



KEENE CITY COUNCIL
Council Chambers, Keene City Hall
April 20, 2023
7:00 PM

ROLL CALL

PLEDGE OF ALLEGIANCE

MINUTES FROM PRECEDING MEETING

- April 6, 2023

A. HEARINGS / PRESENTATIONS / PROCLAMATIONS

1. Public Hearing - 79-E Application - 310 Marlboro Street
2. Presentation - Water Supply Master Plan and Well Facilities Evaluation - Emery & Garrett Groundwater Investigations and Underwood Engineers
3. Presentation - City of Keene Housing Needs Analysis and Strategy - Camoin Associates
Link: <https://keenenh.gov/community-development/housing>

B. ELECTIONS / NOMINATIONS / APPOINTMENTS / CONFIRMATIONS

1. Confirmations - Human Rights Committee

C. COMMUNICATIONS

1. Councilor Remy - Requesting the City's Consideration - Centralized Solid Waste Group Default Rates and Billing
2. Monadnock Interfaith Project - Encouraging the City of Keene to Affirm the Recommendations in the Housing Needs Assessment Report
3. Spectrum Cable/Charter Communications - Request to Install an Underground Communication Conduit in the Right-of-Way

D. REPORTS - COUNCIL COMMITTEES

1. Cabana Falls Winery – Permission to Offer Samples and Sell Alcohol at Keene Farmers' Market
2. Keene Family YMCA – Request for Road Closure – Summit Road – June 4, 2023
3. Keene SwampBats – Request to Discharge Fireworks – July 3, 2023
4. Fireworks Restaurant – Request to Serve Alcohol – Sidewalk Café
5. Request to Use City Property – 2023 Keene Pride Festival
6. Pathways for Keene – Request for License – 4 on the 4th Road Race – July 4, 2023
7. 2022 Homeland Security Grant Program - Search and Rescue Equipment
8. Vested Interest in K9's, Inc. Grant Award for the Keene Police Canine Program
9. Acceptance of State of New Hampshire Grant Funding for Youth Services' Juvenile Court Diversion Programming
10. Lease Agreement - 11 Central Square
11. Community Development Finance Authority - Community Center Investment Program
12. City Hall Structural Repairs Project – Request to Reallocate Funds
13. Change Order 1 - Water Supply Master Plan and Well Facilities Evaluation

E. CITY MANAGER COMMENTS

F. REPORTS - CITY OFFICERS AND DEPARTMENTS

1. Acceptance of Donation - Finance Director

G. REPORTS - BOARDS AND COMMISSIONS

1. Nomination of Jay Kahn to the Southwest Region Planning Commission Board of Directors - Planning Board
2. Gilsum Road and Washington Street Extension Land Acquisition - Conservation Commission
3. Ordinance O-2023-06: Relating to Amendments to the Land Development Code, Accessory Dwelling Units - Joint Planning Board/Planning, Licenses and Development Committee
4. Ordinance O-2022-19-B: Relating to Amendments to the Land Development Code - Zoning Regulations & Application Procedures - Joint Planning Board/Planning, Licenses and Development Committee

H. REPORTS - MORE TIME

I. ORDINANCES FOR FIRST READING

J. ORDINANCES FOR SECOND READING

1. Relating to the Sale, Possession and Display of Fireworks
Ordinance O-2023-07
2. Relating to Amendments to the Planning Board Subdivision Regulations
Ordinance O-2023-08
3. Relating to Class Allocation & Salary Schedule
Ordinance O-2023-09
4. Relating to Personnel Systems & Procedures
Ordinance O-2023-10

K. RESOLUTIONS

1. Relating to a CDBG Grant Application - Roosevelt School Apartments
Resolution R-2023-21
2. Acceptance of Deeds and Return of Layout - Magnolia Way
Resolution R-2023-22
Resolution R-2023-23
Resolutuion R-2023-24
3. Acceptance of Deed and Return of Layout - Matthews Road and
Winchester Street Intersection
Resolution R-2023-25
Resolution R-2023-26
4. Relating to the Appropriation of Funds from the General Fund Unassigned
Fund Balance (Fire Department Staffing)
Resolution R-2023-18
5. Relating to Use of the Solid Waste Unallocated Fund Balance to Enable
Common Space Renovation at the Transfer Station/Recycling Center
Resolution R-2023-20

NON PUBLIC SESSION

ADJOURNMENT

04/06/2023

A regular meeting of the Keene City Council was held on Thursday, April 6, 2023. The Honorable Mayor George S. Hansel called the meeting to order at 7:00 PM. Roll called: Bryan J. Lake, Michael J. Remy, Gladys Johnsen, Michael Giacomo, Randy L. Filiault, Robert C. Williams, Philip M. Jones, Andrew M. Madison, Andrew M. Madison, Kris E. Roberts, Raleigh C. Ormerod, Bettina A. Chadbourne, Catherine I. Workman, Mitchell H. Greenwald, Kate M. Bosley, and Thomas F. Powers were present. Councilor Remy led the Pledge of Allegiance.

ANNOUNCEMENTS

Mayor Hansel announced that the next Council workshop on the downtown infrastructure and improvement project will be Wednesday, April 26, at 6:00 PM. A public comment period will start at 7:30 PM. The workshop will conclude at 8:30 PM. This workshop will replace the normal MSFI Committee meeting that would have occurred that evening.

MINUTES OF THE PRECEDING MEETING

A motion by Councilor Powers to adopt the minutes of the March 16, 2023 regular meeting as printed was duly seconded by Councilor Bosley. The motion carried unanimously with 15 Councilors voting in favor.

PROCLAMATION – FRIENDS OF THE KEENE PUBLIC LIBRARY

Mayor Hansel welcomed Councilor Williams to the front, to receive a proclamation declaring April 21–23, 2023, as Friends of the Keene Public Library Days. The Mayor urged citizens of the Monadnock region to visit the spring book sale at the Keene Public Library in support of the continued excellent Library programs. Councilor Williams noted that he is the Council liaison to the Library Board of Trustees. The Councilor said he had been very impressed by all the Friends of the Keene Public Library’s programs. One way they fund their programs is through this book sale, which Councilor Williams called impressive.

NOMINATIONS – HUMAN RIGHTS COMMITTEE

Mayor Hansel nominated Gina Burke and Jennifer Nescimento to serve as alternate members of the Human Rights Committee, both with terms to expire December 31, 2025. The Mayor tabled the nominations until the next regular meeting.

CONFIRMATIONS – BICYCLE/PEDESTRIAN PATH ADVISORY COMMITTEE; ENERGY AND CLIMATE COMMITTEE; PLANNING BOARD

Mayor Hansel nominated Samantha Jackson and Autumn DelaCroix to serve as alternate members of the Bicycle/Pedestrian Path Advisory Committee, both with terms to expire December 31, 2025. The Mayor also nominated Rowland Russell to serve as an alternate member of the Energy and Climate Committee, with a term to expire December 31, 2025. Lastly,

Mayor Hansel nominated Ryan Clancy to serve as a regular member of the Planning Board, with a term to expire December 31, 2025. A motion by Councilor Powers to confirm the nominations was duly seconded by Councilor Bosley. The motion carried unanimously on a roll call vote with 15 Councilors present and voting in favor.

APPOINTMENT OF AN AD HOC CHARTER AMENDMENT COMMITTEE

Mayor Hansel appointed the Finance, Organization, and Personnel Committee as the Ad Hoc Charter Amendment Committee, with the charge of reviewing Section 11 “Primaries” of the Keene City Charter in response to concerns from the City Clerk relative to the provisions of this Section. A motion by Councilor Powers to confirm the appointments was duly seconded by Councilor Bosley. The motion carried unanimously, with 15 Councilors present and voting in favor.

SCRIVENER'S ERRORS IN THE MARCH 16TH CONFIRMATIONS – CONSERVATION COMMISSION; PARTNER CITY COMMITTEE

The City Clerk, Patty Little, reported that when updating the official roster of Board memberships from the March 16 City Council meeting, she noticed that she had mistakenly assigned an expiration date of December 31, 2025, to Deborah LeBlanc’s term on the Conservation Commission. Deborah is serving out an unexpired term that actually ends December 31, 2023. In addition, the City Clerk said she incorrectly showed the nomination of Gerald Lins to the Partner City Committee as an alternate position. There is a current vacancy on the Partner City Committee, with a term that expires December 31, 2025 and that this nomination should have been for a regular position. Mayor Hansel accepted the City Clerk’s report as informational.

COMMUNICATION – KEENE FAMILY YMCA – REQUEST FOR ROAD CLOSURE – SUMMIT ROAD – JUNE 4, 2023

A communication was received from Kelly Fleurette on behalf of the Keene Family YMCA requesting the full closure of Summit Road on Sunday, June 4, 2023, from 8:00 AM–12:00 PM for a Youth Triathlon Race. Mayor Hansel referred the communication to the Planning, Licenses, and Development Committee.

COMMUNICATION – KEENE SWAMPBATS – REQUEST TO DISCHARGE FIREWORKS – JULY 3, 2023

A communication was received from Kevin Watterson, President of the Keene SwampBats, with their annual request for the Independence Eve Fireworks display at Alumni Field, occurring immediately after the SwampBats game scheduled for that evening. Mayor Hansel referred the communication to the Planning, Licenses, and Development Committee.

COMMUNICATION – PATHWAYS FOR KEENE – REQUEST FOR LICENSE – 4 ON THE 4TH ROAD RACE – JULY 4, 2023

A communication was received from Sarah Greene, President of Pathways for Keene, requesting approval to conduct the 21st annual 4 on the 4th Road Race on July 4, 2023. Mayor Hansel referred the communication to the Planning, Licenses, and Development Committee.

COMMUNICATION – FIREWORKS RESTAURANT – REQUEST TO SERVE ALCOHOL – SIDEWALK CAFÉ

A communication was received from Adam Berube, the new owner of Fireworks Restaurant, requesting permission to serve alcohol at their Sidewalk Café. Mayor Hansel referred the communication to the Planning, Licenses, and Development Committee.

MSFI REPORT – REQUEST FOR A TREE REMOVAL – MARLBORO STREET – 310 MARLBORO STREET, LLC

A Municipal Services, Facilities, and Infrastructure Committee report read, recommending granting the request of Randall Walter to remove the tree in front of 310 Marlboro St. at the expense of the requestor. A motion by Councilor Greenwald to carry out the intent of the Committee report was duly seconded by Councilor Filiault. The motion carried unanimously with 15 Councilors present and voting in favor.

MSFI REPORT – PRESENTATION – INFRASTRUCTURE PLANNING AND THE CIP PROCESS

A Municipal Services, Facilities, and Infrastructure Committee report read, recommending that the Infrastructure Planning and CIP Process presentation be accepted as informational. Mayor Hansel filed the report as informational.

MSFI REPORT – GEORGE STREET BRIDGE – IMPLEMENT PROPOSED DESIGN

A Municipal Services, Facilities, and Infrastructure Committee report read, recommending that the City Manager be authorized to do all things necessary to implement the George St. Bridge Replacement Project, with an alternative bridge rail design, to maintain the rural character of the neighborhood. A motion by Councilor Greenwald to carry out the intent of the Committee report was duly seconded by Councilor Filiault.

A motion by Councilor Greenwald was duly seconded by Councilor Filiault to amend the Committee report to add the phrase, “if such alternate design is approved by the State,” at the end of the prepared motion. The amended motion would read that “the City Manager be authorized to do all things necessary to implement the George St. Bridge Replacement Project,

with an alternate bridge rail design, to maintain the rural character of the neighborhood, if such alternate design is approved by the State.”

The motion to amend passed unanimously, with 15 Councilors present and voting in favor. The motion to carry out the intent of the Committee report as amended was carried unanimously, with 15 Councilors present and voting in favor.

FOP REPORT – HAZARD MITIGATION ASSISTANCE GRANT – UPDATING THE HAZARD MITIGATION PLAN

A Finance, Organization, and Personnel Committee report read, recommending that the City Manager be authorized to do all things necessary to accept, execute, and expend a Hazard Mitigation Assistance Grant in the amount of up to \$16,667 from the New Hampshire Department of Safety Division of Homeland Security and Emergency Management for the updating of the City’s Hazard Mitigation Plan. A motion by Councilor Remy to carry out the intent of the Committee report was duly seconded by Councilor Powers. The motion passed unanimously, with 15 Councilors present and voting in favor.

FOP REPORT – TRANSPORTATION HERITAGE TRAIL, PHASE 1 – PROJECT AGREEMENT

A Finance, Organization, and Personnel Committee report read, recommending that the City Manager be authorized to do all things necessary to negotiate and execute a project agreement along with future amendments with the New Hampshire Department of Transportation (NHDOT) to implement phase one of the transportation heritage trail project. A motion by Councilor Remy to carry out the intent of the Committee report was duly seconded by Councilor Powers. The motion passed unanimously, with 15 Councilors present and voting in favor.

FOP REPORT – MEMORANDUM OF UNDERSTANDING WITH KEENE DOG PARK, INC.

A Finance, Organization, and Personnel Committee report read, recommending that the City Manager be authorized to do all things necessary to negotiate and execute a memorandum of understanding with Keene Dog Park, Inc. for the purposes of building and maintaining a dog park in Wheelock Park. A motion by Councilor Remy to carry out the intent of the Committee report was duly seconded by Councilor Powers. Councilor Jones congratulated both of these organizations (this agenda item and the next one) for actually raising money and not just asking the City for funds. He said he had reservations from the very beginning about this location in Wheelock Park, but he said that since it was moving forward, so he would vote in favor.

The motion passed unanimously, with 15 Councilors present and voting in favor.

FOP REPORT – MEMORANDUM OF UNDERSTANDING WITH KEENE DISC GOLF CLUB

A Finance, Organization, and Personnel Committee report read, recommending that the City Manager be authorized to all things necessary to negotiate and execute a memorandum of understanding with Keene Disc Golf Club for building and maintaining a nine-hole disc golf course in Wheelock Park. A motion by Councilor Remy to carry out the intent of the Committee report was duly seconded by Councilor Powers. The motion passed unanimously, with 15 Councilors present and voting in favor.

FOP REPORT – OPIOID GRANT APPLICATION/ KPD SOCIAL WORKER

A Finance, Organization, and Personnel Committee report read, recommending that the update on the Opioid Grant application be accepted as informational. Mayor Hansel filed the report as informational.

CITY MANAGER'S COMMENTS

The City Manager reported that the new electricity supply options from Keene Community Power would begin with a customers' June meter read. Prior to the start of the program, the City would be conducting a notification and education process to make residents and businesses aware of their options:

- April 10: a postcard announcing the upcoming program would arrive to any customer eligible for automatic enrollment.
- April 15 (start of the 30-day customer consideration period): a detailed Customer Notification Letter would arrive to all electricity customers informing them of the upcoming program and its pricing. It would also inform them how to choose a different program option or, if eligible for automatic enrollment, how to opt-out.
- April 25: the first community meeting to provide an overview of the program and answer questions. This meeting will take place on Tuesday April 25, 2023, at 6:00 PM at the Keene Public Library, Heberton Hall, 60 Winter Street.
- May 2: the second community meeting will take place on Tuesday at 6:00 PM virtually or at City Hall, Council Chambers (2nd floor), 3 Washington Street.
- May 15: this is the end of the 30-day consideration period. Any customer that opts out by this deadline will not be enrolled in the program.

On the Community Power Program, the City Manager said she had heard questions about whether this applies to commercial businesses and the answer is yes. However, many already have agreements with third-party suppliers. The City Manager said this applies to anyone with a utility bill right now, including renters. If not currently with a third-party supplier and they do not opt-out, people would be automatically enrolled.

Next, the City Manager provided an update on body worn cameras. The week before this meeting, the City Manager executed the contract for the body worn and in-car video program. Navigating the process to access the funds from the Congressionally directed spending award took a great deal of time while they sorted out how the funds would be distributed. Keene was fortunate to receive \$415,000 of Congressionally directed funds along with a State grant of \$50,000 to offset the majority of the cost of the program for the first five years. The contract for 44 body worn cameras and 16 in-car video systems is \$445,000. Training is \$13,925 and support equipment is \$24,765 (total cost \$484,715). The City was working to modify uniforms and would be working with the vendor on delivery and training. The very preliminary schedule-contract guaranteed installation 45–60 days from the time the City signed the contract (end of March). They will provide basic level of training around that same time. The City would piggyback its own training surrounding policy and law. So, assuming no issues with getting the uniforms back, the City Manager said the cameras should be up and running by early to mid-June.

Next, the City Manager discussed the Pat Russell Park reconstruction, stating that spring is here, and construction season had begun.

The City Manager continued her report on the topic of the housing study work. She reported that the Community Development Department would hold an open house on April 20 from 3:30–5:30 PM at Hannah Grimes Center to gather public input on housing strategies. This is part of the six-month effort to develop a comprehensive housing assessment articulating our current and future housing needs. The proposed strategy in the report include a variety of actions the City could take, and the public input process would help to prioritize strategies to put forward to the Council. There is a link to the housing needs analysis report on the City’s website on the Community Development page. The Community Development Department will be presenting to the City Council the results of this work at the April 20 Council meeting.

Next, the City Manager discussed the City’s brand. She said that employee’s email signature block now incorporated the City’s new logo, and communications like City press releases would also begin using the new logo. The new mark would gradually be adopted throughout the organization.

The City Manager reported on wayfinding/temporary sidewalk markings. She said the Public Works Department had been working with Arts Alive and Keene State College on a project that involves placing a temporary (wheat paste) elm tree mural on either the Colonial or the Showroom. It will have instructions to “find the missing leaves.” Elm leaves would be placed on the sidewalk in front of each identified arts destination. These are temporary in nature and are only expected to last only one season. This is a fun wayfinding project to bring greater awareness to all the wonderful art locations in our community. The City Manager thanked the Public Works Director for working with this group to help make this a reality.

The City Manager also reported that she asked Beth Fox, HR Director/Assistant City Manager, to cover for the City Manager at the next Council meeting. The City Manager would be attending a university system board of trustees event on April 20 (this is the same time as the next meeting) to support Keene State College and the partnerships created that continue to benefit both the City and the College.

Lastly, the City Manager announced that she would be participating on a couple of upcoming panels about community power and green energy projects (April 18 hosted by Plan NH and May 1 as part of NH Energy Week).

Mayor Hansel added that he looked at the Community Power figures and said the rate the City was able to negotiate was very impressive, noting that the offers approved for residential rate payers are nearly the best possible.

RESIGNATIONS – PARTNER CITY COMMITTEE; HUMAN RIGHTS COMMITTEE

A memorandum read from Executive Secretary, Helen Mattson, recommending that the resignations of Lena Kridlo from the Partner City Committee and Shaun Filiault from the Human Rights Committee be accepted with regret and appreciation of their service. A motion by Councilor Powers to accept the resignations with regret and appreciation of service was duly seconded by Councilor Bosley. The motion carried unanimously with 15 Councilors present and voting in favor.

79E COMMUNITY REVITALIZATION TAX RELIEF APPLICATION FOR 310 MARLBORO STREET

A memorandum was received from Daniel Langille, City Assessor, recommending that the Mayor set a public hearing regarding the 79-E Community Revitalization Tax Relief application submitted by Randall Walter for the property at 310 Marlboro Street owned by 310 Marlboro Street, LLC. Mayor Hansel referred the memorandum to the Finance, Organization, and Personnel Committee and set a Public Hearing for Thursday, April 20, 2023, at 7:00 PM.

INVEST NEW HAMPSHIRE MUNICIPAL DEMOLITION GRANT – BUILDING AT 160 WATER STREET

A memorandum read from the Director of Parks, Recreation, and Facilities, Andy Bohannon, recommending that the City Manager be authorized to execute the submission of the application for Invest NH Municipal Demolition Grant for the purposes of removing the Findings Inc. building at 160 Water Street. Mayor Hansel said this was a time-sensitive issue that needed the Council's action at this meeting. A motion by Councilor Powers to Suspend Section 26 of the Rules of Order to act upon the time-sensitive grant was duly seconded by Councilor Remy. On roll call vote, 15 Councilors were present and voting in favor. The Rules were declared suspended.

The City Manager noted that this Invest NH demolition grant was available to municipalities for up to \$500,000, and the City was applying for \$130,000, based on an estimate for the demolition of the former Findings building. The City Manager said the City applied for this grant several months ago, and Staff had been following-up on the matter consistently because work is set to commence for the Skate Park. The City Manager said she received a response from the State, which said a Certificate of Vote was needed. She said this was time sensitive because the State is running out of demolition funds and it is “first come - first served.” The City Manager would still have to come back to the Council to accept the funds if awarded, but this Council vote was needed so the City Manager could move on to the next step.

A motion by Councilor Powers to authorize the City Manager to execute the submission of the application for Invest NH Municipal Demolition Grant for the purposes of removing the Findings Inc. building at 160 Water Street was duly seconded by Councilor Remy and passed unanimously.

**PB-PLD REPORT – RELATING TO AMENDMENTS TO THE RURAL DISTRICT
MINIMUM LOT SIZE – ORDINANCE O-2023-02**

A report was received from the Joint Planning Board/Planning, Licenses and Development Committee. The report indicated a unanimous vote of the Planning Board that Ordinance O-2023-02 was consistent with the City’s Comprehensive Master Plan. The report also indicated a request from the Planning, Licenses, and Development Committee that the Mayor set a public hearing on Ordinance O-2023-02. Mayor Hansel filed the report and set a Public Hearing for Thursday, May 4, at 7:00 PM.

**MORE TIME – PROPOSED PUBLIC ART PIECE – HISTORICAL SOCIETY OF CHESHIRE
COUNTY**

A Municipal Services, Facilities, and Infrastructure Committee report read, recommending placing this item on more time. Mayor Hansel granted more time.

**ORDINANCE FOR FIRST READING – RELATING TO AMENDMENTS TO THE
PLANNING BOARD SUBDIVISION REGULATIONS – ORDINANCE O-2023-08**

A memorandum read from Pamela Russell-Slack, Planning Board Chair, recommending referring Ordinance O-2023-08 to the Planning, Licenses, and Development Committee for their review and recommendations. Mayor Hansel referred Ordinance O-2023-08 to the Planning, Licenses, and Development Committee.

**ORDINANCE FOR FIRST READING – RELATING TO CLASS ALLOCATION AND
SALARY SCHEDULE – ORDINANCE O-2023-09**

04/06/2023

A memorandum was received from HR Director/Assistant City Manager, Elizabeth Fox, recommending that the City Council refer Ordinance O-2023-09 to the Finance, Organization, and Personnel Committee. Mayor Hansel referred Ordinance O-2023-09 to the Finance, Organization, and Personnel Committee.

ORDINANCE FOR FIRST READING – RELATING TO PERSONNEL SYSTEMS AND PROCEDURES – ORDINANCE O-2023-10

A memorandum was received from HR Director/Assistant City Manager, Elizabeth Fox, recommending that the City Council refer Ordinance O-2023-10 to the Finance, Organization, and Personnel Committee. Mayor Hansel referred Ordinance O-2023-10 to the Finance, Organization, and Personnel Committee.

ORDINANCE FOR SECOND READING – PARKS, RECREATION, AND CITY UNIMPROVED LAND – ORDINANCE O-2023-04

A Municipal Services, Facilities, and Infrastructure Committee report read, recommending the adoption of Ordinance O-2023-04. A motion by Councilor Greenwald to adopt Ordinance O-2023-04 was duly seconded by Councilor Filiault. The motion carried on a unanimous roll call vote with 15 Councilors present and voting in favor.

IN APPRECIATION OF SUSAN M. HANSMEIER UPON HER RETIREMENT – RESOLUTION R-2023-17

A memorandum was received from HR Director/Assistant City Manager, Elizabeth Fox, recommending that Resolution R-2023-17, honoring Susan Hansmeier for 28 years of service, be adopted by the City Council. A motion by Councilor Powers to adopt Resolution R-2023-17 was duly seconded by Councilor Bosley. The motion passed unanimously, with 15 Councilors present and voting in favor.

FOP REPORT – RELATING TO THE APPROPRIATION OF FUNDS FROM THE GENERAL FUND UNASSIGNED FUND BALANCE (FIRE DEPARTMENT STAFFING) – RESOLUTION R-2023-18

A Finance, Organization, and Personnel Committee report read, recommending that the City Manager be directed to draft a Resolution to allow the hiring of four firefighters for the remainder of the fiscal year. Mayor Hansel referred Resolution R-2023-18 to the Finance, Organization, and Personnel Committee.

FOP REPORT – RELATING TO THE ACCEPTANCE AND APPROPRIATION OF UNANTICIPATED HIGHWAY REVENUE – RESOLUTION R-2023-10

04/06/2023

A Finance, Organization, and Personnel Committee report read, recommending the adoption of Resolution R-2023-10. A motion by Councilor Remy to adopt Resolution R-2023-10 was duly seconded by Councilor Powers. The motion passed unanimously, with 15 Councilors present and voting in favor.

ADJOURNMENT

There being no further business, Mayor Hansel adjourned the meeting at 7:43 PM.

A true record, attest: 
City Clerk



PUBLIC HEARING NOTICE

Notice is hereby given that a Public Hearing will be held before the City Council relative to an application for Community Revitalization Tax Relief under RSA 79-E:3 submitted on behalf of 310 Marlboro Street, LLC, for property located at 310 Marlboro Street.

The purpose of the Public Hearing is to determine whether the structure at issue is a qualifying structure; whether any proposed rehabilitation qualifies as substantial rehabilitation; and whether there is a public benefit to granting the requested tax relief and, if so, for what duration. 310 Marlboro Street, LLC is requesting that the City Council consider sufficient relief that would allow for the construction of three stories to an existing structure to create 57 residential apartments. Copies of the application and background information are available during regular business hours in the Office of the City Clerk, 3 Washington Street, Keene.

Per order of the Mayor and Councilors of the City of Keene, this sixth day of April, two thousand and twenty-three.

HEARING DATE: April 20, 2023

HEARING TIME: 7:00 pm

HEARING PLACE: Council Chambers, Keene City Hall

Attest:

City Clerk



CITY OF KEENE NEW HAMPSHIRE

ITEM #A.3.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Mari Brunner, Senior Planner
Through: Jesse Rounds, Community Development Director
Subject: **Presentation - City of Keene Housing Needs Analysis and Strategy - Camoin Associates**
Link: <https://keenenh.gov/community-development/housing>

Council Action:

In City Council April 20, 2023.

The Mayor announced that this presentation would be rescheduled to another meeting.

Recommendation:

Accept the Housing Needs Analysis and Strategy as Informational.

Attachments:

None

Background:

The City of Keene hired Camoin Associates, an economic development consultant, to perform a Housing Needs Analysis for the City of Keene. The Needs Analysis is intended to identify trends and conditions in the housing market and then propose strategies that can be taken by the Council, residents, and the City of Keene's government to address the housing availability shortfall in the City and around the Monadnock region.



CITY OF KEENE NEW HAMPSHIRE

ITEM #B.1.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Mayor George S. Hansel
Through:
Subject: **Confirmations - Human Rights Committee**

Council Action:

In City Council April 20, 2023.

Voted unanimously to confirm the nominations.

In City Council April 6, 2023.

Nominations tabled until the next regular meeting.

