2020.

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 two donations totaling \$700.

BACKGROUND:

Chair Powers asked Fire Chief Mark Howard to speak to his memorandum. Chief Howard, speaking from his office on Vernon Street, stated that the first agenda item is two donations and his recommendation is: "Move that the Finance, Organization, and Personnel Committee recommend that the City Manager be authorized to do all things necessary to accept two donations totaling \$700." He continued that the Department has received two donations totaling \$700. Robert Deverill donated \$100 and a group of residents, Dan & Caitlin Newell, Barry Pearson, Doctors Rob & Sherry Guardiano, and Christopher Hamblet, along with Artie & Krista Lang, and Fred & Christine Hadlow donated \$600.00 in appreciation of the services the Department provides the community. These donations will be used to purchase equipment.

Chair Powers asked if the Committee members had questions or comments. He asked if other Councilors had questions or comments. He asked for questions or comments from members of the public. Hearing none, he stated that he would entertain a motion.

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

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 two donations totaling \$700.



City of Keene, N.H.
Transmittal Form

May 14, 2020

TO: Mayor and Keene City Council

FROM: Finance, Organization and Personnel Committee

ITEM: D.5.

SUBJECT: Acceptance of Donation – Fire Department

COUNCIL ACTION:

In City Council May 21, 2020.

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 a donation of \$250.

BACKGROUND:

Chief Howard stated that his recommendation is “Move that the Finance, Organization and Personnel Committee recommend that the City Manager be authorized to do all things necessary to accept a donation of \$250.” He continued that the Fire Department has received a donation from the Monadnock United Way COVID19 Relief Fund in the amount of \$250. This money will be used to purchase equipment.

Chair Powers asked if the Committee members had questions or comments. He asked if other Councilors had questions or comments. He asked for questions or comments from members of the public. Hearing none, he stated that he would entertain a motion.

Councilor Ormerod stated that out of an abundance of caution, he would like to say that he is on the United Way Board. He continued that this does not affect the decision either way.

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

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 a donation of \$250.



City of Keene, N.H.
Transmittal Form

May 14, 2020

TO: Mayor and Keene City Council

FROM: Finance, Organization and Personnel Committee

ITEM: D.6.

SUBJECT: Municipality Services Agreement with Keene State College - City Manager

COUNCIL ACTION:

In City Council May 21, 2020.

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 a municipal services agreement between the City of Keene and Keene State College to extend the term of the agreement for one additional year.

BACKGROUND:

Chair Powers asked the City Manager to address her memorandum. Elizabeth Dragon, City Manager, stated that the City and Keene State College (KSC) have a municipal agreement in lieu of property taxes. She continued that it acknowledges the cost of life safety services provided by the City. The agreement also acknowledges the economic, cultural, and social value of the college and the importance of the relationship between the City and Keene State College. As part of this agreement, the College pays one Police Officer to be a liaison between the Police Department and the College. The College also funds an account of just over \$7,000 for any extraordinary one-time cost to respond to disturbances related to students, and \$10,000 towards a judicial and investigative cost. In recognition of Fire services, the College pays \$497,000 to the City. This agreement expired on July 1, 2019 and was then extended for one year, as the College was going through a great deal of change as they were right-sizing their organization. She and President Melinda Treadwell have been talking about doing a better job in the next agreement to enhance how they work together. With COVID-19 and the uncertainty for the future they have both agreed that it would be best to extend the current agreement for another year. This will give them certainty in the budget for the upcoming year.

Chair Powers asked if the Committee members had questions or comments. He asked if other Councilors had questions or comments. He asked for questions or comments from members of the public. Hearing none, he stated that he would entertain a motion.

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

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 a municipal services agreement between the City of Keene and Keene State College to extend the term of the agreement for one additional year.



City of Keene, N.H.
Transmittal Form

May 14, 2020

TO: Mayor and Keene City Council

FROM: Finance, Organization and Personnel Committee

ITEM: D.7.

SUBJECT: City Leases - City Manager

COUNCIL ACTION:

In City Council May 21, 2020.

Voted unanimously to carry out the intent of the report with an amended recommendation as follows: *that the City Manager be authorized to do all things necessary to abate an amount equal to one month of City lease payments (exclusive of taxes) commencing on May 1, 2020, for businesses leasing City property and conducting retail, restaurant, barber, transportation and hotel hospitality services and which have been negatively impacted by the current COVID 19 emergency, with such abatement being conditional upon the business not having received rent assistance for the one month period from any other funding sources.*

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 abate an amount equal to one month of City lease payments (exclusive of taxes) commencing on May 1, 2020, for businesses leasing City property and conducting retail, restaurant, barber, transportation and hotel hospitality services and which have been negatively impacted by the current COVID19 emergency.

BACKGROUND:

Chair Powers asked the City Manager to address her memorandum. The City Manager stated that before the Committee tonight is a request to provide some relief to tenants impacted by the COVID-19 crisis who are currently renting City-owned spaces. She continued that she is requesting to abate an amount equivalent to one month's rent for those who are conducting retail, restaurant, barber, transportation, and hospitality services, all negatively impacted by the current crisis. When City space is leased by a for-profit it must include a payment for property taxes. This is not optional. Therefore, this request is to abate the rent portion only. Some leases include a calculation of the taxes and some leases require the tenant to pay the taxes separately. For the leases that do not clearly separate the tax portion she has noted in the memo that she will have to exclude those tax portions. She will work with the City Assessor to accomplish this. She has corrections to the information in the memo: the new lease for YOLO is \$1,350 less a portion for property taxes, and the lease for The Flight Deck is \$900. The total of all the leases listed in the memo is just over \$9,700 and from that will be subtracted property taxes in the leases noted in the memo.

Chair Powers asked if the Committee members had questions or comments.

Councilor Clark asked what she means that property taxes will be deducted. The City Manager replied that

some leases have the property taxes included in the rental amount – YOLO, for instance. She continued that others have the property taxes separated. Either it is separated in the lease agreement and it specifies what the property tax payment is, or the business receives a separate bill from the Assessor's Department. To create equality among all of these leases, there are a couple she would have to separate the property taxes from - Keene Barber and YOLO.

Chair Powers asked if the Committee members had questions or comments. He asked if other Councilors had questions or comments. He asked for questions or comments from members of the public. Hearing none, he stated that he would entertain a motion.

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

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 abate an amount equal to one month of City lease payments (exclusive of taxes) commencing on May 1, 2020, for businesses leasing City property and conducting retail, restaurant, barber, transportation and hotel hospitality services and which have been negatively impacted by the current COVID19 emergency.



City of Keene, N.H.
Transmittal Form

May 14, 2020

TO: Mayor and Keene City Council

FROM: Finance, Organization and Personnel Committee

ITEM: D.8.

SUBJECT: Abating Interest Charged for Late Payment of Property Taxes – City Assessor

COUNCIL ACTION:

In City Council May 21, 2020.

Voted unanimously to carry out the intent of the report.

RECOMMENDATION:

On a vote of 5-0, the Finance Organization and Personal Committee recommends that the City Council vote in support of the City Assessor abating any accrued interest resulting from late payments of the 2020 1st half property tax bills for up to three months from the date due.

BACKGROUND:

Chair Powers asked the City Assessor to speak. Dan Langille, City Assessor, stated that in a similar vein to the previous agenda item, he is here to go over a way the City is looking to provide relief to those facing financial hardship due to the pandemic. He continued that in the next few weeks the City will be sending out the first property tax bill of the 2020 year, due around July 1. Property taxes are billed twice a year, and the first is in July. The City collects property taxes not only for City government, but also on behalf of the County and School District. All three communities have budgets in place, contracts, and bills that need to be paid. City property taxes are a significant source of revenue that helps fund emergency services, helps maintain public spaces, and helps maintain roads and infrastructure. It is important and necessary to continue to bring in property tax revenue. However, the City is well aware of how difficult it may be for some tax payers to pay at this time. If the bills are not paid on time interest begins to accrue at about 8% per month and that would only add to people's financial hardship. This is why the City wants to waive or abate that interest that would otherwise accrue, for up to three months after the July due date. Normally a person would have to file an application with the Assessor's Office after their December bill, and by this time the interest would have already accrued and there would be no guarantee of any relief. However, we are facing unprecedented times, which is why the City and other municipalities reached out to Governor Sununu to get this option to abate interest in a way that has never done before. The Governor's Executive Order #25 provided this option. The authority to abate taxes lies with the Assessor, but they wanted to hear if the City Council would support such an action.

Councilor Clark asked if this is this going to affect the amount of Tax Anticipation Notes (TANs) the County and School District have already applied for and in some cases received for operating expenses through December. The City Manager replied that this would not affect the School District or County. They will get their payments on time. She continued that the City does not usually take out a TAN. They usually have enough cash flow to operate without borrowing for operating expenses, and they do not anticipate this would make the City have to take out a TAN. Oftentimes people pay their taxes automatically and they are escrowed so that is

why staff is not asking for the due date to change. Those escrow payments will come in. The abatement of interest will be for the people who have a hard time paying. They will have an additional three months without being penalized.

Councilor Remy asked if this will be reviewed on a case-by-case basis, or if this would be a blanket “It’s okay” for everyone, which would mean that the people who pay directly would have a date change. Mr. Langille replied that it will be a blanket option, so there will be no applications needed, but it is important that anyone who has the ability to pay does so. He continued that the City expects the people who can pay to pay on time.

Chair Powers asked if other Councilors had questions or comments. He asked for questions or comments from members of the public. Hearing none, he stated that he would entertain a motion.

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

On a vote of 5-0, the Finance Organization and Personal Committee recommends that the City Council vote in support of the City Assessor abating any accrued interest resulting from late payments of the 2020 1st half property tax bills for up to three months from the date due.



City of Keene, N.H.
Transmittal Form

May 14, 2020

TO: Mayor and Keene City Council

FROM: Finance, Organization and Personnel Committee

ITEM: D.9.

SUBJECT: Filter Media Replacement and Underdrain Repairs - Public Works Department

COUNCIL ACTION:

In City Council May 21, 2020.

Voted unanimously to carry out the intent of the report.

RECOMMENDATION:

On a vote of 5-0, the Finance, Organization, and Personnel Committee recommends the City Manager be authorized to do all things necessary to sole source purchase, for the time period required, equipment and services from WesTech Inc. for all equipment, parts, and services necessary to replace the filter media and repairs to the MicroFloc Trident TR 840A Filtration Units at the Water Treatment Facility.

BACKGROUND:

Aaron Costa, Operations Manager for the Treatment Facilities, stated that he is here to discuss the filter media replacement and underdrain repairs project at the Water Treatment Facility (WTF) and request the ability to sole source purchase equipment and services from WesTech, Inc. As way of background, the WTF came online in 1993 and the majority of the equipment is original to the facility. The WTF utilizes three MicroFloc Filtration Units, and each filter unit is capable of filtering 2 million gallons of surface water per day and each filter unit contains its original filter media. In 2013, the City contracted with Tighe and Bond Consultants to perform a comprehensive filter evaluation that showed that anthracite media no longer conforms to specifications and any repairs to the underdrain system should be performed when the filter media is replaced. WesTech Inc. owns the rights to the MicroFloc technologies, and parts for the filter units are proprietary. The filter media is not proprietary and is available from other vendors; however, WesTech will not guarantee filter performance if aftermarket media is installed in the Trident Filter Units.

Mr. Costa continued therefore, it is recommended that staff be authorized to sole source purchase replacement parts, filter media, instrumentation, factory and onsite services for the Filtration Units from WesTech at an estimated cost of \$85,000 per filter unit. Funding was approved in the FY20 Capital Improvement Plan (CIP) budget, but because the water plant cannot be completely offline for this work, one filter unit will be refurbished in each of the following years: FY20, FY22, and FY24. The total amount budgeted for refurbishing all three-filter units is about \$610,000.

Tighe and Bond Consultants will be providing engineering services under a professional services contract. The construction/labor portion of the project will be selected by competitive bids. It is recommended that WesTech provide parts, instrumentation, media and factory and field services.

Mr. Costa showed a Trident Filtration Unit diagram from his desktop and explained it. He stated that everything you see in the stainless steel tank is proprietary to WesTech, minus the media. He continued that water comes in through the inlet, and plant staff tells the unit how many gallons per minute to treat, usually about 850 to 900. Water enters the bottom of the unit and goes up through the absorption clarifier media. Thousands of white plastic beads capture particulates in raw water. Water then moves up and over to the side of the unit where it goes down through three layers of filter media: about 18 inches of anthracite, followed by about 9 inches of silica sand, then about 3 inches of crushed garnet. Then there is the underdrain system, and they have no idea what condition it is in, but expect it will need to be refurbished. It cannot be inspected when the filtration units are full of media. The underdrain system then allows and conveys water out the bottom of the unit and out into production. There is also an ultrasonic level unit that communicates directly with the effluent filter valve. Its job is to maintain the proper water level in the filter unit. It is antiquated and needs to be replaced as part of this project.

Mr. Costa continued that the scope of work and way this construction will go is: the first part of construction is for contractors to float “this” media up and out into “this” area [indicated in diagram] so they can replace about 80 diffusers in the area [of the influent water manifold]. These units need to be cleaned, which is done by adding air through blowers and clean water. Then after the media is back in place and the screen is back on top the contractors will remove all of the anthracite, silica sand, and garnet. Then they remove the underdrain system, ship it to the manufacturer for cleaning and repairing, then they ship it back to the water plant and the contractor installs it under WesTech supervision. They will then add the filter media to the filter units, with WesTech supervising. Then they do the filter start up. That is the project from beginning to end and the reasons staff recommends sole sourcing WesTech.

Chair Powers asked if the Committee members had questions or comments.

Councilor Remy asked if there will be a capacity constraint while this is under construction. Mr. Costa replied no, that is why they will only do one unit as a time. He continued that the other two units will be operational, along with groundwater wells.

