City of Keene
New Hampshire

PLANNING, LICENSES AND DEVELOPMENT COMMITTEE MEETING MINUTES

Wednesday, November 10, 2021 **6:00 PM** **Council Chambers, City Hall**

Members Present:
Kate M. Bosley, Chair
Mitchell H. Greenwald, Vice Chair
Philip M. Jones
Gladys Johnsen
Catherine Workman

Staff Present:
Elizabeth A. Dragon, City Manager
Thomas P. Mullins, City Attorney
Rhett Lamb, Community Development Director
Patty Little, City Clerk

Members Not Present:
All Present

Chair Bosley called the meeting to order at 6:00 PM and explained the procedures of the meeting. She declared a quorum present.

1) **Mark Zuchowski – Pursuant to Section 5 of the Keene City Charter – Allegation of Fraud or Misconduct in Connection with the Municipal Election**

Chair Bosley stated that she will allow Mark Zuchowski 10 to 15 minutes to explain why he believes that fraud or misconduct occurred at the recent Municipal election. She continued that given the sensitivity of this issue and the interpretation of the Keene City Charter, she asks that City Attorney Tom Mullins preside over this portion of the meeting.

The City Attorney stated that given that this involves the City Charter and the municipal election, he has been asked to facilitate this portion of the meeting. He continued that he understands that Mr. Zuchowski was provided with a summary of how the procedure will go tonight.

Mr. Zuchowski replied yes.

The City Attorney continued that they ask Mr. Zuchowski to focus, as specifically as he can, on the allegations Mr. Zuchowski is raising that arise from the City Charter, keeping in mind that the City Charter is precise. It calls for evidence that may rise to the level of fraud or misconduct, in the conduct of the election. This means the conduct of the election *by the City*, in terms of the City's processes or anything else the City is associated with regarding the running of the election. The City Attorney continued he has read the claims Mr. Zuchowski submitted, and notes that some claims appear to go to third parties over which the City has no control, including

the Keene Sentinel and other media outlets like WKBK radio. In addition, Mr. Zuchowski submitted some serious allegations with respect to third parties, individuals the City has no control over and does not employ for any purpose. Thus, he asks Mr. Zuchowski to focus tonight not on those issues, but on the issues that Mr. Zuchowski believes arise from the *City's* conduct. It is very important to stay focused on that, because the PLD Committee will make a recommendation to the full City Council on how or whether to proceed.

The City Attorney asked if Mr. Zuchowski understands those rules. Mr. Zuchowski replied yes.

Mark Zuchowski of 52 Summit Rd., Apt. 8, stated that he "is" a candidate for Mayor of the City of Keene. He continued that he says that in the present tense because he is contesting the mayoral process in the primaries and the general election. He ran a clean campaign on traditional, Judeo-Christian principles. He ran five ads in the Monadnock Shopper News, which expressed his Judeo-Christian values, upon which this country was founded. He was disappointed that the City did not have a candidate's night.

The City Attorney stated that he wants to make sure he understands what Mr. Zuchowski is saying. He asked if part of Mr. Zuchowski's allegation is that the City has a responsibility to run a candidate's night.

Mr. Zuchowski replied that two years ago when Mitch Greenwald ran against George Hansel, there was a candidate's night at Keene State College (KSC). He continued that WKBK Radio interviewed them, and the Keene Sentinel did articles on them, and he himself did not get the same consideration. The City Attorney replied that Mr. Zuchowski should speak to KSC about that question. Mr. Zuchowski replied that he spoke with Misty Kennedy, KSC Business Manager, Office of Ceremonies and Events.

The City Attorney asked Mr. Zuchowski if he believes that the City has a responsibility to run a candidate's night. Mr. Zuchowski replied yes. The City Attorney asked Mr. Zuchowski to explain why he thinks the City has that responsibility.

Mr. Zuchowski stated he comes from Hadley, MA, and when there are select board or school committee elections, the Town of Hadley has a candidate's night. Boston had a televised candidate's night for their recent mayoral election.

The City Attorney stated that what happens in MA is not necessarily appropriate or legal in the State of New Hampshire. He continued that it is important to keep in mind that NH has a strict prohibition with respect to City employees or City equipment being used in any kind of electoral process, except for the running of the machinery of the election. All City employees are under that constraint. He needs Mr. Zuchowski to focus back on the question, not on whether KSC should run something, but on the *City*. The City does not have any statutory obligation and probably has a prohibition on running candidate nights.

Mr. Zuchowski stated that he feels like he is being shut down and shut out. He would like to give a 5-minute presentation about how he feels.

The City Attorney replied that he can do so, but Mr. Zuchowski's proposal tonight is for a specific purpose: to convince this committee that there should be a basis to go forward on the basis of fraud or misconduct with respect to the City's operation of its election. He can give his presentation as long as he does not go off into the other areas that would not be appropriate.

Mr. Zuchowski stated that he has never seen an election like this one. He continued that he thinks of the presidential election, and the election for US Senators and Representatives, Governor, and State Legislatures. None of the (PLD members) have heard him utter one breath of his platform, what he stands for, what his qualifications are, who he is, where he is from, how he would love to help the City of Keene, or why he moved here.

Mr. Zuchowski stated he moved here in 2015. He likes Keene Swamp Bat games and St. Bernard's Church. He is a devout Roman Catholic and goes to morning mass almost every day. He has made friends with many people in Keene, especially Veterans, whom he has coffee with.

The City Attorney asked Mr. Zuchowski to focus on the topic. He continued that Mr. Zuchowski's history is wonderful and probably everyone tonight would celebrate that, but the question at this point, for this committee, is: what is Mr. Zuchowski's allegation of fraud or misconduct?

Mr. Zuchowski replied that his point is that the City should have a candidate's night, and someone in the City should be responsible for it. He continued that the final election was 2000-something for the incumbent who has been here for many years, George Hansel. He himself is the challenger from Hadley, MA and he did not get an opportunity to utter one word. The Keene Sentinel would not print his platform. WKBK Radio would not take his calls. No one wanted to hear him. His only opportunity to share his platform would be through a candidate's night.

The City Attorney stated that again, he reminds Mr. Zuchowski that the City does not have any control over the Keene Sentinel, or a church, or KSC. He continued that the complaint he hears Mr. Zuchowski asserting is that the City should have run some sort of campaign process with respect to the candidates who were running for that election. That is not the City's role. It could be the role of all kinds of other entities, including the media, or the League of Women Voters, who run those kinds of things. He has trouble seeing how the simple fact that the City does not - and from his perspective, probably *cannot*, except under very strict controls – run a candidate's night arises to the level of fraud or misconduct. He asked Mr. Zuchowski to talk about how he thinks the City not running a candidate's night rises to the level of fraud or misconduct.

Mr. Zuchowski stated that he thinks he has been shut out completely. He continued that people do not want to hear the other factions, and they are all coordinated.