Recommendation:

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

Human Rights Committee

Gina Burke, regular - slot 7
249 Pako Avenue

Term to expire Dec. 31, 2024

Jennifer Nascimento, alternate - slot 13
27 Ivy Drive, #225

Term to expire Dec. 31, 2025

Attachments:

1. Nascimento, Jennifer_Redacted
2. Burke, Gina_Redacted

Background:

From: [Patty Little](#)
To: [Heather Fitz-Simon](#)
Subject: FW: Interested in serving on a City Board or Commission
Date: Wednesday, March 8, 2023 9:56:40 AM

From: helpdesk@ci.keene.nh.us <helpdesk@ci.keene.nh.us>
Sent: Wednesday, March 8, 2023 7:46 AM
To: Helen Mattson <hmattson@keenenh.gov>
Cc: Patty Little <plittle@ci.keene.nh.us>; Terri Hood <thood@ci.keene.nh.us>
Subject: Interested in serving on a City Board or Commission

<p>Submitted on Wed, 03/08/2023 - 07:46</p>

<p>Submitted values are:</p>

First Name:

Jennifer

Last Name:

Nascimento

Address

27 Ivy Dr. #225
Keene, NH 03431

How long have you resided in Keene?

1 year in July

Email:

[REDACTED]

Cell Phone:

[REDACTED]

Employer:

N/A

Occupation:

In School/ single parent

Retired

No

Have you ever served on a public body before?

No

Please select the Boards or Commissions you would be most interested in serving on.

Bicycle/Pedestrian Path Advisory Committee, Human Rights Committee

Please let us know the Board or Commission that you are most interested in serving on.

Human Rights Committee

Please provide 2 personal references:

Joshua Goldstein

[REDACTED]
[REDACTED]

References #2:

Angelyn Erinna

[REDACTED]

From: [Patty Little](#)
To: [Heather Fitz-Simon](#)
Subject: FW: Interested in serving on a City Board or Commission
Date: Friday, March 3, 2023 2:06:21 PM

Copy and redact

From: helpdesk@ci.keene.nh.us <helpdesk@ci.keene.nh.us>
Sent: Friday, March 3, 2023 9:05 AM
To: Helen Mattson <hmattson@keenenh.gov>
Cc: Patty Little <plittle@ci.keene.nh.us>; Terri Hood <thood@keenenh.gov>
Subject: Interested in serving on a City Board or Commission

<p>Submitted on Fri, 03/03/2023 - 09:05</p>

<p>Submitted values are:</p>

First Name:

Gina

Last Name:

Burke

Address

249 Pako Ave
Keene, NH 03431

How long have you resided in Keene?

14 years

Email:

[REDACTED]

Cell Phone:

[REDACTED]

Employer:

Red River

Occupation:

Corporate & Community Engagement

Retired

No

Please list any organizations, groups, or other committees you are involved in

Monadnock Alliance of Trauma and Transformation
Advisory Council- Cedarcrest

Board Member- The Community Kitchen

Have you ever served on a public body before?

No

Please select the Boards or Commissions you would be most interested in serving on.

Human Rights Committee

Please let us know the Board or Commission that you are most interested in serving on.

Human Rights Committee

Please share what your interests are and your background or any skill sets that may apply.

I am about to complete my Masters at Merrimack College in Community Engagement. This degree is rooted in social justice with a strong focus on DEI. I am interested in continuing my education and supporting my community and local businesses in this effort.

Please provide 2 personal references:

Kim Vacca

[Redacted]
[Redacted]

References #2:

Heather Lessard

[Redacted]
[Redacted]



CITY OF KEENE NEW HAMPSHIRE

ITEM #C.1.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Councilor Michael Remy
Through: Patricia Little, City Clerk
Subject: **Councilor Remy - Requesting the City's Consideration - Centralized Solid Waste Group Default Rates and Billing**

Council Action:

In City Council April 20, 2023.

Referred to the Finance, Organization and Personnel Committee.

Recommendation:

Attachments:

1. Communication_Remy

Background:

Councilor Remy refers to the recent success of the City's negotiations regarding community power and raises the question of whether the City could leverage any savings for Keene's taxpayers regarding negotiated group default rates for solid waste management.

Michael Remy
City Councilor, At-Large

March 24, 2023

Re: Centralized Negotiation of Waste Removal Option

To: Mayor and City Council

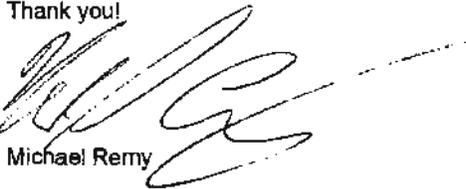
I am extremely excited and very impressed with the success of the City's negotiations of a community power plan so I have been trying to think of other areas where the City's size could be leveraged to save our taxpayers money in other parts of their lives.

I recently was informed of major rate increases by many Waste Management providers in the City and was wondering if this was a good opportunity for us to lean in again.

To be clear I am not looking to supplant existing agreements or take over all trash as a City Service, but am more interested in providing the residents with a centrally billed (Water & Sewer bill) and centrally negotiated group default rate. I understand this could be challenging as we can't guarantee any sign ups, but we could leverage those same quarterly bills to advertise the availability of the reduced rate or even provide an opportunity for an 'Opt-In' on that bill. This is intended to offer an option to residents at a discount below their current service.

I am open to staff reviewing other options, including the ones I have suggested I am not in favor of, but I intend for this request to be referred to Staff for research and review potentially after it has been discussed by the appropriate committee to determine if I am the only Councilor interested.

Thank you!



Michael Remy



CITY OF KEENE NEW HAMPSHIRE

ITEM #C.2.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Roye Ginsberg - Monadnock Interfaith Project
Through: Patricia Little, City Clerk
Subject: **Monadnock Interfaith Project - Encouraging the City of Keene to Affirm the Recommendations in the Housing Needs Assessment Report**

Council Action:

In City Council April 20, 2023.
Communication filed as informational.

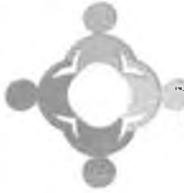
Recommendation:

Attachments:

1. Communication_Monadnock Interfaith Project

Background:

Monadnock Interfaith Project is encouraging the City of Keene to affirm the recommendations in the Housing Needs Assessment Report. Requesting that the City of Keene pursue a Housing Fund, whether city run or as the report recommends as part of a regional collaboration.



Monadnock Interfaith Project

Building An Interfaith Coalition for Community Understanding and Social Justice

WWW.MIPNH.ORG

Monadnock.Interfaith.NH@gmail.com

Dear Honorable Mayor and City Council,

April 17, 2023

It is heartening to see an increased focus on the housing crisis in our region. Data in the recent Keene Housing Needs Assessment Report and in the Southwest Regional Planning Commission Housing Needs Assessment make a compelling case that the Monadnock region has housing needs, in both quantity and quality, that are not being met.

Our community is stronger when everyone is safely and securely housed. We all thrive when there is sufficient housing for people working in medical facilities, childcare centers, restaurants, retail stores, and assisted living facilities. Stable housing reduces costs associated with incarceration rates, substance use, and social services.

We applaud both the city of Keene and the regional planning commission for studying the need and coming up with concrete strategies to address the housing crisis. As the planning commission report states, "A final takeaway is that recent trends suggest that the housing market isn't likely to improve without new strategic interventions."

The Keene Housing Needs Assessment Report lists establishing a Housing Fund as a primary strategic intervention. Indeed, Housing Funds are a tool that Monadnock Interfaith Project (MIP) has been championing since 2021. Housing Funds are monies set aside to be granted or loaned for building new units, renovating homes, and other impactful housing activities. Manchester, Nashua, and New Hampshire's Upper Valley have all established Housing Funds to incentivize housing renovation and development that fit their regional needs.

Housing funds are a signal of community commitment enabling recipients to access additional state and federal money for housing projects. They are a tool that supports various other recommendations in the reports such as the creation of downsizing options for elders and the reduction of homelessness through increased transitional housing.

MIP encourages the City of Keene to affirm the recommendations in the Housing Needs Assessment Report. The City of Keene should pursue a Housing Fund, whether city run or as the report also recommends as part of a regional collaboration. A Housing fund is a logical next step following on the good work of Keene's Ad Hoc Housing Stability Committee, providing resources to implement innovative strategies. It is a foundational element to a systemic approach addressing our community's housing needs.

We all benefit when everyone, young, middle-aged, and elderly are stably housed.

On behalf of the Monadnock Interfaith Project,


Roye Ginsberg



CITY OF KEENE NEW HAMPSHIRE

ITEM #C.3.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Ryan Snow/Construction Coordinator - Spectrum Cable (Charter Communications)
Through: Patricia Little, City Clerk
Subject: **Spectrum Cable/Charter Communications - Request to Install an Underground Communication Conduit in the Right-of-Way**

Council Action:

In City Council April 20, 2023.

Referred to the Planning, Licenses and Development Committee.

Recommendation:

Attachments:

1. Communication_Spectrum
2. Proposed Conduit Route

Background:

Spectrum/Charter Communications is requesting permission to install underground communications conduits in the right-of-way along the south side of Krif Road and the east side of Cornwell Drive.



4-10-23

**City Of Keene
The Mayor and
City Council Members
3 Washington St
Keene, NH
03431**

Subject: Petition for Charter Communications for underground communications conduits installation in the cities "Right of Way"

To the Mayor and City Council of Keene NH:

Respectfully Charter Communications / Spectrum Cable of Worcester, Massachusetts Desires to install approx. 3100lf of (1)4"sch40 pvc. Starting at the existing Charter ped near #80 Krif Rd to the end customer at #39 Cornwell Dr. The conduit will be placed on the south side of Krif Rd and along the East side of Cornwell Dr.

Charter's contractor Phoenix Communications will work closely with the city of Keene's DPW to ensure this installation will meet all the cities requirements.

Thank you for your consideration of this request. If you need any additional information, please feel free to contact me

Sincerely,

Ryan Snow
Construction Coordinator
Spectrum Cable (Charter Communications)

Spectrum | Construction Department |
301 Barber Ave Worcester MA 01606
Ryan Snow | 603-762-3047 | Ryan.Snow@charter.com





METHOD OF PROCEDURE

DATE:4-10-23
ATT:Don R.Lussier,PE
Office:603-352-6550
3 Washington St
Keene,NH
03431

Subject: Method of procedure for installation of fiber optic telecommunications conduit along Krif Rd and Cornwell Dr

Starting at the existing catv ped near #80 Krif Rd.We will be installing (1)4”sch40 pvc conduit with fiber optic cable being installed inside. We will be crossing Krif Rd and trenching on the southern side of the roadway. We will the cross Krif Rd Northerly and trench on the Southern side of Crowell Rd. The ending location is #39 Cornwell Rd(UPS Customer Center).

Upon completion of this work, all disturbed areas will be restored to like or better than like condition.

The construction work will be performed by our preferred contractor Phoenix Communications in a safe and workman like manner. All refuse or debris shall be removed from the work site upon completion.

Sincerely,

Ryan Snow
Construction Coordinator
Spectrum Cable (Charter Communications)

Contractor contact:
Brian Joyce
Civil Coordinator
Phoenix Communications
508-871-6470

Spectrum | Construction Department |
301 Barber Ave Worcester MA 01606
Ryan Snow | 603-762-3047 | Ryan.snow@charter.com

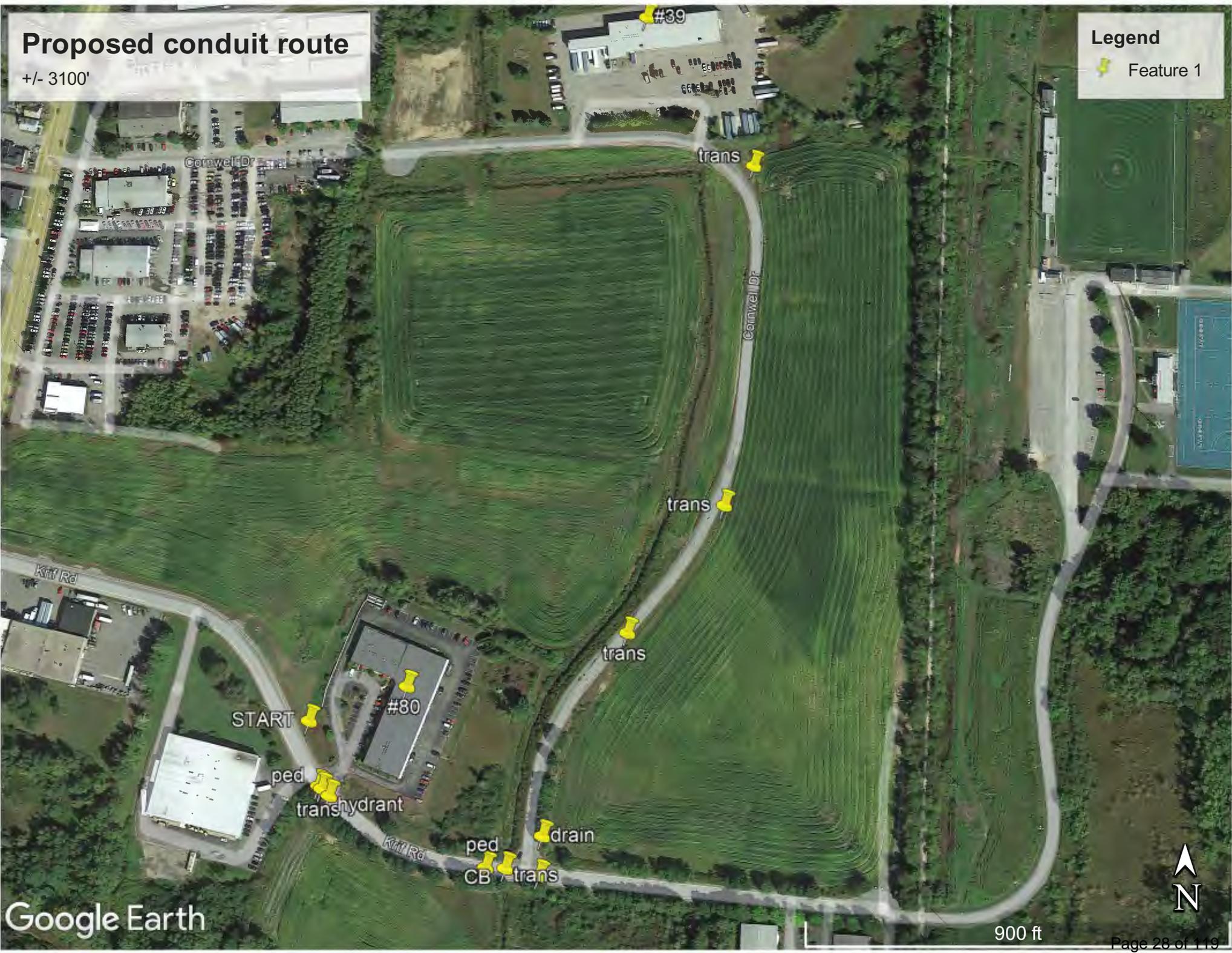


Proposed conduit route

+/- 3100'

Legend

 Feature 1





CITY OF KEENE NEW HAMPSHIRE

ITEM #D.1.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Planning, Licenses and Development Committee, Standing Committee
Through:
Subject: Cabana Falls Winery – Permission to Offer Samples and Sell Alcohol at Keene Farmers' Market

Council Action:

In City Council April 20, 2023.

Voted unanimously to carry out the intent of the report.

Recommendation:

On a vote of 5–0, the Planning, Licenses, and Development Committee recommended that Cabana Falls Winery be granted permission to sell alcohol and provide individual product samples to patrons at the 2023 Keene Farmers' Market on City property licensed to the Farmers' Market of Keene in accordance with the requirements of the State Liquor Commission. Said permission is contingent on the following: submittal of a signed letter of permission from the Farmers' Market of Keene; obtainment of all necessary permits and licenses and compliance with all laws.

Attachments:

None

Background:

Chair Bosley asked for comments from Staff. Assistant City Manager/Communications Director, Rebecca Landry, noted that the applicant could not be present. She said the applicant had met the requirements and Staff had enough information to move forward if it was the will of the Committee. Chair Bosley noted that this was not a new request. Cabana Falls had the Council's permission in the past to offer samples of their wine at the Farmers' Market. This request was to offer a second type of sample this year.

Vice Chair Giacomo noted that he went to the Farmers' Market almost every week last year. He said Cabana Falls had a great display and he thought they were doing good business. He had not heard any complaints. Thus, the Vice Chair did not see any reason to not approve this permit again.

There were no public comments. Councilor Johnsen made the following motion, which was duly seconded by Vice Chair Giacomo.

On a vote of 5–0, the Planning, Licenses, and Development Committee recommended that Cabana Falls Winery be granted permission to sell alcohol and provide individual product samples to patrons at the 2023 Keene Farmers' Market on City property licensed to the Farmers' Market of Keene in

accordance with the requirements of the State Liquor Commission. Said permission is contingent on the following: submittal of a signed letter of permission from the Farmers' Market of Keene; obtainment of all necessary permits and licenses and compliance with all laws.



CITY OF KEENE NEW HAMPSHIRE

ITEM #D.2.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Planning, Licenses and Development Committee, Standing Committee
Through:
Subject: Keene Family YMCA – Request for Road Closure – Summit Road – June 4, 2023

Council Action:

In City Council April 20, 2023.

Voted unanimously to carry out the intent of the report.

Recommendation:

On a vote of 5–0, the Planning, Licenses, and Development Committee recommended that the City Council grant permission to the Keene Family YMCA to sponsor a youth triathlon on Sunday, June 4th, 2023 from 8:00 AM to 1:00 PM, including the closure of Summit Road just after the YMCA entrance and Summit Ridge Drive where it intersects with Summit Road subject to the following conditions: the signing of a revocable license and indemnification agreement and the submittal of a certificate of liability insurance in the amount of \$1,000,000 listing the City of Keene as an additional insured. This license is conditional upon the petitioners providing an adequate number of volunteer race marshals to ensure runner safety along the course, providing advance notice of the race to impacted residents, and subject to any recommendations of City staff. Petitioner agrees to absorb the cost of any City services provided, and agrees to remit said payment within 30-days of the date of invoicing.

Attachments:

None

Background:

Chair Bosley welcomed the event representative, Kelly Burns Gallagher of West Chesterfield. Ms. Gallagher said this request was for the second annual youth triathlon. She recalled that last year, the Council permitted closing Summit Road for approximately 1 hour on a Sunday morning. She said that 70–100 children between ages 5–12 are expected this year. Ms. Gallagher continued explaining that the children would use Summit Road to loop back and forth on their bikes for the cycling portion of the event. She said that last year, a Keene Police Officer blocked traffic at the intersection of the entrance to the YMCA. Last year, residents of Summit Road were also notified. Ms. Gallagher said that the YMCA website has fantastic photos of last year’s event. The organizers hope the event will continue growing. Chair Bosley recalled last year’s initial request and said she did not hear of any issues or concerns about the event.

Councilor Ormerod thanked Ms. Gallagher for presenting this wonderful event. The Councilor asked

if the event was only open to YMCA members. Ms. Gallagher said no, it is open to the general public. She continued explaining that there were participants from as far as Maine and Connecticut last year. She said one method of promoting the event is blogs on their website. She said they try to draw participants from up and down the Interstate 91 corridor, which is an easy drive to Keene. There is also promotion on social media. In addition, organizers have reached out to YMCAs along the Interstate 91 corridor, to the Upper Valley Aquatic Center in White River Junction, and to triathlon clubs in the area. There is only one other kid's triathlon in NH and Ms. Gallagher said Keene's event is more robust, following USA Triathlon's recommendations for kids. She did not think there were any youth triathlons in Vermont.

Councilor Jones noted that he lives in the area of this road closure. He said there are five homeowner's associations (HOA) in that area. He said that one large umbrella HOA maintains the pool and clubhouse. The Councilor said that last year he included this event in the HOA newsletter and he said everyone was excited about it and residents cheered for participants. He said he would include it in the newsletter again this year. Ms. Gallagher agreed that there was very positive feedback last year.

There were no comments from the public. Vice Chair Giacomo made the following motion, which was duly seconded by Councilor Jones.

On a vote of 5–0, the Planning, Licenses, and Development Committee recommended that the City Council grant permission to the Keene Family YMCA to sponsor a youth triathlon on Sunday, June 4th, 2023 from 8:00 AM to 1:00 PM, including the closure of Summit Road just after the YMCA entrance and Summit Ridge Drive where it intersects with Summit Road subject to the following conditions: the signing of a revocable license and indemnification agreement and the submittal of a certificate of liability insurance in the amount of \$1,000,000 listing the City of Keene as an additional insured. This license is conditional upon the petitioners providing an adequate number of volunteer race marshals to ensure runner safety along the course, providing advance notice of the race to impacted residents, and subject to any recommendations of City staff. Petitioner agrees to absorb the cost of any City services provided, and agrees to remit said payment within 30-days of the date of invoicing.



CITY OF KEENE NEW HAMPSHIRE

ITEM #D.3.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Planning, Licenses and Development Committee, Standing Committee
Through:
Subject: Keene SwampBats – Request to Discharge Fireworks – July 3, 2023

Council Action:

In City Council April 20, 2023.

Voted unanimously to carry out the intent of the report.

Recommendation:

On a vote of 5–0, the Planning, Licenses, and Development Committee recommended that the Keene Swamp Bats be granted permission for the discharge of display fireworks on Monday, July 3rd, 2023 on Alumni Field at no later than 10:00 PM subject to following conditions: the signing of a revocable license and indemnification agreement; that the Keene Swamp Bats provide a certificate of liability insurance with the City of Keene listed as additional insured in the amount of \$1,000,000; that the fireworks vendor also provide a certificate of liability insurance with the City of Keene listed as additional insured in the amount of \$1,000,000; submittal of a signed letter of permission from SAU 29 for use of their property; and obtainment of a State Fireworks permit. In addition, the petitioner agrees to comply with any recommendations of City staff. The Petitioner agrees to absorb the cost of any City services over and above any amount of City funding allocated in the FY 23 Community Events Budget for the July 3rd display. Said payment shall be made within 30-days of the date of invoicing.

Attachments:

None

Background:

Chair Bosley welcomed the applicant, Kevin Watterson of Westview Avenue, President of Keene Swamp Bats. Mr. Watterson said the Swamp Bats were entering their 26th season that they had collaborated with the City of Keene and hosted this fireworks display. He said that displaying the fireworks on July 3 allows volunteers to have the July 4 holiday off work. Mr. Watterson added that this would be the 20th season of Reading with Ribby, which he said is how most kids learn about the Swamp Bats. Chair Bosley agreed that Reading with Ribby is a fantastic program that encourages kids to keep up with their reading, and they get tickets to the game if they do. Mr. Watterson said it is actually a family pass and last year there were 4,000 kids and their families. Because it was a large event last year, he said it would be split into two nights this year.

Chair Bosley requested comments from the Fire Chief, Don Farquhar. Chief Farquhar said that Mr. Watterson met with the Protocol Committee and that he had a good plan in place. The Chief said one

of the only outstanding things was the Fireworks Permit, which the Keene Fire Department would handle in conjunction with the NH Fire Marshall's office. Chief Farquhar said that Staff were in absolute support of this application.

Councilor Ormerod said he was in favor of this event. He noted that when reviewing the Fireworks Ordinance later on the agenda that he thought the times within the Ordinance might have been wrong based on the time of this event. The City Attorney thought the times in the Fireworks Ordinance were written based on the Noise Ordinance in the Zone in question (10:00 AM–10:00 PM). Chief Farquhar said that the Fireworks Ordinance that was submitted covered permissible fireworks. He said that this event is permit technically non-permissible because it is a professional fireworks company and so the proposed Ordinance would not speak to this application.

Mr. Watterson said they are often concerned it will be too light out for the fireworks because the game typically ends around 9:00 PM, though he said there was always the possibility of extra innings. Still, he did not think they ever had a 10:00 PM finish. Chair Bosley thought that was likely something that could be worked out in the permit process, even under the new Ordinance.

There were no public comments. Councilor Jones made the following motion, which was duly seconded by Councilor Ormerod.

On a vote of 5–0, the Planning, Licenses, and Development Committee recommended that the Keene Swamp Bats be granted permission for the discharge of display fireworks on Monday, July 3rd, 2023 on Alumni Field at no later than 10:00 PM subject to following conditions: the signing of a revocable license and indemnification agreement; that the Keene Swamp Bats provide a certificate of liability insurance with the City of Keene listed as additional insured in the amount of \$1,000,000; that the fireworks vendor also provide a certificate of liability insurance with the City of Keene listed as additional insured in the amount of \$1,000,000; submittal of a signed letter of permission from SAU 29 for use of their property; and obtainment of a State Fireworks permit. In addition, the petitioner agrees to comply with any recommendations of City staff. The Petitioner agrees to absorb the cost of any City services over and above any amount of City funding allocated in the FY 23 Community Events Budget for the July 3rd display. Said payment shall be made within 30-days of the date of invoicing.

Chair Bosley thanked Mr. Watterson for hosting this event each year.



CITY OF KEENE NEW HAMPSHIRE

ITEM #D.4.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Planning, Licenses and Development Committee, Standing Committee
Through:
Subject: Fireworks Restaurant – Request to Serve Alcohol – Sidewalk Café

Council Action:

In City Council April 20, 2023.

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

Recommendation:

On a vote of 5–0, the Planning, Licenses, and Development Committee recommended that Fireworks Restaurant be granted permission to serve alcoholic beverages in connection with their Sidewalk Café License, subject to the customary licensing requirements of the City Council, compliance with the requirements of Sections 46-1191 through 46-1196 of the City Code, and compliance with any requirements of the NH Liquor Commission. This license shall expire on March 1, 2024.

Attachments:

None

Background:

Chair Bosley welcomed the applicant, Adam Berube, the owner of Fireworks Restaurant, which opened in 2011. Mr. Berube said this application was to continue their outdoor dining again this year. He said the current patio set-up had five tables but during Covid, the previous owner was able to expand to the median sidewalk area that is currently vacant; Mr. Berube would like to add two more tables in that area.

Chair Bosley stated her understanding that when Sidewalk Café Licenses have been approved once by the City Council, they are then able to renew administratively annually through the City Clerk's office. She said the reason Mr. Berube needed permission from the City Council again was because when ownership changes, restaurants must resubmit requests to sell alcohol in sidewalk cafés. Chair Bosley said that Mr. Berube should also work with the Clerk's office on the table layout. She thought selling alcohol went hand-in-hand with the restaurant's sidewalk café and she did not have any concern with permitting this.

Vice Chair Giacomo said that the restaurant had been able to do this successfully without incident for the past 12 years and he did not see any reason why Mr. Berube's ownership would change that, given that he managed the restaurant for most of that period.

There were no public comments.

The City Attorney, Tom Mullins, said that although the City Council would be granting this license with the consumption of alcohol, it was important for Mr. Berube to know that he still needed to comply with the Liquor Commission's rules. These rules include having a barrier around the outdoor dining area, which the City Attorney said Staff anecdotally noticed had not been in place in the past. He did not want the applicant to be surprised by that requirement. Chair Bosley asked for confirmation that the licensing condition for placement of a barrier is a Liquor Commission requirement and not necessarily a sidewalk café regulation. The City Attorney agreed.

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

On a vote of 5-0, the Planning, Licenses, and Development Committee recommended that Fireworks Restaurant be granted permission to serve alcoholic beverages in connection with their Sidewalk Café License, subject to the customary licensing requirements of the City Council, compliance with the requirements of Sections 46-1191 through 46-1196 of the City Code, and compliance with any requirements of the NH Liquor Commission. This license shall expire on March 1, 2024.

Chair Bosley reiterated that when the license expires on March 1, 2024, Mr. Berube would need to reapply administratively through the City Clerk's office.



CITY OF KEENE NEW HAMPSHIRE

ITEM #D.5.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Planning, Licenses and Development Committee, Standing Committee
Through:
Subject: Request to Use City Property – 2023 Keene Pride Festival

Council Action:

In City Council April 20, 2023.

Voted unanimously to carry out the intent of the report.

