

City of Keene
New Hampshire

MUNICIPAL SERVICES, FACILITIES & INFRASTRUCTURE COMMITTEE
MEETING MINUTES

Wednesday, October 27, 2021

6:00 PM

**Council Chambers,
City Hall**

Members Present:

Janis O. Manwaring, Chair
Randy L. Filiault, Vice Chair
Bryan J. Lake
Robert C. Williams
Andrew M. Madison

Staff Present:

Elizabeth Dragon, City Manager
Rebecca Landry, Assistant City Manager
Thomas P. Mullins, City Attorney
Andy Bohannon, Director of Parks,
Recreation & Facilities

Members Not Present:

All Present

Chair Manwaring called the meeting to order at 6:00 PM.

1) Rebecca Lancaster – Designation of a Site for Community Dog Park

Councilor Lake explained a potential conflict of interest with the first two agenda items. Councilor Lake is a member of the Keene Disc Golf Club and worked with Director of Parks, Recreation & Facilities, Andy Bohannon, looking for a site. He has continued providing help to the club as Councilor. The City Attorney said the Committee needed to decide whether the Councilor had a conflict of interest under the Rules even though he does not have a fiduciary or pecuniary connection, he was a “party in interest” and under the Rules of Order of the City Council the Committee should vote on the issue of two competing entities regarding this use of property. Councilor Filiault believed there was a conflict and that Councilor Lake should be recused. Councilor Williams wondered if that meant Councilor Lake would not be able to comment as a Councilor, stating that he might still have something to offer. Chair Manwaring said that Councilor Lake recognized a bias that should cause him to recuse because of the competing groups. Councilor Filiault said that the Councilor would also need to sit in the audience during recusal and the City Attorney confirmed that is the preferred practice. Councilor Madison agreed with the recusal.

Councilor Filiault moved that Councilor Lake be recused from the first two agenda items, which Councilor Madison seconded, and the motion passed on a vote of 4-0.

Councilor Madison also acknowledged that he is a former/inactive member of the Keene Disc Golf Club but had not participated in one year and did not feel a need to recuse.

Chair Manwaring welcomed Rebecca Lancaster of 10 Wildwood Road, who referred to a handout that she provided to the City Councilors and is available at the City Clerk's office. She said she is a part of the newest iteration of the search for a dog park over the last decade. Covid-19 put a damper on some of the group's progress and now they want to continue their search and the news of the Wheelock Park Campground site was welcome as an ideal location. Ms. Lancaster said she had been a Keene resident for several years, is the mother of two kids, she has a history of fostering dogs and working with rescues. She considers herself slightly knowledgeable on this topic, which was why she felt comfortable speaking to the Council about this. She appreciated Councilor Lake acknowledging his conflict of interest, stating her hope that the campground could somehow serve both purposes creatively with the amount of land available.

Ms. Lancaster continued demonstrating that the dog park group has over 1,700 followers on Facebook, demonstrating the community dedication to the effort. Knowing they would be speaking before this Committee, the group generated a petition that gathered 600 signatures in support of a dog park at this location. Throughout this effort, many individuals have offered their time and expertise to see the project to fruition. Ms. Lancaster recalled the benefits of a dog park.

- There are no other adjacent towns with a dog park.
- Provides a safe place for community members to exercise and socialize their dogs.
- It would attract families and professionals to Keene.

Ms. Lancaster continued demonstrating a mock site plan using an aerial view of the campground. She showed a 1.5-acre site (a healthy size for a dog park) that is setback 550 feet so there would be no residential issues, which was an issue that impeded this effort in the past. She said this site is ideal because it is secluded and would not be visible from other areas in the park, it is easily accessible with existing parking amenities and bathrooms in the area. Fencing the area would require 950 linear feet of fence, which based on current pricing would cost approximately \$25,000 at \$25/linear foot. She said the area is wooded heavily and would require some tree removal of pines in poor condition, though remaining shade trees would be valuable to the park; she hoped the tree removal could be arranged through donation or discounts from local tree companies to save costs. Any trees removed from the site could be chipped for ground cover to prevent mud that is not ideal for a dog park.

Ms. Lancaster continued discussing financing the park. Prior to having a site selected, the dog park group had fundraised impressively and has approximately \$10,000 set aside for this effort; she imagined more fundraising possible now that a site would be selected, like how funds were generated for the Bike Park. Ms. Lancaster explained that she is also an experienced grant writer and could help seek regional or federal funds needed. She said the dog park group planned to form a Committee to oversee the planning, fundraising, and construction processes, as well as any future maintenance needs; the group does not want to overwhelm already busy City Staff. Ms. Lancaster also had some feelers out with local non-profits to see if fiscal sponsors were possible to handle the long-term maintenance needs. Maintenance would be minimal and

restricted to the fence and perhaps agility equipment in the future. To help with maintenance, she suggested adding an optional donation to the dog park when licensing dogs with the City each year, which is common in other states and towns. If site approval were achieved, Ms. Lancaster was confident the dog park group could help the project move forward quickly.