The City Attorney stated that what Mr. Zuchowski is saying does not go to the question of the *City's* involvement. Mr. Zuchowski stated that the entire process is fraudulent. He continued that the City did not have a candidate's night, the radio station would not take his call, and the Keene Sentinel would not print his platform. That sounds to him like a coordinated effort to shut out "the flatlander from MA."

The City Attorney replied that perhaps, then, Mr. Zuchowski should be taking his complaint to those entities. Mr. Zuchowski replied that he will take it to the State elections board. He continued that if the PLD Committee does not want to hear his story, he is prepared to leave and do just that. The City Attorney replied that that is Mr. Zuchowski's prerogative. Mr. Zuchowski stated that he thinks the process in Keene is unfair. He continued that he is a good, qualified candidate.

The City Attorney stated that Mr. Zuchowski can go to the State election board if he chooses, but unless he has something further for the PLD Committee or the City Council to consider with respect to the allegations, he asks that Mr. Zuchowski conclude.

Mr. Zuchowski began to speak off-topic about a different subject not related to the election process. The City Attorney stated that Mr. Zuchowski cannot speak about that in this meeting.

Chair Bosley asked if Committee members had any questions. Hearing none, she asked for a motion.

Councilor Greenwald made a motion for the Planning, Licenses, and Development Committee to take no further action on the allegations presented by Mark Zuchowski, as he failed to provide factual basis to establish a claim of fraud or misconduct in the conduct by the City of the municipal general election held on November 2, 2021. Councilor Jones seconded the motion.

Councilor Jones stated that he thanks Mr. Zuchowski for throwing his hat into the ring. He continued that they do need to have contests like that. The City has no control over the third parties. He has been in seven elections, and there was never a candidate's night run by the City; it was always a third party running those. No third party chose to run one this time, and he would have liked to have been part of one, too, to get his platform out there, and he is sorry no third party chose to have a candidate's night.

Chair Bosley stated she seconds what Councilor Jones said and she appreciates Mr. Zuchowski running. She thinks it is important that people see this as a process in which they can participate. It is not an easy process; it is intimidating and it is a lot of work for candidates to get their name out. Candidates knock door to door and do what they can to get their platforms out using social media and whatever available avenues they have. However, she believes the City does not have any responsibility to do that on candidates' behalf. She thinks that is the personal responsibility of candidates. She is not seeing any direct misconduct on the part of the City.

Councilor Greenwald stated that he has run the same race and can say that it is a lot of effort. He continued that he could feel Mr. Zuchowski's pain and frustration, but it definitely was not the City's doing. The debate held at KSC had no City involvement. KSC and the Keene Sentinel put it on. Anything that was on the radio was put on by the radio station. Whether there should be a candidate's night or not is not really the question. There is no forum put forth by the City that he is aware of, in all of the years he has been here in City government. It might have been put on by the League of Women Voters, the Rotary Club, or some other group, but not by the City of Keene. He thanks Mr. Zuchowski for the effort of running. If someone else did something wrong, Mr. Zuchowski should contact them, not the City.

Mr. Zuchowski stated that he wants to thank them. He continued that he did not know that the City was not responsible. He had emailed the City Clerk to ask who is responsible for running the elections. He now understands. The PLD Committee has shown him that the City is not responsible. He continued that he withdraws his allegations of fraud by the City. However, he has never seen an elections process like this and hopes that someday they can improve it.

Chair Bosley thanked Mr. Zuchowski for his words. She continued that she thinks Mr. Zuchowski is expressing his frustration with the campaigning process. It has changed rapidly in the last decade, regarding the traditional methods candidates previously used to get the word out and the methods they are now using in modern times. She herself primarily uses social media, and did almost no door-to-door knocking, but in the past, that would have been probably the primary source for candidates to gain votes. As times change, the processes change. Unfortunately, it is the candidate's responsibility to win over the voters, get them on one's side, and get them to show up at the polls and vote. It is challenging, and you have to put in a lot of work. She can see that Mr. Zuchowski did a lot on his own behalf, and she is sorry it did not work out. However, in terms of the City's responsibility, she almost prefers the fact that they are not involved, because she would not want it to ever be alleged that the City supported candidate A over candidate B or gave candidate A a platform that maybe they did not give to another candidate and that that somehow might have altered an election result. In her opinion, candidates must be responsible for their own candidacies in order to keep the process fair.

Mr. Zuchowski stated that he thinks that having a candidate's night by the City would not be favoring any candidate. The City could allow each candidate to give a speech, debate each other, and take audience questions. That does not seem like favoring, unless the City chooses a night when one candidate is busy. He thinks that in the future the City should be responsible for running a candidate's night.

Chair Bosley stated that again, they need to stay focused on the Committee's deliberations regarding the motion on the floor. She continued that they all wanted Mr. Zuchowski to understand that they did hear what he is saying and that they respect his position. She asked if Committee members had any more questions or considerations about the motion. Hearing none, she asked for a vote.

On a vote of 5-0, the Planning, Licenses, and Development Committee recommends to take no further action on the allegations presented by Mark Zuchowski, as he failed to provide factual basis to establish a claim of fraud or misconduct in the conduct by the City of the municipal general election held on November 2, 2021.

2) Keene Downtown Group – Request to Use City Property – Ice and Snow Festival

Chair Bosley stated that she does not think anyone from the Ice and Snow Festival is here tonight. She asked for a report from City staff.

City Manager Elizabeth Dragon stated that staff asks the Committee to place this item on more time to allow for a meeting with the Keene Downtown Group.

Chair Bosley asked if the Committee had any questions or comments. Hearing none, she asked for a motion.

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

On a vote of 5-0, the Planning, Licenses, and Development Committee recommends the request for use of City property for the Ice and Snow Festival be placed on more time.

3) Proposed Amendments to the Rules of Order - City Clerk and City Attorney

Chair Bosley asked to hear from Patricia Little, City Clerk.

The City Clerk stated that to give a background to this issue, these amendments to the Rules of Order were initiated in the summer of 2019, during the last few months of Kendall Lane's tenure as Mayor. She continued that the charter officers met with former Mayor Lane to gain his experience having served as Mayor and a City Councilor for many years and who served on many Rules of Order committees. Their intent was to have the City Council consider making amendments to the Rules in the fall of 2019 before former Mayor Lane's term ended. Unfortunately, that did not happen. When Mayor Hansel took office in 2020, the charter officers met with him and went over the Rules. Mr. Hansel felt that instead of taking a comprehensive list of amendments they should select significant ones and introduce the amendments in segments. They did that. In June 2020, they brought some of those amendments to the Council, intending for the remainder to follow a few months later. It was about that time that the Council started meeting remotely, and it would have been difficult for everyone to look at a document together and do this remotely. In addition, there were changes being discussed at the State relative to remote meetings and they wanted the State to determine the parameters for remote attendance before considering any local parameters.