Recommendation:

On a vote of 5–0, the Planning, Licenses, and Development Committee recommended the Keene Pride Group be granted permission to use downtown City rights-of-way on Sunday, September 17th, 2023 to conduct a Keene Pride Celebration, including participating downtown businesses decorating their storefronts for the week leading up to the event date, conditional upon the following:

- This license is granted based upon the event scope presented to City staff during protocol meetings held to date, changes or additions to the license may require that an amended license be issued by the City Clerk and no changes to this license or the associated protocol documents will be accepted after August 1, 2023;
- The furnishing of a certificate of liability insurance in the amount of \$1,000,000 naming the City of Keene as an additional insured;
- The signing of a standard revocable license and indemnification agreement;
- That the agreed upon footprint and layout for the event shall encumber Central Square, including the traveled portion of the road requiring the following road closures: Central Square, West Street at Central Square (with a slip lane for eastbound West Street traffic to go south on Main Street), Roxbury Street from the easterly side of the Hannah Grimes Parking Lot to Central Square, Washington Street from Vernon Street to Central Square, and Court Street from Winter Street to Central Square.
- That the Petitioner is permitted to place porta-potties and a dumpster in City parking spaces located at the base of Washington Street, and additional porta-potties on Roxbury Street from Friday, September 15, 2023 to Monday September 18, 2023, which will be chained together and affixed to ensure they are not vandalized while unattended overnight;
- That the actual event will be held from 12:00 PM to 6:00 PM with the times for set up and clean up to be established with City staff;
- That free parking be granted under the provisions of the free parking policy for City parking spaces on Washington Street and Roxbury Street needed for storage of equipment from Friday, September 15, 2023 to Monday September 18, 2023, and spaces within the event footprint on the day of the event;
- The submittal of signed letters of permission from any private property owners for the use of their property; and

- Said permission is granted subject to obtainment of any necessary licenses or permits and compliance with all laws; and compliance with any recommendations of City staff. In addition, the Petitioner agrees to absorb the cost of any City services provided, and agrees to remit said payment within 30-days of the date of invoicing.

Attachments:

None

Background:

Chair Bosley welcomed the applicant, Adam Toepfer of Winchester Street, President of Keene Pride. Mr. Toepfer said that Keene Pride would like permission to use City property again for the Pride Festival on Sunday, September 17, 2023, from 12:00 PM–6:00 PM. He said the timing would be the same as last year. The layout would be slightly different this year, with the food trucks and some music performances in the Hannah Grimes parking lot instead of Railroad Square, which he said felt too disconnected last year. The rest of the event would take place in and around Central Square. Chair Bosley said the layout was interesting and she looked forward to seeing how it would work. Mr. Toepfer noted that it is hard to count the participants, but he thought there were 1,000–2,000 last year, when he said participants expressed that they had a great time.

Chair Bosley requested Staff comments. Fire Chief, Don Farquhar, said that Mr. Toepfer had met once with the Protocol Committee and two more meetings were anticipated, in part to handle the different barrier plans this year. The Chief said Staff were very comfortable with this plan. Chief Farquhar complimented Mr. Toepfer for doing exceptionally well with the first event last year, including being very responsible and great to work with on last minute issues. The Chief was very confident that the event would be managed as well this year.

Councilor Jones thought it was creative to use the Hannah Grimes parking lot. The Councilor agreed that the planners did well last year. He thought this event was good for Keene and he thanked Mr. Toepfer.

Vice Chair Giacomo asked what parts of downtown were closed last year. Mr. Toepfer said that last year Central Square was closed along with a part of Roxbury Street and Railroad Square. Mr. Toepfer said the footprint would expand a little further on Roxbury Street than last year. Mr. Toepfer and the Vice Chair agreed that the layout would be very similar to the Food Festival. The Vice Chair said it was an awesome, well organized event last year.

Discussion ensued between the City Attorney and the Fire Chief about wording in the proposed motion and the need to edit it to say, “an amended licenses issued by the City Clerk.” As such, there would be no implication that the applicant would need to return to the City Council for an amended license, assuming the amendments are not substantive.

Chair Bosley recalled that last year there was a lot of discussion about the date of the event, which she knew the organizers chose for some great reasons. She asked if there would be any events in June during Pride Month. Mr. Toepfer replied that Keene Pride holds more than 30 events throughout the year and a number of events were planned for this June. He noted that one event would be a Pride Prom for those who might not have been able to attend their own prom or to go with someone they cared for, an educational panel series, and a fashion show in May. Details are available on www.keenepride.org. Mr. Toepfer asked if this matter would go back to City Council. Chair Bosley explained that this Committee would make a recommendation to the City Council for final approval at their April 20 meeting.

There were no public comments. Councilor Johnsen made the following motion, which was duly seconded by Vice Chair Giacomo.

On a vote of 5–0, the Planning, Licenses, and Development Committee recommended the Keene Pride Group be granted permission to use downtown City rights-of-way on Sunday, September 17th, 2023 to conduct a Keene Pride Celebration, including participating downtown businesses decorating their storefronts for the week leading up to the event date, conditional upon the following:

- This license is granted based upon the event scope presented to City staff during protocol meetings held to date, changes or additions to the license may require that an amended license be issued by the City Clerk and no changes to this license or the associated protocol documents will be accepted after August 1, 2023;
 - The furnishing of a certificate of liability insurance in the amount of \$1,000,000 naming the City of Keene as an additional insured;
 - The signing of a standard revocable license and indemnification agreement;
 - That the agreed upon footprint and layout for the event shall encumber Central Square, including the traveled portion of the road requiring the following road closures: Central Square, West Street at Central Square (with a slip lane for eastbound West Street traffic to go south on Main Street), Roxbury Street from the easterly side of the Hannah Grimes Parking Lot to Central Square, Washington Street from Vernon Street to Central Square, and Court Street from Winter Street to Central Square.
 - That the Petitioner is permitted to place porta-potties and a dumpster in City parking spaces located at the base of Washington Street, and additional porta-potties on Roxbury Street from Friday, September 15, 2023 to Monday September 18, 2023, which will be chained together and affixed to ensure they are not vandalized while unattended overnight;
 - That the actual event will be held from 12:00 PM to 6:00 PM with the times for set up and clean up to be established with City staff;
 - That free parking be granted under the provisions of the free parking policy for City parking spaces on Washington Street and Roxbury Street needed for storage of equipment from Friday, September 15, 2023 to Monday September 18, 2023, and spaces within the event footprint on the day of the event;
 - The submittal of signed letters of permission from any private property owners for the use of their property; and
 - Said permission is granted subject to obtainment of any necessary licenses or permits and compliance with all laws; and compliance with any recommendations of City staff.
- In addition, the Petitioner agrees to absorb the cost of any City services provided, and agrees to remit said payment within 30-days of the date of invoicing.



CITY OF KEENE NEW HAMPSHIRE

ITEM #D.6.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Planning, Licenses and Development Committee, Standing Committee
Through:
Subject: Pathways for Keene – Request for License – 4 on the 4th Road Race – July 4, 2023

Council Action:

In City Council April 20, 2023.

Voted unanimously to carry out the intent of the report.

Recommendation:

On a vote of 5–0, the Planning, Licenses, and Development Committee recommended that the City Council grant permission to Pathways for Keene to sponsor a running race on Tuesday, July 4th, 2023, subject to the signing of a revocable license and indemnification agreement and the submittal of a certificate of liability insurance in the amount of \$1,000,000 listing the City of Keene as an additional insured. In addition, the Police Department shall identify Railroad Street immediately adjacent to Railroad Square as a No Parking zone from the hours of 6:00 AM to 11:00 AM. This license is conditional upon the petitioners providing an adequate number of volunteer race marshals to ensure runner safety along the course, and subject to any recommendations of City staff. Petitioner agrees to absorb the cost of any City services over and above any amount of City funding allocated in the FY 23 Community Events Budget. Said payment shall be made within 30-days of the date of invoicing.

Attachments:

None

Background:

Chair Bosley welcomed Councilor Jones to speak as a representative of Pathways for Keene. The Chair noted that Councilor Jones does hold a leadership position on the Board of Pathways for Keene. However, this was not a financial matter, and therefore Chair Bosley saw no conflict of interest. She heard no objections from the Committee to Councilor Jones voting on this matter.

Councilor Jones said that Pathways for Keene is a volunteer organization whose sole purpose is fundraising for Keene's alternative use trails on the former railway property. He said their biggest annual fundraiser is the 4 on the 4th Race, which is what this request was for. Councilor Jones reported that this would be the 20th Race; they skipped one year because of Covid. All money raised is returned to the City, which he said not all organizations could say. He invited anyone interested in participating to visit their website, where you could sign-up for either the 7:30 AM walking race or the 8:00 AM running race. The race length is 4 miles. Councilor Jones said it is a great, fun way to start

the 4th of July weekend. All details of the footprint and other conditions would be the same as in years past.

Chair Bosley requested comments from the Fire Chief, Don Farquhar. Chief Farquhar said that the organizers of this event went through the necessary Protocol Committee meetings without any issues. He said that Staff felt everything was in order and there was no need for further protocol meetings. Staff would check-in with the organizers the week before the event to anticipate any heat related issues, and other than that, Staff were in full support of the application.

Councilor Jones added that at the last Finance, Organization, and Personnel Committee meeting, he and Sarah Green had the honor of presenting a \$40,000 check to the City Manager. He said that was the largest donation Pathways for Keene had ever made to the City and now, they had donated more than \$750,000 to the City in total. Chair Bosley said that was an achievement that Pathways for Keene should be proud of and that the City appreciates it.

There were no public comments. Vice Chair Giacomo made the following motion, which Councilor Ormerod seconded.

On a vote of 5–0, the Planning, Licenses, and Development Committee recommended that the City Council grant permission to Pathways for Keene to sponsor a running race on Tuesday, July 4th, 2023, subject to the signing of a revocable license and indemnification agreement and the submittal of a certificate of liability insurance in the amount of \$1,000,000 listing the City of Keene as an additional insured. In addition, the Police Department shall identify Railroad Street immediately adjacent to Railroad Square as a No Parking zone from the hours of 6:00 AM to 11:00 AM. This license is conditional upon the petitioners providing an adequate number of volunteer race marshals to ensure runner safety along the course, and subject to any recommendations of City staff. Petitioner agrees to absorb the cost of any City services over and above any amount of City funding allocated in the FY 23 Community Events Budget. Said payment shall be made within 30-days of the date of invoicing.



CITY OF KEENE NEW HAMPSHIRE

ITEM #D.7.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Finance, Organization and Personnel Committee, Standing Committee
Through:
Subject: 2022 Homeland Security Grant Program - Search and Rescue Equipment

Council Action:

In City Council April 20, 2023.

Voted unanimously to carry out the intent of the report.

Recommendation:

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to apply for, accept and expend the 2022 Homeland Security Grant Program – Search and Rescue Equipment grant in the amount of \$14,773.43.

Attachments:

None

Background:

Police Captain Steve Tenney addressed the Committee and stated the first grant he has tonight is from Homeland Security 2022 Carve Out which is awarded to members of the NHTOA. This grant amount is \$14,773.43 and the department is looking to use these funds to replace their tactical team vests to get them more up to date.

Councilor Lake made the following motion, which was seconded by Councilor Madison.

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to apply for, accept and expend the 2022 Homeland Security Grant Program – Search and Rescue Equipment grant in the amount of \$14,773.43.



CITY OF KEENE NEW HAMPSHIRE

ITEM #D.8.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Finance, Organization and Personnel Committee, Standing Committee
Through:
Subject: **Vested Interest in K9's, Inc. Grant Award for the Keene Police Canine Program**

Council Action:

In City Council April 20, 2023.

Voted unanimously to carry out the intent of the report.

Recommendation:

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept and expend a bulletproof vest grant that was awarded to the Keene Police Canine program through a grant application.

Attachments:

None

Background:

Captain Tenney stated the second grant the department is in receipt of is for ballistic and stab proof vest for the department's K-9. He indicated this is an item the department has always had. The new vest which is at a cost of \$1,800 will replace the worn out vest.

Councilor Madison made the following motion, which was seconded by Councilor Lake.

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept and expend a bulletproof vest grant that was awarded to the Keene Police Canine program through a grant application.



CITY OF KEENE NEW HAMPSHIRE

ITEM #D.9.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Finance, Organization and Personnel Committee, Standing Committee
Through:
Subject: **Acceptance of State of New Hampshire Grant Funding for Youth Services' Juvenile Court Diversion Programming**

Council Action:

In City Council April 20, 2023.

Voted unanimously to carry out the intent of the report.

Recommendation:

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept and expend funds provided by the State of New Hampshire for Juvenile Court Diversion programming.

Attachments:

None

Background:

Alyssa Bender Youth Services Manager addressed the Committee and stated for the fourth year the Youth Services Department has been awarded a grant for \$16,405. She indicated this grant funding is only awarded to those entities that are accredited by the State for youth diversion programs. Ms. Bender stated with this money the department is able to provide assistance to low-income families with restitution support, able to expand other programs for prevention and intervention. With this funding they are also able to recruit a case manager to support them in their efforts.

Councilor Chadbourne felt the Human Services Department are the unsung heroes in the City that do a lot of good work in the City.

Councilor Remy made the following motion, which was seconded by Councilor Madison.

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept and expend funds provided by the State of New Hampshire for Juvenile Court Diversion programming.



CITY OF KEENE NEW HAMPSHIRE

ITEM #D.10.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Finance, Organization and Personnel Committee, Standing Committee
Through:
Subject: Lease Agreement - 11 Central Square

Council Action:

In City Council April 20, 2023.

Voted unanimously to carry out the intent of the report.

Recommendation:

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to negotiate and execute a lease with Culinary Journey Management, LLC for the use of space at 11 Central Square.

Attachments:

None

Background:

Parks, Recreation and Facilities Director Andy Bohannon stated the first item is for a lease agreement for 11 Central Square. He explained Luca Paris who owns Culinary Journey Management Company began renting that space around the year 2000 and for about 15 years operated a cafe in that space, simultaneously operating the Mediterranean Restaurant.

Mr. Bohannon continued that the Phonky Noodle recently closed, unfortunately due to the untimely death of the owner. The City started requesting Letters of Interest and in doing so Culinary Journey Management; Lucas Café reached out to the Phonky Noodle to purchase all their inventory and worked out a deal to retain all belongings within 11 Central Square.

Mr. Bohannon stated because of the City's long-standing relationship with Culinary Journey Management, staff would like to recommend tonight that City Council enter into a lease with Steel Curtain, LLC which is a managing partner for Culinary Journey Management.

Mr. Bohannon stated Mr. Paris could not be in attendance tonight but his General Manager, Kaycie Meyerrose is here tonight should the Committee have any questions for her.

Councilor Chadbourne asked what this space will be used for. Mr. Bohannon stated his understanding is that the infrastructure is going to remain the same with a different type of menu with different operating hours.

Chair Powers stated the memorandum indicates this item was put out for proposal, there were four who expressed interest but only three proposals were received. Mr. Bohannon stated the City did not send out a Request for Proposal – they asked for a letter of interest as was done with previous tenants.

Ms. Kaycie Meyerrose addressed the Committee next. She stated she is the General Manager of Luca's and Managing Partner of the restaurant. With respect to their plans, it will be an expansion of what is located there currently with an option to stay open later on the 11 Central Square side of the establishment, while running a lounge and late night kitchen menu. The intent is not to turn the location into a bar but just an extension of what exists currently and to provide another late-night dining option in Keene. Ms. Meyerrose stated they have run out of space in their current location.

She explained their intention would be to expand the patio seating for the summer months, as well as move the current operating kitchen into the space next door and utilize the current kitchen at 10 Central Square for catering and cooking preparation.

The operating hours would change for just one location. Lucas Restaurant would continue to offer their last seating at 8:30 pm in the main dining area but the bar and lounge would be open with a menu from the kitchen until 10:30 pm and close by 11 pm.

Councilor Chadbourne felt there was definitely a need for locations to stay open after 9 pm.

City Attorney Mullins clarified the managing partner of Culinary Journey Management Corporation will be Steel Curtain LLC and asked if the lease was going to be with Culinary Journey Management or Steel Curtain LLC. Ms. Meyerrose stated the lease was going to be in connection with Steel Curtain who purchased a large percentage of Culinary Journey Management Corporation. She will remain the managing partner at the restaurant. This request is for the purpose of getting everything in order so that the expansion can be completed. Their intention is to buy out Steel Curtain LLC and they will eventually remain as just Culinary Journey Management Corporation.

It was concluded the wording in the motion had to be changed as a result.

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

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to negotiate and execute a lease with Culinary Journey Management, LLC for the use of space at 11 Central Square.



CITY OF KEENE NEW HAMPSHIRE

ITEM #D.11.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Finance, Organization and Personnel Committee, Standing Committee
Through:
Subject: **Community Development Finance Authority - Community Center Investment Program**

Council Action:

In City Council April 20, 2023.

Voted unanimously to carry out the intent of the report.

Recommendation:

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to execute the submission of the application for Community Development Finance Authority Community Center Investment Program for the purposes of renovating the Brian A. Mattson Recreation Center.

Attachments:

None

Background:

Mr. Bohannon addressed the Committee again and stated this opportunity is for the City Manager to execute an application of a Community Development Finance Authority Community Center Investment Program for the purposes of renovating the Brian A. Mattson Recreation Center.

Mr. Bohannon stated this is the first time for a community center funded program for the opportunity to provide an option of a forgivable loan at 0%; it would be a 85% share so the city would only have to put forward 15%. This program focuses on the CDFA Energy Policy of trying to renovate and make the building more sustainable. Mr. Bohannon reminded the Committee that in the CIP the City is scheduled in FY 25 to begin design work and in FY 26 a major renovation of the old multi-purpose room, lobby, bathrooms and office space is planned. He indicated staff has made many efforts to scale this project back. The City has funding currently for the HVAC work and boiler work. However, by enabling those two projects as a match, the City would be able to then go forward and add that 85% and be able to replace windows at the Recreation Center, and add in an ADA compliant ramp which will enable a lot of people to have access to the park area, playground and War Memorial. Mr. Bohannon stated by scaling these projects down, the funding requested in the CIP will be reduced by quite a bit.

Mr. Bohannon went on to say by April 21 the grant is due, a decision will be made by the end of May and work has to start within six months. If the City is awarded the grant the project will commence in

the October/November timeframe. The City has about 18 months to complete the work – he added the City will be able to meet this timeline as they already have contractors lined up for the various pieces of work.

The City Manager recognized Mr. Bohannon's efforts as this is a new grant opportunity which had a very small window which he was able to meet as well as fit the work to be able to qualify for the grant and save the tax payers a considerable amount of money.

Councilor Lake made the following motion, which was seconded by Councilor Madison.

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to execute the submission of the application for Community Development Finance Authority Community Center Investment Program for the purposes of renovating the Brian A. Mattson Recreation Center.



CITY OF KEENE NEW HAMPSHIRE

ITEM #D.12.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Finance, Organization and Personnel Committee, Standing Committee
Through:
Subject: City Hall Structural Repairs Project – Request to Reallocate Funds

Council Action:

In City Council April 20, 2023.

Voted unanimously to carry out the intent of the report.

Recommendation:

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends that the City Council reallocate \$60,000 from the West Keene Fire Station Project (65J0010) to the City Hall Structural Repairs Project (65J0002).

Attachments:

None

Background:

Mr. Bohannon and Civil Engineer Brett Rusnock were the next two individuals to address the Committee. Mr. Bohannon stated the facilities team has been working closely with engineering relating to the back wall of City Hall which has been in the capital improvement program. The City included a 1.3 million dollar project in FY25. Staff has been working diligently with Dubois and King over the last couple of years to determine a process. Staff have finally got to a place where a bid could be sent out.

The City received one bid which came back slightly over budget and hence staff is before the City to request reallocation of some items.

Mr. Bohannon went on to say that the West Keene Fire Station is scheduled for schematic design work pending grant funding. Unfortunately, that grant did not come through which enables them to borrow from that particular project. However, should that project come to fruition the money will be reallocated back to that project.

Mr. Rusnock addressed the Committee next and stated they completed an investigative and design report for the rear wall. The initial plan was to complete the design in FY21 (work has been completed). FY25 would be the final detailed design contract documents and construction. Unfortunately, the structural engineer has informed staff FY25 may be too late to wait for some of this work. Hence, staff decided to use the remaining budget in the project which was \$66,000 and put out what is referred to as a call for an immediate repair project for the rear wall of City Hall. This work

involves installing steel rods through the brick wall and anchoring those rods to the wooden framing of the building. This will provide anchoring of the brick which on its own may continue to lean outward.

Mr. Rusnock went on to say as Mr. Bohannon stated this work did not come under budget. The City received one bid which was about \$50,000 higher than the budget. As a result staff is looking to reallocate funds to allow this work to happen immediately. The contractor is required to hold their price for 90 days.

Councilor Madison made the following motion, which was seconded by Councilor Remy.

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends that the City Council reallocate \$60,000 from the West Keene Fire Station Project (65J0010) to the City Hall Structural Repairs Project (65J0002).



CITY OF KEENE NEW HAMPSHIRE

ITEM #D.13.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Finance, Organization and Personnel Committee, Standing Committee
Through:
Subject: **Change Order 1 - Water Supply Master Plan and Well Facilities Evaluation**

Council Action:

In City Council April 20, 2023.

Voted with 10 in favor three opposed to carry out the intent of the report.

Recommendation:

On a 4-1 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to execute Change Order 1 with Emery & Garret Groundwater Investigations/GZA for additional engineering services for the Water Supply Master Plan and Well Facilities Evaluation for an amount not to exceed \$30,000.00 for Contract 02-20-11. Councilor Remy voted in opposition.

Attachments:

None

Background:

Asst. Public Works Director Aaron Costa addressed the Committee next. He indicated this item is a request for the City Manager to execute Change Order 1 with Emery & Garret Groundwater Investigations/GZA for additional engineering services for the Water Supply Master Plan and Well Facilities Evaluation for an amount not to exceed \$30,000 for Contract 02-20-11.

Mr. Costa explained the City uses approximately 2.25 million gallons of water per day. The City has three separate water supplies; surface water reservoirs located in Roxbury, NH, and groundwater wells located on West Street and Court Street. The City's previous water supply master plan was completed in 1992 to include changes in infrastructure, climate, and drinking water regulations. However, it is time to update the plan. In February 2021, the City contracted with Emery & Garret Groundwater Investigations/GZA, to complete a water supply master plan and well facilities evaluation.

This plan looked at multiple things such as additional groundwater and surface water supplies, potential capacities, water quality, future demands. It also took an in-depth detailed evaluation of the well facilities which have been in operation for many years and provided recommendations and cost estimates which will be the basis for future CIP projects.

Mr. Costa stated working with GZA and Underwood for the past two years, who put in a lot of work to

meet the City's expectation more than they originally budgeted for. At this time, they are requesting additional funds for their level of effort. He noted this change order does exceed the City Manager's authority. The City did budget \$175,000 for this work and the original contract with GZA was approximately \$110,000. Hence, there are funds available in that capital project.

He added the last deliverable they need to provide is a presentation to City Council which is tentatively scheduled for next week.

Councilor Remy asked what happens if Council does not approve this request for additional funding. Mr. Costa stated GZA will have to take the loss. Mr. Costa however, felt GZA is warranted the additional funds based on their level of effort. Councilor Lake asked if GZA has provided a greater level of detail than the City originally scoped out. Mr. Costa stated the level of effort to meet the City's expectations far exceeded what they budgeted for; there were many revisions of the report. There has been much greater administration at their level such as revising reports, meeting with city staff etc. In the end the City got a really good project.

Chair Powers stated the cost of doing business escalates almost on a daily basis and when it comes to construction and engineering, keeping up with State regulations tends to be an effort. He added he does not like to see these increases but knowing the City is getting a good product makes him feel a little more comfortable.

Councilor Madison clarified these two contractors are local to Keene. Mr. Costa answered in the affirmative. Mr. Costa added because of this water supply master plan, the City is in the process of working through a planning grant with DES for \$50,000 for development of a new potential well facility on property the City purchased off Arch Street in the Bent Court area. DES has accepted the City's application and a scope of work has just been submitted.

Councilor Remy stated his concern is about a change order coming in after the work has been completed. He stated he is likely to vote no but he might change his mind next week when the item comes before the full Council. Councilor Chadbourne stated she has concern of setting precedence. The Chair did not feel the City was setting precedent, he felt the Committee was addressing situations. Councilor Madison stated today's vote is not the final vote – the Committee is just making a recommendation and the Finance Committee actually enjoys the benefit of voting on the item twice.

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

That the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to execute Change Order 1 with Emery & Garret Groundwater Investigations/GZA for additional engineering services for the Water Supply Master Plan and Well Facilities Evaluation for an amount not to exceed \$30,000.00 for Contract 02-20-11.

Councilor Lake stated he understand the concern about wanting to expend additional funds on a project that is essentially nearing completion. However, given the feedback from City staff that the City's work in collaboration with GZA to provide a product that went above and beyond the original scope, warrants this additional funding.

Councilor Madison stated given what the Assistant Public Works Director has said about this well site, which he indicated is not a small task and given that this report will assist in that process warrants this extra expense. He added, however, the Council can make its final decision after seeing the report next week.

The Manager stated she had the opportunity to review the report which took her close to two hours.

She indicated she was very impressed with all the work GZA completed on behalf of the City. She added she understands the additional work they completed at their own risk but it was in response to questions the City raised so that a full report could be brought forward to the Council. Ms. Dragon stated she supports this request based on the additional work that they did in order to complete this project.

Councilor Chadbourne stated she appreciates what her fellow Councilors and staff have said, and stated it was persuasive.

Mr. Costa stated these report will not just remain on a shelf; the water supply a master plan is a roadmap which will remain with the City for a long time.

On a 4-1 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to execute Change Order 1 with Emery & Garret Groundwater Investigations/GZA for additional engineering services for the Water Supply Master Plan and Well Facilities Evaluation for an amount not to exceed \$30,000.00 for Contract 02-20-11. Councilor Remy voted in opposition.



CITY OF KEENE NEW HAMPSHIRE

ITEM #F.1.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Merri Howe, Finance Director/Treasurer
Through: Elizabeth Dragon, City Manager
Subject: **Acceptance of Donation - Finance Director**

Council Action:

In City Council April 20, 2023.

Voted unanimously to carry out the intent of the report.

Recommendation:

Move that the City Council accept the donation below and the City Manager be authorized to use each donation in the manner specified by the donor.

Attachments:

None

Background:

The Keene Parks, Recreation and Facilities Department received a generous donation of \$300.00 from GFA Federal Credit Union. The donation is to be used for the Human Rights Committee collaboration with the Keene International Festival to host the annual event at the Recreation Center on Saturday, September 23, 2023, from 11:00 am to 3:00 pm. The event was created to showcase and celebrate the rich cultural diversity of the Keene community through activities that engage and connect people to each other and is free and open to the public.

The Keene Fire Department has received two donations in appreciation of the department's care and kindness. The first donation in the amount of \$3,000 is from Celine Gandolfo in memory of Donna Gandolfo. The second donation in the amount of \$250 is from Karen Phillips in the memory of her mother Dorothy Lynde.

Total donations presented is \$3,550.



CITY OF KEENE NEW HAMPSHIRE

ITEM #G.1.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Mari Brunner, Senior Planner
Through: Jesse Rounds, Community Development Director
Subject: **Nomination of Jay Kahn to the Southwest Region Planning Commission Commissioners - Planning Board**

Council Action:

In City Council April 20, 2023.

Voted unanimously to confirm the nomination of Jay Kahn as a Commissioner to the Southwest Region Planning Commission.

Recommendation:

That the City Council move to recommend the confirmation of Jay Kahn to the Southwest Region Planning Commission Commissioners.