Chair Manwaring requested to hear from Director Bohannon. Director Bohannon said he had conversations about a dog park for some time and he recalled the \$10,000 fundraised in the past for another site that was approved initially and then withdrawn, after which many other sites were considered with no success. When the Wheelock Park campground closed in 2018, the administrative building was removed and the electric and water hook-ups and bathrooms/showers were left available, not knowing what the future use would be. The campground is still leased on Labor Day weekend to the Horseshoe Club for their tournaments, though they are aware that access could change in the near future. A few trees there are slated for removal this spring and the City is holding a Staff chainsaw training there soon. Therefore, the area is still being used for some purposes.

Mr. Bohannon said that over the years, he had discussed the campground with the dog park group and a different group. More recently, the Disc Golf Club reached out to him about the same site, and he walked the site with them to hear their ideas. He also contacted the dog park group again to see if they were still interested in the site. He said the dog park group had really put effort into the logistics of how to accomplish the park at this site and one consideration has always been a connection with a non-profit as a fiscal agent. The City learned a lot in the original dog park process that they did not necessarily want to take on again. Director Bohannon thinks the City is in good place now to support another park after some successful projects like the Skate Park that raised \$200,000 and the very successful fundraising for the Bike Park.

Director Bohannon said there had been some public sessions on future uses those citizens want to see in Wheelock Park and that conversation was driven by seeking a location for the dog park. He listed all the new amenities in Wheelock Park, like new concession stands and American Disability Association bathrooms. He said that before the Committee were two interested groups looking at a space that is conducive to both needs, with the dog park group long established and the Disc Golf Club showing more recent interest. He said he would leave it at that.

Chair Manwaring asked how the Bike Park worked out long-term maintenance with Director Bohannon. Director Bohannon said it was a very good question. He reminded the Committee that next year there would be construction of Russell Park and the Bike Park, two very large projects. His understanding of the Bike Park was that each Wednesday evening, the group would have a work night before they ride; the group also just planted four new trees and have demonstrated dedication to fundraising for maintenance. Additionally, the President of the NE Mountain Bike Association is in constant contact with Director Bohannon based on an agreement prior to the park because the group does a lot of maintenance of trails in the Drummer Hill/Goose Pond area. He recalled Ms. Lancaster stating that there would be a dog park group responsible for maintenance, which he said would be needed because his Staff is at capacity. He has spoken with

many other Parks and Recreation directors on maintenance of their dog parks and most of them have a “friends” group that do most of that work. He said there are already sufficient trash barrels at Wheelock Park for this purpose. He added that a dog park would be appreciated and beneficial if it kept dogs out of City fields and cemeteries.

Councilor Filiault said he had been around long enough to hear the various dog park proposals over time for dozens of sites. If this site does not work out for the dog park, he asked whether the City has any viable alternative sites under consideration or whether this would go back to square one. Director Bohannon said it was a good question and said Staff had been trying to think of all these things along the way. He said there had been conversations with the Airport Director, David Hickling, over the potential for an agreement with the Town of Swanzey for a dog park at that location. He also understood that there had been conversations with the Humane Society related to their space. The Airport Director has already spoken with the FAA about this being a viable space for a dog park and there are already many walking trails and Airport Road that many dog owners utilize at present. So, the Airport is one option if the dog park group considered it.

Councilor Filiault said he hoped the City could be active in this because he had never seen another group so patient; this is not the same group that began the effort, with the Councilor saying the effort began two decades ago. He understood there were invariable reasons this had not come to fruition yet and he was not pointing fingers, but he wanted the City more involved with helping this to finally happen at a viable, affordable location. Director Bohannon replied that when a previous site was identified, he worked with the Engineering Division to identify potential costs for all possible sites at that time. He thought this dog park group was similar to the Skate Park group and that it takes individuals like Ms. Lancaster who are ready to come forward to make this happen now. He said that more things go into the design, however, than just the fence and ground material; a lot of things go into the design – trash barrels, agility pieces, benches, etc. – such as for Laconia, whose dog park cost \$110,000. He does not want to just install a fence and be done, but rather to create something attractive so people want to bring their dogs there or travel to Keene to use the facility. Director Bohannon said he followed Councilor Filiault’s lead.

Chair Manwaring opened the hearing for public comments.

Rebecca Cloud of 31 Kelleher Street spoke in favor of the dog park as a lifelong Keene resident. She has traveled extensively around the country with her family and dogs, and she has seen dog parks work extremely well. She thinks that having a dog park in Keene would be a tremendous benefit. She sees residents complain on Facebook about dogs on bike paths or in open fields, but that is because there is no designated place for owners to let their dogs run, play, and release energy. A dog park would mitigate these problems and she is in favor of it.