Councilor Remy stated that he has been hearing a lot lately about materials going through the [sewer] system that should not be. He asked if any work is being done during this project to help with that. Mr. Costa replied that this project is on the clean water side, but Councilor Remy brings up a good point. People should not be flushing wipes, rubber gloves, or anything of that sort. The PWD is currently working on a screening project at their Martel Court pumping station. It is currently under design and they will be constructing it in the coming years.

Chair Powers asked if this is a four-year project – one unit this year, another unit in 2 years, and another unit 2 years after that. Mr. Costa replied yes, the work will only take 2-3 months once construction starts, but they wanted to space it out for financial and capacity reasons.

Chair Powers asked if the contract prices will be set for the whole project. Mr. Costa replied no, just one unit at a time. Chair Powers asked if staff will be coming back to the Council in 2 years with another request. Mr. Costa replied that he hopes to sole source for all 3 filter unit refurbishes using WesTech, but yes, the construction portion will go out again in 2 years.

Chair Powers asked the City Attorney if the language in the motion is sufficient. The City Attorney replied that he would recommend the motion say “...to sole source for the time period required as included in the background notes...”

Chair Powers asked if the Committee members had questions or comments. He asked if other Councilors had questions or comments. He asked for questions or comments from members of the public. Hearing none, he stated that he would entertain a motion.

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

On a vote of 5-0, the Finance, Organization, and Personnel Committee recommends the City Manager be authorized to do all things necessary to sole source purchase, for the time period required, equipment and services from WesTech Inc. for all equipment, parts, and services necessary to replace the filter media and repairs to the MicroFloc Trident TR 840A Filtration Units at the Water Treatment Facility.



City of Keene, N.H.
Transmittal Form

May 18, 2020

TO: Mayor and Keene City Council

FROM: Kürt D. Blomquist, PE, Public Works Director/Emergency Management Director

THROUGH: Elizabeth A. Dragon, City Manager

ITEM: E.10.

SUBJECT: Governor's Office for Emergency Relief and Recovery (GOFERR) Funds Authorization

COUNCIL ACTION:

In City Council May 21, 2020.

Voted unanimously to suspend the Rules of Order to act on the memorandum. Voted unanimously to carry out the intent of the memorandum with an amended recommendation as follows: ***to authorize the City Manager to do all things necessary pursuant to RSA 21-P:43, to apply for and accept a Governor's Office for Emergency Relief and Recovery (GOFERR) Grant from the State of New Hampshire in the amount of \$552,034, for reimbursement of expenses associated with the City's response to the COVID-19 pandemic, subject to the terms, conditions and limitations of the Grant, and subject to any applicable rules and regulations of the agency providing the Grant; and further to authorize the City Manager to do all things necessary to expend the Grant funds in accordance with the terms, conditions and limitations of the Grant.***

RECOMMENDATION:

Move that the City Council Suspend Section 35 of the City Council Rules of Order to act on the request to authorize the City Manager to apply for and accept the Governor's Office for Emergency Relief and Recovery (GOFERR) Funds.

Move to authorize the City Manager to do all things necessary pursuant to RSA 21-P:43, to apply and accept a Governor's Office for Emergency Relief and Recovery (GOFERR) Grant from the State of New Hampshire in the amount up to \$552,034, subject to the terms and conditions of the Grant, and to any applicable rules and regulations of the agency providing the Grant.

BACKGROUND:

On Monday, May 4, 2020, Governor Chris Sununu announced that the Governor's Office for Emergency Relief and Recovery (GOFERR) had allocated \$40 million to reimburse local governments for expenses associated with the response to the COVID-19 pandemic. The \$40 million in funds was broken into \$32 million to municipalities and \$8 million to counties. The municipal share was allocated based on the 2018 community population with the City of Keene being eligible to receive up to \$552,034. The time period of expenses that these funds would cover is between March 1, 2020 and August 31, 2020.

These funds are to cover costs that are not covered by another COVID-19 relief-funding source and can be

used for reimbursement of allowable costs for necessary expenditures due to the COVID-19 public health emergency. Eligible costs include, but are not limited to, increased welfare costs (food, shelter, utilities), new telework costs for remote municipal operations (computers, software, networking), facility signage, municipal building modifications and cleaning/disinfecting needs for social distancing and public safety. Reimbursement is 100% with 0% match. Some of the unallowable costs include property tax abatements, and revenue replacement.

To be eligible for the funds, the City must file a Grant Agreement with the GOFERR office. The first reimbursement request for expenses incurred from March 1, 2020 to April 30, 2020 and the grant agreement must be submitted on or before June 1, 2020. The following reimbursement requests will be made in July and September.

To follow the standard Council and Committee process would have the City Council acting on the authorization for the City Manager on June 4, 2020. Therefore, it is necessary for the City Council to suspend the Council Rules of Order and authorize the City Manager to apply for and accept the grant funding at its May 21, 2020 Council meeting.



City of Keene, N.H.
Transmittal Form

May 15, 2020

TO: Mayor and Keene City Council

FROM: Mark Howard, Fire Chief

THROUGH: Elizabeth Dragon, City Manager

ITEM: F.1.

SUBJECT: State of New Hampshire Department of Justice Coronavirus Emergency Supplemental Funding Program Grant Award

COUNCIL ACTION:

In City Council May 21, 2020.

Voted unanimously to suspend the Rules of Order to act on the memorandum. Voted unanimously to carry out the intent of the recommendation.

RECOMMENDATION:

Move that the Finance, Organization and Personnel Committee recommend that the City Manager be authorized to do all things necessary to accept a grant in the amount of \$84,130.01 from the State of New Hampshire Department of Justice Coronavirus Emergency Supplemental Funding Program (CESF).

BACKGROUND:

On May 13, 2020, the NH Department of Justice notified Deputy Chief Jeffrey Chickering that the Keene Fire Department had been awarded \$84,130.01. These grant funds will be used to purchase equipment, (\$58,500 for pumps and ventilators for our three ambulances), and cover costs associated with the purchase of PPE, EMS disposables and cleaning supplies and equipment (\$25,630.01) purchased in February and early March 2020.



City of Keene, N.H.
Transmittal Form

May 19, 2020

TO: Mayor and Keene City Council

FROM: Merri Howe, Finance Director

THROUGH: Elizabeth Dragon, City Manager

ITEM: F.2.

SUBJECT: Transfer Funds From ESCO Project and Fire Station Replacement Project to the General Fund

COUNCIL ACTION:

In City Council May 21, 2020.

Referred to the Finance, Organization and Personnel Committee.

RECOMMENDATION:

Move that the transfer of funds in the amount of four thousand nine hundred four dollars and eight cents (\$4,904.08) from the ESCO Project (90236) and fifteen thousand ninety five dollars and ninety two cents (\$15,095.92) from the Fire Station Replacement Project (90220) to the FY 2021 General Fund Revenue Capital Project Account be referred to the Finance, Organization, and Personnel Committee for their review and recommendation.

BACKGROUND:

The florescent lighting at the central fire station has reached the end of its useful. In keeping in line with the long-term emission goals of the City, it is the appropriate time to invest in upgrading the lighting to LED. These new LED fixtures will benefit the facility with a decrease in power consumption and increase in lighting. They anticipated payback in investments for this project is between 3 and 5 years through the NH Saves program.

The LED lighting project is projected to cost \$20,000, which is under the \$35,000 threshold established under the City's fiscal policies, and therefore did not qualify to be included in the Capital Improvement Program, and was presented during the budget process as a supplemental item.



City of Keene, N.H.
Transmittal Form

May 19, 2020

TO: Mayor and Keene City Council

FROM: Rhett Lamb ACM/Community Development Director

ITEM: G.1.

SUBJECT: Relating to Zoning Map Change - Krif Road - Industrial to Commerce Limited

COUNCIL ACTION:

In City Council May 21, 2020.

Memorandum filed as informational. Public Hearing set for Thursday, June 18, 2020 at 7:00 PM.

RECOMMENDATION:

A motion was made by Mayor George Hansel that the Planning Board find that the proposed O-2020-04 is consistent with the community goals and comprehensive master plan. The motion was seconded by Councilor Michael Remy and was unanimously approved by a roll call vote.

A motion was made by Councilor Philip Jones that the Planning, Licenses and Development Committee request the Mayor set a public hearing on O-2020-02. The motion was seconded by Councilor Mitch Greenwald and was unanimously approved by a roll call vote.

ATTACHMENTS:

Description

Ordinance O-2020-04

BACKGROUND:

AMERCO Real Estate Company, requests a zoning district change for the parcels at 472 Winchester St and 0 Krif Rd from Industrial to Commerce Limited. These two properties, which are owned by Clarke Realty Ltd. Partnership, total an area of 7.38-acres and are identified by the following Tax Map Parcel numbers: 0 Krif Rd (3.84-acres, TMP# 115-019-000-000) and 472 Winchester St (3.54-acres, TMP# 115-020-000-000).

Senior Planner Tara Kessler addressed the Committee first and began by explaining the process for amending the Zoning Ordinance. She stated this process started when the applicant submitted an application to amend the Zoning Ordinance to the City Clerk, which occurred a few months ago. The application was introduced to City Council as a proposed ordinance for its first reading. The next step is for the Joint Committee to hold a public workshop. If the Joint Committee is inclined to vote on this item, the vote from the Planning Board would be to indicate that this proposal complies with the Master Plan and the PLD Committee will vote to request the Mayor set a public hearing, which will happen at the Council meeting. It will then go to the City Council for a final vote.

Ms. Kessler stated staff has conducted an analysis of this item. She noted this public workshop is not a public hearing, but the Chair typically welcomes public comment. Ms. Kessler added that the focus of the Joint

Committee in evaluating this proposal should be on whether the proposed zoning district, including the types of uses that are allowed in this district, would be suitable for the land in question. The focus should not be on a specific proposal for how the applicant/ petitioner intends to use the subject parcels.

Applicant Chad Branon Civil Engineer with Field Stone land Consultants representing AMERCO Real Estate Company and the landowner Clark Realty Partnership addressed the committee. He noted Jeffrey Vane from AMERCO Real Estate Company was also present tonight.

Mr. Branon referred to a plan, which represents the two properties, for which the applicant is requesting a change to. The properties are located on the south side of the city. 472 Winchester Street consists of 3.54 acres with frontage on Winchester Street and Krif Road. This property is currently developed and has a 30,172 square foot industrial warehouse building plus a 3,720 square foot service shop. The property on Krif Road consists of 3.84 acres of land, with frontage on Krif Road and is mostly a vacant lot with the exception of parking used by operations at 472 Winchester Street. Both properties were formerly used by Clark Distributors until about 2017 and since that time the properties have been on the market for sale.

Mr. Branon noted the subject premises are surrounded by businesses, which include Hamshaw Lumber to the southwest, Granite Glass to the west and to the north - vacant land, car dealerships and rental stores. To the east is Douglas Cuddle Toys. At the present time, the Industrial District does not allow for retail uses, restaurants, office, motor vehicle dealerships, nurseries, or funeral parlors. He stated most of these uses are prevalent along Winchester Street but they are not allowed. He noted when comparing the permitted uses in the Industrial and the Commerce Limited Districts, there are many similarities. Uses that are permitted in both districts include bulk storage, assembly and distribution, businesses with garages, health and fitness centers, manufacturing, repair shops, paint shops, childcare facilities, research facilities, wholesale facilities.

Mr. Branon stated they feel the subject premises will be better served if it is zoned in the Commerce Limited District. The Master Plan identifies Winchester Street as a key gateway corridor and the uses identified in Commerce Limited District would be better suited along this corridor than the more heavy impact uses in the Industrial District. If this property is rezoned as requested, the subject premises would not be able to be used for activities such as an asphalt plant, forge, tannery, bulk storage of flammable materials, or a recycling plant.

As the two subject parcels are along the Winchester Street gateway corridor, have close proximity to Ash Swamp Brook and the properties are partially located in the floodway, the applicant feels rezoning of the property would be consistent with goals of the Master Plan.

With reference to dimensional requirements, this change will have more stringent requirements regarding minimum lot width, setback requirements, and percentage of impervious surface and requires more lot frontage. The applicant as a result all of these issues combined will not have a negative impact due to the requested change on surrounding properties.

With respect to the parcel's compatibility with the proposed district, the applicant feels the site currently borders the Commerce Limited District, and is surrounded by uses that are allowed in this district.

Mr. Branon went on to say AMERCO Real Estate Company is affiliated with UHaul Moving Company and the plan is to move UHaul's current operations from 199 Marlboro Street to the subject premises with a full service facility. Under the Industrial District, this proposal would require a variance for retail service and truck rental and a special exception for self-storage use. In discussion with City staff, it was concluded the applicant's best option would be to seek a rezoning for the subject parcels, given the location of the zoning boundary and surrounding uses. This concluded Mr. Branon's presentation

Staff comments were next. Ms. Kessler addressed the committee. Ms. Kessler stated the applicant has done a good job with describing the subject premises and reiterated these premises are surrounded by a mixture of commercial, manufacturing and retail uses and to the north is an undeveloped cornfield. She indicated it was

important to note that both parcels are within the 100-year floodplain and portions are in the floodway, which means any future development would require compliance with the Floodplain Ordinance regardless of whether there is a change in zoning.

Ms. Kessler stated her presentation will focus mostly on the difference between the Commerce Limited and Industrial Districts, with respect to the subject parcels. The intent of the Industrial District is primarily to provide for manufacturing, processing, assembling, wholesaling, transportation-oriented activities warehousing, and refueling depots. Retail sales and offices are intended to only be accessory to the main uses in this district.

The intent of the Commerce Limited District is to provide an area intended for commercial uses that require larger land areas than the commerce district and do not have high turnover of customer vehicle traffic. This district is intended for light industrial and combined commercial and industrial uses. The intent statement for this District requires that curb cuts be a minimum of 150 feet from any intersection and at a minimum of 450 feet apart, the purpose of which is to limit the access points along Route 10. Currently, the parcel at 472 Winchester St today has three curb cut openings; two along Krif Road and one is along Route 10 (Winchester St). She noted that currently, these curb cut openings are not conforming with the distance requirements of the proposed district. She explained that the zoning is intended to guide a future state of development, and if these parcels are to become Commerce Limited, the curb cut distances would need to be adhered to if there are changes made to these existing curb cuts or future curb cuts are proposed .