Attachments:

None

Background:

Mayor Hansel stated in his role as Mayor he had the pleasure of recommending an individual to represent the City on the Board of Southwest Regional Planning Commission. He indicated the Planning Board does have to act upon his recommendation. The nomination will go before the City Council for confirmation.

A motion was made by Mayor George Hansel that the Planning Board nominate Jay Kahn as a City representative to the Southwest Regional Planning Commission Commissioners. The motion was seconded by Councilor Remy and was unanimously approved.



CITY OF KEENE NEW HAMPSHIRE

ITEM #G.2.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Mari Brunner, Senior Planner
Through: Jesse Rounds, Community Development Director
Subject: **Gilsum Road and Washington Street Extension Land Acquisition - Conservation Commission**

Council Action:

In City Council April 20, 2023.

Referred to the Finance, Organization and Personnel Committee.

Recommendation:

A motion was made by Steven Bill to authorize Sparky VonPlinsky to write a letter urging the City to grant permission to purchase the two properties from Hull Forestry Products. The motion was seconded by Ken Bergman and passed by unanimous vote.

Attachments:

1. Parcel Purchase Letter - APR2023

Background:

At their meeting on April 17, 2023, the Conservation Commission discussed a potential land acquisition for two properties, including 0 Gilsum Road (TMP 218-042-000) and 0 Washington Street Extension (TMP 229-006-000). The Commission voted to authorize the chair, Sparky VonPlinsky, to write a letter to City Council requesting permission to acquire the two properties. The funds to purchase the properties would come from the "Conservation Land Acquisition" account, which currently has a balance of \$154,214.02.

Attached to this memo is a letter signed by Mr. VonPlinsky describing the Commission's request.

April 17, 2023

Dear Keene City Council,

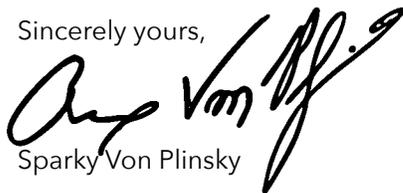
We are writing today to urge the city to purchase and conserve two parcels of land that have recently reentered the market. The two parcels (ID numbers 6825 & 6827) are located on either side of Route 9 near the intersection with Washington Street. The owner, Hull Forestry Products, has completed their recent timber harvest and would like to sell the parcels to the city. You may recall that last year we bid on these parcels in an effort to conserve them.

As a reminder, the southern, 30-acre parcel (6825) forms an important buffer between the intense noise of Route 9 traffic and Beaver Brook near its gorgeous falls along Old Washington Street Extension. The brook and its falls are an important part of the city's natural and cultural history. Preserving the area surrounding the falls will ensure that future Keene Residents can enjoy this peaceful corner of the city for generations to come.

The northern, 37-acre parcel (6827) is just as important as its neighbor across the highway, but for a slightly different reason. The parcel is part of the first line of defense protecting the Drummer Hill and Goose Pond Forests from the damaging pollution (visual, audio, and airborne) of Route 9. Wildlife needs insulation from high-stress environments such as highways. Without it much of their habitat becomes unusable. Protecting this parcel will be an important step toward ensuring the vitality of our larger city forests.

We realize and appreciate that the city budget is not limitless; however, we feel that chances such as this one do not come along frequently. These purchases would help to ensure that Keene's future is a sustainable balance between man and the natural world. We hope that the city will take advantage of this opportunity.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Sparky Von Plinsky". The signature is stylized and fluid, with a long, sweeping flourish extending from the end.

Sparky Von Plinsky

Chair, Keene Conservation Commission



CITY OF KEENE NEW HAMPSHIRE

ITEM #G.3.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Evan Clements, Planner
Through: Jesse Rounds, Community Development Director
Subject: **Ordinance O-2023-06: Relating to Amendments to the Land Development Code, Accessory Dwelling Units - Joint Planning Board/Planning, Licenses and Development Committee**

Council Action:

In City Council April 20, 2023.

The Mayor set a public hearing for May 18, 2023 at 7:00 PM.

Recommendation:

A motion was made Mayor George Hansel that the Planning Board find Ordinance O-2023-06 consistent with the City's 2010 Master Plan. The motion was seconded by Councilor Remy and was unanimously approved.

A motion was made by Councilor Giacomo that the Mayor be requested to set a public hearing. The motion was seconded by Councilor Johnsen and was unanimously approved.

Attachments:

None

Background:

Included below is an excerpt from the draft minutes of the April 10, 2023 Joint Planning Board and Planning, Licenses and Development Committee meeting where this item was discussed:

"Ordinance O-2023-06 – Relating to amendments to the Land Development Code, Accessory Dwelling Units. Petitioner, City of Keene Community Development Department, proposes to amend Sec. 1.3.3 of Article 1 and Section 8.4.2 of Article 8 of Chapter 100 "Land Development Code" (LDC) of the City Code of Ordinances to amend the definition of detached accessory dwelling units (ADUs); modify the dimensional standards for ADUs; and expand the areas of the city where they are permitted.

Evan Clements Planner addressed the Committee regarding this ordinance. Mr. Clements stated he will be addressing topic of Accessory Dwelling Units (ADU) and will first begin with a List of Terms, History of ADU in the City, Proposal, and how this relates to the Master Plan.

Mr. Clements stated Dwelling, Single Family and Nonconforming Use are two important terms that need to be reviewed.

He referred to Dwelling, Single Family as it is outlined in the Land Development Code (LDC Article 28) – *A free-standing building containing only 1 dwelling unit on a single lot, which is designed, occupied, or intended for occupancy by 1 family*

• Nonconforming Use (LDC Article 28) – *The use of any building, structure or land existing at the time of the enactment of the LDC, or any amendments thereto, which does not conform in whole or in part to this LDC or its amendments.*

Mr. Clements referred to additional terms as follows:

ADU - *Accessory Dwelling Unit*

Attached ADU – *An ADU that is physically connected to or incorporated into the principal single-family dwelling*

Detached ADU – *An ADU that is physically separate from the principal single-family dwelling, either in an existing or new accessory structure*

The ADU was incorporated into Law in RSA 674:41-43 in 2017. However, Keene adopted an ADU Ordinance as early as 2003 and was updated to reflect RSA 674:41-43 in 2017. Mr. Clements noted approximately 10 permitted ADUs have been constructed in Keene since 2017.

The first proposal is to Section 1 of the LDC, which is outside the Zoning Ordinance but does provide some guidance and exceptions. Item iv. is being added to the existing list as provided below.

- e. The following structures may encroach up to 10-ft from the rear lot line of lots in residential zoning districts.
 - i. Pools, either above- or in-ground
 - ii. Decks, either detached or attached
 - iii. Garages, either detached or attached
 - iv. *Accessory Dwelling Units, either detached or attached*

The second proposal is also some housekeeping changes – deleting the word “unit” allows the definition in the LDC for single-family dwelling to be clearly used in this definition for ADU. Adding the phrase “or as” clarifies that a detached ADU can be its own structure and is not confined to be located in an already existing detached structure.

a. Defined. An independent living unit ancillary to a single-family dwelling unit and under the same ownership as the principal dwelling unit. The unit may be an attached Accessory Dwelling Unit (ADU), located within or attached to the principal dwelling unit, or a detached ADU, located in or as a detached accessory building on the property.

Mr. Clements stated the third proposal is the most significant. The language below is being deleted:

c. Attached ADUs i. Attached ADUs shall only be permitted in the Agriculture, Rural, Low Density, Low Density-1, Medium Density, High Density, High Density-1, Neighborhood Business, Office, Residential Preservation, and Downtown-Transition Districts.

ii. Attached ADUs shall have a minimum gross floor area of 400-sf. In no case shall the gross floor area exceed 800-sf

This language is being replaced by the language listed below:

ADUs shall be permitted in any district and on any lot that contains a single-family dwelling. This shall include any legal non-conforming single-family dwelling.

This proposal intends to de-couple ADU's from zoning districts. It will be permitted anywhere in the City where single family dwellings exist including those non-conforming single family dwellings. Mr. Clements stated there are a few neighborhoods in the commerce district that have a mix of two family, multi and single-family dwellings that are not permitted to have ADU's. Those would be captured in this change.

Fourth change would be that ADUs shall not exceed a maximum gross floor area of 1000-sf.

Fifth Change would be the reduction of parking for ADU's - Only 1 parking space shall be required for an ADU.

Mayor Hansel clarified for it to be an ADU it has to be an accessory to a single-family home not to a multi-family home. Mr. Clements agreed the definition is clear – it has to be with a single-family dwelling. The regulations also indicate only one ADU is permitted on a lot and only two bedrooms are permitted in an ADU. Mr. Clements noted while the City is trying to provide greater flexibility and opportunity for property owners within the City, it still should be accessory to the principal use of the property which is a free-standing single-family dwelling.

Councilor Giacomo stated that it looks like the language used to indicate that an ADU should have less floor space than the primary unit and asked whether this does not circumvent some of the "it has to be accessory" issue. He added he is all in favor of having as many accessory dwellings in the City as possible. From a tax perspective, questioned if ADU's are taxed as sheds or as primary buildings. Mr. Clements stated he could not answer tax related questions. He noted this proposal leans heavily into site dimensions, parking, and height requirements to limit the size of the ADU and let it remain accessory.

Chair Bosley noted the minimum floor area has been removed which allows the opportunity for tiny homes and felt this is something the Committee should be aware of. Mr. Clements agreed and added the building code will dictate the minimum building size.

Councilor Giacomo asked what dictates something to be an accessory dwelling unit. Mr. Clements stated it has to be a complete dwelling unit, will have to meet all safety standards, heated space. Anyone who wants to construct one will have to apply for a building permit and the City inspect the plan and a new certificate of occupancy will be provided for that living space as well.

Councilor Remy asked how legal non-conforming unit fit into this. Mr. Clements explained for example the City has single-family dwellings that currently exist within the commerce district. Single family residential is not allowed currently in the commerce district but was allowed previously before the Zoning Ordinance was changed. The owner is still allowed to use their property as a single-family dwelling, but this is known as legal, non-conforming. It is legally allowed but does not conform to the current zoning regulations of that district. He added the Community Development Department ran a GIS analysis and there are 32 properties within the City that currently have single-family dwellings in the districts that are non-conforming; they are not currently able to have an ADU but will be able to after this ordinance. Mr. Clements referred to RSA674:72, which says that you cannot put on any additional dimensional requirements on an ADU that you don't already have for a regular single-family dwelling. For those districts that don't allow single family dwellings, those districts dimensions, height requirements etc shall apply.

Councilor Remy referred to downtown core and noted an ADU could be built up to the street. Ms. Brunner explained the overall building would have could be built to the street – but if it is an attached ADU it could be attached elsewhere on the building.

Mr. Clements went on with his proposal and stated the sixth change is to codify that the rear yard setback may encroach up to ten feet from the rear lot line. Staff feels encroachment onto the side setback would be more invasive to a neighbor compared into the rear yard.

Councilor Giacomo asked what happens if an existing building such as a garage is re-purposed to an ADU – which was grandfathered or received a variance in the past (less than ten feet from the rear lot line) can that unit not be able to be turned into an ADU or would this new use also be grandfathered. Mr. Clements felt this might be a question for the zoning administrator. Mr. Clements went on to say the land development code does contemplate expansions of non-conforming uses. Chair Bosley asked if there should be language that should be included that would affect the interpretation for zoning. Ms. Brunner stated to be safe, staff does not want to commit to an answer and be incorrect and indicated staff can get that information or have the zoning administrator attend a future meeting. Ms. Brunner added the Committee could continue this meeting to another public workshop or staff could bring that answer to the public hearing. If the Committee then wanted to make some changes as a result of it, it would have to come back.

Mr. Clements went on with his presentation he stated he did want to tie this all back into the master plan and referred to the housing section in the Master Plan and referred to the following language he felt was appropriate for this discussion “*change in density not in intensity*” this phrase is used right in the same paragraph that the master plan talks about encouraging this kind of in-law suite, carriage house development as a way to increase the number of dwelling units without changing the neighborhood feel. He then noted to a picture which is a stock footage not a house in Keene but something like what is being contemplated - a detached cottage house, small, maybe 500-600 square feet and in somebody’s backyard. It is not something that would be seen off the street. The City is hoping this ordinance is going to generate this type of housing proposal. Mr. Clements stated there was interest in this type of housing in the community.

Mr. Ryan Clancey asked whether ADU’s were subject to being single floor or could they be two floors. Mr. Clements stated there is nothing that specifically says it has to be one floor but the building code will dictate stair dimensions and if there is going to be a second floor as well as the height requirements for a particular district. Mr. Clancey further questioned if he wanted to build a garage 10 feet away from the primary dwelling whether there was a height limit for a garage. Mr. Clements stated this again would depend on the district and height of an ADU would also be subject to the height limit in a particular district.

Community Development Director Jesse Rounded stated he wanted to update the Committee on the question about non-conformity for non-conforming structures. He indicated the code does allow in Article 18 3:II, Alteration or Expansion of a Structure - as long as the change use is permitted. In this case the change use to ADU is permitted.

Councilor Remy noted the City has a lot of rules in its system, around single family, two-family, and then everything above that is in a different category where there is a need for different licenses etc. He asked how many two families exist within the City of Keene and if the City was to allow ADU’s on two family not just single family – he asked how many additional properties that would open up. He clarified this would then create a three dwelling unit structure which would then require other building codes. Staff agreed. Chair Bosley added moreover the other requirement for ADU’s is that they are owner occupied so either the principal dwelling or the ADU has to be occupied by the property owner which is not always the case when you have a two-family house.

Councilor Remy referred to his own home which is two family and attached barn and noted there are many similar properties in Keene which perhaps could be converted. Chair Bosley stated staff does have some ideas brewing related to densification in certain districts but didn't think this ordinance could accommodate such a change.

Mr. Kost clarified parking must be on the property. Mr. Clements answered in the affirmative but the limits to parking would be based on lot coverage. He added the single family that already exists needs two spots, the ADU would need a third parking spot on the property. To go beyond that, the property would need to meet impervious surface setback and the overall lot coverage is going to control the amount of impervious surface one can put down.

The Chair asked for public comment, with no comment from the public, the Chair closed the public hearing.

Vice-Chair Orgaz stated he was in favor of this ordinance, while it might not be a solution right now, it certainly will be a relief for some of the housing situations that we are seeing.

Councilor Ormerod commended staff for moving this item forward.

A motion was made Mayor George Hansel that the Planning Board find Ordinance O-2023-06 consistent with the City's 2010 Master Plan. The motion was seconded by Councilor Remy and was unanimously approved.

A motion was made by Councilor Giacomo that the Mayor be requested to set a public hearing The motion was seconded by Councilor Johnsen and was unanimously approved."



CITY OF KEENE NEW HAMPSHIRE

ITEM #G.4.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Mari Brunner, Senior Planner
Through: Jesse Rounds, Community Development Director
Subject: **Ordinance O-2022-19-B: Relating to Amendments to the Land Development Code - Zoning Regulations & Application Procedures - Joint Planning Board/Planning, Licenses and Development Committee**

Council Action:

In City Council April 20, 2023.

The Mayor set a public hearing for May 18, 2023 at 7:05 PM.

Recommendation:

A motion was made by Mayor George Hansel to amend Ordinance O-2022-19-A and remove all proposed amendments to Article 15. The motion was seconded by Councilor Michael Giacomo and approved by unanimous vote of the Joint Committee of the Planning Board and PLD Committee.

A motion was made by Mayor George Hansel that the Planning Board find the amended ordinance to be consistent with the City's 2010 Master Plan. The motion was seconded by Councilor Michael Remy and was unanimously approved by the Planning Board.

A motion was made by Councilor Michael Giacomo that the Mayor be requested to set a public hearing on Ordinance O-2022-19-A, as amended. The motion was seconded by Councilor Gladys Johnsen and was unanimously approved by the PLD Committee.

Attachments:

1. O-2022-19-B - Zoning Amendments_clean copy
2. O-2022-19-B - Zoning Amendments_redline

Background:

Included below is an excerpt from the draft minutes of the April 10, 2023 Joint Planning Board and Planning, Licenses and Development Committee meeting where this item was discussed:

“a. Ordinance O-2022-19-A – Relating to amendments to the City of Keene Land Development Code - Zoning Regulations & Application Procedures. Petitioner, City of Keene Community Development Department, proposes to amend sections of Chapter 100 Land Development Code (LDC) of the City Code of Ordinances to clarify language within the zoning regulations in Articles 9, 11, and 13 of the LDC; Amend Article 15 “Congregate Living & Social Service Conditional Use Permit” to add a new section entitled “Conditional Use Permit Waiver,” and; Amend Section 25.4.3 of Article 25 “Application Procedures” to modify the process for amending the sections of the LDC that

are outside the zoning regulations.

Senior Planner Mari Brunner addressed the Committee and stated this ordinance has been before the Committee before – it first came to the Joint Committee in January for the first public workshop. At that time the Committee amended the ordinance and created an A version to include a section regarding major parking reduction requests. There was some discussion at that first public workshop, specifically about the proposal to include a waiver provision within the congregate living, and social services section of Article 15. The proposal was to provide the ability for the Planning Board on a case-by-case basis to grant a waiver from the standards in Article 15. At the present time an applicant would have to go before the Zoning Board of Adjustment for a variance. However, the City Council did not support this. The Council sent the ordinance back to this body with a suggestion to remove that piece from the ordinance. If the Joint Committee was to act on that, this would create a B version and get sent back to Council for a public hearing."

This concluded staff's presentation.

Mayor Hansel stated if there are members of the Council that are not comfortable with the ordinance changes as a whole, then the Committee should separate them out and go along with that line of thinking.

Councilor Giacomo felt the housekeeping items need to be addressed and the next time it goes to Council if the Committee wants any part of it completed, it is not likely to move forward unless a B version is created.

Councilor Remy stated there is a small error – the ordinance should state "NH Office of Planning and Development" (currently omits the word "of"). Ms. Brunner stated this can be treated as a scrivener's error.

The Chair asked for public comment. With no public comment the Chair closed the public hearing. Councilor Johnsen Joined the meeting.

A motion was made by Mayor George Hansel to amend Ordinance O-2022-19-A and remove all proposed amendments to Article 15. The motion was seconded by Councilor Michael Giacomo and approved by unanimous vote of the Joint Committee of the Planning Board and PLD Committee.

A motion was made by Mayor George Hansel that the Planning Board find the amended ordinance to be consistent with the City's 2010 Master Plan. The motion was seconded by Councilor Michael Remy and was unanimously approved by the Planning Board.

A motion was made by Councilor Michael Giacomo that the Mayor be requested to set a public hearing on Ordinance O-2022-19-A as amended. The motion was seconded by Councilor Gladys Johnsen and was unanimously approved by the PLD Committee."

Twenty-Two

Relating to Amendments to the Land Development Code

That the Code of Ordinances of the City of Keene, New Hampshire, as amended, is hereby further amended as follows.

1. That the City of Keene Land Development Code, Chapter 100, as amended, is further amended by deleting the stricken text and adding the bolded and underlined text, as follows.

A. Delete the stricken text in Section 9.2.7.C.2 “Major Reduction Request” of Article 9 – Parking and Driveways, as follows.

2. In determining whether to grant a special exception, the Zoning Board of Adjustment shall make the following findings ~~in addition to those required for a special exception.~~

- a. The specific use or site has such characteristics that the number of required parking spaces is too restrictive.
- b. The requested reduction will not cause long term parking problems for adjacent properties or anticipated future uses.

B. Amend Section 9.3.2.2 of Article 9 - Parking & Driveways to clarify that the three foot setback from the side property line is not required for common driveways that serve more than one lot, as follows.

The driveway and associated parking space(s) shall be a minimum of 3-ft from the side property line. **Common driveways approved by the Planning Board or its designee shall be exempt from the side property line setback required by this Article.**

C. Delete the stricken text in Section 11.6.1.3 of Article 11 - Surface Water Protection, as follows. This proposed change is to eliminate redundancy with Section 11.5.I.1 of Article 11.

Construction of new roads, driveways (~~excluding single and two family driveways~~), and parking lots.

D. Delete the stricken text and add the bolded underlined text to Section 13.1.3.C, “Exemptions” of Article 13 – Telecommunications Overlay District, as follows. The intent of this proposed change is to clarify that collocation and modification applications, as defined in NH RSA 12-K, are exempt from the requirement to obtain a conditional use permit and major site plan review.

~~Telecommunications facilities placed on existing mounts, building or structures, or~~ **Collocations** **or** modifications to existing telecommunications facilities, provided that the proposed facility or facilities do not meet the definition of substantial modification per NH RSA 12-K.

E. Add the bolded underlined text to Section 13.2.5 “Camouflaged Telecommunications Facilities” of

Article 13 – Telecommunications Overlay District as follows, and update Table 13-1 to reflect this change. The intent of this proposed change is to clarify that the installation of a brand new telecommunications facility on a building or structure would require the issuance of a conditional use permit and major site plan review.

The installation of new ground-mounted **or structure mounted** towers and antennas, if camouflaged, or a substantial modification to an existing tower or mount that would maintain its camouflage, may occur within Zone 2 or Zone 3 of the View Preservation Overlay (Figure 13-1). All camouflaged facilities shall require the issuance of a building permit, conditional use permit, and major site plan review.

Table 13-1: Permitted Telecommunications Facility Types

Facility Type		Zone 1*	Zone 2*	Zone 3*	Historic District
Structure Mounted (Mounted on an existing building or structure other than a tower)	Collocation/Modification	P	P	P	P
	Fully Concealed	P	P	P	P
	Substantial Modification	CUP + SPR	CUP + SPR	CUP + SPR	CUP + SPR
	Camouflaged/Non-Camouflaged (New)	CUP + SPR	CUP + SPR	CUP + SPR	CUP + SPR
Ground Mounted (Mounted to the ground or a tower constructed primarily for the purpose of supporting telecommunications facilities)	Collocation/Modification	P	P	P	P
	Camouflaged (New)	-	CUP + SPR	CUP + SPR	-
	Non-Camouflaged (New)	-	-	CUP + SPR	-

"P" = Permitted, subject to building permit

" - " = Facility Not Permitted

"CUP" = Requires Conditional Use Permit

"SPR" = Requires Site Plan Review

*Zone 1, Zone 2, and Zone 3 of the View Preservation Overlay (see Figure 13-1)

- F. Amend the following sections of Section 25.4 “Land Development Code Amendments,” Sub-section 25.4.3 “Procedure,” and add a new section “D” for amendments to Articles 22-28.

25.4.3 Procedure

In addition to the common application and review procedures of this Article, the following procedures shall apply with respect to proposed amendments to this LDC.

A. Articles 1 through 18, and Articles 22 through 28. For amendments proposed to Articles 1 through 18 and Articles 22 through 28 of this LDC, the same application and review procedures shall be followed as those described in Section 25.3 of this LDC, with respect to amendments to the Zoning Regulations and Zoning Map.

B. Articles 19, and 20, and Sections 25.10-25.14 of Article 25 - "Subdivision Regulations," and "Site Development Standards," and Planning Board Application Procedures. For amendments proposed to Articles 19, and 20, and Sections 25.10 through 25.14 of Article 25 of this LDC, the following procedures shall apply.

1. Planning Board Public Hearing. In accordance with NH RSA 675:6, the Planning Board shall hold a public hearing on the proposed amendments, and shall decide on whether

they should be approved, approved with amendments, or denied. If the Planning Board denies the proposed amendments, the process shall come to an end.

- a. Notice for this public hearing shall be provided pursuant to NH RSA 675:7.
2. Introduction to and Review by Council. Following either approval or approval with amendments by the Planning Board, the proposed amendments shall be submitted to City Council as a draft ordinance. Such ordinance shall be referred to the Planning, Licenses, and Development Committee for a recommendation to City Council. Upon receipt of such recommendation, the City Council shall vote to approve or disapprove the ordinance.
3. Filing. Following approval by City Council, the amended regulations shall be certified by a majority of the Planning Board, and shall be placed on file with the City Clerk in accordance with NH RSA 675:8. A copy of the amended regulations shall be sent to the NH Office of **Planning and Development (OPD)**~~Strategic Initiatives (OSI)~~ for filing pursuant to NH RSA 675:9; provided, however, that failure to file the amended regulations with ~~OSI~~ **OPD** shall not affect their validity.

C. Article 21 and Section 25.15 of Article 25 – “Historic District Regulations” and “Historic District Certificate of Appropriateness.” For amendments proposed to Article 21 **and Section 25.15 of Article 25** of this LDC, the following procedures shall apply.

1. Historic District Commission Public Hearing. In accordance with NH RSA 675:6, the Historic District Commission shall hold a public hearing on the proposed amendments, and shall decide on whether they should be approved, approved with amendments, or denied. If the Historic District Commission denies the proposed amendments, the process shall come to an end.
 - a. Notice for this public hearing shall be provided pursuant to NH RSA 675:7.
2. Introduction to and Review by Council. Following either approval or approval with amendments by the Historic District Commission, the proposed amendments shall be submitted to City Council as a draft ordinance. Such ordinance shall be referred to the Planning, Licenses, and Development Committee for a recommendation to City Council. Upon receipt of such recommendation, the City Council shall vote to approve or disapprove the ordinance.
3. Filing. . Following approval by City Council, the amended regulations shall be certified by a majority of the Historic District Commission, and shall be placed on file with the City Clerk in accordance with NH RSA 675:8. A copy of the amended regulations shall be sent to the NH Office of **Planning and Development (OPD)** ~~Strategic Initiatives (OSI)~~ for filing pursuant to NH RSA 675:9; provided, however, that failure to file the amended regulations with ~~OSI~~ **OPD** shall not affect their validity.

D. Articles 22-28. Unless otherwise specified in this Article, or required by state law or regulation, the following procedures shall apply for amendments proposed to Articles 22-28 of this LDC.

- 1. Introduction to and Review by City Council. The proposed amendments shall be submitted to City Council as a draft ordinance. Such ordinance shall be referred to the Planning, Licenses, and Development Committee for a recommendation to City Council. Upon receipt of such recommendation, the City Council shall vote to**

approve or disapprove the ordinance.

- 2. Filing. Following approval by City Council, the amended regulations shall be placed on file with the City Clerk.**

George S. Hansel, Mayor

DRAFT

Twenty-Two

Relating to Amendments to the Land Development Code

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1. That the City of Keene Land Development Code, Chapter 100, as amended, is further amended by deleting the stricken text and adding the bolded and underlined text, as follows.

A. Delete the stricken text in Section 9.2.7.C.2 “Major Reduction Request” of Article 9 – Parking and Driveways, as follows.

2. In determining whether to grant a special exception, the Zoning Board of Adjustment shall make the following findings ~~in addition to those required for a special exception.~~

- a. The specific use or site has such characteristics that the number of required parking spaces is too restrictive.
- b. The requested reduction will not cause long term parking problems for adjacent properties or anticipated future uses.

B. Amend Section 9.3.2.2 of Article 9 - Parking & Driveways to clarify that the three foot setback from the side property line is not required for common driveways that serve more than one lot, as follows.

The driveway and associated parking space(s) shall be a minimum of 3-ft from the side property line. **Common driveways approved by the Planning Board or its designee shall be exempt from the side property line setback required by this Article.**

C. Delete the stricken text in Section 11.6.1.3 of Article 11 - Surface Water Protection, as follows. This proposed change is to eliminate redundancy with Section 11.5.I.1 of Article 11.

Construction of new roads, driveways (~~excluding single- and two-family driveways~~), and parking lots.

D. Delete the stricken text and add the bolded underlined text to Section 13.1.3.C, “Exemptions” of Article 13 – Telecommunications Overlay District, as follows. The intent of this proposed change is to clarify that collocation and modification applications, as defined in NH RSA 12-K, are exempt from the requirement to obtain a conditional use permit and major site plan review.