Councilor Philip Jones said these were exciting times with people wanting to raise money for these various parks. He recalled the City creating a Recreation Master Plan approximately six

years ago, which called for more active and passive recreation, and now the City sees itself in a position where people want to pay for these amenities. He said the dog park conversation had been ongoing for 20 years, he is a dog lover, and he thinks Keene does need a dog park. He travels a lot and sees them all over the country. Councilor Jones said that this letter and presentation from Ms. Lancaster provides guidelines and more details than previous attempts, including specific logistics like setbacks and fence length. Councilor Jones hoped a solution could be reached, despite his being opposed to some proposed locations in the past. He imagines sponsors wanting to contribute to this project, like veterinarians or dog food suppliers; the fence and benches could be sponsored, for example. He suggested there could also be a place in the park for a small cemetery for cremated dogs; he would gladly pay \$50 to bury his dog's remains there. He thanked the petitioner and said he also wants to see disc golf in the City too. There could be economic development and improved quality of life in Keene from both activities. Councilor Jones thought this was a good location for the dog park and wanted to see the proposal move forward.

Asia Davis of 30 Kingsbury Street said she was new to the area but had been coming to Keene for about 10 years and was in favor of a dog park to help build community, which she said she loved about Keene. She said Keene is an inclusive place and a dog park would enhance that, creating a great place for people to meet and socialize after Covid-19. Ms. Davis said she would be happy to help in any way to aid this coming to fruition.

Ms. Lancaster addressed the Committee again and spoke about the alternative site proposed at the Airport. While she imagined the terrain was nice at the Airport, she expressed concern for the multiple noises at an Airport that would not likely be conducive to dogs running free together; it was a set-up for disaster. She anticipated it being a trigger to most dogs, like thunderstorms, for example. She imagined the Airport space better suited to another purpose. Additionally, Ms. Lancaster said she is not a fan of doing a project partway and letting it go. She said that dog parks are nice in that they are completed in stages; stage one could be clearing the site, and stage two putting up the fence, with later stages to add agility equipment, etc. She said that downed logs and other natural objects could be used in place of \$50,000 agility equipment. Ms. Lancaster was unworried about the ability to fundraise.

Chelsea Bankford of 98 Bradford Road, a newer resident to Keene, also spoke in support of the dog park. She was shocked and saddened when she moved here that there was not a dog park because there is nowhere for her young, energetic dog to run off leash. She was discouraged that there are not off leash trails in the City for her well-behaved dog to use. She said a dog park is essential for dogs like hers. A dog park is also a great way to meet people and she was in favor.

Liz Sheridan of 374 Pako Avenue spoke in support of the dog park as well so pets can release energy, play, and socialize. She said it would also build community; she imagined seniors visiting the dog park to experience the joy of the animals, or seniors making and selling dog sweaters at the park. She imagined a family trip to Wheelock Park, with the kids at the Bike Park

someone at the dog park, and someone else playing softball, for example; everyone would benefit. She thinks Keene needs this badly and she was tired of waiting.

Molly Penny (address inaudible) explained she is from the Keene area originally and moved back recently due to Covid-19. She also spoke in support of the dog park as everywhere else she has lived had one. She agreed with Ms. Lancaster that it could be accomplished in stages. Ms. Penny said she had a professional fundraising background, and she offered her support to Ms. Lancaster, stating that she would be excited to be of use for that. She thought this was a unique opportunity for the City. She has worked with the Chamber of Commerce on making Keene appealing to people and she thinks a dog park would be logical. While the timing had never been perfect in the past, she thought it was now.

With no further public comments, the Committee deliberated.

Councilor Filiault asked a procedural question on accepting this matter as informational versus putting it on more time. It made more sense to him to place this on more time while a solution was considered, whereas accepting it as informational means this process would have to begin again from scratch. Putting this on more time would instead just allow the matter to reopen as progress is made. Placing this on more time would also allow the Committee to consider the second agenda item. He was not ready to accept this as informational and move on from the matter. The City Manager, Elizabeth Dragon, responded, stating that Staff discussed whether it was appropriate to place both agenda items one and two on more time or to accept them as informational, and reasons could be given for both. The reason that Staff recommended accepting both items as informational was because more details were needed before decisions could be made on either matter, and so it seemed appropriate to have the groups come back with all of the details. Chair Manwaring thought that accepting both matters as informational placed the onus on both groups to bring back more details as opposed to the City, which was her reasoning.

Councilor Filiault said this was a technical issue and no matter the Committee action, neither agenda item would be forgotten. However, he said his problem with accepting this as informational is that it would be removed from the Committee agenda, and therefore the groups would have to restart this conversation with the Committee because the information would no longer be on the table. Rather, if this were on more time, when either group returns with more details, all of the information from this meeting could be pulled off the table, rather than restarting the whole procedure. The City Manager replied that it could remain on the table for a long time, which is why if something is not quite ready, Staff recommend accepting as informational. Councilor Filiault said that if it becomes clear no progress is being made down the line that the Committee could bring it back to the agenda and vote it out.

Councilor Williams was comfortable with either motion but supported more time if the rest of the Committee did.

Councilor Madison stated that he was in support of more time because this topic has fallen off the radar many times and there is community support.