Ms. Kessler then went over the uses that are currently permitted in both districts. These overlapping uses include: Assembling, Bulk storage excluding flammable materials, Garage as a business, Health & Fitness Center, Manufacturing, Motor Vehicle Repair Garage, Paint Shop, Noncommercial Outdoor Recreational Activity, Nursery or Child Care Facility, Processing, Research & Development, Storage Facility (Self-Storage - allowed by special exception in Industrial), Warehousing and Wholesaling. She then reviewed the uses in the Industrial District that are not allowed in Commerce Limited. They include: Asphalt plant, Smelter, Forge, Tannery, Explosive Manufacturing, Bulk storage & distribution of flammable materials, College, Historic Site Open to the Public, Institutional Use and Recycling plant. The uses that are allowed in the Commerce Limited District but are not allowed in the Industrial District include: Funeral parlor, Greenhouse or nursery, Motor vehicle dealership, Office, Parking area, Private club, lodge, or fraternal activity where primary function is indoors, Restaurant, and Retail sales/services.

Ms. Kessler then talked about the dimensional requirements for the two districts and the differences between them. For the most part, they align similarly, but there are some significant differences. In the Industrial District, there is no minimum lot size, whereas the Commerce Limited District requires a minimum of 20,000 square feet (both subject lots meet this requirement). In the Industrial District, there is no minimum lot width at building line, whereas, Commerce Limited requires 100 feet of minimum lot width at building line. In the Industrial District, there is a required minimum 20-foot front set back. In the Commerce Limited District, there is a required 100-foot front set back. She noted that some buildings currently in the Commerce Limited District do not meet this front setback requirement today. In the Industrial District, no more than 80 % of the lot may be occupied by structures; however, in the Commerce Limited District no more than 40 % of the lot may be occupied by structures. The applicant has indicated that the future owners are proposing to merge the two lots, which would expand amount of area occupied by structures, but at the present time close to 40% of the lot at 472 Winchester St appears to be occupied by structures.

In the Industrial District, the required road frontage is 50-feet; however, in the Commerce Limited District the required road frontage is 100-feet. Today, 0 Krif Road only has 50 feet of frontage and 472 Winchester Street has over 100 feet.

Ms. Kessler then addressed how the proposal relates to the Comprehensive Master Plan. Ms. Kessler referred to that section of the plan included below:

Ø “this area [south of NH Route 101 Roundabout and north of the Swanzezy town line] should receive a

high level of planning and focus as it is an economic redevelopment area for commercial, manufacturing and industrial uses. Focus on the provision of high quality, living-wage industries should prevail over expansion of low-wage retail and service development. The city and community should explore ways to create a mixed-use area for these industries, in conjunction with managing appropriate access and providing community connections via sidewalk, pathways, bridges and trails north towards downtown and south towards other regional trails or bicycle routes...Balancing development of this area with natural environmental features is also a high priority."

In addition, she noted that the Master Plan identifies Winchester Street as a major corridor to the Downtown as well as a Regional Gateway. It also encourages the promotion and recruitment of industry that can build the City's manufacturing base and industrial economy, in the area of the proposed zoning change.

Ms. Kessler noted the proposal to transition this district from Industrial to Commerce Limited would limit the types of intense industrial activities that would be allowed along Winchester St. As the Master Plan is proposing this area to be more of a gateway corridor than an industrial corridor, it appears that this proposal is consistent with the Master Plan. She also noted that many industrial type uses such as manufacturing would still be allowed as a result of this proposal – it would only be the more intense/heavy impact uses that would no longer be allowed. However, whether this proposal is consistent with the Master Plan would need to be a determination of the Planning Board.

Ms. Kessler went on to say the reason staff is not including this proposed zoning change as part of Building Better Together / UDO project is because this area is outside of the downtown area where the proposed zoning changes are occurring. She noted that this proposal was not intended to be part of the UDO / Form Based Zoning. This concluded Ms. Kessler's presentation.

Councilor Greenwald stated one of the rules a while ago for the city was no net loss of industrial land and commercial development south of the bypass and asked for staff comment and added he is not opposed to the project. Ms. Kessler stated there are currently ten properties in Commerce Limited District and this change would increase that number to 12. Whereas, the Industrial District has 104 parcels, and this change would reduce that number by two. She noted there will still be industrial uses but just not heavy industrial uses. Mr. Lamb added the two elements Councilor Greenwald mentioned are principals of prior master plans and did take some shape in the Comprehensive Master Plan from 2010 but they were not explicitly stated in the current plan as they were stated in prior plans. He went on to say the Commerce Limited District was created to attract activities of commercial development that had a lot of outdoor storage such as car dealerships, lumber yards etc. which uses were previously located closer to downtown. He did not see that there will be a significant loss of industrial uses as there are still number of industrial activities that could still take place in this area even as Commerce Limited. As far as retail, this is not an area where large-scale retail was contemplated and did not feel this was a substantial change in that regard.

Councilor Remy referred to the language from the Master Plan and stated even though a specific use is not being contemplated – he asked how the reference to *"high-quality, living-wage industries should prevail over expansion of low-wage retail and service development"* fits in with the conversion from Industrial to Commerce Limited. Ms. Kessler stated it would be up to the Planning Board to determine whether the new uses proposed such as Funeral parlor, Greenhouse or nursery, Motor vehicle dealership, Office compared to uses that would be lost such as Asphalt plant, smelter, forge, tannery, explosive manufacturing, Bulk storage & distribution of flammable materials, College, Historic site open to the public, Institutional use and Recycling plant align with this objective or not. Mr. Lamb added as the City has been evaluating industrial uses in other locations including the Marlboro Street corridor, where the zoning changed from Industrial to Business Growth and Reuse) the City has tried to remove the traditional smoke-stack type of industrial activities while retaining the industrial activities that provide high value jobs without significant environmental impact.

Councilor Remy referred to Storage Facility (Self-Storage) – Allowed by special exception in Industrial and asked whether this use in Commerce Limited would not require a special exception. Ms. Kessler confirmed that it would be allowed by right in Commerce Limited.

Councilor Jones felt if industrial was going to be accommodated the proposed area is the best location. He added if this change was going to be made there are three parcels south of the location along Route 10 with very small area between the road and the river would fit in well as an add-on. Mr. Lamb responded to that suggestion and stated the uses on those parcels are industrial, motor vehicle repair and the other use, which is equipment rental, which would be consistent with Commerce Limited. He added if these parcels were to be added to the rezoning before the committee it will have to be re-noticed and a public workshop would need to be re-scheduled, as staff has not had the opportunity to perform a review of those parcels.

Mr. Branon pointed out that the Commerce Limited District does permit a lot of industrial uses and this change does not prevent this area to be used for industrial uses – all it removes is a handful of heavy industrial uses, which uses will not be suitable along a state highway on a gateway corridor.

Councilor Johnsen asked why the floodplain issue would not be addressed first before the zoning change is made. Ms. Kessler stated if there is substantial change made to this site; the applicant would need to comply with the City's Floodplain Ordinance regardless of the zoning change. However, no development is proposed as part of this request.

Chair Barrett referred to the frontage issue and noted for Commerce Limited the required amount is 100 feet, but 0 Krif Road is only at 50 feet. The Chairman asked what would happen if this change is made and 0 Krif Road remains as a stand alone property with a 50-foot front setback. Ms. Kessler stated it will then become a legally non-conforming lot.

Councilor Remy clarified for the Industrial District the permitted front setback is 50 feet but the proposed change to Commerce Limited is why this property will become legally non-conforming. Ms. Kessler replied in the affirmative.

The Chairman asked for public comment next. With no further comment, the Chairman closed the public hearing.

A motion was made by Mayor George Hansel that the Planning Board find that the proposed O-2020-04 is consistent with the community goals and comprehensive master plan. The motion was seconded by Councilor Michael Remy and was unanimously approved by a roll call vote.

A motion was made by Councilor Philip Jones that the Planning, Licenses and Development Committee request the Mayor set a public hearing on O-2020-02.

The motion was seconded by Councilor Mitch Greenwald and was unanimously approved by a roll call vote.



CITY OF KEENE

O-2020-04

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

AN ORDINANCERelating to Zone Change – 0 Krif Road and 472 Winchester Street.....

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

That the Zoning Map of the City of Keene, as amended, is hereby further amended by changing the zoning designation of Tax Map Parcels 115-19-000 and 115-20-000, known as 0 Krif Road and 472 Winchester Street respectfully, from Industrial to Commerce Limited.

George H. Hansel, Mayor

In City Council March 5, 2020.

Referred to the Joint Planning Board and Planning, Licenses and Development Committee.


City Clerk



City of Keene, N.H.
Transmittal Form

May 15, 2020

TO: Mayor and Keene City Council

FROM: Elizabeth A. Fox, ACM/Human Resources Director

THROUGH: Elizabeth A. Dragon, City Manager

ITEM: I.1.

SUBJECT: Relating to Class Allocation and Salary Schedule

COUNCIL ACTION:

In City Council May 21, 2020.
Referred to the Finance, Organization and Personnel Committee.

RECOMMENDATION:

That the City Council refer Ordinance O-2020-06 to the Finance, Organization, and Personnel Committee.

ATTACHMENTS:

Description

Ordinance O-2020-06

BACKGROUND:

The ordinance relating to salary and wage schedules for the 2020/2021 fiscal year reflects an adjustment that aligns to the across the board increase of 2.5% provided employees covered by approved collective bargaining agreements. An exception to this is the hourly wage scale pertaining to call firefighters that did not receive an across the board adjustment as part of the FY20 cycle. Because of this, it includes an additional adjustment for call positions this cycle. The effective date of all the schedule adjustments would be July 1, 2020.



CITY OF KEENE

O-2020-06

In the Year of Our Lord Two Thousand and Twenty

AN ORDINANCE Relating to Class Allocations and Salary Schedules

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

That the Ordinances of the City of Keene, as amended, hereby are further amended by deleting Section 2-231, "City Council Appointments' Salary Schedules" of Chapter 2, entitled "Administration;" as well as Section 62-141 "Call Firefighter Hourly Wage Schedule;" Section 62-166, "Hourly Wage Schedule for Probationary Public Works;" Section 62-191, "Probationary Firefighter;" Section 62-192, "Probationary Police Officer;" and Section 62-194, "Administrative and Clerical – Annual Salary Schedule", of Chapter 62 entitled, "Personnel," and by substituting in lieu thereof the following attached new sections: Section 2-231, "City Council Appointments' Salary Schedule;" Section 62-141 "Call Firefighter Hourly Wage Schedule;" Section 62-166, "Probationary Public Works Hourly Wage Schedule;" Section 62-191, "Probationary Firefighter;" Section 62-192 "Probationary Police Officer;" and Section 62-194, "Administrative, Office, Technical and Management – Annual Salary Schedule," effective July 1, 2020.

George S. Hansel, Mayor

In City Council May 21, 2020.
Referred to the Finance, Organization and Personnel
Committee.

City Clerk

City Code Section 2-231

**COUNCIL APPOINTMENTS
ANNUAL SALARY SCHEDULE**

(effective July 1, 2020)

<u>SALARY</u>	<u>City Clerk</u>	<u>City Attorney</u>	<u>City Manager</u>
<u>L</u>	90,232	111,698	134,087
<u>E</u>	94,292	116,724	140,121
<u>V</u>	98,535	121,977	146,426
<u>E</u>	102,969	127,466	153,015
<u>L</u>	107,603	133,202	159,901
	112,445	139,196	167,097

City Code Section 62-141

**CALL FIREFIGHTER
HOURLY WAGE SCALE**

Non-bargaining unit
(effective July 1, 2020)

<u>Grade</u>		<u>Step 1</u>
CF1	Non-certified Probationary Firefighter	\$ 10.50
CF2	Probationary Firefighter 1	\$ 13.65
CF3	Special services (Chaplin, Photographer & Aide)	\$ 14.70
CF4	Firefighter (Level 1)	\$ 15.75
CF5	Firefighter (Level 2)	\$ 18.90

City Code Section 62-166

The hourly wage schedule for ~~parks, recreation facilities; airport; library; city hall; and~~ probationary public works employees is as follows:

PROBATIONARY PUBLIC WORKS HOURLY WAGE SCHEDULE

Non-bargaining unit
(effective July 1, 2020)

	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>
<u>GRADE</u>				
PPW 2	14.44	15.09	15.77	16.48
PPW 4	15.77	16.48	17.22	18.00
PPW 5	16.48	17.22	18.00	18.81
PPW 7	17.99	18.80	19.65	20.53
PPW 8	18.81	19.66	20.54	21.47
PPW 9	19.65	20.53	21.46	22.42
PPW 10	20.52	21.44	22.41	23.42
PPW 11	21.45	22.42	23.42	24.48
PPW 12	22.42	23.43	24.48	25.58

CLASS ALLOCATION

<u>GRADE</u>	
PPW 2	Maintenance Aide I; Recycler I; Recycler II/Attendant
PPW 4	Water & Sewer Service Aide I
PPW 5	Maintenance Aide II; Motor Equipment Operator I; Recycler II; Water & Sewer Service Aide II
PPW 7	Mechanic I
PPW 8	Motor Equipment Operator II
PPW 9	Mechanic II; Sign Maker; Maintenance Mechanic; Utility Operator
PPW 10	Highway Foreman; Solid Waste Foreman; Maintenance Technician I
PPW 11	Water Meter Technician; Maintenance Electrician
PPW 12	Water & Sewer Foreman; Maintenance Technician II; Shop Manager; Solid Waste Operations Foreman

City Code Section 62-191

PROBATIONARY FIREFIGHTER

HOURLY WAGE SCHEDULE

Non-bargaining unit
(effective July 1, 2020)