The City Clerk continued that several months ago the charter officers started meeting again. They reviewed the entire document and again reviewed the concerns raised in 2019. What staff is bringing to the Committee this evening is a comprehensive review of the Rules. Only three or four sections did not have some level of change. To assist the Committee, she distributed a highlighted table of contents. Each section in the Table of Contents indicates whether there were no changes to the language or there was "wordsmithing" to indicate that changes in the language for better clarity or to address inconsistencies in the language. The Table of Contents have several sections with yellow highlights to indicate substantive changes, which the City Attorney will go over.

The City Attorney stated that he begins by reminding the Committee and the Council that these are the Committee's and the Council's Rules of Order. He continued that he and the City Clerk tried to capture, in the substantive changes he will talk about, things that they have seen over a period of time, things that the two mayors brought up, and things that may need a little adjustment. These are proposals. The Council is free to accept the changes, move them around, and do what they would like with these. That is within the Committee and City Council's prerogative. There are only a couple that he has a vested interest in – essentially, procedural aspects with making sure that they are appropriate in voting on Resolutions that deal with the appropriation of funds, budgeted funds, or funds that involve a bond issue. There are some statutory requirements with respect to those. He very much appreciates the City Clerk putting together the packets that are in front of the Committee members.

The City Attorney stated that the first proposed change, in Section 1, looks minor, but it is important, and reads: "Except in the event of an emergency declared by appropriate authority, [The City Council shall meet at least once a month.]" He continued that they want it to be clear going forward that they have an opportunity for an out, in the event that they were not able to meet in accordance with the requirements of the Rules.

Councilor Jones asked about Section 2. He continued that there are items in there that are supported by State statute, mostly the Right to Know laws, such as "The City Clerk shall prepare a Notice of the special session…" He asked if they should add something like "in accordance to State law."

The City Attorney replied no, because the State law applies whether there is a reference to it or not. He continued that the City of Keene already has to operate under RSA 91-A.

Councilor Jones replied that it might make it easier, if the State law changes, for the Council to go back and refer to it, and say, "Oh, now we have to look at that." The City Attorney replied that is why he did not put it in there; he does not want to have to change it every time. It is certainly up to the Committee, if they want to put that language in there. One place that RSA 91-A does appear, specifically, is under Non-public Sessions. From his perspective, when you are already required to operate under a requirement by State statute, it is not necessary to include a reference to the statutory provision.

The City Attorney stated that the title of Section 4 will be expanded to read "Quorum and Remote Participation." He continued that during the COVID-19 emergency, the City Council had greater latitude for the emergency orders from the Governor to operate in a completely remote fashion if necessary. That is not true at this point, so they defaulted back to RSA 91-A. They have been doing this process now for a while. An individual participating remotely is required by statute to first say where they are, who is with them in the room, and their reason for being remote. They added two things to the statutory requirements under this section. One is the mandatory 24-hour notice to the City Clerk that you want to participate remotely. That is necessary due to the technology that staff needs to set up, and in all likelihood, they would not be able to set that up any quicker than that. If the Councilor does not provide that 24-hour notice then they would not be allowed to participate remotely. The other change they propose that is not in the statute is to define "reasonable and practical." Again, this is open to discussion by the Committee and the Council, but he and the City Clerk defined "reasonable and practical" as related to serious health issues, disability, or out-of-town employment responsibilities. The intention was to not provide the opportunity to participate remotely if someone "just does not feel like coming in," but other than that, it is up to the Committee and the City Council to decide how to define that.

Councilor Greenwald stated that he agrees they should not be allowed to participate remotely just because they do not feel like coming in, but he thinks a pre-scheduled family event or family vacation should be considered.

The City Attorney replied that they talked about that a bit, and this is a situation where you pull here, push there, and something they talked about with respect to vacations is that you are supposed to be on vacation, having downtime and family time. It is up to the Committee and the Council if they want to put something in there. He suggests they go through all of these proposed amendments, and then discuss everything, and if Councilor Greenwald wants to make amendment and/or if others have amendments to make, they can go through those. He continued that these Rules of Order are not a Resolution, Ordinance, or anything like that. If the Committee wants to amend what is written, it is just a matter of them directing him to write the changes to propose to the Council.

The City Attorney continued that there are some scrivener's changes to Section 10, Decorum and Order. The last sentence is important, however, and comes directly out of the Right to Know seminar that he attended. It says: "Any electronic communication by and among members of the City Council during any Council or Committee meeting which is not capable of being heard or observed by members of the public or other Councilors is prohibited." There is obviously good reason for that, because under RSA 91-A, when the Council is in session, especially a public session, members of the public have the right to hear and participate, or at least hear and understand anything that is happening. Apparently, this problem has developed around the state and the Municipal Association suggests they be very careful about that.

Councilor Jones asked if that is strictly about City business. For example, if he sees that a Councilor across the room has a dust ball on his shoulder, is he allowed to text him to say that? The City Attorney replied no, he really should not, because no one can really know whether that is truly what Councilor Jones is texting to the other Councilor. The intent of this sentence is to put an emphasis on digital use in a public meeting. How the City Council implements this is up to them, but they should keep in mind that perceptions are important. If members of the public see Councilors texting, they may immediately start wondering who they are talking to. They should be careful about this.

The City Attorney stated that in Section 21, Tie Vote, the proposed change makes it clear that the Mayor, under the City Charter and State statute, does not have an opportunity to vote, unless there is a tie. They wanted to make it clear that if the Mayor is not present, the Temporary Chairman will vote, assuming it is a 7-7 split and the Temporary Chairman is the one who is the 14th member. If there is a tie in that context, then it becomes a "no" vote. The Temporary Chairman could ask for another vote and see if someone changes their vote; otherwise, it would have to go to the next meeting. He does not recall if this situation has ever occurred, but they wanted to put it in the Rules of Order just to make it clear.

The City Attorney stated that the changes in Section 22, Special Committees, clarify a couple of things. One of the most important ones was something he talked about with the Mayor. The current language says, "the appointment by the Mayor shall also include an indication of any funds or staff time to be utilized by such Special Committees," but the Mayor and the Council do not directly have the right or authority to direct the City Manager with respect to use of funds or staff time. The understanding is that when a Special Committee is formed, clearly the Mayor will be working with the City Manager to make that happen. He (the City Attorney) just felt uncomfortable about having something in the Rules of Order, which, on its face, did not appear to be authorized.

The City Attorney continued that there are a couple changes in Section 23, Standing Committees. The first clarified the term "municipal year." They also added language about proposed legislation, including any proposed legislation appropriate to the business of the Committee. Previously, all proposed legislation went before the PLD Committee, and the Council discussed that before this all went to the PLD Committee. It seemed appropriate for proposed legislation to go to the Committee that had sort of "jurisdiction" over it. In addition, they added language to say that items of business can be referred to other Committees as necessary for efficiency or to accommodate time constraints, especially given the experiment they are running by having one Committee meeting a month instead of two.