The City Attorney stated that either procedure was appropriate but that it would also be appropriate to give the petitioner a road map of what the Committee sought, such as fundraising goals or design goals, for example. This would also provide parameters to Staff to know how to take action when the time comes. Councilor Filiault said that he imagined Staff continuing conversations with the dog park group about fundraising, potentially learning from the Skate Park's process. He said there had been so many false starts with the dog park and so even if this process is incremental, he wanted to get it done.

A motion by Councilor Filiault to place the agenda item on more time was duly seconded by Councilor Madison.

Chair Manwaring stated that one of the things she wanted in addition to the fundraising and design plans would be for the group to identify a fiscal agent or to form a group that truly stays together and acts as a non-profit without becoming one. She thought Ms. Lancaster had made a great start.

The City Manager also suggested that the design be approved by Director Bohannon.

On a vote of 4-0, the Municipal Services, Facilities, & Infrastructure Committee recommended placing the designation of a site for a community dog park on more time.

2) Robert Johnson – Proposal to Build a 9-Hole Disc Golf Course at Former Wheelock Park Campground

Chair Manwaring recognized Robert Johnson of 47 Sesame Street, who represented the Keene Disc Golf Club and their proposal to build a beginner-friendly nine-hole disc golf course at the former Wheelock Park campground. Mr. Johnson has been involved with the Club since 2014. The Club has been a NH non-profit corporation since 2015 and is affiliated nationally with the Professional Disc Golfers Association. The Club is known as one of the most active in the region and has a strong track record of working with other clubs or government entities to design the full course at Otter Brook, for which the Club raised \$15,000 and managed thousands of hours of volunteer work. The Club still manages the Otter Brook disc golf course and organizes a full schedule of various leagues and tournaments that are attended by players from all over New England. On one day this summer, 112 players golfed at Otter Brook. Mr. Johnson said that in 2017, the Army Corps of Engineers tracked the players who entered for three summer months and there were more than 1,200 players. He said a lot of the Club's work had been very successful. However, Otter Brook is not beginner-friendly and lacks access off-season; the topography there can be overwhelming to new players. Therefore, the proposed disc golf course at the Wheelock Park campground would not just be another course in the area, it would be an

easily accessible, beginner-friendly course that compliments what Otter Brook already has to offer; it would be similar to how the Bike Park complements the trail network at Drummer Hill. He said that disc golf would fit nicely with other activities at Wheelock Park and that the course would be popular with a wide demographic range. The Club loves the idea of introducing kids to an activity that they could participate in for the rest of their lives as well as a place for current players to practice a short game with friends, or a conducive course for older players. Mr. Johnson said that disc golf is a four-season activity, with leagues throughout the winter. He said the Club already had a tentative design in mind and were ready to make this happen. He said the Keene Disc Golf Club would commit to designing the course layout, raising the necessary funds to build the course, and donating the labor needed to install equipment. He said the Club was confident it could raise 100% of the funds needed, but in the event they could not, he said the Club had a strong balance sheet to fill in any financial gaps. He believed that a spring 2023 completion date was feasible if permission were granted.

Chair Manwaring asked the Club's ability to maintain the course. Mr. Johnson replied that the Club currently manages 100% of the Otter Brook course and could do the same at this site.

Councilor Williams asked the qualities the Club looks for in a disc golf site and how the campground met their needs versus other locations in town. Mr. Johnson replied that Wheelock Parks is very accessible from the Bike Path and has parking. With the road going through the area, he said the fairway was pretty much ready to go as is. He said the Club sought a challenging location, with trees as throwing obstructions, for example.

Councilor Madison asked whether there was a conceptual site design for the course yet. Mr. Johnson replied that the club placed flags in the ground and played the course, though the conceptual design is not on paper. Councilor Madison asked the footprint and Mr. Johnson said it followed the campground road all the way around. Councilor Madison asked if it were confined to that area or if there were possibility to expand to other areas of the park. Mr. Johnson replied that he did not recommend expanding because of the little league fields and other park uses.

Chair Manwaring requested comments from Director of Parks, Recreation & Facilities, Andy Bohannon, who said Mr. Johnson reached out to him in spring 2021 with this idea, which they met to discuss. Director Bohannon has attended many sessions at national conferences on both dog parks and disc golf courses. He has been in conversations with individuals from the Keene Disc Golf Club for the last eight to 10 years, since the Club started at Otter Brook. The Club has spoken with the City in the past about options at Robin Hood Park, which did not work out due to capacity. After Mr. Johnson contacted Mr. Bohannon this spring, they walked the campground site together to hear about their design ideas and logistics. The Disc Golf Club had proposed a budget and so the next question would be about maintenance, as it was for the dog park proposal. Director Bohannon said the Club demonstrated that they are a non-profit organization, which was the model used for the Bike and Skate Parks. The Club was interested originally in the former YMCA Camp that was previously slated for the dog park, but Director Bohannon had to explain the high costs and challenges with that site. Unfortunately, other than Robin Hood and

the YMCA Camp, few other potential sites had been investigated. He said the flat area of the campground would be family/beginner-friendly and there is already parking. Director Bohannon thinks that both a dog park and disc golf course would be strong assets to the City of Keene recreation portfolio and so it was a matter of finding the best way forward.