<u>GRADE</u>		<u>STEP 1</u>
F 1	Firefighter/EMT B	\$20.24
F 2	Firefighter/A-EMT	\$21.44
F 3	Firefighter/Medic	\$22.81

City Code Section 62-192

PROBATIONARY POLICE OFFICER

HOURLY WAGE SCHEDULE

Non-bargaining unit
(effective July 1, 2020)

<u>GRADE</u>	<u>STEP</u>
P 1	\$24.44
P 2	\$25.54

City Code Section 62-194 Administrative, Office, Technical and Management and Clerical Personnel

The annual salary schedule for administrative, office, technical and management and clerical personnel is as follows:

**ADMINISTRATIVE, OFFICE, TECHNICAL AND MANAGEMENT
ANNUAL SALARY SCHEDULE**

Non-bargaining unit
(effective July 1, 2020)

<u>GRADE</u>	<u>STEPS</u>					
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>
S 4	35,807	37,418	39,102	40,862	42,701	44,623
S 5	37,418	39,102	40,862	42,701	44,623	46,631
S 6	39,102	40,862	42,701	44,623	46,631	48,729
S 7	40,862	42,701	44,623	46,631	48,729	50,922
S 8	42,701	44,623	46,631	48,729	50,922	53,213
S 9	44,623	46,631	48,729	50,922	53,213	55,608
S 10	46,631	48,729	50,922	53,213	55,608	58,110
S 11	48,729	50,922	53,213	55,608	58,110	60,725
S 12	50,922	53,213	55,608	58,110	60,725	63,458
S 13	53,213	55,608	58,110	60,725	63,458	66,314
S 14	55,608	58,110	60,725	63,458	66,314	69,298
S 15	58,110	60,725	63,458	66,314	69,298	72,416
S 16	60,725	63,458	66,314	69,298	72,416	75,675
S 17	63,458	66,314	69,298	72,416	75,675	79,080
S 18	66,314	69,298	72,416	75,675	79,080	82,639
S 19	69,298	72,416	75,675	79,080	82,639	86,358
S 20	72,416	75,675	79,080	82,639	86,358	90,244
S 21	75,675	79,080	82,639	86,358	90,244	94,305
S 22	79,080	82,639	86,358	90,244	94,305	98,549
S 23	82,639	86,358	90,244	94,305	98,549	102,984
S 24	86,358	90,244	94,305	98,549	102,984	107,618
S 25	90,244	94,305	98,549	102,984	107,618	112,461
S 26	94,305	98,549	102,984	107,618	112,461	117,522
S 27	98,549	102,984	107,618	112,461	117,522	122,810
S 28	102,984	107,618	112,461	117,522	122,810	128,336
S 29	107,618	112,461	117,522	122,810	128,336	134,111
S 30	112,461	117,522	122,810	128,336	134,111	140,146

City Code Section 62-194

ADMINISTRATIVE, OFFICE, TECHNICAL AND MANAGEMENT

(effective July 1, 2020)

<u>GRADE</u>	<u>CLASS ALLOCATION</u>
S 4	Library Aide
S 5	Minute Taker
S 6	Administrative Assistant; Records Clerk
S 7	Administrative Assistant I
S 8	NO POSITIONS ASSIGNED
S 9	NO POSITIONS ASSIGNED
S 10	NO POSITIONS ASSIGNED
S 11	Office Manager; Parking Services Technician
S 12	Librarian I; Planning Technician; Paralegal; Executive Secretary; Staff Accountant; Police Dispatch Supervisor; Fire Department Administrator
S 13	NO POSITIONS ASSIGNED
S 14	NO POSITIONS ASSIGNED
S 15	Executive Assistant; Librarian II; Payroll Administrator; Human Resources Assistant; Youth Services Manager; Mapping Technician; Engineering Technician; Technical Support Specialist; Assistant City Clerk; Parking Operations Manager
S 16	Planner; Laboratory Supervisor
S 17	Appraiser; Recreation Programmer; Librarian III; Parks & Cemetery Maintenance Superintendent; Treatment Plant Manager; Fleet Services Operations Manager; Senior Staff Accountant; Airport Maintenance & Operations Manager
S 18	Water & Sewer Superintendent; Purchasing Agent; Civil Engineer; Solid Waste Manager; Maintenance Manager; Revenue Collector; Records Manager/Deputy City Clerk; Laboratory Manager; Human Services Manager
S 19	Highway Superintendent; Fleet Services Superintendent; Operations Manager; Senior Planner
S 20	Systems Administrator; Purchasing & Contract Services Manager
S 21	NO POSITIONS ASSIGNED
S 22	NO POSITIONS ASSIGNED
S 23	NO POSITIONS ASSIGNED
S 24	City Engineer; Assistant Public Works Director/Division Head; Assistant IT Director; Database Administrator; Airport Director; Building/Health Official
S 25	Human Resources Director; Library Director; Assistant Finance Director/Assistant Treasurer; Police Captain; Deputy Fire Chief
S 26	Community Development Director; City Assessor; Parks, Recreation & Facilities Director
S 27	Finance Director/Treasurer; IT Director
S 28	Police Chief; Fire Chief; Public Works Director
S 29	NO POSITIONS ASSIGNED
S 30	NO POSITIONS ASSIGNED



City of Keene, N.H.
Transmittal Form

May 18, 2020

TO: Mayor and Keene City Council

FROM: Kurt D. Blomquist, PE, Public Works Director/Emergency Management Director

THROUGH: Elizabeth A. Dragon, City Manager

ITEM: I.2.

SUBJECT: Relating to No Parking Specific Streets - Summit Ridge Drive

COUNCIL ACTION:

In City Council May 21, 2020.

Referred to the Municipal Services, Facilities and Infrastructure Committee.

RECOMMENDATION:

Move that Ordinance O-2020-08 be read and referred to the Municipal Services, Facilities, and Infrastructure Committee.

ATTACHMENTS:

Description

Ordinance O-2020-08

BACKGROUND:

The Ammi Brown Road is a Class VI Road that is located in West Keene with an entrance off Summit Ridge Drive. Walkers, runners and bicyclist have used this road for recreational activities for many years. Users of the road and associated trails, park their vehicles around the entrance to the road. This has resulted in vehicles turning around in private driveways, blocking lanes of Summit Ridge Drive and other conflicts with the adjoining property owners.

As part of the Cheshire Rail Trail Phase III multi-use trail construction project the Ammi Brown Road will be improved and reclassified to a Class A Trail. Along with the improvements to the Ammi Brown Road a trail head and parking area is to be constructed within the City owned right-of-way at the intersection of Summit Ridge Drive and Summit Road. Signage would also be placed directing users of the trail system to this parking area.

The Summit Ridge Condo Association and several property owners in the immediate area of the Ammi Brown Road access have requested the City Council consider placing "no parking" restrictions on both sides of Summit Ridge Road from the intersection of Skyline Drive to Summit Road. They believe that this restriction will reduce the parking problems and associated issues and encourage the use of the created trail head/parking area. It had been anticipated by City staff that when the project was completed to request this restriction put

into place.

At the May 13, 2020 Municipal Services, Facilities and Infrastructure Committee heard the request from the Summit Ridge Condo Association and from several property owners and concurred with establishing the “no parking” restriction. Ordinance O-2020-08 establishes “No Parking” on Summit Ridge Drive from Skyline Drive to Summit Road.



CITY OF KEENE

Ordinance O-2020-08

Twenty

In the Year of Our Lord Two Thousand and

Relating to - No Parking - Specific Streets

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 bolded *Italic* text to the following provisions of Article III, "Parking", of Chapter 94, entitled "TRAFFIC, PARKING AND PUBLIC WAYS" as follows;

Article III, "Parking", Division 2, "Specific Streets", Section 94-93 "No Parking" by adding the following;

Sec. 94-93. No parking.

- (a) **Specific streets.** No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or a traffic control device, in any of the following places:

Summit Ridge Drive, both sides, from the intersection of Skyline Drive to

Summit Road

George S. Hansel, Mayor

In City Council May 21, 2020.
Referred to the Municipal Services, Facilities
and Infrastructure Committee.

City Clerk



City of Keene, N.H.
Transmittal Form

May 13, 2020

TO: Mayor and Keene City Council

FROM: Planning, Licenses and Development Committee

ITEM: J.1.

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

COUNCIL ACTION:

In City Council May 21, 2020.

A motion to amend the report to restore the moratorium on acceptance of 5G applications until January 1, 2021 failed with 7 in favor and 8 opposed. Voted with 8 in favor and 7 opposed to carry out the intent of the report as originally presented. Voted unanimously for the adoption of Ordinance O-2019-18-A.

RECOMMENDATION:

On a vote of 3-2, the Planning, Licenses and Development Committee recommended that ordinance O-2019-18-A be adopted, but that the direction to the City Manager not to accept 5G applications until January 2, 2021 contained in its previous recommendation be deleted. Councilor Johnsen and Councilor Jones voted in opposition.

ATTACHMENTS:

Description

Ordinance o-2019-18-A_Adopted

BACKGROUND:

Mr. Lamb stated this is the Ordinance that was referred back to Committee last week. They do not have a specific presentation tonight, but they are ready to listen to whatever edits or changes the Committee is asking for and he and Ms. Brunner, who was a primary drafter, is here to answer questions, as is Mr. Blomquist.

Chair Bosley asked for Committee members' questions or comments.

Councilor Jones asked: what is the biggest contrast between A and B? Chair Bosley replied that they do not have a "B" version of the ordinance. She continued that O-2019-18-A is what they reviewed two weeks ago at the PLD Committee meeting that had the red-lined changes and edits that the PLD Committee approved to go to the City Council. There were some concerns at the City Council meeting. Some Councilors thought the PLD Committee might want to take a second look at some the issues inside the Ordinance itself. Tonight they are deciding if they are any tweaks they want to make based on the comments or if they are happy with the Ordinance as is.

Councilor Jones stated that the Committee received several possible recommended motions for their consideration. He continued that the final sentence in each recommended motion talks about the City Manager accepting up to a maximum of 4G or allowing 5G after a certain date, which is January 2, 2021. He thinks they

should eliminate the 5G one and use the one that says maximum of 4G, because there is a 4G+ out there that can be used. He thinks they should eliminate the motions that talk about allowing 5G after that date and keep the ones that say “a maximum of 4G.”

Chair Bosley asked if the Councilor is happy with the Ordinance and the language within it, but his concern is for the potential delay in accepting 5G applications and he would like that delay to stay. Councilor Jones replied that some motions say “not to accept 5G,” which opens the door for 4G+. Chair Bosley asked if he likes the wording “maximum of 4G” because it does not allow “4G+.” Councilor Jones replied that that is correct.

Councilor Greenwald asked the City Attorney to comment on the differences between the possible recommended motions B and C. He continued that he was thinking they were discussing not accepting 5G applications and that that would be the question. He did not know there was a “4 and a half.”

The City Attorney stated that what the committee has is the staff’s effort to try and anticipate the possible outcomes of tonight’s meeting, with respect to what the Committee might do or might not do. The four motions were suggested, with respect to trying to anticipate that discussion. With respect to the “enhanced 4G,” that was not something he understood. He did not understand that there was a “4 and a half.” He thinks that the language of “up to a maximum of 4G” was in the original recommendation from the PLD Committee. If that language needs to change because there is something greater than 4G that should be allowed, yes, they would need to consider that.

Chair Bosley asked if it is accurate to say that if they were to leave the original language of the interior of the Ordinance as it is, and leave their recommendation of “up to 4G,” that would be recommended motion A; and if they were to eliminate the ability to delay the applications of 4G+ or 5G, then motion B would be accurate.

The City Attorney replied that if they do not make changes to the underlying ordinance and they want to keep the non-acceptance of 5G applications, then that would be the first proposed motion, about endorsing and adopting what they have already sent to the City Council. He continued that he needs to check what the language in that original action was.

Chair Bosley replied that while the City Attorney is looking that up, it might be helpful for the Committee to look at the proposed recommended motions: Options A and B are designed to leave the original body of the Ordinance alone, and the changes would revolve around whether to keep or remove the Committee’s previous recommendation to delay the acceptance of 5G applications. She continued that motions C and D would be if the PLD Committee was recommending altering the body of the Ordinance and then again, keeping the delay or removing the delay on accepting applications.

Chair Bosley continued they have a few items that were brought to them at the last PLD Committee meeting, which had come up as questions about whether there were issues in the Ordinance the Committee wanted to reconsider. So the question for the Committee is: do they want to reconsider the delay? Do they want to reconsider any amendments to the interior of the Ordinance?

Councilor Greenwald stated that he thought the Ordinance itself was pretty much intact, but there was a Committee recommendation attached to the Ordinance. Chair Bosley replied that that is correct. She asked for the City Attorney to clarify.

The City Attorney stated that if the committee decides to do nothing at all, then the proposal is the first motion: “Move to endorse and adopt the recommendation with respect to Ordinance O-2019-18-A as previously submitted to the City Council.” He continued that the original recommendation contains that limitation on not accepting 5G applications and only accepting up to a maximum of 4G. If the PLD Committee were to leave everything in place, that language of non-acceptance would remain. The question raised at this point by Councilor Jones is: is there “4G+” that the City Council would want? Because that recommendation on its face

would foreclose 4G+, so they would need to adjust that.

The City Attorney stated that he does not know if the potential motions are all labeled the same on everyone's sheet, but on the sheet that he has, the motion that answers Councilor Greenwald's question reads as follows: "Move that the Planning, Licenses, and Development Committee recommend that Ordinance 0-2019-18-A be adopted, but that the direction to the City Manager not to accept 5g applications until January 2, 2021 contained in its previous recommendation be deleted." They would be accepting the ordinance as it was previously presented, but they would be deleting the part of the recommendation that has the non-acceptance of 5G applications until January 2, 2021.

Chair Bosley replied that on the committee members' sheet, motions A and B are to keep the main ordinance the same and either keeping or deleting the recommendation about the delay. She continued that motions C and D are about changing the body of the ordinance and either keeping or deleting the recommendation about the delay.