~~Telecommunications facilities placed on existing mounts, building or structures, or~~ **Collocations** ~~or~~ **or** modifications to existing telecommunications facilities, provided that the proposed facility or facilities do not meet the definition of substantial modification per NH RSA 12-K.

E. Add the bolded underlined text to Section 13.2.5 “Camouflaged Telecommunications Facilities” of

Article 13 – Telecommunications Overlay District as follows, and update Table 13-1 to reflect this change. The intent of this proposed change is to clarify that the installation of a brand new telecommunications facility on a building or structure would require the issuance of a conditional use permit and major site plan review.

The installation of new ground-mounted **or structure mounted** towers and antennas, if camouflaged, or a substantial modification to an existing tower or mount that would maintain its camouflage, may occur within Zone 2 or Zone 3 of the View Preservation Overlay (Figure 13-1). All camouflaged facilities shall require the issuance of a building permit, conditional use permit, and major site plan review.

Table 13-1: Permitted Telecommunications Facility Types

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	Fully Concealed	P	P	P	P
	Substantial Modification	CUP + SPR	CUP + SPR	CUP + SPR	CUP + SPR
	Camouflaged/Non-Camouflaged (New)	CUP + SPR	CUP + SPR	CUP + SPR	CUP + SPR
Ground Mounted (Mounted to the ground or a tower constructed primarily for the purpose of supporting telecommunications facilities)	Collocation/Modification	P	P	P	P
	Camouflaged (New)	-	CUP + SPR	CUP + SPR	-
	Non-Camouflaged (New)	-	-	CUP + SPR	-

"P" = Permitted, subject to building permit

" - " = Facility Not Permitted

"CUP" = Requires Conditional Use Permit

"SPR" = Requires Site Plan Review

*Zone 1, Zone 2, and Zone 3 of the View Preservation Overlay (see Figure 13-1)

~~F. Amend Article 15 – Congregate Living & Social Service Conditional Use Permit to add a new section entitled “Conditional Use Permit Waiver” after Section 15.4, as follows. The intent of this change is to allow the Planning Board to grant a waiver from the review criteria in Section 15.2 on a case-by-case basis.~~

15.5 Conditional Use Permit Waiver

~~**Where the Planning Board finds that extraordinary hardships, practical difficulties, or unnecessary and unreasonable expense would result from strict compliance with the criteria set forth in this Article, it may approve waivers from the requirements set forth in Section 15.2 of this Article.**~~

A. Waiver Criteria

~~**The Planning Board shall not approve any waiver unless a majority of those present and voting find that all of the following apply.**~~

~~**1. The granting of the waiver will not be detrimental to the public safety, health or welfare or injurious to other property and will promote the public interest.**~~

~~**2. Strict conformity would pose an unnecessary hardship to the applicant and the waiver**~~

~~would not be contrary to the spirit and intent of this Article.~~

~~3. Specific circumstances relative to the site, or the use, indicate that the waiver will properly carry out the spirit and intent of the regulations.~~

~~In granting a waiver, the Planning Board may require any mitigation that is reasonable and necessary to ensure that the spirit and intent of the review criteria being waived will be preserved, and to ensure that no increase in adverse impacts associated with granting the waiver will occur.~~

G.F. Amend the following sections of Section 25.4 “Land Development Code Amendments,” Sub-section 25.4.3 “Procedure,” and add a new section “D” for amendments to Articles 22-28.

25.4.3 Procedure

In addition to the common application and review procedures of this Article, the following procedures shall apply with respect to proposed amendments to this LDC.

- A. ~~Articles 1 through 18, and Articles 22 through 28.~~** For amendments proposed to Articles 1 through 18 ~~and Articles 22 through 28~~ of this LDC, the same application and review procedures shall be followed as those described in Section 25.3 of this LDC, with respect to amendments to the Zoning Regulations and Zoning Map.
- B. Articles 19, and 20, and Sections 25.10-25.14 of Article 25 - "Subdivision Regulations," and "Site Development Standards," and Planning Board Application Procedures.** For amendments proposed to Articles 19, ~~and 20,~~ and Sections 25.10 through 25.14 of Article 25 of this LDC, the following procedures shall apply.
1. Planning Board Public Hearing. In accordance with NH RSA 675:6, the Planning Board shall hold a public hearing on the proposed amendments, and shall decide on whether they should be approved, approved with amendments, or denied. If the Planning Board denies the proposed amendments, the process shall come to an end.
 - a. Notice for this public hearing shall be provided pursuant to NH RSA 675:7.
 2. Introduction to and Review by Council. Following either approval or approval with amendments by the Planning Board, the proposed amendments shall be submitted to City Council as a draft ordinance. Such ordinance shall be referred to the Planning, Licenses, and Development Committee for a recommendation to City Council. Upon receipt of such recommendation, the City Council shall vote to approve or disapprove the ordinance.
 3. Filing. Following approval by City Council, the amended regulations shall be certified by a majority of the Planning Board, and shall be placed on file with the City Clerk in accordance with NH RSA 675:8. A copy of the amended regulations shall be sent to the NH Office of Planning and Development (OPD) ~~Strategic Initiatives (OSI)~~ for filing pursuant to NH RSA 675:9; provided, however, that failure to file the amended regulations with OSI OPD shall not affect their validity.
- C. Article 21 and Section 25.15 of Article 25 – “Historic District Regulations” and “Historic District Certificate of Appropriateness.”** For amendments proposed to Article 21 and Section 25.15 of Article 25 of this LDC, the following procedures shall apply.

1. Historic District Commission Public Hearing. In accordance with NH RSA 675:6, the Historic District Commission shall hold a public hearing on the proposed amendments, and shall decide on whether they should be approved, approved with amendments, or denied. If the Historic District Commission denies the proposed amendments, the process shall come to an end.
 - a. Notice for this public hearing shall be provided pursuant to NH RSA 675:7.
2. Introduction to and Review by Council. Following either approval or approval with amendments by the Historic District Commission, the proposed amendments shall be submitted to City Council as a draft ordinance. Such ordinance shall be referred to the Planning, Licenses, and Development Committee for a recommendation to City Council. Upon receipt of such recommendation, the City Council shall vote to approve or disapprove the ordinance.
3. Filing. . Following approval by City Council, the amended regulations shall be certified by a majority of the Historic District Commission, and shall be placed on file with the City Clerk in accordance with NH RSA 675:8. A copy of the amended regulations shall be sent to the NH Office of **Planning and Development (OPD)** ~~Strategic Initiatives (OSI)~~ for filing pursuant to NH RSA 675:9; provided, however, that failure to file the amended regulations with ~~OSI~~ **OPD** shall not affect their validity.

D. Articles 22-28. Unless otherwise specified in this Article, or required by state law or regulation, the following procedures shall apply for amendments proposed to Articles 22-28 of this LDC.

- 1. Introduction to and Review by City Council. The proposed amendments shall be submitted to City Council as a draft ordinance. Such ordinance shall be referred to the Planning, Licenses, and Development Committee for a recommendation to City Council. Upon receipt of such recommendation, the City Council shall vote to approve or disapprove the ordinance.**
- 2. Filing. Following approval by City Council, the amended regulations shall be placed on file with the City Clerk.**

George S. Hansel, Mayor



CITY OF KEENE NEW HAMPSHIRE

ITEM #J.1.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Planning, Licenses and Development Committee, Standing Committee
Through:
Subject: **Relating to the Sale, Possession and Display of Fireworks Ordinance O-2023-07**

Council Action:

In City Council April 20, 2023.

Report filed. Voted with 10 in favor three opposed for the adoption of Ordinance O-2023-07.

Recommendation:

On a vote of 4–1, the Planning, Licenses, and Development Committee recommended the adoption of Ordinance O-2023-07. Councilor Ormerod voted in opposition.

Attachments:

1. O-2023-07 Relating to Fireworks_adopted

Background:

Chair Bosley welcomed the Fire Chief, Don Farquhar, to discuss this Ordinance. Chief Farquhar said that this Ordinance O-2023-07 had been stalled for several years. So, he said City Staff took a fresh look at the document and he believed the Ordinance, as proposed, was a nice approach. He said that in NH RSA-160, there is a section called “Local Option” under “Permissible Fireworks.” He said that law allows each municipality in NH to make their own decision about how they want to manage local fireworks. The City’s choices ranged from prohibited (none at all), to permissible with no restrictions, to a formal process via City Hall or the Fire Department to apply for a permit (much like a dog license or burn permit). The Chief thought part of the reason this Ordinance had stalled over time was because such permitting becomes very difficult logistically. He thought Staff had come up with a good solution of allowing fireworks as permissible but with restrictions, which was how the Ordinance was proposed. He said the nice thing about restrictions was that everything required to achieve safe use of permissible fireworks is already bounded in RSA-160 or City Code. He thought this was a good balance between the safe use of fireworks and public safety. He thought the document was very streamlined. In essence, he said the Ordinance established the rules in which permissible fireworks could be used safely in a self-contained Ordinance that requires no further action by the City except for enforcement, which is well bounded in existing City Code and NH law.

Chair Bosley said she read the Ordinance and received some clarifications in discussion with the City Attorney, Tom Mullins. Chair Bosley thought the Ordinance made a lot of sense. She recalled that in the past, this Ordinance was convoluted and hard to follow, so she appreciated Staff reworking it.

Councilor Jones said RSA-160 is even more convoluted than this Ordinance had been in the past. He asked if the classes of fireworks had changed from Classes A-C. Chief Farquhar said the classes had been renamed, with a distinction between permissible and non-permissible that distinguishes between something that could be used by a licensed versus unlicensed person. Chair Bosley recalled an earlier petitioner that was for commercial fireworks and asked if those were non-permissible. Chief Farquhar said yes, commercial fireworks are non-permissible. Chair Bosley asked if all fireworks that were purchasable at a fireworks “mart” in NH were permissible. Chief Farquhar said that was exactly correct. He noted that “permissible” has a very clear definition in RSA-160 that talks about the amount of explosive available and what they are able to do, and there is a clear boundary between permissible and non-permissible. Chair Bosley said a standard resident would not have commercial style fireworks available to them and the Fire Chief said yes, they should not.

The City Attorney asked the Chief to explain what someone would need to do if they wanted to set off fireworks in their backyard, for example. Chief Farquhar said that under the old system, the individual would need to find the rules and come to the Fire Station to complete a permit form. If they were a renter, they would have needed written permission from their landlord. He thought the old rules were problematic in that they were difficult to achieve and he thought there had been a lot of noncompliance. He said that voluntary compliance is always the best option and is best achieved with a reasonable, easy to follow Ordinance. Under the new Ordinance O-2023-07, the individual would first need to know the Ordinance exists and what rules apply. He said it would be self-regulated so that individuals would have to ensure they are not within 35 feet of a structure, there is something available to extinguish a fire nearby, and if not the landowner, then the individual would need the owner’s permission.

Chair Bosley said she thought that under the previous rules, even a backyard fireworks display required a Council permit. The City Attorney said that was correct. Chair Bosley said she thought had made this overly burdensome because the Council takes a regular break during the summer and an applicant might not know far enough in advance to have a request heard before the Council break. She thought that was prohibitive and that people had probably just ignored it. Chair Bosley could not recall any requests for permits issued during her 4 years on the PLD Committee, but she said there were still fireworks happening in town. She thought that some sort of parameters for safety that the Fire Department could use to hold people accountable was a step in the right direction.

Vice Chair Giacomo recalled hearing 1 or 2 requests for fireworks during his time on the Municipal Services, Facilities, and Infrastructure Committee, and he noted that they were always time consuming addressing all the details. He thought that having these clear guidelines outlined in a public location was better for the user. He said that based on the number of fireworks he heard in his old neighborhood and new one, compared to the permits requested, the current rules did not work. He could not imagine there would be less compliance with this Ordinance than there was previously. He hoped this Ordinance would do more while demanding less Staff time.

Councilor Jones recalled times in the past, when the Council got some requests for fireworks at weddings at the country club, for example. He noted how fireworks can be problematic for pets and people with autism, among others. He said there is not much someone can do when they see fireworks nearby. Councilor Jones asked what Councilors should say when their constituents call them about active fireworks. Chief Farquhar replied that residents or Councilors could always call the non-emergency phone number for the Fire Department or Police Department. He said it is true that it is sometimes hard for officers to determine an exact location, but the Chief said that if there is something large in the air going “boom” then it was assuredly not permissible.

Chair Bosley said she understood the Ordinance to require contacting the Fire Department. She quoted, “Fireworks can only be discharged on days when fire danger is Class I, II, or III as

determined by the NH Division of Forest and Land.” She asked if it was like a burn permit, when the individual must contact the Fire Department to see if it was safe. Chief Farquhar said those are updated actively on the NH Division of Forested Land’s website but said he could speak to the IT Department about linking that to the City’s website. He added that individuals could call the firehouse, which would always have that information. He noted that there was also a change to the Burn Permit to have it also link to the State of NH online program. Assuming that a Police Officer would be following-up on any complaints, Chair Bosley thought it was important for the Police Department to know all of these very restrictive items to do with location, backsets, age, associated alcohol use, and more.

Councilor Ormerod said there was nothing in the Ordinance about 12:00 AM on New Year’s Day. He asked if the Ordinance would not be enforced at that time. He noted that where he lives in Ward 1 has a lot of trees and wires that could be considered obstructions. Chair Bosley thought Councilor Ormerod was pointing out that there are certain days when fireworks are more prominent, such as the 4th of July and New Year’s Eve/Day. The Chair and City Attorney agreed that in the case of midnight on New Year’s Day, it would be after the 10:00 PM cutoff listed in the Ordinance, which is also in accordance with the Noise Ordinance. He said that 10:00 PM cutoff would not apply to licensed shooters. If a licensed event was going to happen at 12:00 AM on New Years Day, that would be permitted in the Noise Ordinance because there can be noise after 10:00 PM if pursuant to a license or permit issued by the City. However, if individuals were setting off fireworks after 10:00 PM, that would be a violation of the Ordinance and they could potentially be fined. Councilor Ormerod said he only knew of 1 or 2 lots in Ward 1 that are not obstructed by trees or wires. If he is hearing fireworks in Ward 1, he is concerned because there are no safe places for them. He asked if that would be a matter of calling and making a report. Chief Farquhar said that was that right place to start for immediate needs and further needs could be addressed with an educational campaign in the long-term, working with neighborhoods and/or through landlords. He said that in a large portion of the City, the 50-foot distance requirement to any structure limits the use of fireworks. Like anything else, he said this would be new and they could correct things immediately, but that a lot of good would be done with a long-term educational campaign.

The City Attorney agreed that when Staff were drafting this Ordinance, they discussed the need for educational campaigns leading up to those holidays to let the public know that the Fireworks Ordinance exists. He thought the Chair had a good point about ensuring that the Police Department is familiar with these requirements because they have the same sort of enforcement rights.

Vice Chair Giacomo said that approximately 13 years ago, NH changed the law to allow mortars as permissible. He understood there was a difference in scale, but he said that many permissible things could make big booms. So, the Vice Chair agreed that educating the public would be very important. Chair Bosley agreed that she sees fireworks set off in the downtown area that clearly in violation of these requirements and she imagined that there were instances of renters who do not have their landlords’ permission. So, she also agreed that there would be a lot of things for a Police Officer to know when responding to these complaints. The Chair asked what the fine would be under this Ordinance. The City Attorney said that there is a set of fines for City Code violations and because the Ordinance itself does not specify a fine, that Chapter 2 of the Administrative Code has a set of fines that apply if no other fine is specifically stated. He recalled running into that issue with the Mask Ordinance. Chair Bosley and the City Attorney agreed that the fine could go up to \$1,000, which Chair Bosley said could be a significant deterrent to someone violating a second time.

Councilor Jones asked if what the City Attorney just described could also be applied with the Noise Ordinance, which is a warning before a fine. The City Attorney said yes, there is the potential for multiple violations under this, and the Noise Ordinance could be one of them as a separate requirement.

Chair Bosley opened the floor to public comments. Councilor Bobby Williams of Ward 2 said he was concerned that this Ordinance could open the door to a lot more fireworks in his neighborhood, which is an urban area that experiences a lot of air pollution and people breathe the smog from fireworks. In addition to dogs being bothered by fireworks, he said many people are, including his wife, so he does not want them in his neighborhood. Councilor Williams said his real concern was ecological, especially if this was getting pushed out into the Rural Zone. He said dogs are not the only animals startled by fireworks, but all wildlife is. He said Keene values its wildlife and blowing things up is a great way to drive that wildlife away. He cited a case near his home where an owl visited regularly and then never did again after some fireworks, which he said would happen at a larger scale with more explosions in the rural areas.

There were no further public comments. A motion by Councilor Jones to adopt Ordinance O-2023-07 was duly seconded by Vice Chair Giacomo.

Chair Bosley agreed with Councilor Williams about the impacts to wildlife, noting how fireworks scare her horses, giving them anxiety in their stalls, which can be dangerous. She hoped this would give the Police and Fire Departments some authority to regulate non-permissible fireworks. She said that with the way it was set up prior to this Ordinance, people did not even try to comply. At least with some criteria, the City could try to minimize non-permissible uses and issue fines when needed.

The City Attorney agreed that fireworks are challenging for many people, citing the example of the challenges his son faced with them after returning from serving in Afghanistan, when he could not go outside on the 4th of July. He said it is something people should be aware of and think about. He said that it could also be the will of the Council to prohibit fireworks, though he questioned whether that was palatable or politically viable. Chair Bosley agreed and hoped that the challenges faced by some community members and threats to wildlife could also be discussed in future educational campaigns around the holidays. She said people still need to be respectful in their communities and this is not just a license to misbehave.

Vice Chair Giacomo said it did not make sense to codify this, but asked whether during educational outreach, the City could also suggest notifying neighbors as a courtesy before using fireworks. He recalled instances when he would have appreciated a heads-up. Chair Bosley thought that was great to encourage, much like Councilor Jones notified his homeowner's association so his neighbors would not be surprised by the 4 on the 4th Race mentioned earlier in the meeting.

On a vote of 4–1, the Planning, Licenses, and Development Committee recommended the adoption of Ordinance O-2023-07. Councilor Ormerod voted in opposition.



CITY OF KEENE

In the Year of Our Lord Two Thousand and Twenty Three

AN ORDINANCE Relating to the Sale, Possession and Display of Fireworks

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

That the ordinances of the City of Keene, as amended, are hereby further amended by removing the stricken text and inserting the underlined text in Chapter 42. "Fire Prevention and Protection", Article III. "Fireworks and Explosives" as follows:

Sec. 42-61. Sale, possession and display of fireworks.

No person within the city shall offer for sale, expose for sale, give or transfer to another, with or without consideration, display or have in his possession or custody, any ~~class B special Non-Permissible~~ Fireworks, packaged or unpackaged, or class C permissible and non-permissible consumer fireworks, packaged or unpackaged, or both, without first obtaining a permit for sale, possession and display of fireworks from the city council and in accordance with the guidelines set forth under state and federal regulations.

A. Consumer Fireworks Conditions and Restrictions:

Any person wishing to discharge New Hampshire Permissible (Consumer) Fireworks shall comply with the following specific conditions and restrictions regarding their use. This is in addition to any applicable state law requirements.

1. The person discharging fireworks must possess proof that he is the landowner of the location where the fireworks discharge will occur or has written permission from the landowner.
2. Fireworks shall not be ignited or possessed by minors (anyone under the age of 21).
3. The person discharging fireworks must be at least 21 years of age or older (Pursuant to state statute).
4. The person discharging fireworks must possess and make available upon request a valid photo identification listing their name, address and date of birth.

5. Fireworks shall be purchased from licensed Permissible Fireworks retailers in New Hampshire only. A Copy of the receipt of purchase must be kept and made available upon request.
6. The person discharging fireworks shall only purchase the quantity of fireworks needed for the planned display. Storage of Permissible fireworks is prohibited.
7. Fireworks shall be ignited a minimum of 50 feet from any public way, overhead utilities, structures, woodlands, property lines or boundaries.
8. The person discharging the fireworks is required to have a means of fire extinguishment readily accessible.
9. Anyone discharging or igniting fireworks shall not be under the influence of any drugs or alcohol.
10. Notwithstanding any other provision of City Code to the contrary, Permissible Fireworks shall only be discharged or used between the hours of 10:00 AM and 10:00 PM.
11. Fireworks can only be discharged on days when the Fire Danger Day is Class One, Two, or Three as determined by the New Hampshire Division of Forest and Lands – Bureau of Forest Protection.

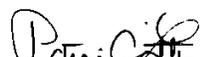
B. Enforcement.

1. Any sworn law enforcement officer of the city, county or state, as well as the fire chief or their designee shall be empowered to enforce this ordinance.
2. Persons found in possession of, or discharging Non-Permissible Fireworks shall be subject to the penalties outlined in NH RSA 160 – B. This section shall not apply to those individuals that hold valid Certificates of Competency issued by the NH Department of Safety and hold a valid Display Fireworks Permit issued in accordance with RSA 160-B and Saf-C 5000, or any other ordinance. Nothing in this ordinance shall preclude any sworn police officer from enforcing any section of NH RSA 160 – B, or NH RSA 160 – C.



George S. Hansel, Mayor

In City Council March 16, 2023.
Referred to the Planning, Licenses and Development
Committee.



Patricia C. Cate
City Clerk

PASSED April 20, 2023



CITY OF KEENE NEW HAMPSHIRE

ITEM #J.2.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Planning, Licenses and Development Committee, Standing Committee
Through:
Subject: Relating to Amendments to the Planning Board Subdivision Regulations Ordinance O-2023-08

Council Action:

In City Council April 20, 2023.

Report filed. Voted unanimously for the adoption of Ordinance O-2023-08.

Recommendation:

On a vote of 5–0, the Planning, Licenses, and Development Committee recommended the adoption of Ordinance O-2023-08.

Attachments:

1. O-2023-08 - Relating to the LDC - Subdivision Regulations_adopted

Background:

Chair Bosley welcomed Senior Planner, Mari Brunner, to walk the Committee through this Ordinance on behalf of the Planning Board. Ms. Brunner said that the Planning Board has subdivision regulations housed within the Land Development Code. These subdivision regulations used to be exclusively under the Planning Board's authority but are now included in the City Code as well. Ms. Brunner explained her intent to review the proposed amendments that had already been through a public hearing before the Planning Board, which voted unanimously to adopt them. She added that before the Planning Board could make the amendments official, the changes had to be referred to the City Council to be incorporated into the City Code, which is the reason this item is on the agenda.

Ms. Brunner explained that the intent of these proposed amendments was to address some concerns the public expressed during the public workshops and hearings on Ordinance O-2022-09, which went through the City Council process last year. Ordinance O-2022-09 included proposed changes to the Conservation Residential Development (CRD) regulations and reduction of the minimum lot size in the Rural District from 5 acres to 2 acres. Ms. Brunner said that Ordinance O-2022-09 was ultimately amended to remove the minimum lot size proposal. Still, there was a lot of public comment during those 2 workshops and 2 public hearings on the potential ways the City could protect the Rural District when subdivisions are proposed. Ms. Brunner said that some of the concerns included potential negative impacts to the character of the Rural District, the suitability of soils in the Rural District for septic systems, and the need to protect important natural and scenic features such as surface waters, steep slopes, and wildlife habitats. The proposed amendments in Ordinance O-2023-08 were intended to address those concerns and give the Planning Board additional guidance when

reviewing subdivision applications for the Rural District. Ms. Brunner noted that a subdivision must be initiated by a property owner and is a proposal to create one or more new lots, which would be reviewed by the Planning Board as if they are developable.

Ms. Brunner discussed the first proposed change called “Preservation of Existing Features.” The Planning Board has the ability to require that existing features be preserved. She said this amendment would provide the Planning Board with additional clarification and guidance on how that preservation could occur. The current language provides examples of the existing features: surface waters, steep slopes rare and/or unique scenic features, stonewalls, rock outcroppings, and historic landmarks. This proposed amendment would add a statement that says, “or any of the attributes listed in Section 19.3.4 – Primary and Secondary Conservation Areas of this Article,” which Ms. Brunner said is a list of important natural features to protect that already exists within the City’s regulations. She said the amendment continues stating that, “in order to ensure that the objectives of this section are met, the Planning Board may require additional studies or mitigation, including but not limited to the following.” She said that one of the tools Staff highlighted in the regulations that the Planning Board has used in the past was their ability to require the designation of a “no cut buffer” along public rights-of-way. Ms. Brunner said the purpose of that designation is to preserve existing mature tree canopies and vegetation along the road, thus preserving the character of the Rural District. She said another option the Planning Board could require is that a proposed development be designed and located to fit into the landscape in order to minimize significant impacts to existing features or views/vistas. Ms. Brunner said that the proposed amendment clarified that the Planning Board already has that authority.

Councilor Jones asked why this was being codified as a new Ordinance instead of as an amendment to the CRD Ordinance. Ms. Brunner explained that this is an amendment to the existing subdivision regulations, so this is not a whole new standard but an amendment to the existing Land Development Code standards. Councilor Jones said it did not show as an amendment or “A” version of what already existed. The City Attorney, Tom Mullins, said this was a proposed amendment to an existing section of the City Code, so it would not be an “A” version because the existing section is already there. If the Council were to amend this Ordinance O-2023-08, it would become an “A” version.

Vice Chair Giacomo said the function of the Planning Board is to determine suitability vis-à-vis the Master Plan, so he wondered if it was up to the Planning Board to define “significant,” which he said was used a lot in these amendments. Ms. Brunner said yes, the City relies on the Planning Board as local experts who live in Keene and act in a quasi-judicial capacity. The Planning Board public hearing process includes presentations from applicants and comments from abutters or concerned citizens. The Planning Board uses their judgement about what is fair and what makes the most sense. Ms. Brunner recalled an example of a small multi-family development proposed in an area with mostly single-family homes. She said that in that example, while the development was allowed under the Code, there were a lot of concerns from the residents that the visual impact would change their property values. In that case, the Planning Board required that the existing forest canopy along the roadway be maintained as a way to mitigate those concerns. Vice Chair Giacomo asked if the Planning Board must use their judgement to determine what is “significant” and Ms. Brunner said yes, there is a lot of judgement involved. Chair Bosley thought that was the distinction between the Planning Board and Zoning Board of Adjustment, which applies a specific set of criteria to applications, while there is more judgement involved relative to the Planning Board.

Ms. Brunner continued presenting the second proposed amendment, which was a change to the section on utilities. As currently written, the subdivision regulations were very specific on allowing subdivisions in parts of the City where there was either existing water or sewer. Ms. Brunner said that when these regulations were written, Staff had contemplated subdivisions occurring mostly on the valley floor, where City water and sewer are readily available. However, subdivisions occur in the

Rural District today and Ms. Brunner said they would likely continue happening, but the current utilities section does not speak to that specifically. In such instances, she said it has been Staff's practice to ask for things like soil percolation tests and test pit data that are already performed by developers. This amendment would require developers to submit copies of such tests to the City to demonstrate whether it is possible to have a well or septic system on a proposed new lot. Ms. Brunner said that this requirement is clearly within a Planning Board's jurisdiction to ensure a lot is going to be developable once the plot is approved and recorded at the registry. She said this proposed amendment was to add a "Section C" that states, "if an area is not currently served by City sewer, it shall be the responsibility of the applicant or their agent to provide adequate information, such as test pits and percolation tests to demonstrate that the land and area of each lot is adequate to permit the installation and operation of an individual sewage disposal system. In accordance with Env-Wq 1000, for subdivisions with lots smaller than 5 acres, subdivision approval from the NH Department of Environmental Services shall be required." Ms. Brunner said a reference to the State document was added to these proposed amendments so applicants are aware it is a requirement and so the Planning Board is aware they should be making it a condition of approval.