Councilor Madison asked whether Director Bohannon was familiar with Memorial Park in Brattleboro, VT, and the Director said he learned to ski there as a kid. Councilor Madison understood that Memorial Park had both a disc golf course and a dog park and he wondered about the possibility of both uses coexisting at Wheelock Park. Director Bohannon said it was a good question and as he remembered, Memorial Park was similar to Wheelock Park in many ways, though he would need to visit it again; he also thought they were installing a skate park. The Director said he would visit and speak to the Brattleboro Director of Parks and Recreation who could advise. Director Bohannon appreciated the suggestion.

Chair Manwaring opened the hearing to public comment.

Rebecca Lancaster 10 Wildwood Road spoke again, stating that she had nothing against the scope of this proposal, having played disc golf in the past. She imagined using such a kid-friendly course with her family throughout the year. Still, she asked the Committee to consider which use would serve more of the community. When looking at Keene as a whole, she said there is already a disc golf course at Otter Brook even though it is not beginner friendly; she wondered if there were opportunities to expand the course at Otter Brook to include a beginner's area. She also wondered if alternative sites were available, stating that there was apparently a great space at the Airport. Ms. Lancaster was against this proposal in the sense that she thought the dog park would be better suited to the site and would accomplish something 20 years in the making. She thought it might be easier to find an alternate site for disc golf. Ms. Lancaster stated that she was also not opposed to working with the Disc Golf Club to brainstorm a way to make the campground work for both uses if the Club were willing.

Councilor Filiault said had the same procedural question as with agenda item one and he also recommended placing this matter on more time versus accepting it as informational. He said perhaps the two groups could find a way to coexist. He said a lot depended on fundraising. He said there were still a lot of questions but that it was exciting to see two viable proposals. He thought this was all good news but that more time was needed.

Councilor Filiault made the following motion, which Councilor Madison duly seconded.

On a vote of 4-0, the Municipal Services, Facilities, & Infrastructure Committee recommended placing the proposal to build a nine-hole disc golf course at the former Wheelock Park campground on more time.

Councilor Lake returned to the Committee.

3) Monica Marshall – Request that Main Street be Designated as a Smoke-Free Zone

Chair Manwaring welcomed Monica Marshall of 81 Terrace Street, who has lived in Keene for 26.5 years, during which time she has thought about making this request. She said there was no group behind her but that she had talked to so many people over the years about this. She is a retired teacher and has also had countless conversations with children who ask why people throw cigarette butts in the streets; she used to lead a project with students collecting the butts from the streets for two years as community service and everyone was shocked with the magnitude collected (several thousands), though the students' letter to the Sentinel about this was never published.

Ms. Marshall said it seemed logical to her to bring this request to the City government that could help guide next steps, which is why she wrote her letter to the City Council. Her letter discussed different reasons why prohibiting smoking on Main Street would benefit the City, especially with murals now and people eating more outside. She said that visitors to Keene are given a false impression of the City when they visit Main Street, which she said is filled with smokers that she called unrepresentative of the City's majority. She recalled other cities with no smoking areas, such as Central Park in New York City. She said the cigarette butts on Main Street are unsightly and she wanted to see a smoke free zone there and coming toward Main Street from the eastern part of town. She said that benches on Main Street are essentially unusable for the majority of the population because smokers congregate there and leave their cigarette butts, which she said do not biodegrade and are an environmental hazard. Next, she discussed the health hazards for the secondhand cigarette smoke downtown that can be as bad as for firsthand smokers, even if outside. She said that non-smokers can smell smoke from half a block downwind of a smoker; the smoke does not dissipate right away. She said kids are taught the negative impacts of smoking in school and the City is sending a double message that it is fine. She reiterated how aware children are of the discarded cigarettes.

Ms. Marshall then referred to Cheshire Medical Center implementing their smoke free zone, which she said smokers adapted to over time as they saw signs around the campus. Now, she said the Hospital is a much nicer place to walk while going somewhere for your health. She said the same was true of the Library campus, where smokers got used to going to their designated areas with time and requests from Staff. Now, she said both places are more community friendly. She said another reason to consider her request was economic. Coming out of Covid-19, she said Keene had been a leader in NH. She recalled everyone thinking it would be economic death when smoking was banned in restaurants, when in reality she said it was the opposite. She said Keene could lead the whole state if the downtown were smoke free. Other places like Portland, ME, have done the same and she said those places became more visited family-friendly destinations. Ms. Marshall wants to see more benches brought back to the downtown because right now it is impossible to sit at a bench for longer than five minutes without a smoker sitting down. Ms. Marshall considered the "live free" perspective for many years before writing this letter to the City Council but said right now, downtown favored the freedom of the minority, the smokers, and that it would be a different place if it supported the freedom of the majority. She

does not believe smokers' freedom would be taken away, rather they would just have to go somewhere designated. Ms. Marshall loves Keene and thinks this would be a great next step that fits the future of Keene.