Councilor Johnsen stated that she was thinking they had until the end of December until they did anything with 5G. She continued that she has people contacting her again saying they do not want 5G.

Councilor Clark asked the City Attorney – if the City were to adopt option C, which makes no mention of 5G or a prohibition, would that lessen their exposure to a lawsuit by the industry? The City Attorney replied that he does not want to get into the questions of the legality of one action or another. He continued that the PLD Committee is here to discuss the merits and what they want to do to proceed and it is the Committee's prerogative to do that. He requests that legal questions be deferred. The reality from his point of view is you put five lawyers in a room dealing with these kinds of issues and you will get 12 answers to the same question. He asks the Chair to defer these types of questions.

Chair Bosley welcomed comments from the public.

Beth Cooley, Assistant Vice President of State Legislative Affairs at CTIA, the trade association for the wireless communications industry, stated that members of the CTIA asked her to come tonight to reiterate their concerns and opposition to the proposed Ordinance. She continued that they submitted questions to the full City Council on April 30, so many of their arguments and comments are provided there, but she will be happy to provide them to the PLD Committee if needed. This Ordinance is unlawful on the State and Federal level. The overarching problem is it attempts to regulate facilities on utility poles, which violates NH RSA 12-K:10, regarding the deployment of personal wireless facilities. That Statute States that "notwithstanding anything to the contrary, an authority may not mandate, require, or regulate the installation, location, or use of wireless facilities on utility poles, including those owned by the municipality."

Ms. Cooley continued that the Ordinance also has provisions that conflicts with Federal law. The PLD Committee has been talking about their 5G moratorium, which she expressed concerns about at their last meeting so she will not reiterate the comments on the moratorium being unlawful. Regardless of whether the Committee decides to have that moratorium be removed or kept, there is still an existing moratorium in the Ordinance Section 82-205.2 – "Prohibited Support Structures." That also establishes a moratorium/blanket prohibition on attachments to new wooden poles and City decorative poles. That runs afoul of Sections 253 and 332 of the Communications Act.

Ms. Cooley continued that there are other provisions in the Ordinance of concern. The industry would be happy to work with the City on a path moving forward with this Ordinance. At a time when wireless connectivity is so important, the ability for wireless providers to enhance and upgrade their networks is paramount. The industry wants to meet the needs of its customers, who are also the City's constituents. In order to meet the demand, their investment must be met with forward-looking infrastructure regulations that promote rapid and efficient deployment. This Ordinance does not reflect such forward-looking regulations. The CTIA asks that this Ordinance be rejected.

Councilor Johnsen thanked Ms. Cooley for the information. She if this Ordinance is not fitting with the State laws, does Ms. Cooley have a motion in mind? Ms. Cooley asked if she means what Ordinance would she bring. Councilor Johnsen replied yes. Chair Bosley asked if Ms. Cooley has suggested amendments.

Ms. Cooley replied that the CTIA would need to work with the City Attorney and the wireless industry's attorney, because NH is so unique because of the Statute. It does not look like any other Ordinance in New England. She continued that she does not have anything to offer the PLD Committee today, but the CTIA would be happy to work with the City offline.

Councilor Giacomo asked: should the City enact a "moratorium" (or some other language that has that effect) on 5G? Or would it result in litigation or cause the City to be sued? Does Ms. Cooley know of a case where the wireless industry sued a municipality for having a moratorium on small cell facilities? Chair Bosley asked if he was asking the City Attorney. Councilor Giacomo replied that his questions were for Ms. Cooley.

Ms. Cooley replied that she cannot speak with any certainty regarding litigation on this type of ordinance, but she can say that there is precedent when a locality has passed a moratorium on 4G or 5G. She continued that wireless providers, wireless infrastructure providers, and the CTIA filed suit. Most recently in August 2017 CTIA filed a lawsuit against the City of Tampa, FL. They had an ordinance that was a moratorium. The lawsuit was rescinded in November 2017 because the City of Tampa passed an ordinance that undid the moratorium. This is just CTIA's point of view. There may be individual members with other plans she is not privy to – it is quite a competitive industry.

Councilor Ormerod stated that they have an Ordinance that represents the vision they have for the City of Keene - the look, the feel, and where they want to be. The Ordinance was extremely well-crafted. He continued that he wonders if the idea that they cannot accept applications before January 2 is confusing the issue. He wants to debate the merits of the Ordinance and if it does indeed represent where they want Keene to be. He invites anyone from the telecommunications industry to help him understand what the problem is with the City Council considering the concerns of its citizens and Keene's vision of where Keene wants to go.

Mayor George Hansel stated that he has thought a lot about this issue over the past several weeks. He continued that he does not think Keene is at the forefront of where 5G installations will be put in place. Right now 5G is being installed in Boston and metropolitan areas and is unlikely to come to Keene for a long time. He does not think the moratorium would accomplish much. They should think about taking it out of their recommendation. There are obviously some legal questions around 5G and the FCC ruling. The City and the City Council would be inserting themselves into the frontlines of the issue when they do not need to be, and they should think about taking the moratorium language out of their recommendation. He wants the City Council to think about the perception and message the moratorium sends. They are trying to attract new businesses and young people to Keene. There is a workforce problem here. There is a perception that would reverberate if they put themselves in a posture that is anti-new technology and anti-broadband. There are conflicting issues here with their need for connectivity and their need to enhance connectivity for current and future citizens, and taking a stand against this new technology from being implemented. Those are things for the City Council to think about as they are trying to figure out what to do.

Chair Bosley replied that she echoes a lot of that sentiment. She continued that she thinks they did a great job creating this Ordinance and yes, like Councilor Ormerod said, they are trying to protect their citizens and the look of downtown. She does not think 5G is just around the corner. They do not have any pending applications right now or any interest. The Keene community is probably a little ways down the road, while bigger communities like Boston, Chicago, San Francisco, and so on and so forth, are ripe for these installations and the roll out of 5G. The moratorium or delay on acceptance of those applications is there to create an environment of protection, but she does not know if it is against something that is actually happening. She thinks staff did a great job writing the body of the Ordinance, making sure they looked into all regulations

thoroughly and complied with everything and they do feel like there is comfort that they have met the requirements they need to meet.

Councilor Greenwald stated that within the Ordinance right now there are many important protections and controls that need to get enacted before an application comes through. He continued that at first he was thinking they could just keep this in Committee and talk and talk and talk about it, but these controls need to be acted upon before they get an application. He thinks they need to focus on two issues: the moratorium they can talk about. If an individual Councilor is dead-set against 5G that is another variable. He wants to get an answer, perhaps from Ms. Cooley, on what 4G+ is.

Chair Bosley asked Ms. Cooley to speak. Ms. Cooley stated that she can speak broadly to that but she is not an expert in license spectrum, which the wireless carriers use. She continued that 4G+ is another name for LTE (Long Term Evolution) advanced. It uses multiple spectrum bands at once. 4G today generally uses one spectrum band at a time.

Chair Bosley asked if 4G+ has already proliferated the State. Ms. Cooley replied that she does not know. She continued that she can speak to her members and find out and follow up with Chair Bosley. Chair Bosley replied that she would like to know if 4G+ is already happening or if it is something that has not been rolled out in NH. She continued that she agrees with Councilor Greenwald that it is important to get something on the books. The City has a 4G application that has been waiting for this Ordinance. If the City has an Ordinance in place they can still potentially work on it and massage it into something better if needed, but if they have nothing on the books at all they have no control or protections over the aesthetics or other items that are in the Ordinance.

Councilor Workman stated that agrees with the Ordinance as written; she thinks the City Planners did an excellent job with it. She continued that prior to Covid-19 she would have been on board with the moratorium, but in light of recent developments and further information, it is her understanding that they do not have applicants knocking down their door with 5G requests. Her concern is the legal issue, and do they want to bring that, and potentially utilize those resources during a crisis, when those resources could be used for other purposes.

Councilor Jones asked the City Attorney – if they add something that gives direction to the City Manager that is automatically a B version, right? The City Attorney replied no, it is not automatically a B version of the Ordinance, because the issue with respect to this delay was included in the recommendation, not the Ordinance. If they were going to remove the delay, there is a recommended motion for how to do that, without changing the underlying Ordinance.

Councilor Jones asked if that means they can do the A version of the Ordinance and give direction to the City Manager. The City Attorney asked what type of direction he is suggesting. Councilor Jones replied “to accept only applications for antenna and transmission equipment of up to a maximum of 4G.” The City Attorney replied that that is one of the available motions the Committee has before them. Chair Bosley replied yes, that is motion A; that was their original action. Councilor Jones replied that he just wanted to make sure it did not turn into a “B” Ordinance by adding that language.

Councilor Jones continued that he wants to say to the committee that they have to deal with these issues. They need to remember that if they do not take this action it falls under State guidelines, instead of where Keene went with it. Some examples of the differences are: under State and Federal guidelines, the height allowed was 50 feet, and Keene changed that to 35 feet. The spacing was different, as were the poles - Keene says a company cannot use a wooden pole. They have to take things into consideration that other people are not. The industry is looking to make money. The City Council has to look at public safety, quality of life, aesthetics, and property values. He thinks they did a great job with this Ordinance. The City Council had not had a statutorily required public hearing in over ten years. They heard a lot - they had a packed room and that public hearing was great to

do. He thanks the Committee for recommending that and thanks the Mayor for holding it.

Councilor Jones concluded that if they do not do something, something is going to happen. This is something they have to do. They should do this and limit the City Manager to accepting applications for 4G now. It is the City Council's job to help protect the City. His reason for asking for the delay: there is a State Commission investigating the safety of 5G and they want to hear the report on that. That is a good reason for waiting. It is not that they are trying to hold things up. He does not know when the report is coming out, but they need to wait for it.

Chair Bosley replied that the report is due in November from the State, which is why they had chosen the date of January 2, 2021.

Councilor Johnsen stated that motion C says: "Move to recommend the adoption of Ordinance 0-2019-18-B, with the condition that the City Manager or her designee be directed to accept only applications for antenna and transmission equipment of up to a maximum of 4G until January 2, 2021."

Chair Bosley replied that the motion she just read would indicate that the PLD Committee was going to recommend changes to the body of the Ordinance. She continued that the Ordinance in question currently is the A version. The Ordinance referred to in both motions A and B is O-2019-18-A. That indicates that they are moving forward to the full City Council with the original ordinance. Motions C and D refer to a B version of the ordinance. That B version only gets created if the Committee asks for changes to the Ordinance. She has not heard anyone from the Committee asking for changes to the interior to the Ordinance. It sounds like they will be looking for a motion for the A version of the Ordinance to move forward. The last decision to be made is whether to accept 5G applications or to limit the applications accepted to 4G until January 2.

Councilor Johnsen asked if that means making this motion: "Move to endorse and adopt the recommendation with respect to Ordinance 0-2019-18-A as previously submitted to the City Council." Chair Bosley replied that that would be the motion to choose the original ordinance with the original recommendation to have a delay in accepting applications of 5G until January 2, 2021. Councilor Johnsen replied that that motion does not even say anything about 5G. Chair Bosley replied that that is because the original recommendation was attached to the original ordinance. So they basically would not be making any changes to what they originally recommended to be put before the City Council, with motion A.

Councilor Jones stated that he thinks she misspoke: he thinks motion A says the maximum of 4G. Chair Bosley replied yes, it does. She continued that the language of the motion says to "endorse and adopt the recommendation," but does not specify what that recommendation was. She thinks what Councilor Johnsen is confused as to what that original recommendation was. Councilor Jones replied that her reply to Councilor Johnsen about the maximum, instead of 4G - he thinks she misspoke. Chair Bosley asked if he thinks the PLD Committee's original recommendation said they will not accept 5G applications until January 2, 2021, or if it says "maximum of 4G." Councilor Jones replied that it said "a maximum of 4G, until January 2, 2021." Chair Bosley replied yes, that is correct, and that is how she recalls it as well. Councilor Jones replied that then he misheard what she said to Councilor Johnsen and apologizes. Chair Bosley replied that it is okay; it is a lot of language to get through and they can continue to clarify as needed.

Councilor Remy stated that they do not have a lot of people knocking down their door for [5G] and he has a hard time believing the industry would jump over Manchester, Portsmouth, and Hartford and jump right to Keene and start installing [5G] between now and January 2 when they are currently working on big cities like New York, Boston, San Francisco, and LA. That said, speaking in the interest of the taxpayers of Keene, for those who have been listening to the budget review discussions, Keene has an amazing City Attorney but he has mentioned before that his office as it is structured today could not handle a lawsuit like this. They do not have the budget. They do think the Ordinance and recommendation are defensible but speaking in the interest of the tax payers it is not worth spending the City's money on it, when it is not likely to happen between now and January 2 anyway, just to prove a point. It would be irresponsible of the City Council. The money they have allocated for outside legal counsel is nowhere near enough to fight this kind of case.

Chair Bosley asked if he has recommendations or concerns about the interior of the ordinance. Councilor Giacomo replied that he knows there are concerns that Ms. Cooley raised. He continued that he thinks the interior of the Ordinance is well crafted. People in the community gave feedback to him saying they really support it. He got a call today from someone in support of the delay but he talked them through it and explained that 5G is not being installed in cities larger than Keene today and by the time the call ended the caller agreed with him that it is not worth spending taxpayer money on the potential lawsuit that would be just to prove a point and to set precedent for the rest of the State. He is sure the telecommunications industry would love for Keene to fight it because it would be less expensive than Portsmouth or Manchester.