Chair Bosley stated that she wants to reiterate, because this is a big change for the PLD Committee, that this change means that the legislative burden will be broken up amongst the three Committees. The City Attorney replied yes, exactly.

Councilor Jones stated that there have been times when one Committee sends something to another, and he does not see a reason for that, because the Council is the committee of the whole. The three Committees are just advisory. He continued that for example, the Municipal Services, Facilities, and Infrastructure (MSFI) Committee comes up with a project and says, "Now we will send this to the Finance, Organization, and Personnel (FOP) Committee, for funding." There could be an issue if one of the Committees votes "yes" and the other votes "no." He does not think it is necessary. One committee should send it to the Council to vote on as a whole.

Chair Bosley stated that the situation with the PLD Committee, she believes, was in relationship to an event license but the event organizers wanted free services. She continued that her opinion was that the PLD Committee was responsible for the licensing portion of that, but because of the delicacies of the funding and individual budget items, she wanted the FOP Committee to be decision-maker saying "yes" or "no," not to the event as a whole, but to the request for free services. Councilor Jones replied that if they distinguish it like that, yes. Chair Bosley replied that that is how the PLD Committee did it. She continued that she does not know that the PLD Committee set it up in a way that the FOP Committee's recommendation to Council would have directly impacted the ability of the person to get the license. Councilor Jones replied that the situation Chair Bosley is referring to was okay. He continued that he is talking more about, for example, when the MSFI Committee would state, "Yes, let's do this project" and then send it to the FOP Committee. They could get conflicting views there, and then staff does not know what to do.

Councilor Greenwald stated that for counterpoint, if the MSFI Committee is involved with the design of the project, they are just involved with the design. He continued that the FOP Committee is involved with the funding. That is appropriate, and historically, that is how it has been done.

The City Attorney stated that the subject matter areas are established by the Rules. He continued that this was intended to allow a mechanism of those cross referrals, primarily to accommodate if you only have one meeting a month or if there is something that requires the expertise and understanding of another Committee, to move it into that Committee. There is just no process for that. That has been the practice; thus, this change was intended to codify what the practice is. The intent is to follow the assignments under each of these Committee headings, unless, for some reason, that is not practical.

Councilor Greenwald stated that it is an interesting improvement, that if the timing is such that they are doing one meeting a month and an event becomes time sensitive, maybe the MSFI Committee will give the approval, or the opposite. If it is something that is extremely financially complex, the FOP Committee is meeting every other week anyway.

Chair Bosley stated that she sees how this is going to happen in the future. She continued that she thinks there will be times when the PLD and MSFI Committees will be standing in for each other, because it will be appropriate to hear petitioners in front of a committee and in an

environment that allows them to have communication back and forth. This would be preferable to having the Council suspend the Rules during a Council meeting, which is a more formal setting. She thinks the Committees will be sharing responsibilities. She likes that they have split up the legislative workload, because the PLD Committee saw quite a bit of that last year, and some items they made decisions which related to a primary focus of another Committee.

Councilor Jones stated that an example of what he was trying to avoid would be if, say, Keene has a mudslide somewhere, and staff goes to the MSFI Committee and says, "We need a $4,000 retaining wall." The MSFI Committee might say, "Yes, let's approve that project," and sends it to the FOP Committee to approve the $4,000. He does not think that is necessary. The City Attorney replied that the more relevant example would be: "This retaining wall is going to cost $40,000," and at that point, there is a budgetary impact. He asked the City Manager to speak.

City Manager Elizabeth Dragon stated that she agrees with Councilor Jones. She continued that oftentimes, staff will address an issue at one Committee and if they have identified the funding source in the budget, they do not then go to another Committee to get the approval. It only happens on a rare occasion, and it has to do with how unusual it might be. For example, last year there was an event happening for the first time, so it had not gone through the budget process, and there had been no conversation about that event, so it made sense to go to both Committees. However, usually, it will be with the Committee that is the primary focus.

The City Attorney stated that something else in Section 23 that affects the PLD Committee is the proposal to move the Rules of Order to the FOP Committee, because it really is an organizational-type of issue. He continued that in the last paragraph, he added, "Except for a special meeting of the Committee called by the Mayor or the Committee Chair," to clarify that they can call special meetings, because that was not clear in the Rules before. They are keeping the alternating Wednesday idea, because the Rules say "shall normally meet on an alternating Wednesday." The "normally" word means that the Committee members can decide, as a group, when they want to have their meetings. He did not think it was good to lock in stone what they are doing now, because they might want to change it. The City Clerk pointed out that Section reads "The FOP Committee shall normally meet on the first Thursday following the regularly scheduled Council meeting" does not specify alternating weeks, but it winds up to be that way, because after every regular Council meeting there is an FOP Committee meeting. There may be occasional times when they do not have a meeting, but the "normally" language is important.

Councilor Jones referenced the words "A Councilor who is not a member of the Committee …may not participate in the Committee deliberations after a motion and 2nd has been made." He asked if it is correct that they put that in about eight or nine years ago. The City Attorney replied yes.

Councilor Jones asked if the Councilor loses their right as a citizen with that provision. The City Attorney replied no, that is why they tried to finesse this. Concord went through the same kind of difficulty. Simply having eight members of the Council in the same room together creates a

quorum. As citizens, Councilors have the right to speak. This was an attempt to balance the rights that Councilors still possess as citizens against the fact that they are members of this public body. The thinking at the time, which he still thinks is appropriate, was that once the public participation time stops and the Committee is into deliberations that is when the members of the Committee are acting, talking, and discussing the matters that they will vote on. To allow the Council members who are present in the room to also participate in that part of the process bleeds over into having a quorum of the Council acting in a Committee.

Councilor Jones stated that the law is on the City Attorney's side. He continued that he thinks there should be an exception, however. If the Councilor is the petitioner, they should have the right to speak during deliberations. What if the Councilor does not like the way the motion was made, and it was something they brought forward? The City Attorney replied that he sees Councilor Jones's point. He continued that he suggests they bring this topic up again at the end of going through these proposed changes to the Rules of Order. Chair Bosley stated that the proposed change could have the added language "…except when they are the Petitioner."

The City Attorney stated that the change to Section 24, Order of Business, was to insert "10. Acceptance of Donations." He continued that the intent is to not need a suspension of the rules to accept a donation.

He continued that the change to Section 25, Communications, allows for the acceptance of digital signatures that are in compliance with State laws and the City Ordinance recently adopted. In cleaning up the language in this section, he wanted to specifically include the word "defamatory" regarding "Communications of a personal, defamatory, or argumentative nature shall not be accepted by the City Clerk".