Ms. Brunner explained the final proposed amendment to the CRD regulations. Ms. Brunner recalled that CRDs are a type of subdivision, in which the starting lot must be at least 10 acres in size. If a CRD occurs in the Rural District, at least 50% of the land must be permanently preserved as open space, and units could be clustered closer together on the remaining land. In the CRD subdivision regulations, there is something called a "perimeter building setback," which Ms. Brunner illustrated with an image. The perimeter building setback is an increased setback from all external lots and an additional setback along the existing right-of-way that is even larger. For example, in the Rural District, there is a 100-foot setback from the road and a 50-foot setback along the perimeter of the entire tract, but then internally the individual lots could be closer together. This amendment was to ensure that the development is buffered from the surrounding area and the external roadway. Ms. Brunner noted this amendment proposes a no cut area within the perimeter setback along the external road to preserve the existing tree canopy. So, in an area where there is a mature tree canopy, it would require keeping that vegetation in place to maintain the look and feel of the surrounding area.

Vice Chair Giacomo referred to the image Ms. Brunner displayed, stating it was interesting because depending on the shape of the parcel, 40–50% of the 10 acres could be occupied by these buffers, which would leave small lots for building houses. Vice Chair Giacomo said he was in favor of this Ordinance, but he thought it was important to address the concerns the public expressed about destroying the rural character. He asked if the buffers counted toward the open space requirement and Ms. Brunner responded yes, if they are designated as permanent open space. She said the regulations do not dictate where the open space land must be located but most often the open space would be built around the natural features that cannot be developed. She added that the open space land does not have to be contiguous, though the regulations encourage keeping open spaces as connected and continuous as possible.

Vice Chair Giacomo continued asking if the no cut buffer was around the whole property perimeter. Ms. Brunner said the no cut area is just along the external roadway, "The area within the perimeter setback along external roads." So, Ms. Brunner confirmed for the Vice Chair that the 50-foot setback buffer around the whole parcel is not a no cut area, but only the 100-foot perimeter along the roadway was mandated as no cut. Ms. Brunner said the 50-foot perimeter is a buffer in which no development could occur. She said that with this amendment, if there is already an existing tree canopy along the roadway, it must be preserved as forested land. The Vice Chair asked if there is a minimum size in the CRD for conserved land per parcel. He asked if a developer could try designating the 50-foot buffer as a conserved area. Ms. Brunner replied that a developer could try but it ultimately would depend on what the Planning Board is willing to accept. She added that the open

space standards in the CRD do speak to the connectivity of the open space land. Vice Chair Giacomo said he appreciated these modifications and that it was clear Staff listened to the public's concerns.

Councilor Ormerod agreed with Vice Chair Giacomo. Councilor Ormerod said he questioned whether it was going too far to demand no cutting along the roadway. He said that for people building new lakeshore properties, many lakes will say some trees could be cut but that the trees on the lakefront must be maintained, for example. He said this amendment was mandating no trimming of anything and asked if someone, for example, might want to do some cutting in that area for a walking path between the trees. Ms. Brunner replied that the amendments did not include a specific definition of "no cut." She said Staff had interpreted a no cut buffer as disallowing any clear cutting and she said Staff would likely not be concerned if there was selective tree cutting or brush management in that buffer. She said it was more about keeping the tree canopy as a visual screen between the road and the development itself and she imagined Staff would not be that concerned with management and maintenance of the area. Still, that area would be labeled as a no cut buffer on the subdivision plans so all future owners of that land would be aware of their responsibilities. She said the intent is not to micromanage maintenance.

Chair Bosley said she agreed with these changes and did not want to get too far "into the weeds" about it, but she pointed out that what Ms. Brunner said was important. The Chair said that if that 100-foot no cut zone was not included in the CRD conservation area it would eventually be owned by someone else and she asked if it needed to be recorded as a deed restriction. Ms. Brunner said it would be required to be shown on the plan that is recorded at the County Registry. Ms. Brunner anticipated that when someone buys a property with a CRD that there would be something like a homeowner's association that would manage the common land. She said the no cut buffer should be written clearly on the subdivision plans. Chair Bosley thought that would be too sophisticated for most people and that there would be a need for education—perhaps through the CRD process—on the responsibility of the homeowner's association. She said that when purchasing a property there has to be deed research with an attorney, who should notify applicants of anything they should be concerned about. The Chair thought this requirement was unique, and she was unsure if that level of research would happen or be identified for a new property owner. She added that someone purchasing a property in a CRD would likely not know about this Ordinance and she felt that process deserved some thought.

Vice Chair Giacomo referred to the first amendment Ms. Brunner presented on conservation areas, where item one talked about no cut buffers along public rights-of-way. The Vice Chair said he envisioned a scenario in which a developer could clear cut a parcel and sell it for lumber before turning it into a CRD, with the only responsibility being to revegetate the first 100 feet along the roadway. He hoped that the Planning Board would have something to say about such an instance, but he did not think there was any step in which such a developer would have to appear before the Planning Board. He said this was more of a procedural question. Ms. Brunner replied that forestry is unique in NH. She explained that if a property owner is logging their land, they would need to file an intent to cut and then they could basically go do it. She said that it is not a requirement, but the Planning Board may decide that, "any property that has been clear cut within the preceding 10-year period, or any property that will be clear cut as a result of any proposed or future development may be required to conduct revegetation or other mitigation." Ms. Brunner said that is obviously not ideal in a case with a mature forest, but this language at least gives the Planning Board some guidance on what they could do in that situation. Vice Chair Giacomo questioned the definition of revegetation in this instance, noting that it might not be revegetating in a manner congruent with the adjacent properties or with the parcel's history. Ms. Brunner said the Planning Board could require vegetation that is in-kind with what was historically on the parcel. Chair Bosley stated that such an ability would have been helpful when Maple Avenue was revegetated, for example.

Councilor Jones said he was initially 1 of the 5 Councilors opposed to the CRD. However, he thought these amendments were a step in the right direction to giving the Planning Board some guidance. He stated he would support this Ordinance.

The City Attorney shared some history. He said the blunt reality was that these regulations are statutorily within the purview of the Planning Board. The City Council's opportunity on this was pretty minimal; referring to as it "ministerial". He continued stating that he was not a proponent of putting the subdivision and site plan regulations in the Land Development Code as an Ordinance because of this conversation. He said that once the City Council is involved, it begins taking away some of the Planning Board's statutory authority to do this via their public hearing process. Unfortunately, by wanting to have a unified Land Development Code, the decision was to include this Ordinance, which made him uncomfortable because it could create a conflict between the City Council and Planning Board in areas where the City Council has no authority. Attorney Mullins cautioned there is potential for that to happen at some point and said it was possible that he could return to the Council in the future to recommend severing those amendments from the Land Development Code. Part of the reason is because the Planning Board's function is to take these regulations, which are not as specific as the Zoning Ordinance, and work with applicants under this structure that is not as defined but is necessary for everyone to do with respect to the property. The Planning Board's role is regulatory and the City Council's is not—it is a political body. He said that some other proposals were included in these amendments initially that some in the public found controversial and they wanted the City Council to say "no" to those, which would have created a direct conflict under the statute. If the Council has serious issues with the amendments, it could send them back to the Planning Board for rehearing, but it was ultimately the Planning Board's authority to do what it wants.

Vice Chair Giacomo said he appreciated the City Attorney's explanation and Ms. Brunner's responses. The Vice Chair said their points were well-taken and he was glad to have gained a better understanding of the interpretive nature of the Planning Board's function.

Chair Bosley said this was an interesting conversation. She recalled the Joint PB-PLD Committee meeting on April 10, when there was a line drawn between the 2 Committees on an opinion about something. She said that as a Councilor, she felt the things the PLD was talking about were important for Councilors to see happen after sitting through many workshops and discussing many ordinances that were controversial. She said this was an opportunity for the Council to see Staff responding to some of the neighbors' concerns and mitigating some of the controversial pieces of those changes. She said she thought that there were a lot of things the Council is asked to do that they have no control over, such as whether the PLD Committee should ask or demand public hearings when exiting a Joint Committee hearing. She thought it was important for the Council to be educated so they understand what the Planning Board is doing. She imagined there were other opportunities to address public concerns through ordinances in the Land Development Code. She said that if there were really problems to not go through the Planning Board but to just change the Ordinance and let that go through the public process to learn their feelings about it. She said that ultimately, these are the public's ordinances, and they are the ones who should be giving opinions about them. If the ordinances are not being interpreted well by the Planning Board, she said someone needs to know. Chair Bosley agreed that if the Council has no authority to say no to the Planning Board about changing their own regulations then those changes should not be coming before the Council. She said there has to be a role for the Council in creating the structure the Planning Board has to apply regulations. She said that ultimately the Planning Board is deciding whether there should be a no cut zone, but that could not happen unless the Council creates an Ordinance that allows the subdivisions. She said it all ultimately ties together.

The City Attorney recalled that the unified Land Development Code now has these various sections

within it. He said the Zoning Ordinance is what essentially permits a CRD to occur. The Planning Board has regulations regarding CRDs. The City Attorney said that it is fine for things like this to exist in the City Code. He said the opportunity for the City Council and public to weigh in regarding subdivision and site plan regulations is during the public hearing process before the Planning Board. The hearing provides that opportunity to the public and the City Council to have that conversation with the Planning Board.

Chair Bosley asked, if this no cut zone did not find its way into the Planning Board regulations and the public told the Council they were uncomfortable with the way CRDs were visually appearing in the community, would the Council have the authority to amend the Ordinance so the Planning Board would have to abide by that. The City Attorney said not necessarily and that is the point of conflict. He said the Planning Board has control over its regulations and the only reason this was appearing before the City Council was because there was a decision made to put these regulations into this overall Ordinance. The Chair asked if these sorts of decisions could not be the basis of an Ordinance, much like for the Congregate Living and Social Services screening requirements that the Planning Board sought authority to waive; the City Council told the Planning Board that a Variance would be needed from a subjective committee in that instance. The City Attorney said the CRD is likely not a good example but noted that there is a specific connection between the Zoning Ordinance and CRD; there is a bleed over between those two. However, the Planning Board's subdivision and site plan regulations are outside of the Zoning Ordinance. He said there is no opportunity for the City Council—by Ordinance—to influence those regulations because it has no influence in that regulatory structure.

Ms. Brunner added that there is also bleed over with something called a “conditional use permit” (CUP), which is one of the innovative land use controls that is relatively new compared to site plan and subdivision powers. She said a CUP crosses all boundaries in that it is created in the Zoning Ordinance, which is adopted by the City Council, but the City Council can designate the Planning Board as the body that actually implements the CUP. So, when an applicant comes to get a CUP, they can do so concurrently with their site plan review. She said there is a lot included in the Planning Board regulations that the City Council has a say in; the two exceptions are the site development standards for site plan review and the subdivision standards that are outside the CRD.

Councilor Jones tried to simplify by saying the City Council can establish the Zoning and what uses go in the zones but stays away from site plans. The City Attorney said that was correct as a general proposition; regulatory aspects like site plan review reside with the Planning Board. It is important to separate what is happening in the City administratively from what the regulatory bodies are doing. He said that bleed over could lead to allegations of impropriety. Chair Bosley asked why not clean that up now. The City Attorney said the reason was because this process was in place. He said it was important to get the subdivision regulations in place. He added that frankly, in a larger sense this was a vehicle to have this very conversation with the PLD Committee and Council. Chair Bosley said she would prefer to not have it come to a head on one particular issue and suggested cleaning it up sooner. The City Attorney thought the Chair would see that coming to the Council imminently.

There were no public comments. Councilor Ormerod made the following motion, which Councilor Jones seconded.

On a vote of 5–0, the Planning, Licenses, and Development Committee recommended the adoption of Ordinance O-2023-08.



CITY OF KEENE

In the Year of Our Lord Two Thousand and Twenty Three

AN ORDINANCE Relating to Amendments to the Planning Board Subdivision Regulations

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

That Chapter 100 of the Code of Ordinances of the City of Keene, New Hampshire, as amended, is hereby further amended by deleting the stricken text and adding the bolded and underlined text in Article 19 – Subdivision Regulations, as follows:

1. That Section 19.2.4 “Preservation of Existing Features” of Article 19 be amended to include information about additional studies or mitigation that may be required by the Planning Board, as follows:

Wherever feasible, suitable steps shall be taken to preserve and protect significant existing features, such as surface waters, steep slopes, rare and/or unique scenic points, stone walls, rock out-croppings, ~~and historic landmarks.~~ **or any of the attributes listed in Section 19.3.4 “Primary and Secondary Conservation Areas” of this Article. In order to ensure that the objectives of this section are met, the Planning Board may require additional studies or mitigation, including but not limited to the following:**

- 1. The Board may require the designation of a “no-cut buffer” along public rights-of-way to preserve existing vegetation and provide a visual screen for new development. Any property that has been clear-cut within the preceding ten (10) year period, or any property that will be clear-cut as a result of any proposed or future development, may be required to conduct revegetation or other mitigation to provide a visual buffer along the public rights-of-way.**
- 2. The Board may require that the proposed development be designed and located to fit into the landscape in order to minimize significant landscape alterations and mitigate or avoid impacts to significant existing features or views/vistas.**

2. That Section 19.2.8 “Utilities” of Article 19 be amended to add a new subsection after subsection B, as follows. The intent of this proposed change is to ensure that any new proposed lot that would not be served by City sewer service has adequate land area and suitable soils for siting an individual sewage disposal system.

C. In areas not currently served by City sewer, it shall be the responsibility of the applicant or their agent to provide:

- a. Adequate information (e.g. test pits and percolation tests) to demonstrate that the land and area of each lot is adequate to permit the installation and operation of an individual sewage disposal system.**

b. **In accordance with Env-Wq 1000, for subdivisions with lots smaller than 5 acres, subdivision approval from the New Hampshire Department of Environmental Services shall be required.**

3. That Section 19.3.2.B “Perimeter Building Setback” of Article 19 be amended as follows. The intent of this proposed change is to provide a vegetated buffer between the existing public right-of-way and any new development that occurs as part of a Conservation Residential Development (CRD) Subdivision, as well as to help maintain the existing rural character of roads within the zoning districts where CRD subdivisions are permitted to occur.

B. Perimeter Building Setback. A building setback shall be required around the perimeter of the existing tract proposed for subdivision (excluding access points) as specified in Table 19-1. The land area included in the perimeter setback may be counted toward the calculation of open space. **The area within the perimeter setback along external roads shall be designated as a “no cut” area in order to preserve existing tree canopy.**

In City Council April 6, 2023.
Referred to the Planning, Licenses
and Development Committee.



City Clerk



George S. Hansel, Mayor

PASSED April 20, 2023



CITY OF KEENE NEW HAMPSHIRE

ITEM #J.3.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Finance, Organization and Personnel Committee, Standing Committee
Through:
Subject: **Relating to Class Allocation & Salary Schedule
Ordinance O-2023-09**

Council Action:

In City Council April 20, 2023.

Report filed. Voted unanimously for the adoption of Ordinance O-2023-09.

Recommendation:

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends adoption of Ordinance O-2023-09.

Attachments:

1. O-2023-09 Class Allocation & Salary Schedule_adopted
2. City code

Background:

Assistant City Manager/Human Resources Director Beth Fox addressed the Committee next and stated the first item she is here to address deals with the City's Class Allocation Ordinance for non-union personnel, which requests that a position that is currently in an S17 position be regraded and retitled. She indicated under normal circumstances staff would have waited a few weeks, and brought this forward as a budget process, but the finance department is working against a deadline and individuals need to be hired and get this process started in order for the department to be successful moving forward.

Ms. Fox explained staff in the past few years has seen enormous changes in this particular job. She indicated the grant environment has become much more complex and this position is key to keeping the City in compliance, and not being in compliance will become an issue for the City.

She went on to say this position also has become a key position as the department has moved to cloud based software.

The Manager agreed this position is very important for the City as the City needs to have good financial data to make good financial decisions. She noted municipalities are recruiting in their finance departments without much success. The Manager stated this re-grade is something she wanted to do months ago but with the conversion of the software, the budget in the new system, made it difficult. She reiterated this is something that under normal circumstance would be done

during the budget process, and there will be others that will come during that time but this position needs to be filled and she hoped the Committee will support staff's request.

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

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends adoption of Ordinance O-2023-09.



CITY OF KEENE

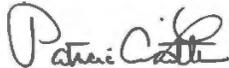
In the Year of Our Lord Two Thousand and Twenty Three

AN ORDINANCE Class Allocation & Salary Schedule

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

That the Ordinances of the City of Keene, as amended, hereby are further amended by deleting the stricken text and inserting the bolded text in Section 62-194, "Administrative, Office, Technical and Management – Annual Salary Schedule", of Chapter 62 entitled, "Personnel," effective April 23, 2023.

In City Council April 6, 2023.
Referred to the Finance, Organization
and Personnel Committee.


City Clerk



George S. Hansel, Mayor

PASSED April 20, 2023

City Code Section 62-194

ADMINISTRATIVE, OFFICE, TECHNICAL AND MANAGEMENT

(effective April 23, 2023)

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



CITY OF KEENE NEW HAMPSHIRE

ITEM #J.4.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Finance, Organization and Personnel Committee, Standing Committee
Through:
Subject: **Relating to Personnel Systems & Procedures
Ordinance O-2023-10**

Council Action:

In City Council April 20, 2023.

Report filed. Voted unanimously for the adoption of Ordinance O-2023-10.

Recommendation:

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends adoption of Ordinance O-2023-10.

Attachments:

1. Ordinance O-2023-10 Relating to Personnel Systems & Procedures 4 6 2023 _adopted

Background:

Ms. Fox stated the City recently adopted an AFCSME Contract that changed how the City manages vacation leave for probationary AFCSME employees. This proposed ordinance change to insert the AFCSME group into the ordinance aligns with the contract. Ms. Fox stated this might be considered redundant, but because the contract on its face does not cover AFCSME employees, this provision does do that. Ms. Fox indicated she felt code and contract should be in alignment so that there are not no questions about City practices and that the City is administering its policies in accordance with both Code and Contract.

Councilor Lake made the following motion, which was seconded by Councilor Madison.

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends adoption of Ordinance O-2023-10.



CITY OF KEENE

In the Year of Our Lord Two Thousand and Twenty Three

AN ORDINANCE Relating to Personnel Systems & Procedures

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

That the Ordinances of the City of Keene, as amended, are hereby further amended by inserting the bold text in Article V, "Policies, Procedures and Conditions of Employment", Division 3 "Leaves" Subdivision II "Vacation" of Chapter 62 entitled "Personnel" as follows:

Subdivision II. Vacation

Section 62-396. Authorized.

- (a) Commencing with the first month of employment a regular full-time employee holding a position recognized in chapter 2, section 231 (city council appointments), **chapter 62, section 166 (probationary public works)** or chapter 62, section 194 (administrative, office, technical and management) will begin to accrue vacation leave at a rate of five-sixths regular working days or working shifts per month of continued employment. On the seventh anniversary date, the accrual rate for the basic workweek will increase to 1½ days per month. On the fifteenth anniversary date, the rate will increase to 1⅔ days per month. Vacation leave may be accrued, based on the employee's average normal workweek, to a maximum of 30 workdays. With the exception of city council appointments under chapter 2 section 231, where the city manager determines it to be in the city's interest to do so, he may authorize other specific vacation leave provisions for a regular full-time employee at the time of employment of such employee. Any such other specific vacation leave provisions authorized by the city manager shall be in writing and will not exceed 1½ days per month accrual.
- (b) Vacation schedules shall be determined by department heads in accordance with department requirements. In no case may payment be made in lieu of taking vacation leave, except on employment termination.

Effective date March 31, 2023

In City Council April 6, 2023.
Referred to the Finance, Organization
and Personnel Committee.


Patricia C. Clark
City Clerk



George S. Hansel, Mayor

PASSED April 20, 2023



CITY OF KEENE NEW HAMPSHIRE

ITEM #K.1.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Terry Johnson
Senior Project Manager/Southwest Regional Planning Commission
Through: Elizabeth Dragon, City Manager
Subject: **Relating to a CDBG Grant Application - Roosevelt School Apartments
Resolution R-2023-21**

Council Action:

In City Council April 20, 2023.

Referred to the Finance, Organization and Personnel Committee. Public hearing scheduled for May 4, 2023 at 7:00 PM.

Recommendation:

Attachments:

1. Communication_SWRPC
2. R-2023-21 CDBG Application Roosevelt School Apartments_Referral

Background:

Southwest Regional Planning Commission has submitted a Resolution that would approve a grant application for Federal CDBG funds to the NH Community Development Finance Authority. The proposal is to request up to \$500,000 in CDBG Public Housing funds to be sub-granted, less administration costs, to Keene Housing to be used toward the development of apartments for low and moderate-income households at 438 Washington Street.



Southwest Region Planning Commission
37 Ashuelot Street Keene, NH 03431 603-357-0557 Fax 357-7440

DATE: APRIL 20, 2023
TO: THE HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM: *TJ* TERRY JOHNSON, SENIOR PROJECT MANAGER
THROUGH: ELIZABETH A. DRAGON, CITY MANAGER
RE: PROPOSED APPLICATION FOR CDBG FUNDS: KEENE HOUSING ROOSEVELT SCHOOL APARTMENTS

Recommendation: That the City Council adopt the attached resolution approving an application for federal Community Development Block Grant (CDBG) funds to the NH Community Development Finance Authority (CDFA); and further, to adopt the Anti-Displacement and Relocation Assistance Plan specific to this project and re-adopt the City's Housing and Community Development Plan as updated.

Proposed application: The proposal is to request up to \$500,000 in CDBG Public Housing funds to be sub-granted, less administration costs, to Keene Housing to be used toward the development of apartments for low- and moderate-income households at 438 Washington Street in Keene. The project will provide funds for the development of 30 apartments to be leased to low- and moderate-income households. All residents would have rental subsidies.

Public Hearing and Schedule: The CDBG application will be due on or about July 31, 2023. Three public hearings will be scheduled for May 4, 2023 for the following purposes:

1. Public hearing for the Keene Housing Roosevelt School Apartments project.
2. Public hearing to adopt the Anti-Displacement and Relocation Assistance Plan specific to this project.
3. Public hearing to re-adopt the City's Housing and Community Development Plan.



CITY OF KEENE

In the Year of Our Lord Two Thousand and Twenty Three

A RESOLUTION Approving a CDBG Application for Roosevelt School Apartments

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

WHEREAS, the City of Keene has stated as one of its Community Goals that suitable housing should be available to meet the varied housing needs of community residents; and

WHEREAS, the Community Goals state that there should be a wide range of standard housing available throughout the City; and

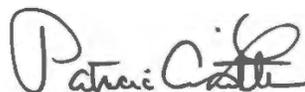
WHEREAS, the U.S. Department of Housing and Urban Development has established a Community Development Block Grant Program which is administered within the State of New Hampshire by the Community Development Finance Authority; and

WHEREAS, the Community Development proposal would provide \$500,000 to be used toward the development of apartments for low- and moderate-income households at 438 Washington Street in Keene.

NOW, THEREFORE, BE IT RESOLVED that the City Council approve and support the City’s grant application to the New Hampshire Community Development Finance Authority for \$500,000 in Community Development Block Grant funds to be used by a new limited partnership sponsored by Keene Housing for costs related to the development of permanently affordable apartments at 438 Washington Street; that the Council re-adopt the Housing and Community Development Plan as updated and adopt the Displacement and Relocation Plan; that the City will accept the grant if it is approved and enter into a contract with the Community Development Finance Authority; and, further, that the City Manager is authorized to execute any documents which may be necessary for the project, including a new contract with the Southwest Region Planning Commission for the administration of the program.

In City Council April 20, 2023.
Referred to the Finance, Organization and
Personnel Committee. Public Hearing
Set for May 4, 2023 at 7:00 PM.

George S. Hansel, Mayor


City Clerk



CITY OF KEENE NEW HAMPSHIRE

ITEM #K.2.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Attorney Paul J. Alfano/Nuevo Transfers
Through: Patricia Little, City Clerk
Subject: **Acceptance of Deeds and Return of Layout - Magnolia Way
Resolution R-2023-22
Resolution R-2023-23
Resoltuion R-2023-24**

Council Action:

In City Council April 20, 2023.

Site visit scheduled for June 1, 2023 at 5:45 PM. Public hearing scheduled for June 1, 2023 at 7:00 PM

Recommendation:

Attachments:

1. Magnolia Way - Petition for Layout
2. R-2023-22_Magnolia Way - Relating to the Acceptance of a Deed Resolution_Referral
3. R-2023-23_Magnolia Way - Relating to the Acceptance of a Street Tree Easement Resolution_Referral
4. R-2023-24_Magnolia Way - Return of Layout Resolution_Referral
5. Plan 67 cabinet13 drawer2
6. Street Tree Maintenance Easement Plan

Background:

Attorney Paul J. Alfano representing Neuvo Transfers, LLC, has submitted a petition that would lay out a public way, west of Winchester Street called Magnolia Way.

**PETITION FOR LAYOUT OF MAGNOLIA WAY AS A CLASS V HIGHWAY AND
ACCEPTANCE OF STREET TREE MAINTENANCE EASEMENTS**

To the Honorable Mayor and City Council of the City of Keene:

The Petitioner, Nuevo Transfers, LLC, a New Hampshire Limited Liability Company, of One Bedford Farms, Bedford, New Hampshire, 03110, respectfully represents as follows:

1. Public exigency and convenience require that a proposed road, to be known as Magnolia Way, be laid out west of Winchester Street over land designated as "Magnolia Way" and as shown on plan entitled "Subdivision Plan, 515 Winchester Street, Keene, New Hampshire, 03431" prepared for Hutter Construction Corporation, dated May 24, 2005, revised April 24, 2006, recorded in the Cheshire County Registry of Deeds at Cabinet 13, Drawer 2, Plan Number 67 ("Plan #67"), and in connection therewith that said public exigency and convenience require that a public way be laid out over a parcel of real estate situated in Keene, Cheshire County, New Hampshire, bounded and described as follows:

Beginning at a granite bound to be set in the Westerly line of Winchester Street, said point bears South 24° 29' 51" West 74.00 feet from a granite bound to be set at the Northeast corner of said Hutter Construction Corporation and the Southeast corner of the Rebecca Pearson 2002 Trust;

Thence Southwesterly along a curve to the right having a radius of 17.00 feet a distance of 26.64 feet, a delta angle of 89°46'37", said curve having a chord of South 69° 23' 09" West 23.99 feet, to a point;

Thence North 65° 43' 32" West 95.28 feet to a stone bound to be set;

Thence North 65° 43' 32" West 108.74 feet to a stone bound to be set;

Thence North 65° 43' 32" West 49.00 feet to a stone bound to be set;

Thence Westerly along a curve to the left having a radius of 58.00 feet, a distance of 21.38 feet, a delta angle of 21°06'58", said curve having a chord of North 76° 17' 01" West 21.25 feet, to a stone bound to be set;

Thence Southwesterly along a curve to the left having a radius of 58.00 feet a distance of 63.06 feet, a delta angle of 62°17'41", said curve having a chord of South 62° 00' 40" West 60.00 feet, to a stone bound to be set;

Thence Southeasterly along a curve to the left having a radius of 58.00 feet a distance of 63.49 feet, a delta angle of 62°43'18", said curve having a chord of South 00° 29' 50" East 60.37 feet to a stone bound to be set;

Thence Easterly along a curve to the left having a radius of 58.00 feet a distance of 63.06 feet, a delta angle of 62°17'41", said curve having a chord of South 63° 00' 20" East 60.00 feet, to a stone bound to be set;

Thence Northeasterly along a curve to the left having a radius of 58.00 feet a distance of 55.35 feet, a delta angle of 54°40'50",, said curve having a chord of North 58° 30' 24" East 53.28 feet, to a stone bound to be set;

Thence Easterly along a curve to the right having a radius of 17.00 feet a distance of 24.66 feet, a delta angle of 83°06'28", said curve having a chord of North 72° 43' 14" East 22.55 feet, to a stone bound to be set;

Thence South 65° 43' 32" East 32.06 feet to a stone bound to be set;

Thence South 65° 43' 32" East 64.58 feet to a stone bound to be set;

Thence South 65° 43' 32" East 81.59 feet to a stone bound to be set;

Thence Southeasterly along a curve to the right having a radius of 17.00 feet a distance of 26.77 feet, a delta angle of 90°13'23", said curve having a chord of South 20° 36' 51" East 24.09 feet, to a stone bound to be set in the Westerly line of said Winchester Street;

Thence North 24° 29' 51" East along the Westerly line of said Winchester Street 84.00 feet to the point of beginning.