Councilor Clark stated that he thinks that Councilor Jones summarized it very well. He continued that this entire issue of the moratorium is formed on the Commission that was tasked with studying the safety of 5G. They have serious questions, and that is where this proposed delay came from. He thinks there is reason to go with motion C. They need to ask themselves if business is more important the safety of the community. The State Legislature signed off on this Study Commission. Otherwise, would the City Council have put the moratorium in the Ordinance? Probably not. But they are doing it because it is really important, to protect Keene's citizens. He does not know that the arguments of "We won't get a 5G applicant anyway" is valid. They are already seeing promotions for 5G. The industry plans to ramp this up. Keene needs to draw a line in the sand and say, not in Keene. He doubts the industry will waste their time on a little town like Keene. He thinks it is time for Keene to stand up and say that they will not succumb to this ploy by the industry. They have a good plan and should go forward with it. He thinks option C is a very good alternative. They should not give the industry everything they want right from the get-go. 5G might not be safe. This is something that is important, especially at the time of the Covid-19 crisis. There are safety concerns, and that is important; it is not just about money. Money is not why the City Council is here; that is not their job. Their job is to protect the citizens of Keene so they can live and prosper. He urges them to choose option C.

Chair Bosley asked if Councilor Clark is saying that he likes the original Ordinance language with the original delay left in place. Councilor Clark replied yes, he would like the original Ordinance, but he understands that there is this option C. Chair Bosley replied that option C is for if they choose to edit the original ordinance. Councilor Clark replied that he hopes they do not alter the ordinance, but if they do, he hopes they follow the advice of Councilor Jones and choose option C. Councilor Jones replied that he thinks Councilor Clark means option A, which would be the adoption of the Ordinance without any changes to the text. Chair Bosley replied yes, that is accurate.

Lori Schreier from Westmoreland stated that she encourages the Committee and City Council to stay the course with the current Ordinance and the delay that the City Council approved quite a while ago. She continued that she knows new issues were raised that they need to consider. Industry is raising a lot of issues, and it sounds to her that even if the City Council removes the delay, industry will still come forward with the other issues they are claiming are not appropriate. So why remove the delay until the Commission report is released, which is important to many people in the City? They also might soon find out the result of several lawsuits that could change the whole legal landscape with the FCC and what the City is able to do.

Ms. Schreier stated that her understanding of LTE/4G+ is that it exists in NH, on those tall towers that are far away from people. If the City allows 4G LTE, which is a higher frequency and has more of an impact on people, closer to our homes and workplaces on small cell facilities, they are bringing the frequencies closer to our lives in every way. That is the concern about going above 4G. 5G is cellular communication. It is not internet service. If you want to improve internet service, you go to fiber optics to the premises. That is how you improve internet service in the community. 5G is for high speed videos on phones. It is not what the average person will need to run their businesses. She hopes the Committee and City Council can stay the course.

Councilor Giacomo stated that he has a clarification: 4G+ is run on the same frequencies as 4G, just with more bands within those frequencies. He continued that it is not necessarily higher frequencies. Yes, Keene has 4G

LTE (4G+), in downtown, at Keene State College, and at other locations. You can find all of this information online looking up the LTE maps.

He continued that he has been thinking along the same lines as numerous people who have previously spoken about this topic: he does not want the City to end up on the wrong side of history here. New technologies have always been met with suspicion and fear. This is nothing new. He had concerns when he heard of the need for a 5G Ordinance in Keene. Early on, the City Council was given many studies, write-ups, papers, and videos touting the negative impacts of electromagnetic radiation, specifically in the 5G range. The State put together a Commission to study the effects of 5G because they had a concern. Fortunately, he continued, his fear of this 5G technology led him to research the topic, out of interest. He read and watched every document/file sent to the City Council, including opinion pieces in scientific magazines, social media posts, studies, and legal advice. Remarkably, he did not find any peer-reviewed, proven, repeatable, scientific studies. He then did his own research and found this critical information. He found studies on the epidemiological effects of cell phone microwave frequencies on adults and children, and not only was there was no repeatable correlation with cancer or any other nervous system effects, several studies showed improved cognitive function and reduced risk of Alzheimer's disease. He continued that he is not promoting increased cell phone usage, which is problematic in other ways, but his point is that actual peer-reviewed, repeatable, published, scientific studies have been done and show no link to health risks. These studies were done on 3G and 4G, so many people worry that because 5G is an order of magnitude higher energy/frequency, the potential harm to our brains and internal organs is also amplified and it seems to make sense. But what people are not taking into account is the biology of human skin, which actually blocks radiation more the higher the frequency is. That is why the lights in your house do not make your insides glow. Even though visible light from a light bulb is 10,000 times more energetic than 5G signals. It is blocked by your skin. This is also why 5G cells need to be closer together: the higher-frequency waves cannot actually penetrate things like trees, buildings, or people. A misunderstood study was circulated, which planted and grew a seed of doubt in people in the echo chambers of the internet. Other fear-inducing narratives online claim that 5G causes Coronavirus or is a means by which the government controls people. Fear is powerful, and when fear is repeated and spread enough, it can become "fact." Conspiracy theories are born. How conspiracy theories work is that any evidence contradicting them are declared to be just part of the conspiracy. It is why these theories are so hard to defeat – "one drop of fear or doubt can create it, and an ocean of evidence can't destroy it." For this reason, he does not trust that the report coming out in November will change the views of people who are so militantly against 5G. He has aesthetic concerns about 5G and believes an Ordinance is absolutely critical to protect Keene from ugliness, telecoms, and legal liability, but as for protecting them from wireless signals, science already has that covered. Councilor Giacomo concluded that when the Councilors vote, they can follow science, or follow fear. They should ask themselves which side of history they want Keene to be on.

Councilor Clark stated that they are just asking that Keene wait for the report from the Legislative Committee. He continued that he likes his cell phone and internet connectivity as much as anyone else. Waiting to hear the report is not fear-mongering. This is about "Let's find out first before we do something." Hopefully the report will say everything is fine and there are no health risks and that would be wonderful. But Keene is not going to rush into this just because the industry wants to make more money. Yes, Keene will have to do something, but January is seven months from now. It is not likely that the industry is going to sue. He thinks it is a big ploy and the industry is trying to scare them into changing the ordinance. Keene should just wait for the report.

Chair asked for more public comment. Hearing none, she asked the committee for their thoughts on which direction to go in.

Councilor Jones stated that they have to pass something tonight, because if they do not, the State and Federal regulations go in effect by default, and the City's regulations are more restrictive and protect Keene citizens more. He continued that the question is the delay, and they owe it to the citizens to wait for the report, and he strongly urges motion A. He thinks that is what is best for the citizens. At the public hearing they heard a lot of concern about safety, and not waiting for the report is a disservice.

Councilor Greenwald stated that to get a parliamentary track to get this through he is looking at motion B. He continued that starting with discussing the moratorium would open the door to an amendment to change 5G to 4G. The first discussion is about the moratorium.

Councilor Greenwald made the following motion, which was seconded by Councilor Workman.

Move to recommend that Ordinance 0-2019-18-A be adopted, but that the direction to the City Manager not to accept 5g applications until January 2, 2021 contained in its previous recommendation be deleted.

Chair Bosley stated that the motion is to remove the delay and to keep the body of the ordinance intact. She asked if anyone on the committee wanted to speak to that.

Councilor Johnsen stated that she heard what he said, but he said “previous recommendation be deleted,” and she would start with motion A: “Move to endorse and adopt the recommendation with respect to Ordinance 0-2019-18-A as previously submitted to the City Council.” Chair Bosley replied that they have a motion on the table right now. She continued that given what Councilor Johnsen just expressed, Councilor Johnsen would be voting “no” on the current motion, and then they could move forward with another motion if the one currently on the table does not pass.

Councilor Jones stated that he does not know whether to ask for an amendment or just vote “no” and hope it does not pass. He continued that he will vote “no” and hopes the majority does. Making an amendment would confuse people too much.

Chair Bosley asked if there were any further comments from the public. Hearing none, she called for a vote.

On a vote of 3-2, the Planning, Licenses and Development Committee recommended that ordinance O-2019-18-A be adopted, but that the direction to the City Manager not to accept 5G applications until January 2, 2021 contained in its previous recommendation be deleted. Councilor Johnsen and Councilor Jones voted in opposition.

Chair Bosley stated that the motion now goes to the City Council and probably they will have this whole conversation again next Thursday at the City Council meeting, and they can talk about amending it back.

Councilor Johnsen asked if Councilor Jones can retract his motion and then they could go back to motion A.

Chair Bosley replied no, the motion tonight was made by Councilor Greenwald and he probably does not want to retract his motion. She continued that Councilor Johnsen will have another chance to speak to this entire process at the full City Council meeting next Thursday and should come prepared to speak about her position. It will be a split vote at the City Council like it was here, with a debate like this again.

Councilor Greenwald stated that he suggests that Councilors spend some time with the City Attorney about what the nuances are with all of these different choices. He continued that tonight was a good attempt but it was really confusing, the way it was laid out. The City Council meeting will turn into a “herd of cats,” so doing any amount of homework to figure out what your positions are (whether the issue is 4G, 5G, or the moratorium) so the meeting can move efficiently on Thursday would be a good use of time.

Chair Bosley stated that she agreed. She continued that it sounds like all of the Councilors they heard from tonight and the Committee is really happy with the Ordinance. They have gone back and forth on the Committee’s recommendation. People should digest it and come prepared to speak about it next Thursday because it definitely will be a topic of discussion.

Councilor Jones stated that he encourages everyone to read the Telecommunications Act of 1996, Section 704, as part of their preparation for next Thursday.



CITY OF KEENE

Ordinance O-2019-18-A

Nineteen

In the Year of Our Lord Two Thousand and

AN ORDINANCE Relating to Small Wireless Facility Deployments in the Public Rights of Way.....

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

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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.

3. Any license issued pursuant to this Article may be subject to retroactive modification in the event of changes in applicable federal or state law or rule requiring such modification, or in the event of revisions to this Article necessitated for the protection of public health, safety and welfare. Any license issued subsequent to such change, or revision to this Article shall be required to conform to the requirements of such change or revision.

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.
3. In the event that FCC Order WT Docket No. 17-79 and/or WC Docket No. 17-84 are rescinded, or determined by legal authority to be invalid or unenforceable, then this Article shall be deemed to be null and void, and any licenses issued under the terms and conditions of this Article shall be revoked upon written notice to Licensee effective 90 days after the effective date of such rescission or determination, and all equipment or appurtenances thereto shall be removed prior to the revocation date of the license. The failure to remove all equipment or appurtenances thereto prior to the revocation date of the license shall be deemed an abandonment under section 82-210(1)(m).

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 in a non-residential district;
 - iii. any location within 750 feet from an existing small cell in a residential district;
 - iv. any location within 750 feet from a K-12 school, pre-school, or daycare provider, established as of the enactment of this ordinance; and
 - v. 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.
- h. **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.

- 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 NII 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 combined 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.

"Clear and convincing evidence" means the presentation of objective facts which are sufficient to show that it is highly probable, and not merely likely, that the higher priority location is not technically feasible.

"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:

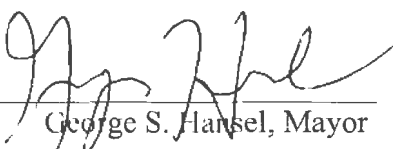
1. The facility is mounted on a structure that:
 - a. is 50 feet or less in height including the antenna; or
 - b. is no more than 10 percent taller than other adjacent structures; or
 - c. does not extend the existing structure on which it is located to a height of more than 50 feet or by more than 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.

In City Council May 7, 2020.

Referred back to Committee.


George S. Hansel, Mayor

City Clerk 

PASSED May 21, 2020

A true copy, attest:


City Clerk



City of Keene, N.H.
Transmittal Form

May 14, 2020

TO: Mayor and Keene City Council

FROM: Finance, Organization and Personnel Committee

ITEM: K.1.

SUBJECT: Relating to the Establishment of a Road and Sidewalk Infrastructure Capital Reserve; Relating to the Establishment of an Emergency Communication Capital Reserve; Relating to the Establishment of a Reappraisal Capital Reserve; Relating to the Establishment of an Information Technology Systems and Infrastructure Capital Reserve

COUNCIL ACTION:

In City Council May 21, 2020.

Report filed as informational. Voted unanimously for the adoption of Resolutions R-2020-14, R-2020-17, R-2020-18, and R-2020-19.

RECOMMENDATION:

On a vote of 5-0, the Finance, Organization, and Personnel Committee recommends the adoption of Resolution R-2020-14, Resolution R-2020-17, Resolution R-2020-18, and Resolution R-2020-19.

ATTACHMENTS:

Description

Resolution R-2020-14_Adopted

Resolution R-2020-17_Adopted

Resolution R-2020-18_Adopted

Resolution R-2020-19_Adopted

BACKGROUND:

Chair Powers stated that this agenda item is a number of Resolutions to establish capital reserve accounts. He continued that the Finance Director will introduce them, but he wants to draw attention to the fact that this topic was discussed in the City Council's Fiscal Goals conversation, fiscal policies they developed early on this year, and they are consistent with the way they should have been doing business for some time. He is happy to see them moving in this direction. It is the right way to balance the budget and take care of their fiscal needs and ensure that they do not defer maintenance due to not having enough dollars. He asked the Finance Director to speak.

Finance Director Merri Howe stated that the current policies adopted by the City Council on September 5, 2019 emphasize the use of other funding sources for projects in the CIP and stabilization funds. She continued that creating these capital reserves can serve two purposes – they can serve as a savings mechanism for future purchases, and be used to stabilize funds from budget spikes. For example, the City is required to perform a revaluation of property every 5 years, creating a significant increase in the budget every 5th year. By funding the

capital reserve equally over five years this budget spike is eliminated. If enacted, these capital reserves will serve over time as a predictable and stable source of funding, reducing the reliance on and amount of municipal debt and leveling out budget spikes.

Ms. Howe stated that Resolution R-2020-14 pertains to the establishment of the Road Infrastructure Capital Reserve to fund, wholly or in part, improvements to the roadway system, including but not limited to, road reconstruction, rehabilitation, and preservation, and associated components such as curbing, lighting, sidewalks, signals and stormwater.

Resolution R-2020-17 pertains to the establishment of an Emergency Communication Capital Reserve to fund, wholly or in part, the citywide purchase, replacement or upgrade of emergency communication systems and components, including and not limited to, portable and mobile radios, base stations, towers, repeaters, support infrastructure, emergency and dispatch center equipment, and software.