Councilor Filiault asked what "Main Street" would entail; would it include side streets, etc.? He asked Ms. Marshall's goal. Ms. Marshall replied that she is a nonsmoker and so she wanted to see 200 yards down east and west side streets and alleys. She thought it would be nice for the new Colonial to have a nonsmoking area around it. Her vision was Main Street. She referred again to the success at the Hospital campus eliminating smoking over time. She thinks that smokers would naturally get used to knowing they cannot smoke when they go downtown.

Chair Manwaring asked to hear from the City Attorney, Tom Mullins, who said he was just hearing the presentation as well and he could not likely provide answers at this meeting without further research. He could think of some issues this could raise in distinguishing smoking from vaping. As a former smoker, he said he understood the smokers' process of disposing of the cigarette on the ground. Technically, he said that once the cigarette butt is disposed on the ground that triggers an act of littering, which there is a law against in NH that is defined broadly for all intents and purposes. Another issue he thought of was the fact that cigarette smoke is quite literally air pollution; he did a lot of work and research on the topic in the past, particularly regarding secondhand smoke. There is a statute on air pollution. The City Attorney said these were just two examples of the numerous possible issues around smoking. He thought the question this Committee and Council needed decide if this was an issue they wanted to address. If the Council did take on this matter, they would need to have the City Attorney look into it to determine if it were something the City Council could regulate. He said there is also a huge question of enforcement, given that disposing of cigarettes on the ground is already a violation. There will be critical points for the City Council to consider. Therefore, the City Attorney awaited direction from this Committee and the Council on whether he should proceed investigating this in more detail.

City Manager, Elizabeth Dragon, spoke more to enforcement, knowing some of the challenges with some ordinances in place. If the Council were interested in enacting something like this, enforcement would be a serious consideration because such an ordinance would likely fall to the Police Department, and she imagined the challenges with weekend activity downtown. She questioned if this was something the City Council wanted a Police Officer focused on enforcing versus other issues during high activity times downtown; she imagined it easier to enforce during the daytime.

Councilor Filiault said he agreed with this proposal morally 100%, having lost a parent to cancer and having no sympathy for smoking. He sees nothing positive about smoking. The Councilor was also concerned with enforceability, especially now needing to distinguish what smoking is with the prevalence of vapes. Councilor Filiault expressed another concern for night life in Keene if smoking were now illegal both indoors and outdoors. He said those smokers would go somewhere. He thought it would be complicated to have more Police downtown at night to

enforce smoking. Despite agreeing morally, he said that Councilors have to be careful with what they lay in front of the Police Department and Code Enforcement, as they learned recently with the mask ordinance, which was difficult to enforce. He did not think this proposal was enforceable and would put undue burden on Staff, but he had no problem with the City Attorney looking into it further.

Councilor Madison said he was aligned with Councilor Filiault. Councilor Madison thinks smoking is disgusting, having grown up with parents and grandparents who smoked. He said he hates walking around people smoking downtown but he could not envision an effective way to enforce this. He said the City Council cannot regulate every single vice. There are already rules for disposing and littering. He did not think the Police could effectively enforce something unsightly, despite Councilor Madison reiterating that smoking is disgusting.

Councilor Williams said he supported this idea because he does not like smelling cigarette smoke while he is eating. He did not have a particular problem with vapes because he cannot smell them generally and said it is a different health concern than sitting in someone's secondhand smoke. The Councilor did not want a blanket moratorium on smoking downtown because people have an addiction and need somewhere to go feed it and so designated areas would be necessary, preferably out of the way from where the general public walk. He did not have a problem with allowing vaping downtown. He said enforcement was important but added that most smokers are not rude and if there were signs, people would likely respect them and go to designated areas. Councilor Williams did think this would improve downtown Keene and he appreciated Ms. Marshall bringing the idea forward.

Councilor Lake asked if there was an ordinance in place for smoking at the Library and the City Attorney replied in the affirmative, keeping in mind that there is a policy against tobacco use and smoking with the exception of designated areas implemented by the Library Trustees. Councilor Lake asked if that was not in the City Code and the City Attorney said no, the Library Trustees have purview over that facility. Councilor Lake commented on enforcement and agreed with Councilor Williams that having a rule in place and signs describing the law, that people would respect that, and the amount of smoking downtown would at least reduce to some degree and try to limit that use to particular areas. Such as the littering law that is not regularly enforced but deters the action.

Chair Manwaring recognized Ms. Marshall again, who said she did not imagine the Police walking the streets enforcing this. She imagined a gradual change as at the Hospital and Library. That if there were signs posted and there were designated places to smoke with noticeable receptacles, that the City would witness a gradual compliance, and citizens could direct smokers to the designated areas. She did not believe it was necessary to use the Police in that way. Ms. Marshall said she believed in people changing their habits. Chair Manwaring replied that she thought Ms. Marshall just articulated her next step, which could be talking to businesses about putting up their own no smoking signs, which the Chair thought would be more effective than heavy-handed City enforcement if an ordinance were passed for no smoking on Main Street. Ms.