Containing 22,062 square feet or 0.5065 acres, more or less.

2. Nuevo Transfers, LLC owns the parcel of real estate upon which the proposed road will be situated by virtue of Warranty Deed conveyed to Nuevo Transfers, LLC, by Hutter Construction, dated June 2, 2022, and recorded on June 6, 2022, in the Cheshire County Registry of Deeds at Book 3214, Page 1360, subject to an easement granted to Verizon New England, Inc. and Public Service Company, which easement is recorded at the Cheshire County Registry of Deeds at Book 2363, Page 823 ("Utility Easement"). Nuevo Transfers, LLC will convey the parcel described above, subject to the above referenced Utility Easement, to the City of Keene at no cost to the City of Keene and will waive all damages for land conveyed in connection with the proposed layout.
3. Public exigency and convenience require that a Street Tree Maintenance Easement for the benefit of the City of Keene to pass and repass, for access to, and maintenance of, trees already existing or to be planted within eight (8') feet of the Magnolia Way layout described above, be laid out over Petitioner's land situated in Keene, County of Cheshire, and State of New Hampshire, as shown on a plan entitled "Landscaping Plan, 515 Winchester Street, Keene, NH 03431," prepared for Hutter Const., Corp, dated May 24, 2005, and revised April 24, 2006, to be recorded ("Landscaping Plan").
4. The Petitioner owns the parcels of real estate upon which the proposed Street Tree Maintenance Easement will be situated by virtue of a Warranty Deed conveyed to the Petitioner, Nuevo Transfers, LLC, by Hutter Construction Corporation, dated June 2, 2022, and recorded on June 6, 2022, in the Cheshire County Registry of Deeds at Book 3214, Page 1360, excepting Lot 85-1-10-9 (as shown on Plan #67), also known as Tax Map 117, Lot 31. The Petitioner will convey the easement, subject to the Utility Easement referenced

in paragraph 1, above, to the City of Keene at no cost to the City of Keene and will waive all damages for land conveyed in connection with the proposed layout.

5. Petitioner shall seek a waiver by the City Council of Article 22, Public Infrastructure Standards, Section 22.2.1(A)(2), Submission Requirements, of the Land Development Code ("LDC"), specifically, the acceptance of a deed subject to the previously granted Utility Easement.
6. Petitioner shall post Security in an amount to be determined in accordance with Section 22.2.4, Security & Warranty, of the LDC.
7. Petitioner shall waive any and all claims for damages arising from the said layout of Magnolia Way that may be assessed pursuant to RSA 231:15, and any monetary consideration for the conveyance of the Street Tree Maintenance Easement.
8. Petitioner shall obtain a Street Tree Maintenance Easement to the City of Keene from the current property owner of Lot 85-1-10-9 (as shown on Plan #67), also known as Tax Map 117, Lot 31.
9. Petitioner shall obtain and provide a waiver of damages from the current property owner of Lot 85-1-10-9 (as shown on Plan #67), also known as Tax Map 117, Lot 31, to the City of Keene, relative to any and all claims for damages arising from the said layout of Magnolia Way that may be assessed pursuant to RSA 231:15, and any monetary consideration for the conveyance of the Street Tree Maintenance Easement.
10. The costs of construction and all other necessary improvements for Magnolia Way shall be paid by Petitioner and shall conform to the public utility standards of the City of Keene.
11. These findings and orders shall be recorded in the City Clerk's office in City Hall, Keene, New Hampshire.

WHEREFORE, the Petitioner requests:

- A. The City Council lay out, take and appropriate the real estate described in paragraph 1, above, as a class V highway.
- B. That the City of Keene accept a Warranty Deed on the parcel of land set forth above in paragraph 1, to be known as Magnolia Way, subject to the Utility Easement granted to Verizon New England, Inc. and Public Service Company, which easement is recorded at the Cheshire County Registry of Deeds at Book 2363, Page 823.
- C. That the City of Keene accept an easement from Petitioner for access to, and maintenance of, trees over the area shown on the Landscaping Plan

D. That the City of Keene accept an easement from the current property owner of Lot 85-1-10-9 (as shown on Plan #67), also known as Tax Map 117, Lot 31, for access to, and maintenance of, trees over the area shown on the Landscaping Plan.

Respectfully submitted,
Nuevo Transfers, LLC

April 18, 2023

By 
Name: Christopher J. Masiello
Title: Manager



CITY OF KEENE

In the Year of Our Lord Two Thousand and Twenty-three

A RESOLUTION AUTHORIZING ACCEPTANCE OF A DEED FOR A CLASS V HIGHWAY TO BE
KNOWN AS MAGNOLIA WAY

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

That the City Manager be and hereby is authorized to do all things necessary to accept the Warranty Deed described in that certain "Petition for Layout of Magnolia Way as a Class V highway and Acceptance of Street Tree Maintenance Easement" dated April, 2023, and submitted by Nuevo Transfers, LLC, subject to a Utility Easement granted to Verizon New England, Inc. and Public Service Company, which utility easement is recorded in the Cheshire County Registry of Deeds at Book 2363, Page 823, and subject to the submission of a good and sufficient Warranty Deed therefor to the City of Keene, in a form and content acceptable to the City Attorney and City Engineer.

By accepting the aforementioned deed subject to a utility easement, the City waives the requirement that it take title in fee, free and clear of any easements of record, per Article 22.2.1(A)(2) of the Land Development Code.

Nuevo Transfers, LLC, being specially benefited by such layout, is charged with the construction of said public way in conformance with all applicable standards and safety requirements of the City of Keene.

 George S. Hansel, Mayor

In City Council April 20, 2023.
 Site Visit scheduled for June 1, 2023 at 5:45 PM.
 Public Hearing set for June 1, 2023 at 7:00 PM.



City Clerk



CITY OF KEENE

In the Year of Our Lord Two Thousand and Twenty-three

A RESOLUTION A RESOLUTION AUTHORIZING ACCEPTANCE OF A STREET TREE
MAINTENANCE EASEMENT ALONG MAGNOLIA WAY

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

That the City Manager be and hereby is authorized to do all things necessary to accept the Street Tree Maintenance Easements described in the “Petition for Layout of Magnolia Way as a Class V highway and Acceptance of Street Tree Maintenance Easements,” dated April _____, 2023, as shown on a plan entitled “Landscaping Plan, 515 Winchester Street, Keene, NH 03431,” prepared for Hutter Const., Corp, dated May 24, 2005, and revised April 24, 2006, to be recorded, submitted by Nuevo Transfers, LLC, and Lawrence J. Tinnin and Becky M. Tinnin, of 2 Magnolia Way, owner(s) of Tax Map Parcel 117, Lot 31, by virtue of a deed recorded in the Cheshire County Registry of Deeds, at Book 2899, Page 0660.

George S. Hansel, Mayor

In City Council April 20, 2023.
Site Visit scheduled for June 1, 2023 at 5:45 PM.
Public Hearing set for June 1, 2023 at 7:00 PM.

City Clerk



CITY OF KEENE

In the Year of Our Lord Two Thousand and Twenty-three

A RESOLUTION FOR THE LAY OUT OF A HIGHWAY, UTILITIES AND/OR PUBLIC IMPROVEMENTS TO BE KNOWN AS MAGNOLIA WAY

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

The Keene City Council is of the opinion that for the accommodation of the public there is occasion to lay out and/or alter a highway, utilities or other public improvements as described in the attached Return of Layout and said Petition, subject to the following conditions, precedent to the recording of the Return of Layout:

1. Approval of the final plans and construction by the City Engineer.
2. All expenses associated in connection with the lay out and acceptance of the street, utilities, and/or public improvements are borne by Petitioner.
3. Construction and acceptance by the Public Works Director or his/her designee of the laid out street, utilities, and/or other public improvements within a thirty-six (36) month period from the approval vote by the City Council.
4. All documentation is in a content and form acceptable to the City Attorney, City Engineer, and Planning Director.
5. If construction has not started within the twenty-four (24) month period from the date of Council action, said approval of lay out shall not become effective and can only be extended upon petition to the City Council.
6. Receipt of security in an amount to be determined in accordance with Section 22.2.4, Security & Warranty, of the Land Development Code ("LDC").
7. Petitioner shall seek a waiver by the City Council of Article 22, Public Infrastructure Standards, Section 22.2.1(A)(2), Submission Requirements, of the, LDC, specifically, the acceptance of a deed subject to the previously granted Utility Easement.
8. Petitioner shall waive any and all claims for damages arising from the said layout of Magnolia Way that may be assessed pursuant to RSA 231:15, and any monetary consideration for the conveyance of a Street Tree Maintenance Easement, and shall indemnify the City from any costs, expenses or damages, including attorneys' fees, related thereto.

9. Petitioner shall obtain and provide a waiver of damages from the current property owner of Lot 85-1-10-9 (as shown on Plan #67), also known as Tax Map 117, Lot 31, to the City of Keene, relative to any and all claims for damages arising from the said layout of Magnolia Way that may be assessed pursuant to RSA 231:15, and any monetary consideration for the conveyance of a Street Tree Maintenance Easement.

George S. Hansel, Mayor

In City Council April 20, 2023.

Site Visit scheduled for June 1, 2023 at 5:45 PM.

Public Hearing set for June 1, 2023 at 7:00 PM.



City Clerk

0008772

2006 JUN -5 PM 2:10

RECORDING - PLAN REGISTER OF DEEDS



- LEGEND**
- STONE BOUND TO BE SET
 - IRON PIN TO BE SET
 - STONE BOUND FOUND
 - IRON PIPE FOUND
 - CHAIN LINK FENCE
 - SIGN
 - HYDRANT
 - UTILITY POLE
 - LIMITS OF CLEARING / TREELINE

CERTIFICATION

I HEREBY CERTIFY, TO MY KNOWLEDGE, INFORMATION AND BELIEF, THAT THIS PLAN SHOWS THE RESULTS OF AN ON THE GROUND "STANDARD PROPERTY SURVEY" AND THAT SAID SURVEY MEETS THE MINIMUM PRECISION AND/OR ACCURACY MEASUREMENTS FOR SURVEY CLASSIFICATION "U" (URBAN) AS SET FORTH IN TABLE 500.1 OF THE NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES OF THE BOARD OF LICENSES FOR LAND SURVEYORS ADOPTED 8/23/01, EFFECTIVE 8/24/01.

I FURTHER CERTIFY THAT THIS PLAN IS THE RESULT OF AN ACTUAL FIELD SURVEY MADE ON THE GROUND AND HAS A MAXIMUM ERROR OF CLOSURE OF ONE PART IN TEN THOUSAND ON ALL PROPERTY LINES WITHIN AND BORDERING THE SUBJECT PROPERTY.

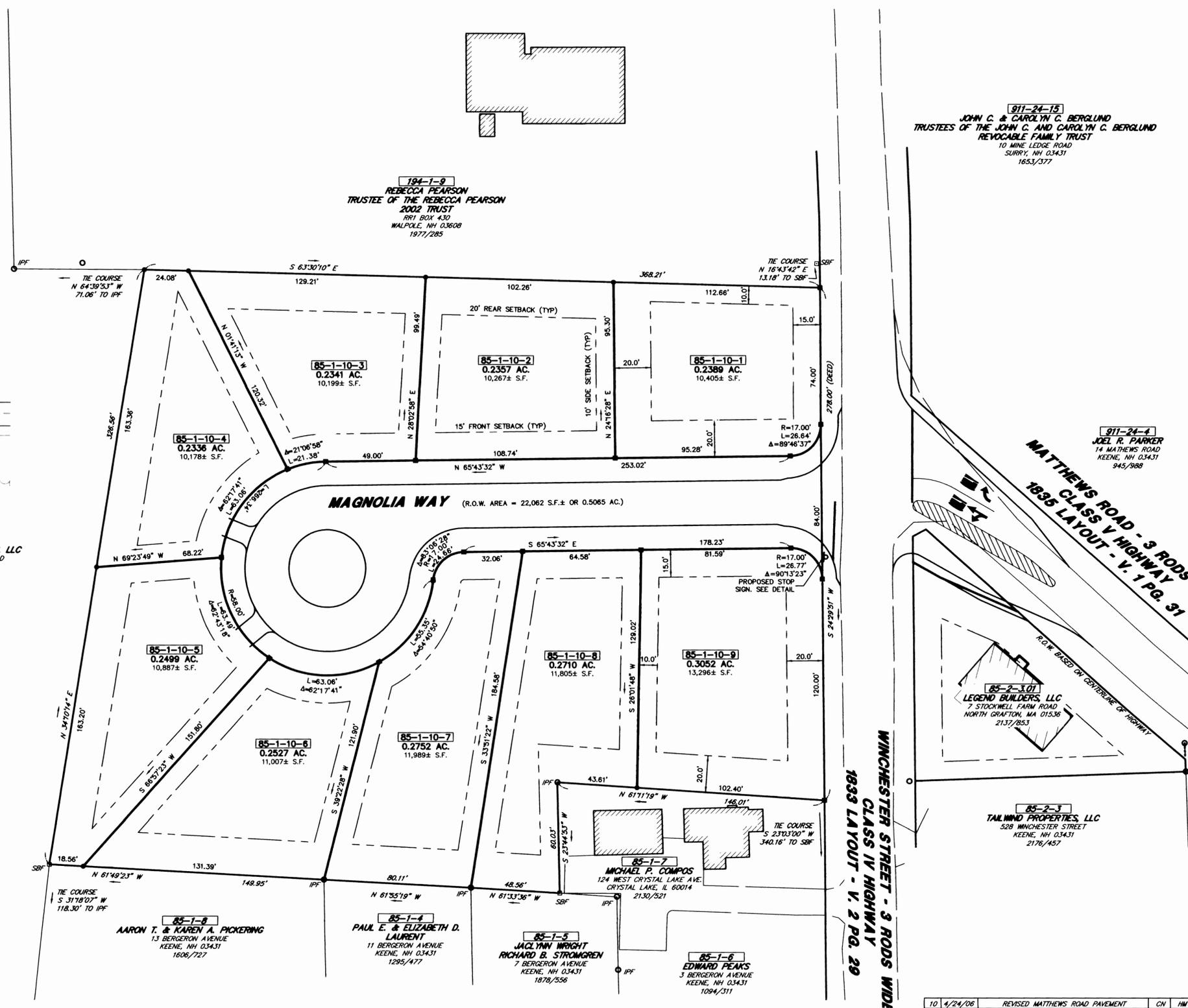


APPROVED BY THE KEENE PLANNING BOARD

ON 6/7/06
CHAIRMAN: [Signature] AND
SECRETARY: [Signature]

OWNER'S SIGNATURES

OWNER: [Signature]
DATE: 6-15-06



911-24-15
JOHN C. & CAROLYN C. BERGLUND
TRUSTEES OF THE JOHN C. AND CAROLYN C. BERGLUND
REVOCABLE FAMILY TRUST
10 MINE LEDGE ROAD
SUNNY, NH 03431
1653/377

911-24-4
JUEL R. PARKER
14 MATTHEWS ROAD
KEENE, NH 03431
945/988

85-2-3
TALMUD PROPERTIES, LLC
528 WINCHESTER STREET
KEENE, NH 03431
2176/457



- REFERENCE PLANS**
- "MAP OF MEADOW LANDS, ADJOINING ASH SWAMP AND NEW RUM BROOKS, SHOWING PROPOSED DRAINAGE DITCHES", DATED SEPTEMBER 1906, PREPARED BY SAMUEL WADSWORTH, RECORDED IN PLAN BK. 2 P'S 28A & 28B IN THE CHESHIRE COUNTY REGISTRY OF DEEDS.
 - "PLAN OF HOUSE LOTS, OWNED BY T.H. BERGERON IN KEENE, N.H.", DATED JULY 1927; PREPARED BY H.B. ONEIL, C.E.; RECORDED IN PLAN BK. 15 P.73A IN THE CHESHIRE COUNTY REGISTRY OF DEEDS.
 - "PLAN OF LAND FOR DR. CHARLES L. PUTNAM DR. CARL D. NELSON", RECORDED OCTOBER 10, 1972, PREPARED BY FRANK A. GLINE JR., RECORDED IN PLAN BK. 23 PG. 37B IN THE CHESHIRE COUNTY REGISTRY OF DEEDS.
 - "IN THE CITY OF KEENE N.H., PLAN OF SUBDIVISION FOR WALLACE G. & MARY C. HENDERSON", RECORDED MAY 27, 1975, PREPARED BY FRANK A. GLINE JR., RECORDED IN PLAN BK. 33 #11A IN THE CHESHIRE COUNTY REGISTRY OF DEEDS.
 - "BRADCO INDUSTRIAL PARK, KEENE, NEW HAMPSHIRE, PLAT OF LOTS NOVEMBER 1979, PREPARED FOR JOHN R. BRADSHAW, BASED ON PLAN BY LORD-WOOD/LARSON ASSOCIATES, INC.", PREPARED BY ROY K. PIPER, RECORDED IN CAB. 2 NUMBER 119 ROLL 330 AND CAB. 2 NUMBER 120 ROLL 331 IN THE CHESHIRE COUNTY REGISTRY OF DEEDS.
 - "BRADCO INDUSTRIAL PARK, KEENE, NEW HAMPSHIRE, REVISED LOTS SOUTH OF BRADCO STREET", DATED MARCH 28, 1980, PREPARED BY ROY K. PIPER, RECORDED IN CAB. 2 NUMBER 195 ROLL 406. IN THE CHESHIRE COUNTY REGISTRY OF DEEDS.

- NOTES**
- OWNERS OF RECORD OF MAP 85 LOT 1-10: WINN JOHNSON, P.O. BOX 406, KEENE, NH 03431; LINN BAI ROSSI, 2474 ISLANDER COURT, PALM HARBOR, FL 34683; AND, SHEREE JOHNSON, 515 WINCHESTER STREET, KEENE, NH 03431. DEED REFERENCE TO PARCEL IS CHESHIRE COUNTY REGISTRY OF DEEDS BK. 1776 PG. 207. AREA OF PARCEL = 122,094 S.F.± OR 2.8029 ACRES.
 - [85-1-10] INDICATES TAX MAP AND LOT NUMBER.
 - THE PURPOSE OF THIS PLAN IS TO SHOW THE PROPOSED NINE LOT SUBDIVISION AND ROAD LAYOUT ON THE SUBJECT PARCEL.
 - BEARINGS ARE MAGNETIC 2005.
 - BOUNDARY INFORMATION SHOWN HEREON IS BASED ON AN ON THE GROUND SURVEY BY TFMORAN, INC. IN MARCH & MAY, 2005.
 - CURRENT ZONING IS LOW DENSITY (LD).
MIN. LOT SIZE: 10,000 S.F.
MIN. LOT FRONTAGE: 60 FEET
MIN. WIDTH: 70' AT BUILDING LINE
MIN. BUILDING SETBACKS: 15' FRONT, 10' SIDE AND 20' REAR
 - SETBACK FOR CORNER LOT: THE NARROWER SIDE OF A CORNER LOT WHICH FRONTS ON A PUBLIC WAY SHALL BE CONSIDERED THE FRONT OF THE LOT. IN RESIDENTIAL DISTRICTS, THE STREET SIDE SETBACK OF A CORNER LOT SHALL BE MEASURED FROM THE PROPERTY LINE ADJACENT TO THE STREET, AND SHALL BE TEN FEET GREATER THAN THE NORMAL SIDE SETBACK REQUIREMENTS.
 - EXAMINATION OF THE FLOOD INSURANCE RATE MAP FOR THE CITY OF KEENE, NEW HAMPSHIRE, CHESHIRE COUNTY, COMMUNITY PANEL NUMBER 33023 DOB D, REVISED DATE: 10-05-2001, INDICATES THAT THE SUBJECT PARCEL IS NOT LOCATED WITHIN A FLOOD HAZARD AREA.
 - EASEMENTS, RIGHTS, AND RESTRICTIONS SHOWN OR IDENTIFIED ARE THOSE WHICH WERE FOUND DURING RESEARCH PERFORMED AT THE CHESHIRE COUNTY REGISTRY OF DEEDS. OTHER RIGHTS, EASEMENTS, OR RESTRICTIONS MAY EXIST WHICH A TITLE EXAMINATION OF SUBJECT PARCEL(S) WOULD DETERMINE.
 - WETLANDS WERE NOT OBSERVED ON THE SITE.

NO	DATE	REVISION	BY	CHK
10	4/24/06	REVISED MATTHEWS ROAD PAVEMENT	CN	HM
9	4/12/06	DRIVEWAY LOCATIONS LOTS 85-1-10-4 & 5	CN	HM
8	10/04/05	NOTES, ABUTTER & LOCUS REVISIONS	CN	HM
7	9/22/05	CORNER LOT SETBACKS	CN	HM
6	8/19/05	ADDRESS CITY COMMENTS	CN	HM
5	8/18/05	INTERSECTION IMPROVEMENTS	CN	HM
4	8/8/05	REVISED PLAN SET	CN	HM
3	7/25/05	PROP. INTERSECTION IMPROVEMENTS, CHANGE IN PAVE	CN	HM
2	7/13/05	APPROX. R.O.W., PROP. INTERSECTION IMPROVEMENTS	CN	HM
1	6/29/05	ABUTTER CHANGE	CN	HM
REV	DATE	DESCRIPTION	DR	CK

**TAX MAP 85 LOT 1-10
SUBDIVISION PLAN**

**515 WINCHESTER STREET
KEENE, NEW HAMPSHIRE 03431**

OWNED BY
**WINN JOHNSON, LINN BAI ROSSI AND
SHEREE JOHNSON**

PREPARED FOR
HUTTER CONSTRUCTION CORPORATION

SCALE: 1"=30'
MAY 24, 2005

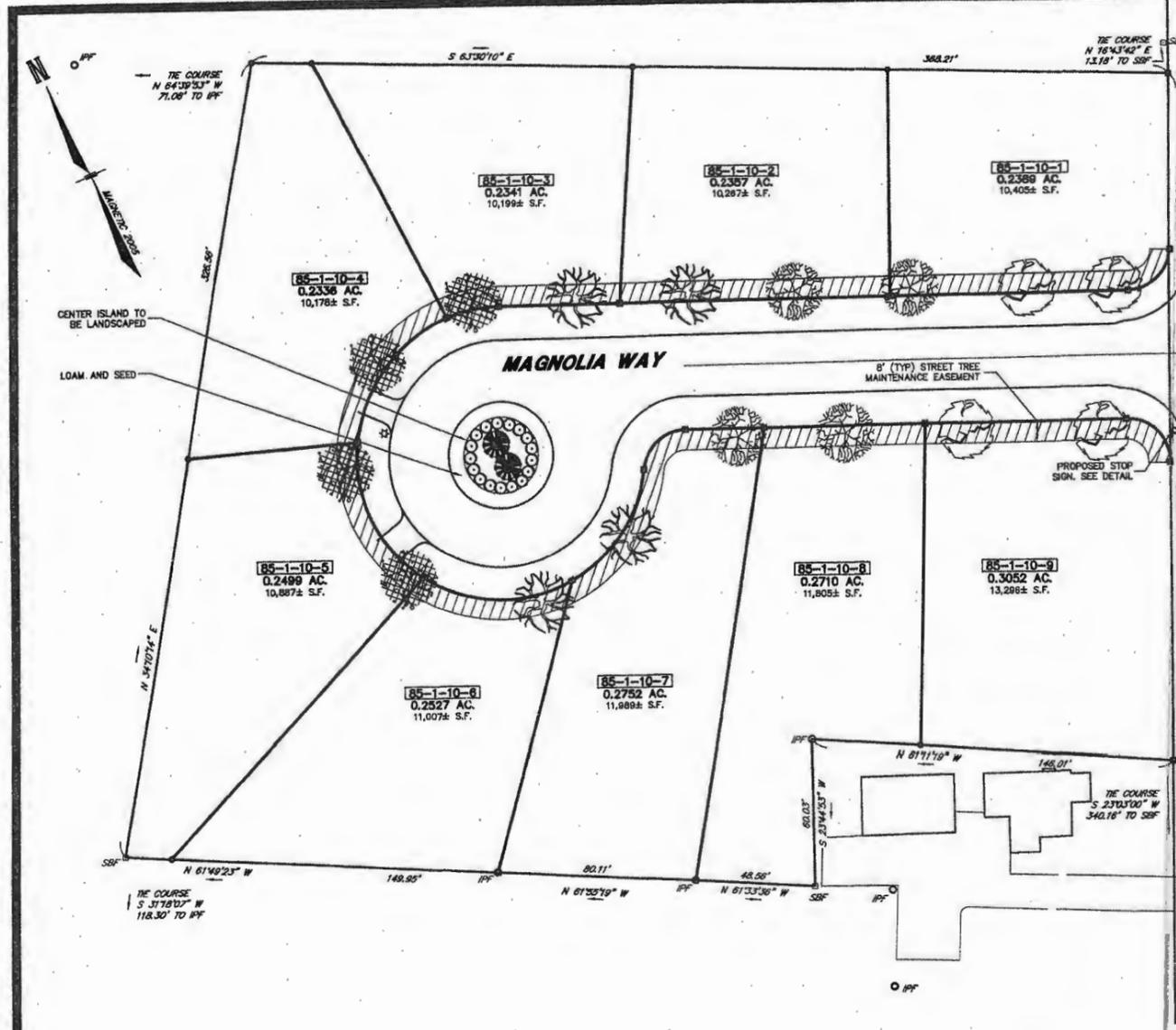
TFM Civil Engineers
Land Surveyors
Environmental Scientists
Land Planners

149 EMERALD STREET
KEENE, NH 03431
Phone (803) 352-3065
Fax (803) 355-1022

Bedford, NH • Manchester, NH • Keene, NH • Salem, NH • Portsmouth, NH

82336.02	DR JH	FB	236	SHEET 1 OF 1
	CK HM	CA/FILE	82336	

CAB 13 DR-2 # 067



LEGEND

STONE BOUND TO BE SET
IRON PIN TO BE SET
STONE BOUND FOUND
IRON PIPE FOUND
DENOTES MAP AND LOT NUMBER
EDGE OF PAVEMENT
EDGE OF GRAVEL
RETAINING WALL
CHAIN LINK FENCE
SIGN
HYDRANT
UTILITY POLE
LIMITS OF CLEARING / TREELINE

■ SB TBS
 ● IP TBS
 □ SSF
 ○ I/PF
 85-1-10

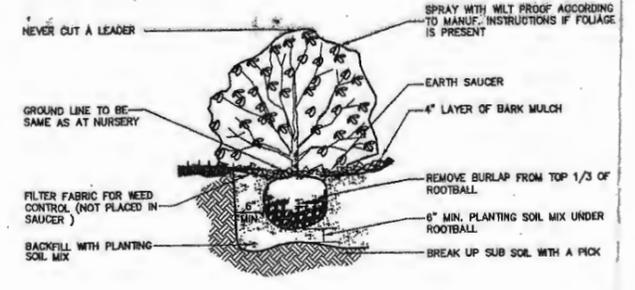
APPROVED BY THE KEENE PLANNING BOARD

ON _____ AND
CHAIRMAN: _____
SECRETARY: _____

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48 Constitution Drive, Bedford, NH, 03110

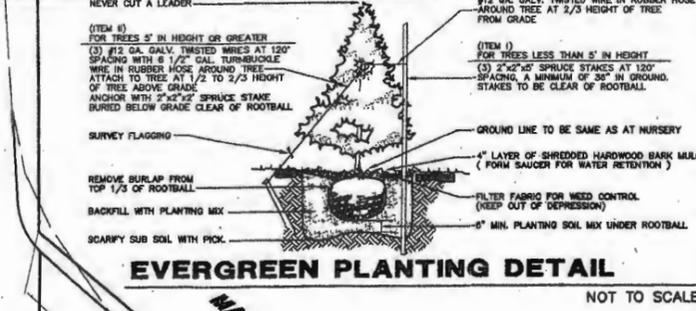
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This plan is not effective unless signed by a duly authorized officer of Thomas F. Moran, Inc.