Resolution R-2020-18 pertains to the establishment of a Reappraisal Capital Reserve to fund, wholly or in part, the revaluation of real estate for tax assessment purposes. A revaluation is required by state law, RSA 75:8-a, at least once every five years.

Resolution R-2020-19 is relating to the establishment of an Information Technology Systems and Infrastructure Capital Reserve to fund, wholly or in part, the purchase, replacement or upgrade of organizational information technology software and hardware systems and infrastructure.

Chair Powers stated that he wanted to remind everyone that by establishing these reserves they are not, with this particular action, appropriating any money at this time. He asked if the Committee members had questions or comments. He asked if other Councilors had questions or comments.

Councilor Williams stated that he had a question about the road fund: its name. He continued that as everyone knows, he is concerned about the quality of sidewalks. He thinks they get second billing next to roads, and the quality of the city's walkable infrastructure reflects that. He asked if they can rename it as "The Road and Sidewalk Infrastructure Capital Reserve Fund." Chair Powers replied that that does not seem to be a problem, if a committee member wants to amend it.

Mr. Blomquist stated that he understands the concern. He continued that the Resolution's description makes it clear that it is not just about roadways – it includes sidewalks, traffic signals, lighting, curbing, and so on and so forth. It is a very broad capital reserve to cover all of those items. He gets concerned if they start pigeonholing. If the City needs to fix a traffic signal he does not want someone to say "Well, this says it's for roads and sidewalks only." This is a funding mechanism. So as the City Council authorizes more funds for sidewalks they would come out of here and be designated for that purpose. This capital reserve is very broad; it is for all the surface infrastructure within the right-of-way.

Councilor Williams replied that he understands. He continued that he thought about how broad would be appropriate for this – "Road, Sidewalk, and Trail"? "Transportation Infrastructure"? He is not really looking for that. He is mostly looking for recognition that sidewalks are important and they have been neglected. He looks at this as a way that the City could consider sidewalks on a closer to equal scale with roads.

Councilor Ormerod stated that Councilor Williams is right. He continued that many of the city's sidewalks do not meet the legal definition anymore and would be called "walking paths" or "trails." He continued that he does not want to dismiss his concerns. In ward 1 he has seen elderly women tripping on ice. They need to address it somehow.

Councilor Manwaring stated that she thought that several years ago the City Council voted to put the new sidewalks "on hold" and it had to do with borrowing money. She asked if she is remembering correctly. Mr.

Blomquist replied that there were two programs a number of years ago that she is remembering. One was the new sidewalk construction program. They had a little over \$4 million dollars of new sidewalks/extended sidewalks. The City Council had not been funding that for about 10 years because of budgetary constraints, so yes, the decision was made to drop the new sidewalk program to deal with sidewalks as road reconstruction projects were done. He continued that unfortunately, the sidewalk repair program has limped along at about \$40,000 per year. That number was brought to that point due to budgetary concerns. As they talk about sidewalks, as they talked about during this last CIP process, this is an area for more emphasis, but actually it is an area for more emphasis from a budgetary standpoint. He would like to talk more about this when they talk next week about the Public Works Department's operating budget.

The City Manager stated that during the budget process this year she and the Public Works Department did have this conversation about sidewalks and the fact that they had not been funding the repair or replacement of them for some time. They are looking at coming up with a plan to address that and they intend to bring forward to the City Council some numbers of what that would look like, in the next capital plan and the next budget cycle. Whether they call this capital reserve "Road Infrastructure" or "Road and Sidewalk Infrastructure" it does not change what they have in the budget for it this year. She understands that putting "Sidewalk" in the title calls it out and gives it more attention. She does not have an opinion either way on whether or not to change the title. She continued that she thinks "Road Infrastructure" includes sidewalks in the definition and is broad enough, but if the City Council feels that it is the direction they want to go it will not change the purpose or the amount currently funded in the capital plan.

Chair Powers stated that if they were to make a change an FOP Committee member would need to make a motion for an amendment.

Councilor Ormerod made a motion to add the word "sidewalk" to the "Road and Sidewalk Infrastructure Capital Reserves." Councilor Clark seconded the motion.

Chair Powers asked for discussion.

Councilor Hooper stated that from a public relations standpoint he thinks it is a good move. He continued that people complain about sidewalks. If you trip and fall – which his wife did, resulting in a hurt knee – it is very concerning. This is a good idea and he will support it.

The amendment to change the title of the Resolution to Road and Sidewalk Infrastructure Capital Reserve passed with a 5-0.

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

On a vote of 5-0, the Finance, Organization, and Personnel Committee recommends the adoption of Resolution R-2020-14, Resolution R-2020-17, Resolution R-2020-18, and Resolution R-2020-19.



CITY OF KEENE

R-2020-14

Twenty

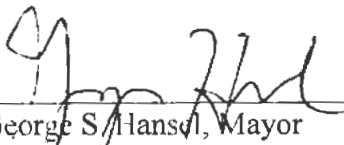
In the Year of Our Lord Two Thousand and

Relating to the establishment of a Road and Sidewalk Infrastructure Capital

A RESOLUTIONReserve.....

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

The City Council hereby authorizes the establishment of the Road and Sidewalk Infrastructure Capital Reserve to fund, wholly or in part, improvements in the roadway system, including but not limited to, road reconstruction, rehabilitation, and preservation, and associated components such as curbing, lighting, sidewalks, signals, and stormwater pursuant to the provisions of RSA 34.


George S. Hansel, Mayor

In City Council May 7, 2020.
Referred to the Finance, Organization
and Personnel Committee.

City Clerk

PASSED May 21, 2020

A true copy, attest:


City Clerk



R-2020-17

CITY OF KEENE

Twenty

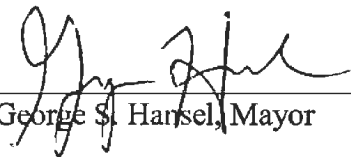
In the Year of Our Lord Two Thousand and

Relating to the establishment of an Emergency Communication Capital

A RESOLUTION Reserve.....

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

The City Council hereby authorizes the establishment of the Emergency Communication Capital Reserve to fund, wholly or in part, the citywide purchase, replacement or upgrade of emergency communication systems and components, including and not limited to portable and mobile radios, base stations, towers, repeaters, support infrastructure, emergency and dispatch center equipment, and software pursuant to the provisions of RSA 34.


George S. Hansel, Mayor

In City Council May 7, 2020.
Referred to the Finance, Organization
and Personnel Committee

City Clerk

PASSED May 21, 2020

A true copy, attest:


City Clerk



CITY OF KEENE

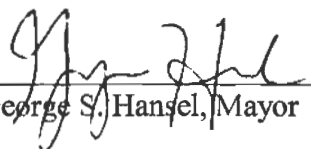
R-2020-18

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

A RESOLUTIONRelating to the establishment of a Reappraisal Capital Reserve.....

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

The City Council hereby authorizes the establishment of the Reappraisal Capital Reserve to fund, wholly or in part, the revaluation of real estate for tax assessment purposes pursuant to the provisions of RSA 34. A revaluation is required by state law, RSA 75:8-a, at least once every five years


George S. Hansel, Mayor

In City Council May 7, 2020.
Referred to the Finance, Organization
and Personnel Committee

City Clerk

PASSED

May 21, 2020

A true copy, attest:


City Clerk



R-2020-19

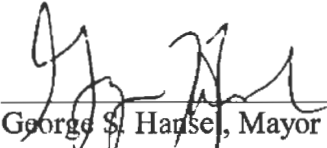
CITY OF KEENE

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

A RESOLUTION Relating to the establishment of an Information Technology Systems and
Infrastructure Capital Reserve.

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

The City Council hereby authorizes the establishment of the IT Systems and Infrastructure Capital Reserve to fund, wholly or in part, the purchase, replacement or upgrade of organizational information technology software and hardware systems and infrastructure pursuant to the provisions of RSA 34.


George S. Hause, Mayor

In City Council May 7, 2020.
Referred to the Finance, Organization
and Personnel Committee

City Clerk

PASSED May 21, 2020

A true copy, attest:


City Clerk



City of Keene, N.H.
Transmittal Form

May 14, 2020

TO: Mayor and Keene City Council

FROM: Finance, Organization and Personnel Committee

ITEM: K.2.

SUBJECT: Relating to an Appropriation to the Road and Sidewalk Infrastructure Capital Reserve

COUNCIL ACTION:

In City Council May 21, 2020.

Report filed as informational. Voted unanimously for the adoption of Resolution R-2020-15.

RECOMMENDATION:

By a roll call vote of 5-0, the Finance, Organization, and Personnel Committee recommends the adoption of Resolution R-2020-15.

ATTACHMENTS:

Description

Resolution R-2020-15_Adopted

BACKGROUND:

Ms. Howe stated that Resolution R-2020-14 (from the previous agenda item) pertains to the establishment of the Road Infrastructure Capital Reserve, while Resolution R-2020-15 pertains to the funding of that capital reserve. She continued that in October 2019, the City received the first of two Municipal Aid payments from the State of New Hampshire in the amount of \$391,627.32. These funds were received prior to the FY20 tax rate setting enabling the City to reduce the amount of fund balance utilized to balance the budget by \$391,627.32.

Resolution R-2020-15 would appropriate the \$391,627.32 from the General Fund unassigned balance to fund the Road and Sidewalk Infrastructure Capital Reserve. It is coming out of the fund balance because of the fact that they reduced the fund balance that was going to be used to use the tax rate. This \$391,627 will fall to the bottom line in June and what they are trying to do is utilize the money to help fund the Road and Sidewalk Infrastructure Capital Reserve.

Chair Powers asked if Resolution R-2020-15 should really be Resolution R-2020-14. Ms. Howe replied no, this R-2020-15 is the funding source for the capital reserve that R-2020-14 created.

Chair Powers asked if the Committee members had questions or comments. He asked if other Councilors had questions or comments. He asked for questions or comments from members of the public. Hearing none, he stated that he would entertain a motion.

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

By a roll call vote of 5-0, the Finance, Organization, and Personnel Committee recommends the adoption of Resolution R-2020-15.



CITY OF KEENE

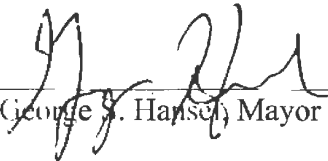
R-2020-15

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

A RESOLUTION Relating to an appropriation to the Road and Sidewalk Infrastructure
Capital Reserve.

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

That the sum of three hundred ninety one thousand six hundred twenty seven dollars and thirty two cents (\$391,627.32) is hereby appropriated in the 2019-2020 fiscal year for the purpose of providing funding for the transfer of funds to the Road and Sidewalk Infrastructure Capital Reserve Fund. Said appropriation to be funded by the General Fund unassigned fund balance.


George S. Hansel, Mayor

In City Council May 7, 2020.
Referred to the Finance, Organization
and Personnel Committee.

City Clerk

PASSED May 21, 2020

A true copy, attest:


City Clerk



City of Keene, N.H.
Transmittal Form

May 14, 2020

TO: Mayor and Keene City Council

FROM: Finance, Organization and Personnel Committee

ITEM: K.3.

SUBJECT: Relating to the Establishment of a Police Special Detail Revolving Fund Pursuant to RSA 31:95-h for the Purpose of Receiving Revenues and Expending Funds Relative to Police Special Details

COUNCIL ACTION:

In City Council May 21, 2020.

Report filed as informational. Voted unanimously for the adoption of Resolution R-2020-20.

RECOMMENDATION:

On a vote of 5-0, the Finance, Organization, and Personnel Committee recommends the adoption of Resolution R-2020-20.

ATTACHMENTS:

Description

Resolution R-2020-20_Adopted

BACKGROUND:

Ms. Howe stated that Resolution R-2020-20 relates to the establishment of a Police Special Detail revolving fund. She continued that the current fiscal policies adopted by the City Council in the fall emphasizes the use of stabilization funds. A revolving fund is a stabilization fund established for a particular purpose. The revenues deposited in the fund are allowed to accumulate from year to year and are not considered part of the City's general fund surplus. The revenues generated by the revolving fund activity subsidize the expenses of the activity thus keeping the funding outside of the general fund resulting in no tax impact to the taxpayer.

Chair Powers stated that he wants to remind people: this is not tax dollars. He continued that these fees are paid by outside vendors who need traffic details or security details. This is an enhancement to how they account for it. It eliminates some of the spike, also.

Chair Powers asked if the Committee members had questions or comments. He asked if other Councilors had questions or comments. He asked for questions or comments from members of the public. Hearing none, he stated that he would entertain a motion.

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

On a vote of 5-0, the Finance, Organization, and Personnel Committee recommends the adoption of Resolution R-2020-20.



R-2020-20

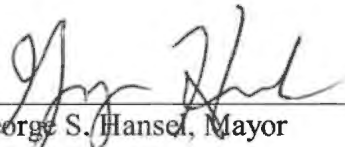
CITY OF KEENE

Twenty

In the Year of Our Lord Two Thousand and
Relating to the establishment of a Police Special Detail Revolving Fund
A RESOLUTION pursuant to RSA 31:95-h for the purpose of receiving revenues and
expending funds relative to police special details.

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

That all revenues received for police special details be deposited into the fund for the purpose of paying all expenses associated with payroll and equipment of police officers performing outside details and shall be allowed to accumulated from year to year, and shall not be considered part of the City's general fund balance.


George S. Hansel, Mayor

In City Council May 7, 2020.
Referred to the Finance, Organization
and Personnel Committee.

City Clerk

PASSED May 21, 2020

A true copy, attest:


City Clerk



City of Keene, N.H.
Transmittal Form

May 14, 2020

TO: Mayor and Keene City Council

FROM: Finance, Organization and Personnel Committee

ITEM: K.4.

SUBJECT: Relating to the Reallocation of Bond Proceeds from the Rose Lane Wastewater Treatment Plan Cleanup Project (08094) to the Waste Water Treatment Plant Generator Replacement Project

COUNCIL ACTION:

In City Council May 21, 2020.