Marshall said she disagreed because she did talk to a couple of business owners over the years and said it is the opposite, that businesses need and want a City ordinance to fall back on when enforcing. She said she was happy to work with individuals once the City had made a statement on the matter; she said she would do research into New Brunswick, ME, and how other cities enforce this as a next step.

Chair Manwaring opened the hearing to public comment.

Kitty Jerome of 37 Church Street has lived in Keene for one year, has enjoyed living here, and thanked the Council for their service. Ms. Jerome applauded Ms. Marshall's foresight. Ms. Jerome has many years of work in tobacco free policy efforts, and she offered herself as a resource to the City Attorney, City Manager, and City Council if they choose to consider this further. She heard some excellent points during the discussion, and she underscored that she agreed wholeheartedly that a small minority currently determine the enjoyable use of the public spaces. Ms. Jerome stated that 85% of Keene residents do not smoke and the other 15% are affecting everyone, because it is a scientific fact that there is no safe level of exposure to tobacco smoke from up to 25 feet away. She said this is also an issue for immunocompromised people. She said it was important for the Council to recognize that the minority of residents affect the majority of residents in the City and their ability to enjoy the outdoor public spaces. She understood the point on nightlife and thought it worth considering how other towns have done this, of which she said there are many internationally.

Ms. Jerome said this was also about role modeling behavior for children. She said there was no denying that this is an addiction, and she did not want the addicts to be penalized or thrown out of town, but to an appropriate space that does not expose everyone to a known carcinogen. She referred to the National Nonsmokers' Rights Foundation, which has sample ordinances and enforcement measures. She agreed with Ms. Marshall that if smokers see signs prohibiting smoking, they would be respectful, or she could point to the sign and kindly ask them to move. She said she did not want this to be punishable Police offense. She learned that the benches downtown were removed for this reason, meaning residents like the elderly have nowhere to break when walking downtown. Ms. Jerome listed for the public record the national and international organizations that could help with this effort: American Cancer Society, Cancer Action Network, American Nonsmokers' Rights Campaign for Tobacco Free Kids, Change Lab Solutions, American Heart Association, American Lung Association, Robert Wood Johnson Foundation, Centers for Disease Control. Ms. Jerome urged the Committee to consider this carefully before letting it go and thanked the Committee for their dedication to the public good.

Rebecca Lancaster of 10 Wildwood Road spoke again, stating that she applauded Ms. Marshall. Having grown up around smokers as a child, she is cognizant of not exposing her kids to smoke. Ms. Lancaster said that the cigarette smoke and litter is why she does not bring her kids downtown, because she has had the same experience sitting on benches and being interrupted by a smoker, which hinders her family's ability to enjoy being outside. She thought of the matter economically and thought she was not the only person with children avoiding downtown for this

reason. She agreed with starting with cigarettes and not vapes. Ms. Marshall supported this proposal.

Ken Cisco of 81 Terrace Street, Ms. Marshall's husband, said his wife was courageous in speaking-up on this and that he admired her optimism on the matter. Also having grown up around parents who smoked, he was deterred from smoking because the secondhand smoke gave him health problems. When discussing social norms, Mr. Cisco said he disagreed respectfully with the City Attorney, stating that he did not think people know they are littering when they throw cigarette butts on the ground; Mr. Cisco did not think smokers thought twice about it because it has not been a social norm. He compared walking through smoke in Keene to the lack of smoke in New York City despite the large population. He recalled challenges as smoking has been outlawed in other locations but said that people eventually got used to it. He agreed with others that the minority of Keene is impacting the majority. He thinks it is a moral issue. He stated that people will always resist new arrangements that they consider as impeding their freedom, such as his choice to jaywalk despite the fact that he could get a ticket. He thinks that there will always be exceptions but that good citizens will meet community expectations. Mr. Cisco thought the Council could make a real difference.

Bradford Hutchinson of 305 Marlboro Street said he was not planning to attend the meeting but was glad he did so that he could speak on this matter because the other side needed to be heard. He said the supposed idea of a 15% minority controlling the other 85% was "hog wash." Mr. Hutchinson said he was speaking for the 15%. On the topic of cigarettes, he said that the earlier comment about cigarette butts being biodegradable was incorrect, asking what was not biodegradable about paper, cotton, and tobacco; he said the idea that cigarette filters are fiberglass is a myth. Mr. Hutchinson stated that he was speaking because he opposes "national and local fascism and bleeding-heart liberal do-gooders who think they have a God given right to tell other people how to live their lives." He said that if the City Council passed such an ordinance, then he would fight it. He contested an earlier comment, stating that the downtown benches were not removed due to smokers, but to deter the homeless from sleeping there. He stated that, "the good people of Keene do not want to see those homeless addicts hanging out." Mr. Hutchinson has lived in Keene for 35 years and he spends most of his days downtown, enjoying the shopping, community, and events, and always welcoming visitors to town; he said that is the sort of social interaction that makes downtown Keene what it is, which is different than other areas. Mr. Hutchinson diverged from the topic at hand, speaking about the homeless in Keene. While Mr. Hutchinson understood the arguments against smoking, he also opposed fascism disguised as public health. He did not understand how the short-staffed Police could enforce this when things like open container laws and bicycles on the sidewalks are not enforced. Mr. Hutchinson did not think those who proposed this thought through the unintended consequences. He concluded his remarks by adding if receptacles are in sight and available, smokers would use them.