The City Attorney continued that the changes they made to Section 26, Review of Items of Business, clarify how the process works. To relieve some ambiguity, he includes the words "appropriate governmental agency," because sometimes they receive items that really should go to the County or the State. It also deals with items that should not be placed on the agenda.

The City Clerk stated that she noticed a wrong reference to in Section 26. She continued that in the paragraph that starts, "All items to be placed on the Council agenda," the fourth line down says "…unless more time is granted by the Council," and City Attorney struck "Council" and wrote "Committee," but she thinks it should be "Council." The City Attorney replied that he struggled with this. The Council has a right to do that anyway, which generally happens in consensus with the Mayor, but it is usually the Committees requesting items be placed on more time. The City Clerk replied that Committees are not "granting" that, they are recommending that. The City Attorney replied that he sees what she means. He continued that he would be happy to change it back to "Council," if that is not clear. Chair Bosley replied that the word "granted" makes it unclear. The City Attorney agreed with Chair Bosley's suggestion of "unless more time is requested by the Committee."

The City Attorney stated that there is a substantial change to Section 33, Resubmission of Items Once Considered. He continued that first, they should keep in mind that there is a reconsideration process for the Council that needs to be followed. Once the reconsideration process is done, the matter cannot be taken up again. The Mayor also has the right to reconsideration, under the Charter. Regarding the language here, it struck him as raising the question of finality. At some point, there has to be some finality to the decisions that are made. The Rules of Order currently read that the matter cannot be taken up again "…unless the circumstances pertinent to the item of business have changed substantially", and there is the question of how the Mayor, in particular, may decide what a "necessary change" is or what "substantially changed." It becomes somewhat of a judgement call. It raises the question of having finality, especially if you have gone through a reconsideration period, both with the Council and the Mayor. At that point, there should be an expectation that the matter has been decided. If you want to bring it up again, bring it up in the next calendar year.

The City Attorney continued that he scratched his head over Section 36, To Amend Rules. Even though the language is that the requirement to amend the rules "shall be waived only by unanimous consent with a recorded vote," the problem he saw with it is: why would they want to do that? If someone raises the question, and wants to amend the rules without having "submitted the amendments in writing at the preceding regular meeting," no one has the opportunity to think or consider it at the meeting. Is it truly that critical? If they want to amend, they could suspend the rules to amend and do it by a two-thirds vote. He sees this as problematic and suggests they take it out, because they can do it in another process.

The City Attorney continued that regarding Section 37, Procedure to Fill a Vacancy, he put language in because of the experience they just had with respect to the closeness of an election. The Charter does not put any time periods on it. They tried to be conscious of the fact that individuals and wards have a right to representation, but on the other hand, having somebody sort of elected into the position by the City Council, when you are only weeks away from the municipal general election, also does not seem quite appropriate. He means no offense to anyone who has been in this situation recently. It seems to provide an unfair advantage to an individual who is elected by the City Council acting as a group of 15 just before a municipal election, because incumbency does matter, even if you have only been in for a while. They propose putting some time parameters around that, so that if they are within that 120-day period before the regularly scheduled election that gives them an opportunity to leave it open.

Councilor Jones stated that the way he just said it makes it sound like it is the Council's prerogative whether to leave it open. The City Attorney replied yes, it is a prerogative.

The City Attorney stated that that is the end of the proposed changes. Chair Bosley asked to return to Section 4 and Section 23. The City Attorney asked if the issue in Section 4 was the term "reasonable and practical." Chair Bosley replied yes, and asked if Councilor Greenwald wanted to speak to that.

Councilor Greenwald stated that he thinks pre-scheduled family events or vacations should be included as reasons for allowing a Councilor to participate in a meeting remotely.

Chair Bosley stated that she used the Emergency Order privilege of being able to be remote, in this capacity, during the time of COVID-19 when the full Council was remote. She continued that they had a PLD Committee meeting about an important issue, which she was very involved in, but then she was going to be out of town for the Council meeting at which she would have had to speak. Since she was able to participate remotely, she still had her opportunity to address the issue at the full Council meeting. Participating remotely is not necessarily something she would always choose to do, but because that issue was very important, she is glad to have had that opportunity. She sees Councilor Greenwald's point. It is up to the Councilor if they want to give up that couple of hours of time to attend the meeting. She suggested other wording: "Physical attendance shall be deemed to not be 'reasonably practical' in the event of serious health issues, disability, or due to travel."

Councilor Greenwald stated that he likes the phrase "pre-scheduled family event or vacation." He continued that he personally is anti-Zoom, believing that the physical contact is very important to the operation of this organization, but if an individual is not going to be there, if they cannot participate via Zoom they cannot participate at all. What harm is there in letting someone Zoom while on vacation? It should be discouraged, which the Rules of Order say, but he sees no harming in having it as an option.

Councilor Workman stated that she disagrees with Chair Bosley and Councilor Greenwald and does not think that vacations should be included. She continued that as a Council, they should be promoting work/life balance and self-care. When you are on vacation, you should take that vacation. With that said, it could also be abused, if it said "vacation" – someone could, say, vacation in Florida for the winter, and still be able to participate via Zoom. She does not think "vacation" should be an allowed reason. With respect to the issue Chair Bosley brought up, that is why they have a Vice Chair. Yes, Chair Bosley might have been part of all the proceedings, but she should have the confidence in her Vice Chair to understand and effectively communicate Chair Bosley's viewpoints at the Council meeting. She does not like having "vacation" in here, nor even "out of town employment." If you are elected for City Council, you should be expected to come to most meetings, but there are times when you are going to miss meetings. She thinks it should be okay to miss a meeting, and you should not feel like, "I'm going to be on vacation; I'm not fulfilling my duties as a Councilor because I missed a meeting." Personally, with her employment responsibilities, she hardly ever would be able to use this option to participate remotely in a Council meeting while traveling for work. She does not have a 24-hour notice to give, due to the nature of her job.

Chair Bosley stated that she hears what Councilor Workman is saying and there are two sides to this coin. She continued that she is a business owner, and there is no checking out; there is no vacation for her, and no sick days. That does not relate to Council; that is her life. They all have different expectations for what they want out of their lives and choose different things for

themselves, which they find reasonable and practical. She would not want to leave the responsibility of her opinions, because they are such individuals, up to any other Councilor. Every vote at a Council meeting matters. Sometimes, those votes are split. Sometimes, it is going to be an 8-7 vote, and if someone is not available, it might matter. When you arrange a vacation six months in advance, you do not necessarily know you are going to be in a pandemic when the time comes. Being able to participate remotely to express her opinion was important to her. They all have different opinions and look at things from different perspectives.

Councilor Johnsen asked if "vacation" is the troubling word. She asked if that has to be there. She hears what Councilor Greenwald is saying, and there might be a family emergency or something else relating to one's family. The word "vacation" seems messy and implies that they are just out playing. Chair Bosley replied that there already is a term for "travel," but it is specific to employment. She asked if there is a way to broaden that.