Report filed as informational. Voted unanimously for the adoption of Resolution R-2020-23.

RECOMMENDATION:

On a vote of 5-0, the Finance, Organization, and Personnel Committee recommends the adoption of Resolution R-2020-23.

ATTACHMENTS:

Description

Resolution R-2020-23_Adopted

BACKGROUND:

Ms. Howe stated that this is another Resolution, R-2020-23. She continued that back in March, included in the FY 2021-2027 CIP recently approved by the City Council is a project to the replace the generator at the waste water treat plant. This project is scheduled for FY 2021 with a funding source of bond proceeds reallocated from the Rose Lane Waste Water Treatment Plant Cleanup Project in the amount \$290,400. In order to move forward with the CIP they need to reallocate the funding for this project.

Chair Powers asked if this will close out the Rose Lane project. Ms. Howe replied no. Chair Powers stated that they still have work there. Ms. Howe replied yes.

Chair Powers asked if the Committee members had questions or comments. He asked if other Councilors had questions or comments. He asked for questions or comments from members of the public. Hearing none, he stated that would entertain a motion.

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

On a vote of 5-0, the Finance, Organization, and Personnel Committee recommends the adoption of Resolution R-2020-23.



CITY OF KEENE

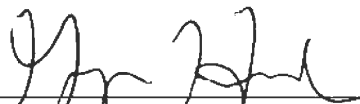
R-2020-23

Twenty

In the Year of Our Lord Two Thousand and
Relating to the Reallocation of Bond Proceeds from the Rose Lane Waste
A RESOLUTION Water Treatment Plant Cleanup Project (08094) to the Waste Water
Treatment Plant Generator Replacement Project.

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

That the sum of two hundred ninety thousand four hundred dollars (\$290,400) of bond proceeds be reallocated from the Rose Lane Waste Water Treatment Plant Cleanup Project (08094) to the Waste Water Treatment Plant Generator Replacement Project.


George S. Hansel, Mayor

In City Council May 7, 2020.
Referred to the Finance, Organization
and Personnel Committee.

City Clerk

PASSED

May 21, 2020

A true copy, attest:


City Clerk



City of Keene, N.H.
Transmittal Form

May 5, 2020

TO: Mayor and Keene City Council

FROM: Merri Howe, Finance Director

THROUGH: Elizabeth A. Dragon, City Manager

ITEM: K.5.

SUBJECT: Relating to the Reallocation of Bond Proceeds Airport Terminal to Fuel Tanks

COUNCIL ACTION:

In City Council May 21, 2020.

Referred to the Finance, Organization and Personnel Committee.

RECOMMENDATION:

That Resolution R-2020-21 relating to reallocation of bond proceeds from the airport terminal project to the airport fuel tank project have a first reading in front of the City Council and that it be referred to the Finance, Organization and Personnel Committee.

ATTACHMENTS:

Description

Resolution R-2020-21_Adopted

BACKGROUND:

The airport terminal was a bond funded project that was completed in FY 2019 leaving twenty-four dollars (\$24) of unspent bond money in the project.

Included in the FY 2021-2027 Capital Improvement Program recently approved by the City Council is a project to replace the fuel storage tanks at the airport. This project scheduled for FY 2021 utilizes the remaining bond proceeds from the airport terminal project (90304) as a funding source. Since the remaining balance in the airport terminal project is from sale of bonds, the project cannot be closed until these funds are reallocated.



CITY OF KEENE

R-2020-21

Twenty

In the Year of Our Lord Two Thousand and
Relating to the Reallocation of Bond Proceeds from the FY 2018 Airport
A RESOLUTION Terminal Improvements (90304) to the FY 2021 Airport Fuel Removal and
Replacement Project.

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

That the sum of twenty-four dollars (\$24) of remaining bond proceeds be
reallocated from the FY 2018 Airport Terminal Improvements Project (90304) to
the FY 2021 Airport Fuel Removal and Replacement Project.


George S. Hansel, Mayor

PASSED May 21, 2020

A true copy, attest:


City Clerk



City of Keene, N.H.
Transmittal Form

May 5, 2020

TO: Mayor and Keene City Council

FROM: Merri Howe, Finance Director

THROUGH: Elizabeth A. Dragon, City Manager

ITEM: K.6.

SUBJECT: Relating to the Appropriation of Funds for the Airport Fuel Tanks; Relating to an Appropriation of Funds for the Arts & Culture Corridor; Relating to the Appropriation of Funds for Flood Management; Relating to the Appropriation of Funds for Road Rehabilitation; Relating to an Appropriation of Funds Colony Court - Bloomer Swamp Main; Relating to the Appropriation of Funds for Municipal Building Improvements

COUNCIL ACTION:

In City Council May 21, 2020.

Referred to the Finance, Organization and Personnel Committee.

RECOMMENDATION:

That Resolution R-2020-05, Resolution R-2020-06, Resolution R-2020-07, Resolution R-2020-08, Resolution R-2020-09, Resolution R-2020-11 and Resolution R-2020-12 relating to appropriation of funds for the Airport Fuel Tanks, Arts and Culture Corridor, Flood Management, Road Rehabilitation, Municipal Building Improvements, Police Dispatch Console, and Sewer Improvements (Colony Court-Bloomer Swamp Main) Projects be introduced and read at the May 21, 2020 meeting of the City Council and be referred to the Finance, Organization, and Personnel Committee for consideration, discussion, and a recommendation back to City Council.

ATTACHMENTS:

Description

Resolution R-2020-05

Resolution R-2020-06

Resolution R-2020-07

Resolution R-2020-08

Resolution R-2020-09

Resolution R-2020-11

Resolution R-2020-12

BACKGROUND:

Included in the proposed 2020-2021 operating budget are several bond issues to fund projects advanced through the Capital Improvements Program (CIP) process, as follows:

				TERM
R-2020-05	General Fund	Airport Fuel Tanks	\$508,000	10
R-2020-06	General Fund	Arts & Culture Corridor	\$770,000	10
R-2020-07	General Fund	Flood Management	\$733,000	15
R-2020-08	General Fund	Road Rehabilitation	\$893,000	10
R-2020-11	General Fund	Municipal Building Improvements	\$310,000	5
R-2020-12	General Fund	Police Dispatch Console	\$235,000	5
		SUBTOTAL - GENERAL FUND	\$3,449,000	
R-2020-09	Sewer Fund	Colony Court - Bloomer Swamp Main	\$1,513,000	15
		SUBTOTAL - SEWER FUND	\$1,513,000	
		TOTAL - ALL FUNDS	\$4,962,000	

These resolutions require two readings before the City Council, the first of which will be May 21, 2020.



CITY OF KEENE

R-2020-05

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

A RESOLUTIONRelating to the Appropriation of Funds for the Airport Fuel Tanks
.....Project.....

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

That the sum of five hundred and eight thousand (\$508,000) is hereby appropriated for the Airport Fuel Tanks Project, and to fund said appropriation, the City Treasurer, with the approval of the City Manager, is authorized to borrow up to five hundred and eight thousand (\$508,000) under the provisions of the Municipal Finance Act, and to issue bonds or notes thereof.

This authorization shall lapse if not fulfilled within five (5) years from date of approval.

George S. Hansel, Mayor

In City Council May 21, 2020.
Referred to the Finance, Organization and
Personnel Committee.


City Clerk

PASSED



CITY OF KEENE

R-2020-06

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

A RESOLUTIONRelating to the Appropriation of Funds for the Arts and Culture
Corridor Project.....

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

That the sum of seven hundred and seventy thousand (\$770,000) is hereby appropriated for the Arts and Culture Corridor Project, and to fund said appropriation, the City Treasurer, with the approval of the City Manager, is authorized to borrow up to seven hundred and seventy thousand (\$770,000) under the provisions of the Municipal Finance Act, and to issue bonds or notes thereof.

This authorization shall lapse if not fulfilled within five (5) years from date of approval.

George S. Hansel, Mayor

In City Council May 21, 2020.
Referred to the Finance, Organization and
Personnel Committee.

City Clerk



CITY OF KEENE

R-2020-07

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

A RESOLUTIONRelating to the Appropriation of Funds for the Flood Management
Project.....

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

That the sum of seven hundred and thirty-three thousand (\$733,000) is hereby appropriated for the Flood Management Project, and to fund said appropriation, the City Treasurer, with the approval of the City Manager, is authorized to borrow up to seven hundred and thirty-three thousand (\$733,000) under the provisions of the Municipal Finance Act, and to issue bonds or notes thereof.

This authorization shall lapse if not fulfilled within five (5) years from date of approval.

George S. Hansel, Mayor

In City Council May 21, 2020.
Referred to the Finance, Organization and
Personnel Committee.


City Clerk

PASSED



CITY OF KEENE

R-2020-08

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

A RESOLUTIONRelating to the Appropriation of Funds for the Road Rehabilitation
.....Project.....

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

That the sum of eight hundred and ninety-three thousand (\$893,000) is hereby appropriated for the Road Rehabilitation Project, and to fund said appropriation, the City Treasurer, with the approval of the City Manager, is authorized to borrow up to eight hundred and ninety-three thousand (\$893,000) under the provisions of the Municipal Finance Act, and to issue bonds or notes thereof.

This authorization shall lapse if not fulfilled within five (5) years from date of approval.

George S. Hansel, Mayor

In City Council May 21, 2020.
Referred to the Finance, Organization and
Personnel Committee.


City Clerk



CITY OF KEENE

R-2020-09

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

A RESOLUTIONRelating to the Appropriation of Funds for the Sewer
Improvements (Colony Court - Bloomer Swamp Main) Project.....

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

That the sum of one million, five hundred and thirteen thousand (\$1,513,000) is hereby appropriated for the Sewer Improvements (Colony Court – Bloomer Swamp Main) Project, and to fund said appropriation, the City Treasurer, with the approval of the City Manager, is authorized to borrow up to one million, five hundred and thirteen thousand (\$1,513,000) under the provisions of the Municipal Finance Act, and to issue bonds or notes thereof.

This authorization shall lapse if not fulfilled within five (5) years from date of approval.

George S. Hansel, Mayor

In City Council May 21, 2020.
Referred to the Finance, Organization and
Personnel Committee.


City Clerk

PASSED



CITY OF KEENE

R-2020-11

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

A RESOLUTIONRelating to the Appropriation of Funds for the Municipal Building
.....Improvements Project.....

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

That the sum of three hundred and ten thousand (\$310,000) is hereby appropriated for the Municipal Building Improvements Project, and to fund said appropriation, the City Treasurer, with the approval of the City Manager, is authorized to borrow up to three hundred and ten thousand (\$310,000) under the provisions of the Municipal Finance Act, and to issue bonds or notes thereof.

This authorization shall lapse if not fulfilled within five (5) years from date of approval.

George S. Hansel, Mayor

In City Council May 21, 2020.
Referred to the Finance, Organization and
Personnel Committee.


City Clerk

PASSED



CITY OF KEENE

R-2020-12

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

A RESOLUTIONRelating to the Appropriation of Funds for the Police Dispatch
.....Console Project.....

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

That the sum of two hundred and thirty-five thousand (\$235,000) is hereby appropriated for the Police Dispatch Console Project, and to fund said appropriation, the City Treasurer, with the approval of the City Manager, is authorized to borrow up to two hundred and thirty-five thousand (\$235,000) under the provisions of the Municipal Finance Act, and to issue bonds or notes thereof.

This authorization shall lapse if not fulfilled within five (5) years from date of approval.

George S. Hansel, Mayor

In City Council May 21, 2020.
Referred to the Finance, Organization and
Personnel Committee.


City Clerk



City of Keene, N.H.
Transmittal Form

May 5, 2020

TO: Mayor and Keene City Council

FROM: Merri Howe, Finance Director

THROUGH: Elizabeth A. Dragon, City Manager

ITEM: K.7.

SUBJECT: Relating to an Appropriation - Salt Shed Replacement

COUNCIL ACTION:

In City Council May 21, 2020.

Referred to the Finance, Organization and Personnel Committee.

RECOMMENDATION:

That Resolution R-2020-16 relating to the acceptance and use of funds from the sale of city owned property have a first reading in front of the City Council and that it be referred to the Finance, Organization and Personnel Committee.

ATTACHMENTS:

Description

Resolution R-2020-16

BACKGROUND:

On May 2, 2019, the City Council voted unanimously that the City Manager do all things necessary to execute a subdivision and sale of a portion of city owned property located at 560 Main Street to 560 Main Street LLC for the agreed upon price of \$250,000. In mid-November 2019 the property was sold to 560 Main Street LLC and net proceeds from the sale in the amount of \$249,081 was received by the city. As part of this agreement, the city will be allowed to continue the use of the salt shed which is located on the parcel sold for a period of three years while the city relocates and constructs a salt shed.

On March 19, 2020, the City Council voted unanimously the FY 2021-2027 Capital Improvement Program that included a project for demolishing the current salt shed located at 560 Main Street and the relocation and construction of a new salt shed. This project is scheduled to begin in FY 2021 with completion in early FY 2023. One of the funding sources for this project is the proceeds from the sale of the 560 Main Street property with the balance of the project is to be funded with current revenue. In order to begin this project in FY 2021, the proceeds from the sale of property in FY 2020 will require a transfer to the Salt Shed project prior to June 30, 2020.



R-2020-16

CITY OF KEENE

In the Year of Our Lord Two Thousand and Twenty

A RESOLUTION Relating to the acceptance of proceeds from sale of property and use of
funds for Salt Shed Replacement project.

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

That the City Manager be authorized to do all things necessary to accept two hundred forty nine thousand and eighty one dollars (\$249,081) from the sale of city owned property located at 560 Main Street and further the City Manager be authorized to do all things necessary to use these fund for the Salt Shed Replacement project.

George S. Hansel, Mayor

In City Council May 21, 2020.
Referred to the Finance, Organization and
Personnel Committee.


City Clerk

PASSED