Roger Weinreich of 51 Railroad Street and small business owner appreciated Ms. Marshall bringing this forward. He said that this idea was new for the City but sweeping the country. He

said it was a concept of sharing space, not making the whole downtown smoke free. He encouraged the Council to consider this seriously and do its due diligence with some kind of plan. From his perspective as a 30-year business owner, Mr. Weinreich respects people's rights but does not let them smoke in his store, but they are allowed to on City property in front of the store, which people seem to enjoy and therefore it is hard to discourage. However, he has gotten feedback in recent years from people walking into the store through smoke. He hears from people about Railroad Square being underutilized because of smoking, which is similar for Central Square. He thought this would encourage more outdoor dining downtown. He has asked some of his smoker clients to travel one block before smoking versus right outside the store. Additionally, having traveled extensively, Mr. Weinreich said that there is a trend toward nonsmoking areas today and said he has heard feedback that some cities create too large of a nonsmoking footprint that is unenforceable. He said part of making this happened would be branding it, and starting small with certain areas, and self-policing. He suggested starting with just a strip of Main Street to see how people feel about it. He said a lot of downtown merchants do not know how they feel about it because they do not want to lose their smoking customers. Regarding bars at night, he said that some towns are smoke free until a certain hour at night. Mr. Weinreich thought there was plenty of information available to the City Council to take this on, potentially with the Chamber of Commerce. He would be proud if Keene pulled it off.

Hearing no further public comment, Chair Manwaring stated that she thought Staff needed more direction if this was to be put on more time and so she asked the Committee what they sought.

Councilor Williams thought the Committee was looking for what is legal and how to defend it as well as what other cities in NH are doing. He wanted to know if the public really supported this.

Councilor Filiault repeated that he agreed morally. Still, he heard comments on not expecting the Police to enforce this but said that if the Council passes an ordinance, the Police must enforce it. He agreed that a smoke free downtown would be nice if possible without an ordinance and perhaps with volunteers and businesses. Councilor Filiault acknowledged that a resolution might be possible. Still, he thought this matter needed more time because more questions came from this conversation than answers. He reiterated his moral agreement but disbelief that this would be enforceable. He was content placing this on more time so more research could be brought to the Committee.

Councilor Madison said he aligned with Councilor Filiault. Morally, Councilor Madison said he would be happy with a smoke free downtown, but he was curious about possible enforcement mechanisms and whether there is legislation that allows this. Councilor Madison was also concerned about having something akin to a vice squad on the Police Department enforcing a rule like this, which would be another avenue for those suffering from poverty to be forced into Police interactions that he said there did not need to be more of. He was interested in guidance from the City Attorney regarding enabling legislations, other communities in NH, and what the City would potentially need to do to defend such an ordinance. He agreed that this should be

placed on more time, and he was interested in the possibility of a resolution encouraging a smoke free downtown versus jumping into enforcement.

Chair Manwaring requested the City Attorney's input. The City Attorney said his advice depends on the direction of the Committee and following vote of the City Council, though he thought he heard consensus developing. He recalled that NH is different because it is a Dillon Rule State meaning the City only has the authority provided to it by the State of NH, which is not true for many other states, particularly in the west, where if the state is not regulated in the field, the local municipalities are free to do so; this is not the case in NH. To proceed, the City Attorney would have to find something that provides the authority in some manner. He reiterated that it was also possible to look at air quality standards, which he had to look at in the past regarding burning in the City; NH has preempted the field regarding air quality. These are the issues the City Attorney has to address going forward.

Councilor Lake echoed wanting a better understanding of what the City could actually do. He was unaware of any other locations in NH doing this but he knew that Burlington, VT, had a similar rule for its Church Street, which is similar to Keene's downtown and would be helpful to consider for more information.

Chair Manwaring recognized Ms. Marshall again, who recalled the City acting as a leader in the State when indoor smoking was banned and the whole State followed suit. She stated her hope that this time, the City would not follow exactly where the state was going and act as a leader in things not accepted yet. The City Attorney said that while he did not disagree with that comment, it was the town of Colebrook that went to the Supreme Court and found that the State of NH had already preempted that field by the passage of the Indoor Smoking Act. He said that while that ordinance is still unfortunately on the City's books it is not active in the State of NH for this reason.

Councilor Filaault made the following motion, which Councilor Madison duly seconded. On a vote of 5-0, the Municipal Services, Facilities, & Infrastructure Committee recommended placing the request that Main Street be designated a smoke free zone on more time.

4) Adjournment

There being no further business, Chair Manwaring adjourned the meeting at 8:14 PM.

Respectfully submitted by,
Katrinya Kibler, Minute Taker
October 31, 2021

Edits submitted by,
Terri Hood, Assistant City Clerk