Councilor Greenwald stated that there are 15 Councilors, and the City is going to run, with or without any number of them. However, if a Councilor wants to take a few moments out of vacation time, that is their personal choice. He continued that hearing what Councilor Workman was saying, a situation could arise like that – someone could be traveling extensively in a warmer climate and still be a Councilor. That has not happened and he cannot imagine that it will, but he has learned to always anticipate the worst-case scenario.

Chair Bosley replied that she would not want to see something like that happen; she agrees. She continued that she thinks that the discouragement from being able to use this rule is what is practical. They have all seen, in the last 18 months, how important it is to be in a room together.

Randy Filiault, Councilor, stated that he is here tonight because he takes the Rules of Order seriously. He continued that he has memorized them all. He wants to share his views on the Quorum and Remote Participation section. He has a problem with changing this Rule. Talking about the term "reasonable and practical" means opening up a can of worms, although maybe not with this particular Council, which is full of ethical people. The Councilors who have been around for a while have not abused it. But once the genie is out of the bottle, it is not going back in. He knows the intent is to make it easier [to participate], but he is old school, and from his perspective, if you are running for City Council and cannot put in one night per week to come to a meeting, probably being a Councilor is not for you. He can count the number of Council meetings he has missed on one hand, because when he ran for Council, he prioritized it.

Councilor Filiault continued that Councilor Workman has a good point – Councilors could take as many vacations as they wanted. Then they would have to go back and change the Rule, determining how many vacation days count. Maybe the [current Councilors] do not abuse this, but someone could run for Council and almost never show up. They are saying the Mayor would have to make that determination. If the person calls in and says, "I'm sick," HIPAA laws prevent them from having a rule to challenge that. Someone could abuse it. Once they change this Rule, he predicts that they will have to change it again rapidly, because someone would

abuse it. The word "reasonable" is [open to interpretation], as the City Attorney can tell them. If you are on vacation, enjoy the vacation. If you are sick, you are sick. There are 15 Councilors; this is not a three-member select board where if one person does not show up they are missing a third and if two people do not show up they do not have a quorum. If one Councilor cannot be at a meeting, the other 14 will take care of it. There is a big enough Council to make that possible. This is a Rule that is not broken, so they should not try to fix it. The remote meetings during the Emergency Order showed them that a lot of the work is done the night of the meeting when they talk before, during, and after Council meetings. If you are on vacation [and participating remotely], it is not the same. In his opinion, they should not touch Section 4, as far as remote participation.

Councilor Jones stated that he agrees with Councilor Filiault and Councilor Workman. He continued that he believes a Councilor does take on that responsibility when they are elected, and he does not think there should be any remote application going on here. Once when he was working in RI, there was a Council meeting about the Surface Water Protection Ordinance. He had a strong feeling about that Ordinance and came home to vote on it, then went back to his hotel in RI that night, because he felt a responsibility. It is true that there has not been any abuse [of the option to participate remotely], but [allowing that option] does open them up to abuse.

Chair Bosley stated that she believes this alteration of this language came out of a Council workshop that they held and they discussed this as a group of 15 and decided that they would like to include remote participation. She continued that she loves that Councilor Jones did that, but she thinks they have learned a few things from the pandemic, and one is that they have technological resources that they have invested in and that allow for this, and Councilor Jones should not have had to drive back. His opinion matters and he should get to voice it. In addition, they have experienced firsthand that you might choose to run for an elected seat, and then something happens in your life that does not allow you to safely participate inside the room. A Councilor currently is not able to participate; it would put them at risk. We now live in a world in which if someone has cold or flu symptoms, they would not be allowed to participate, and could potentially be under a quarantine requirement, but still healthy enough to [participate remotely]. That was her situation a couple weeks ago. She was out of quarantine but still not well, and did not want to potentially expose the entire room to COVID-19, even though she legally could have come to the meeting. That does not mean she was not well enough to participate; she certainly was. She feels that [the proposed changes to Section 4] follow the spirit of the changes the Council asked for at its workshop, and if they want to work on the wording, that is fine, but they should put something forward for the full Council to discuss.

The City Attorney stated that he agrees with all of the philosophical discussion that is happening. He continued that he cautions the Committee that one of the reasons this provision is included in RSA 91-A is the question of disability. The City of Keene has to comply with the Americans with Disabilities Act (ADA), and it applies to elected officials, too. The Council may have an obligation to allow an individual who meets the qualifications of the ADA to participate in a manner that allows them to participate. That would be, potentially, remote participation,

depending on the disability. He understands that they want to talk about what is "reasonable and practical," and again, he agrees with Councilor Filiault on that, but five attorneys will give five different answers. RSA 91-A does not define "reasonable and practical," either, which is one of the reasons why it is a good idea to define it in a Rule. He suggests that having an opportunity, specifically with respect to disability, would probably be required if push comes to shove.

Chair Bosley asked if they would say it is reasonable to leave this as worded and they can then discuss it as a full Council. The City Attorney replied yes. Chair Bosley asked if the other Committee members are comfortable with that. There was agreement among the members.

Chair Bosley stated that the second section they potentially wanted to alter was Section 23, Standing Committees. She continued that Councilor Jones asked that if the Petitioner is a City Councilor, they be allowed to speak during the deliberations.

Councilor Johnsen stated that they have learned how important it is to stick with specific language. She continued that her sense is that if something has already been discussed, and if the person really does not agree but it is done and then it is time to vote, it is time to vote. Thus, she does not think they should be bringing something up after the fact.

Chair Bosley replied that this period in the process would be where a Councilor at the Committee table has made a motion, and that motion might indicate specific things. The public then has the opportunity to ask a question specific to the motion at hand, not going back into the original debate, but maybe questioning why, for example, the Committee would like a million dollars of insurance and not two million dollars, or some detail like that. Councilors are not allowed to ask questions, because the thought process is that they will have an opportunity to speak to it again at the Council meeting, where a member of the public would not have that opportunity. Because of that, it would potentially not include a Petitioner. For example, if a Councilor brought a matter before the PLD Committee, once the Committee made a motion, the Councilor could not ask them to edit or alter that motion in any way. That is because the Councilor would have the opportunity to do that at the full Council meeting, whereas a member of the public who is bringing an item before the Committee [would not]. It puts the Councilor/Petitioner in both camps. She would like to know how the City Attorney would like to handle this.

The City Attorney stated that he suggests that right after the words "may not participate in Committee deliberations after a motion and second has been made concerning an item on the agenda," they add, "unless the Councilor is the Petitioner before the Committee."

Chair Bosley asked Councilor Jones if that works. Councilor Jones replied that it is perfect.

Councilor Greenwald asked about Section 15, Conflict of Interest. He continued that he does not know where it fits into this, but there was a recent situation. If a Councilor is not an employee of a [Petitioner], and not on the board of directors of a [Petitioner], is there still a conflict of

interest? He thinks it should indicate, at least, that you have to be on the board of directors to have that conflict.

The City Attorney asked them to talk about that a little. He continued that he knows what Councilor Greenwald is referring to, and the operative language that he focused on when the question came before him was "or is otherwise a party in interest." The situation that arose where he had to think about that language was in the context of two competing entities or businesses for only one piece of property. He agrees with Councilor Greenwald that [it would be okay] if the Councilor was just a member of an organization and there was no other "conflict" happening. For example, the Keene Snoriders [recently requested to use City property], and nobody else was asking to use the roads or to exclude anyone from the use of those roads, and the fact that Councilor Greenwald happened to be a member of the Snoriders [was okay]. However, regarding the other situation and the words "or is otherwise a party in interest," there was an interest in that organization wanting to occupy a property to the exclusion of another organization, so in that context, it seemed to him that because that "conflict" was fairly pronounced, it was a conflict of interest.

Councilor Greenwald stated that he is not speaking specifically to that situation, because he assumes those two groups do not necessarily have boards of directors. He continued that he thinks this section needs a tune-up and a workshop. It is not a conflict of interest if they are paving the road in front of his house, because everyone uses the road, but if there is some special accommodation being considered [for him], like for drainage or something, then it might become a conflict. The City Attorney replied that he understands. He continued that he is trying to parse this in his own mind. When you have someone who is a member of an organization that wants to do something, and another member of another organization wants to do the exact same thing, and you can only do one, it seems to him to be appropriate for the person to say "No, I can't decide on that." That is up to the Council to decide.

Chair Bosley stated that this topic came up for her during her first year on the Council, during the budgetary process. She continued that on the floor, a Councilor who was on the board of directors prior to this being changed had requested that the organization that they sat on the board for have an increase in their funds from the City. She thought to herself that that was not right. Maybe the request was legitimate, but the fact that it was not disclosed to any of the people who were sitting there [was not okay]. Not even a handful of people could have known that this person sat on the board. She wonders if there is some sort of annual process where Councilors disclose the boards or commissions they sit on, without having to declare them as conflicts, necessarily. Then they will all be aware of the biases that might occur.

The City Attorney replied that the State does exactly that. He continued that he sits on a couple State boards, and every year he has to file a disclosure statement with the State. The Council could choose to implement that. He suggests that if they do, they implement it with some sort of process and clarify what they do with it. Before they got into the fiduciary language – which has always been in the Rules of Order, at least for as long as he has been here – [what happened was]

that generally, someone on a board or commission could even come before the City to request money and it was clearly not a conflict under the City Charter, because they had no pecuniary interest in it. Unless you are gaining something, like that organization pays you or somehow you get money out of it. The pecuniary aspect has always been a narrow definition of what a conflict is. Broadening it to fiduciary issues means it becomes more difficult to define. They could have a disclosure statement of some kind, if the Council thinks that is appropriate.

Councilor Greenwald asked if that would make any difference. He continued that he could disclose that he is a member of the Rotary Club that puts up the banners on Main St. The City Attorney replied that Councilor Greenwald is exactly right – the question is what they do with it at that point. What the State does with that is make sure that a board member is not benefitting personally from one of the boards or committees.

Councilor Jones stated that they made some of these changes when Mayor Hansel was on the Monadnock Economic Development Corporation (MEDC) and MEDC was negotiating with the City. He continued that he himself is on the board of directors for Pathways for Keene (PFK) and he votes for PFK's licenses and community events, and he does not think he has a conflict. But that is the difference – he thinks Mayor Hansel did have a conflict, because MEDC was negotiating with the City. The City Attorney replied yes, exactly.

Councilor Jones continued that at the last Council meeting, there was a [question of conflict of interest], and he did not think the Councilor in question should have been recused, until he said the words "I have a bias." He asked if the word "bias" should be in this section somewhere.

Chair Bosley asked how they could streamline the language to get to the point of what they are saying, which is that sometimes you are a member of a group and you have a bias, and sometimes you are a member of a group and you do not. Sometimes you are on the board of directors and you have a bias, and sometimes you are on the board of directors and you do not. How do they write a one-size-fits-all paragraph that indicates those nuances? Each of these situations is different. In her situation, there was a person who might not personally benefit but had a personal interest in seeing the funds come into the organization and maybe not go to a different organization. There should be some way of disclosing or exposing that or having the conversation, so at least the rest of the Council is aware of what is going on.

The City Attorney replied that he thinks that is exactly what appears to be throwaway language. He continued that even he did not pick it up the first time he read it, but "or is otherwise a party in interest" is getting at exactly the issues/questions they are raising. He thinks what the Committee is wrestling with is what "a party in interest" means.

Councilor Greenwald replied that it means "financial interest." The City Attorney replied that in the example they were just talking about, however, there was not any financial interest for the party, but the party clearly admitted, "I have a bias. I want this property for the purposes of [the group I'm a part of]." Councilor Greenwald replied a [conflict of interest] is not just when it is

uncomfortable to vote. He continued that he and Councilor Filiault can speak of many times when they wished they were not in the room, but they have to vote. The City Attorney replied that that is why he thinks it is prudent and appropriate for the Council to make the decision, not the particular individual.

Councilor Johnsen stated that the word "bias" says, to her, 'I choose to be a City Councilor, therefore, I know that it is not my job to listen to my biases; rather, it is my job to listen to the people whom I represent.' She sees the language "A conflict may exist when a Councilor's spouse, child, parent, or other member of the Councilor's immediate family has a conflict." Some could say that sounds like it does not separate church and state. It could be suspected. It is muddy language. For example, so what if someone's kid does not agree? Do they need that sentence? One of the things she values about the Council is that they are trying to be as pure as possible. They are not going into their own biases or own beliefs; rather, they are listening to what their constituents need or want.

Chair Bosley stated that she has asked the Council for one of these recusals because her husband works for a non-profit organization and receives a salary, and she was in a position to be able to vote on whether a sum of money should go to that organization. It puts her husband in a delicate situation where he could be looked at as a tool to get this money, or it puts her in a delicate situation where if she [votes yes], it could be considered that she is biased. She asked the Council to recuse her, which they did. She thinks that there is some correlation between your own [interests] and those of your immediate family. Part of what they need to get across is that while the Council is making this decision, they need to identify to the Councilors when they should be asking the question, instead of keeping it to themselves and assuming they have no bias. She thinks everyone has internal biases, and sometimes that is good to bring to the table, because they have perspectives. However, in certain situations, when there is money associated with a decision, she thinks they should always know if it is not an "arm's length transaction." They should be bringing these issues up more often and having these conversations at full Council. Regarding the situation she spoke of earlier, in her view, a Councilor had a conflict of interest, but that Councilor did not think he did. However, without that disclosure, no one would have known to ask for it. That is where she thinks it would be useful. She does not know how they would make it available, but there should be a way for the questions to be brought before the Council so the Council can make a decision.

Councilor Workman stated that she agrees with everything that has been said. She continued that she assumes people will do the right thing and disclose. She cannot recall the incident that was used as an example, when a Councilor did not disclose, but she assumes that everyone operates and has the same morality that she does. She knows that is not true. Is it possible to put language in this section saying that a Councilor is ethically obligated to disclose any potential conflict of interest to the Council so the Council can determine whether a conflict of interest exists. Councilor Johnsen replied that sounds good to her.

The City Attorney replied that is what the language is trying to capture – "If a conflict becomes known prior to a Council meeting, the Councilor shall file with the City Clerk the written particulars of the conflict of interest…" It is still dependent upon the individual looking at the agenda items and thinking, 'hmm, I think I may, or I know I do, [have a conflict of interest.]' That is what that language is trying to get at.

Councilor Workman replied that if they firm it up and say "must disclose," that does not give them a choice. They have to disclose, whether or not they sit upon the board. The [current] language says they "should." Everyone "should" follow the speed limit, too; it does not mean everyone will. The City Attorney replied that it says "shall." He continued that it really is an obligation Councilors are supposed to meet. Some people, in good faith, just do not make the connection [that they might have a conflict of interest]. It is just the way it is. The Councilors sit on many boards, committees, and commissions.

Rhett Lamb, Community Development Director, stated that the sentence reads, "If the conflict becomes known prior to a Council meeting, the Councilor shall…" It is actually about filing the presence of a conflict with the City Clerk's Office. He asked if there is a way to clarify it so that it is not just related to letting the City Clerk know about it, but that it is the obligation of the Councilor to [let the Council know]. The City Attorney replied that the rest of the sentence is, "for inclusion on the Councilor agenda." He continued that he thinks the wording could be a little different and not have the "if" clause, which is what they are all stumbling on. Mr. Lamb agreed. The City Attorney continued that it should say, "A Councilor with a known conflict of interest with respect to an agenda item shall file with the City Clerk the written particulars of the conflict of interest for inclusion on the Council agenda." He continued that he would take out "prior to a Council meeting."

Chair Bosley asked if this section could have language about how long conflicts of interest stay on file. She asked if they stay on file for life, or if someone has to refile every year. The City Clerk replied that the conflicts of interest stay on file for as long as someone is a Councilor.

Chair Bosley asked what happens if a conflict of interest changes. The City Clerk replied that the Councilor has an obligation to inform the City Clerk about the change, and inform the Council to remove or amend that conflict. Chair Bosley replied that she was wondering, because this section does not necessarily speak to it. Perhaps it would be helpful, since there are so many nuances, to talk about having a "refresher" on this, similar to how they have refreshers on RSA 91-A, or other portions of their Rules. Perhaps during orientation and on a regular basis such as a Council workshop, they remind folks what their obligations are.

The City Attorney stated that at least for the purposes of discussion at the Council meeting, he suggests they change the language to what he had suggested, because he does think the "if" clause is the [problem]. It would read: "A Councilor with a known conflict of interest on a Council agenda item shall file [and so on and so forth.]" That puts it back on the Councilor.

Councilor Workman stated that regarding "known" conflict of interest, some people do not know there is a conflict of interest. She continued that it could say "suspected" or "potential" conflict of interest. That way, it keeps everyone honest.

The City Attorney replied that is a good point. Chair Bosley replied that speaks to the point of it, because going back to all of the examples they have used, it can be hard to know if you have a conflict of interest, because it is not cut and dried. She continued that any Councilor with a suspected conflict of interest should present it to the City Clerk so the Council can discuss it. The City Attorney replied that he thinks that is a great call, because that does happen a lot. He continued that he gets calls from people wanting to discuss whether they have a conflict of interest and he goes it through with them. Councilor Workman is right; most people really wrestle with the question.

Councilor Jones stated that many years ago, before Attorney Mullins was here, when the City was doing an RFP for the Railroad property, he and former Councilor Parsells were challenged because the Keene Housing Authority (KHA) was managing the block grant and his (Councilor Jones's) spouse and Councilor Parsells worked for the KHA. He continued that the Council determined that it was not a conflict, because there was no pecuniary interest. However, when Chair Bosley [raised a similar issue], the Council determined yes, she did have a conflict. They have to bring this together and come up with an answer.

Chair Bosley replied that in her situation, her spouse receives a salary [from the organization in question]. Councilor Jones replied that his did, too. Chair Bosley replied that she would have said Councilor Jones had a conflict, but she supposes it is the Council's prerogative.

Chair Bosley stated that this leads her to her final conflict of interest question. What do they do if, at the end of the day, after a vote, they realize someone had a conflict of interest they did not disclose? What are the repercussions of that? The City Attorney replied not very many. He continued that he supposes that one thing someone on the prevailing side of the vote could do, if they thought that conflict made a difference, is move for reconsideration of the vote and state the reason why. A Councilor can raise the question of whether another Councilor has a conflict of interest. That could form the basis of a motion for reconsideration at that point, but after that, it would be difficult to raise the issue.

Councilor Greenwald stated that he suggests changing the sentence that begins, "A conflict may exist when a Councilor's spouse, parent, child…" to "A conflict exists when…," taking out the word "may." The City Attorney agreed.

Councilor Greenwald stated that he thinks they have a good general sense here. Chair Bosley asked if everyone is happy with the edits they have made tonight. The City Clerk stated that given the Committee has gone through this with such a fine-toothed comb, she thinks the PLD Committee is the right Committee to handle the Rules of Order. The skill set is here, because of the PLD Committee's involvement with other regulatory ordinances.

Councilor Johnsen thanked the City Attorney and the City Clerk for the work they have put into this language, so that the PLD Committee had a jumping off point for discussion.

Chair Bosley stated that she agrees that the PLD Committee is the appropriate Committee to deal with the Rules of Order. She continued that if the Rules of Order are considered an organizational item, then they can let the FOP Committee have it, but the FOP Committee carries a heavy agenda burden, and tonight's conversation just established that the Council can move items from Committee to Committee. She thinks the PLD Committee would be happy to have this item back if the Rules needed to be looked at and the FOP Committee was not available.

Councilor Greenwald stated that as Councilor Johnsen was saying, regarding all of the nitpicking and wordsmithing by the PLD Committee, the City Attorney and the City Clerk did a super job going through it.

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

On a vote of 5-0, the Planning, Licenses, and Development Committee recommends the adoption of the proposed Rules of Order as amended.

The City Attorney stated that he will prepare a revised version for the full Council meeting.

There being no further business, Chair Bosley adjourned the meeting at 7:54 PM.

Respectfully submitted by,
Britta Reida, Minute Taker

Edits submitted by,
Terri M. Hood, Assistant City Clerk