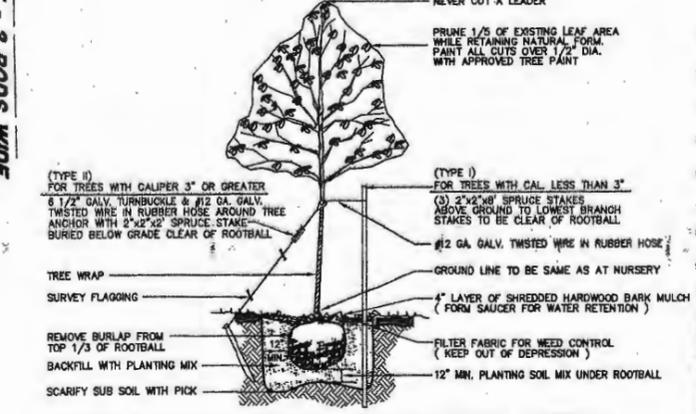
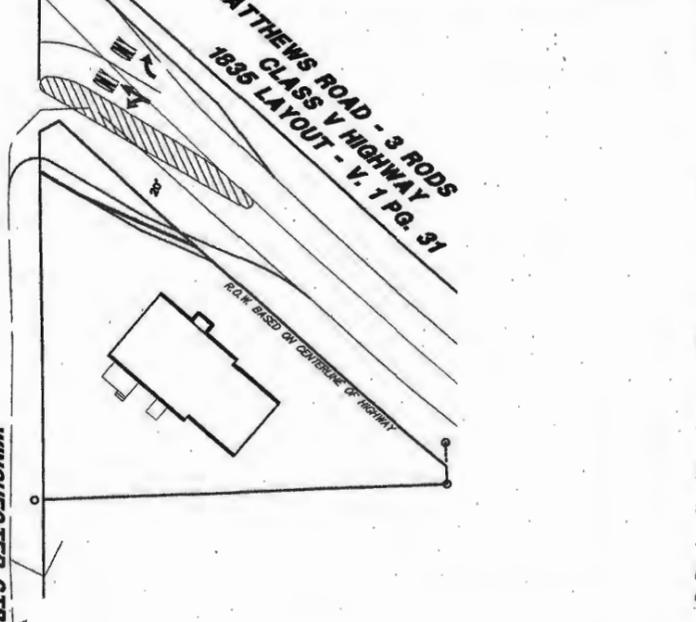
SHRUB PLANTING DETAIL

NOT TO SCALE



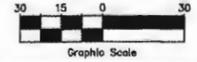
EVERGREEN PLANTING DETAIL

NOT TO SCALE



DECIDUOUS TREE PLANTING DETAIL

NOT TO SCALE



REV.	DATE	DESCRIPTION	DR	CK
5	4/24/06	ADDITION OF EVERGREEN PLANTING DETAIL	CN	TD
4	4/12/06	DRIVEWAY LOCATIONS LOTS 85-1-10-4 & 5	CN	TD
3	8/22/05	REVISED PLANTINGS	CN	TD
2	8/22/05	REVISED PLANTINGS AND DETAILS	CN	TD
1	8/21/05	ADDITION OF TREES / BUSHES	CN	TD

LANDSCAPE LEGEND

SYMBOL	QTY	BOTANICAL NAME COMMON NAME	SIZE	REMARKS
	4	ZELKOVA SERRATA "GREEN VASE" JAPANESE ZELKOVA	2 1/2" TO 3" CAL.	B&B
	4	ACER RUBRUM "OCTOBER GLORY" RED MAPLE	2 1/2" TO 3" CAL.	B&B
	4	QUERCUS PALLISTRIS PIN OAK	2 1/2" TO 3" CAL.	B&B
	4	GINKGO BILOBA (MALE) "AUTUMN GOLD" GINKGO	2 1/2" TO 3" CAL.	B&B
	2	ABIES CONCOLOR WHITE FIR	8' TO 10'	B&B
	17	ILEX GLABRA "COMPACTA" COMPACT INKBERRY	2' TO 2 1/2'	CONT.

LANDSCAPE CALCULATIONS:

STREET TREE LANDSCAPE STRIP: 775.25' LENGTH
REQUIRED: 1 TREE PER 50' OF PROPOSED ROAD(775.25/50) = 15.5 OR 16 TREES.
PROVIDED: 16 TREES

- IRRIGATION NOTES**
- THE IRRIGATION SYSTEM SHALL BE DESIGNED BY AN APPROVED IRRIGATION DESIGN/BUILD CONTRACTOR OR BY AN APPROVED EQUAL TO BE DETERMINED BY THE OWNER'S REPRESENTATIVE/LANDSCAPE ARCHITECT.
 - THE CONTRACTOR IS RESPONSIBLE FOR SUBMITTING THE IRRIGATION SYSTEM DESIGN AND SHOP DRAWINGS TO THE OWNER 30 DAYS PRIOR TO THE START OF CONSTRUCTION.
 - THE CONTRACTOR SHALL VERIFY LOCATIONS OF ALL EXISTING AND PROPOSED UTILITIES AND NOTIFY THE OWNER'S REPRESENTATIVE OF CONFLICTS.
 - THE IRRIGATION CONTRACTOR IS RESPONSIBLE FOR, BUT NOT LIMITED TO, THE COMPLETE INSTALLATION OF THE IRRIGATION SYSTEM AND SHALL FOLLOW ALL APPLICABLE CODES.
 - REFER TO ARCHITECTURAL PLANS FOR LOCATION OF THE IRRIGATION SYSTEM'S BUILDING CONNECTION.
 - REFER TO MANUFACTURER'S INSTRUCTIONS AND PRODUCT SPECIFICATIONS FOR INSTALLATION. MANUFACTURER CAN BE (TORO OR APPROVED EQUAL).

- LANDSCAPE REQUIREMENTS**
- TREES SHALL BE COMPLEMENTED WITH SUITABLE GROUND COVER FOR PROTECTION FROM GROUND EROSION.
 - CONTRACTOR SHALL VERIFY LOCATIONS OF ALL UTILITIES AND NOTIFY OWNER'S REPRESENTATIVE OF CONFLICTS.
 - NO PLANT MATERIALS SHALL BE INSTALLED UNTIL ALL GRADING AND CONSTRUCTION HAS BEEN COMPLETED IN THE IMMEDIATE AREA.
 - ALL TREES SHALL BE BALLED AND BURLAPPED (B & B) UNLESS OTHERWISE NOTED OR APPROVED BY OWNER'S REPRESENTATIVE.
 - ANY PROPOSED PLANT SUBSTITUTIONS MUST BE APPROVED IN WRITING BY THE OWNER'S REPRESENTATIVE AND LANDSCAPE ARCHITECT.
 - ALL PLANT MATERIALS INSTALLED SHALL MEET OR EXCEED THE SPECIFICATIONS OF THE "AMERICAN STANDARDS FOR NURSERY STOCK" BY THE AMERICAN ASSOCIATION OF NURSEYMEN.
 - ALL PLANT MATERIALS SHALL BE GUARANTEED FOR ONE YEAR FOLLOWING DATE OF ACCEPTANCE.
 - ALL DISTURBED AREAS SHALL BE LOAM & SEEDED AND RECEIVE 4" OF SUITABLE LOAM, LAWNIS WITH OVER 3:1 SLOPES SHALL BE PROTECTED WITH AN EROSION CONTROL BLANKET.
 - IF APPLICABLE, THE CONTRACTOR SHALL HAVE ALL FALL TRANSPLANTING HAZARD PLANTS DUG IN THE SPRING AND STORED FOR FALL PLANTING.

TAX MAP 85 LOT 1-10
LANDSCAPING PLAN
515 WINCHESTER STREET
KEENE, NH 03431
OWNED BY
WINN JOHNSON, ET.AL.
PREPARED FOR
HUTTER CONST., CORP.
SCALE: 1"=30' 5/24/06

TFM CIVIL ENGINEERS
Land Surveyors
Environmental Scientists
Land Planners

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Fax (603) 355-1022

Bedford, NH • Manchester, NH • Keene, NH • Salem, NH • Portsmouth, NH

82336.02 DR CN FB 236
OK TD CADFILE 82336

SHEET 13 OF 13



CITY OF KEENE NEW HAMPSHIRE

ITEM #K.3.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Attorney Paul J. Alfano/Neuvo Transfers
LLC
Through: Patricia Little, City Clerk
Subject: **Acceptance of Deed and Return of Layout - Matthews Road and
Winchester Street Intersection
Resolution R-2023-25
Resolution R-2023-26**

Council Action:

In City Council April 20, 2023.

Site visit scheduled for June 1, 2023 at 5:50 PM. Public hearing scheduled for June 1, 2023 at 7:05 PM.

Recommendation:

Attachments:

1. Matthews Road - Petition for Layout
2. R-2023-25_Matthews Road - Deed Resolution_Referral
3. R-2023-26_Matthews Road - Layout Resolution_Referral
4. Plan 68 Cabinet 13 Drawer 2

Background:

Attorney Paul J. Alfano representing Neuvo Transfers, LLC, has submitted a petition for the layout of modifications to Matthews Road as it intersects Winchester Street.

**PETITION FOR THE ALTERATION OF A PUBLIC WAY FOR INTERSECTION
IMPROVEMENTS TO MATTHEWS ROAD RIGHT-OF-WAY AT MATTHEWS ROAD
AND WINCHESTER STREET**

To the Honorable Mayor and City Council of the City of Keene:

The Petitioner, Nuevo Transfers, LLC, a New Hampshire Limited Liability Company, of One Bedford Farms, Bedford, New Hampshire, 03110, respectfully represents as follows:

1. Public exigency and convenience require that modifications be made to Matthews Road as it intersects with Winchester Street and as shown on a plan entitled "Boundary Line Adjustment Plan, Winchester Street & Matthews Road, Keene, New Hampshire 03431" prepared for Hutter Construction Corporation, dated January 27, 2006, revised May 17, 2006, and recorded in Cheshire County Registry of Deeds at Cabinet 13, Drawer 2, Plan 68 ("Plan #68"), and in connection therewith that said public exigency and convenience require that a public way be laid out over a parcel of real estate situated in Keene, Cheshire County, New Hampshire, bounded and described as follows:

Beginning at a stone bound on the Easterly side of Winchester Street, said stone bound being the Northerly corner of Parcel A, as shown on Plan #68:

Thence North 24° 29' 51" East a distance of 13.98 feet to a point;

Thence North 87° 07' 41" East a distance of 8.11 feet to a point;

Thence South 23° 13' 56" East a distance of 66.72 feet to an iron pin;

Thence North 41° 23' 56" West a distance of 45.81 feet to an iron pin;

Thence North 35° 41' 18" West a distance of 17.01 feet back to the point of beginning.

Said parcel being shown as "Parcel A" on Plan #68 and containing 688 square feet.

Hutter Construction Corporation owns said Parcel A, upon which the proposed intended improvements will be situated, by virtue of a Warranty Deed conveyed from Legend Builders, LLC, on January 5, 2006, and recorded in the Cheshire County Registry of Deeds at Book 2313, Page 929. This layout is conditioned on the City of Keene receiving a deed to Parcel A from Hutter Construction Corporation. Hutter Construction Corporation will convey the parcel as described to the City of Keene at no cost to the City of Keene and will waive all damages for land taken in connection with the proposed layout.

2. Petitioner shall seek a waiver by the City Council of the requirements of Table 22-1, Minimum & Maximum Street Right-of-Way Widths, of Article 22, Public Infrastructure Standards, Section 22.3.3, Street and Utility Rights-of-Way, of the Land Development Code (“LDC”), concerning the width of the portion of Matthews Road as it intersects with Winchester Street.
3. Petitioner shall obtain and provide a waiver of damages from Hutter Construction Corporation to the City of Keene, relative to any and all claims for damages arising from the said alteration of layout of Matthews Road that may be assessed pursuant to RSA 231:15, including any monetary consideration for the conveyance of said waiver.
4. Petitioner shall either obtain and provide a waiver of damages from the current property owner of Lot 85-2-3.01 (as shown on Plan #68), also known as Tax Map 117, Lot 001, to the City of Keene, relative to any and all claims for damages arising from the said alteration of layout of Matthews Road that may be assessed pursuant to RSA 231:15, including any monetary consideration for the conveyance of said waiver, or indemnify the City from any damages, costs and expenses, related thereto, including attorneys’ fees.
5. These findings and orders shall be recorded in the City Clerk’s office in City Hall, Keene, New Hampshire.

WHEREFORE, the Petitioner requests:

- A. The City Council lay out, take and appropriate the real estate described in paragraph 1, above, as a class V highway.
- B. That the City of Keene accept a Warranty Deed from Hutter Construction Corporation for the real estate identified as Parcel A in paragraph 1, herewith, and as shown on Plan #68.
- C. That the City Council waive the requirements of Table 22-1, Minimum & Maximum Street Right-of-Way Widths, of Article 22, Public Infrastructure Standards, Section 22.3.3, Street and Utility Rights-of-Way, of the Land Development Code (“LDC”), concerning the width of the portion of Matthews Road as it intersects with Winchester Street.

Respectfully submitted,
Nuevo Transfers, LLC

April 18, 2023

By 
Name Christopher J. Masiello
Title: Manager



CITY OF KEENE

In the Year of Our Lord Two Thousand and Twenty-three

A RESOLUTION A RESOLUTION AUTHORIZING ACCEPTANCE OF A WARRANTY DEED FOR CERTAIN REAL PROPERTY TO BE UTILIZED FOR INTERSECTION IMPROVEMENTS TO THE MATTHEWS ROAD RIGHT-OF-WAY AT MATTHEWS ROAD AND WINCHESTER STREET

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

That the City Manager be and hereby is authorized to do all things necessary to accept the Warranty Deed from Hutter Construction Corporation to the City of Keene described in that certain "Petition for the Alteration of a Public Way for Intersection Improvements to Matthews Road Right-of-Way at Matthews Road and Winchester Street" dated April, 2023, submitted by Nuevo Transfers, LLC, , in a form and content acceptable to the City Attorney and City Engineer.

George S. Hansel, Mayor

In City Council April 20, 2023.
Site Visit scheduled for June 1, 2023 at 5:50 PM.
Public Hearing set for June 1, 2023 at 7:05 PM.

City Clerk



CITY OF KEENE

In the Year of Our Lord Two Thousand and Twenty-three

A RESOLUTION FOR THE LAY OUT FOR THE ALTERATION OF A PUBLIC WAY RELATING
TO MATTHEWS ROAD AND WINCHESTER STREET

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

The Keene City Council is of the opinion that for the accommodation of the public there is occasion to lay out and/or alter a highway, utilities or other public improvements as described in the attached Return of Layout and said Petition, subject to the following conditions, precedent to the recording of the Return of Layout:

1. Approval of the final plans and construction by the City Engineer.
2. All expenses associated in connection with the layout and acceptance of the street, utilities, and/or public improvements are borne by Petitioner.
3. All documentation is in a content and form acceptable to the City Attorney, City Engineer, and Planning Director.
4. Petitioner shall waive any and all claims for damages arising from the said alteration of layout of Matthews Road that may be assessed pursuant to RSA 231:15.
5. Petitioner shall obtain and provide a waiver of damages from Hutter Construction Corporation to the City of Keene, relative to any and all claims for damages arising from the said alteration of layout of Matthews Road that may be assessed pursuant to RSA 231:15, including any monetary consideration for the conveyance of said waiver.
6. Petitioner shall either obtain and provide a waiver of damages from the current property owner of Lot 85-2-3.01 (as shown on Plan #68), also known as Tax Map 117, Lot 001, to the City of Keene, relative to any and all claims for damages arising from the said alteration of layout of Matthews Road that may be assessed pursuant to RSA 231:15, including any monetary consideration for the conveyance of said waiver, or indemnify the City from any damages, costs and expenses, related thereto, including attorneys' fees.
7. That the City Council waive the requirements of Table 22-1, Minimum & Maximum Street Right-of-Way Widths, of Article 22, Public Infrastructure

Standards, Section 22.3.3, Street and Utility Rights-of-Way, of the Land Development Code (“LDC”), concerning the width of the portion of Matthews Road as it intersects with Winchester Street.

George S. Hansel, Mayor

In City Council April 20, 2023.

Site Visit scheduled for June 1, 2023 at 5:50 PM.

Public Hearing set for June 1, 2023 at 7:05 PM.



City Clerk

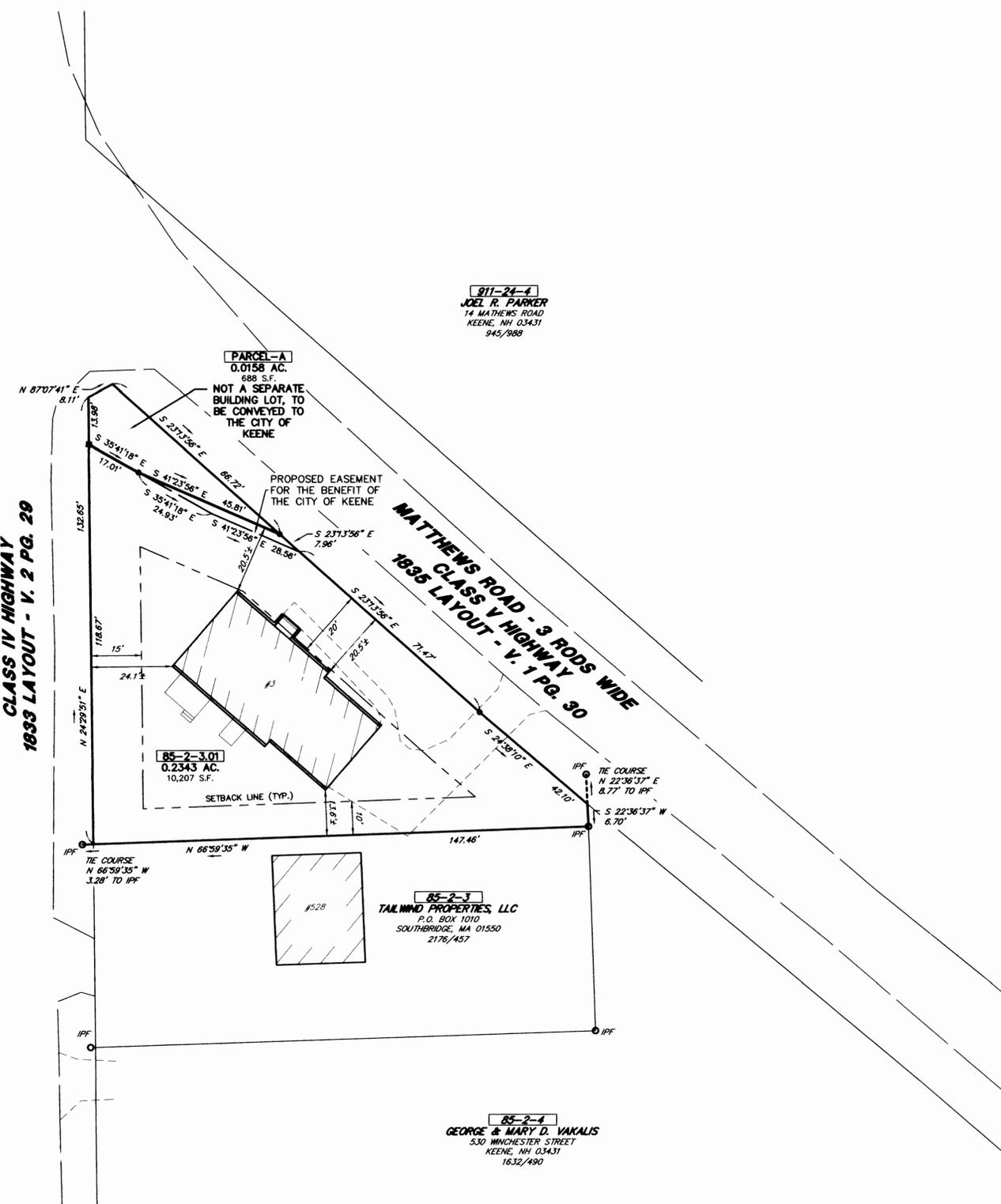
0000773
0008773
MAY 20 2006
REGISTRY OF DEEDS
NEW HAMPSHIRE

LEGEND
 STONE BOUND TO BE SET
 IRON PIN TO BE SET
 IRON PIPE FOUND
 DENOTES MAP AND LOT NUMBER
 EDGE OF PAVEMENT
 EDGE OF GRAVEL

■ SB TBS
 ● IP TBS
 ○ IPF
 [85-2-3]

85-1-10
HUTTER CONSTRUCTION CORP.
 P.O. BOX 257
 NEW IPSWICH, NH 03071
 231.3/929

**WINCHESTER STREET - 3 RODS WIDE
 CLASS IV HIGHWAY
 1893 LAYOUT - V. 2 PG. 29**



PARCEL-A
 0.0158 AC.
 688 S.F.
 NOT A SEPARATE
 BUILDING LOT, TO
 BE CONVEYED TO
 THE CITY OF
 KEENE

911-24-4
JOEL R. PARKER
 14 MATHEWS ROAD
 KEENE, NH 03431
 945/388

PROPOSED EASEMENT
 FOR THE BENEFIT OF
 THE CITY OF KEENE

**MATTHEWS ROAD - 3 RODS WIDE
 1895 LAYOUT - V. 1 PG. 30**

85-2-3.01
 0.2343 AC.
 10,207 S.F.

85-2-3
TALMMD PROPERTIES, LLC
 P.O. BOX 1010
 SOUTHBRIDGE, MA 01550
 2176/457

85-2-4
GEORGE & MARY D. VAKALIS
 530 WINCHESTER STREET
 KEENE, NH 03431
 1632/490

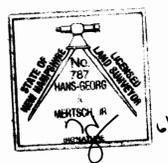
85-1-7
MICHAEL P. COMPOS
 124 WEST CRYSTAL LAKE AVE.
 CRYSTAL LAKE, IL 60014
 2130/521

85-1-6
EDWARD PEAKS
 3 BERGERON AVENUE
 KEENE, NH 03431
 1094/311

CERTIFICATION

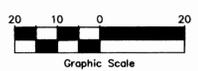
I HEREBY CERTIFY, TO MY KNOWLEDGE, INFORMATION AND BELIEF, THAT THIS PLAN SHOWS THE RESULTS OF AN ON THE GROUND "STANDARD PROPERTY SURVEY" AND THAT SAID SURVEY MEETS THE MINIMUM PRECISION AND/OR ACCURACY MEASUREMENTS FOR SURVEY CLASSIFICATION "U" (URBAN) AS SET FORTH IN TABLE 500.1 OF THE NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES OF THE BOARD OF LICENSURE FOR LAND SURVEYORS ADOPTED 8/23/01, EFFECTIVE 8/24/01.

I FURTHER CERTIFY THAT THIS PLAN IS THE RESULT OF AN ACTUAL FIELD SURVEY MADE ON THE GROUND AND HAS A MAXIMUM ERROR OF CLOSURE OF ONE PART IN TEN THOUSAND ON ALL PROPERTY LINES WITHIN AND BORDERING THE SUBJECT PROPERTY.

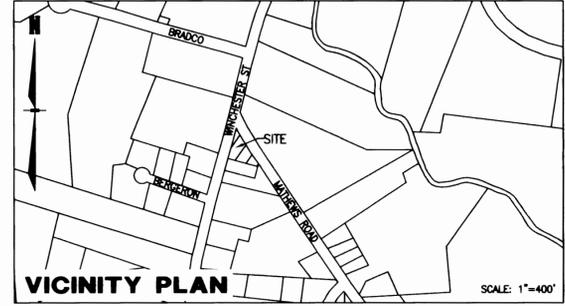


APPROVED BY THE KEENE PLANNING BOARD
 ON 6/7/06
 CHAIRMAN: [Signature] AND
 SECRETARY: [Signature]

OWNER'S SIGNATURE
 OWNER: [Signature]
 DATE: 6-15-06



REV.	DATE	DESCRIPTION	DR	CK
2	05/17/06	ANNOTATE EASEMENT	JH	HM
1	04/13/06	CITY OF KEENE COMMENTS	JH	HM



REFERENCE PLANS

FRED O.H. HAMBLETT, KEENE, NH, DATED AUGUST 1947, PREPARED BY D.R. CHAPLIN, C.E.

NOTES

- OWNER OF RECORD OF MAP 85 LOT 2-3.01: HUTTER CONSTRUCTION CORPORATION, P.O. BOX 257, NEW IPSWICH, NH 03071.
DEED REFERENCE IS CHESHIRE COUNTY REGISTRY OF DEEDS BK. 2313 PG. 929.
AREA OF PARCEL = 10,895 S.F. ± OR 0.2501 ACRES.
- [85-2-3.01] INDICATES TAX MAP AND LOT NUMBER.
- THE PURPOSE OF THIS PLAN IS TO SHOW A BOUNDARY LINE ADJUSTMENT BETWEEN MAP 85 PARCEL 2-3.01 AND THE CITY OF KEENE.
- BEARINGS ARE MAGNETIC 2005.
- BOUNDARY INFORMATION SHOWN HEREON IS BASED ON AN ON THE GROUND SURVEY BY TFMORAN INC. IN NOVEMBER 2005.
- CURRENT ZONING IS LOW DENSITY (LD).
MIN. LOT SIZE: 10,000 S.F.
MIN. LOT FRONTAGE: 80 FEET
MIN. WIDTH: 70' AT BUILDING LINE
MIN. BUILDING SETBACKS: 15' FRONT, 10' SIDE AND 20' REAR
SETBACK FOR CORNER LOT: THE NARROWER SIDE OF A CORNER LOT WHICH FRONTS ON A PUBLIC WAY SHALL BE CONSIDERED THE FRONT OF THE LOT. IN RESIDENTIAL DISTRICTS, THE STREET SIDE SETBACK OF A CORNER LOT SHALL BE MEASURED FROM THE PROPERTY LINE ADJACENT TO THE STREET, AND SHALL BE TEN FEET GREATER THAN THE NORMAL SIDE SETBACK REQUIREMENTS.
- EXAMINATION OF THE FLOOD INSURANCE RATE MAP FOR THE CITY OF KEENE, NEW HAMPSHIRE, CHESHIRE COUNTY, COMMUNITY PANEL NUMBER 330023 008 D, REVISED DATE: OCTOBER 5, 2001, INDICATES THAT THE SUBJECT PARCEL IS NOT LOCATED WITHIN A FLOOD HAZARD AREA.
- EASEMENTS, RIGHTS, AND RESTRICTIONS SHOWN OR IDENTIFIED ARE THOSE WHICH WERE FOUND DURING RESEARCH PERFORMED AT THE CHESHIRE COUNTY REGISTRY OF DEEDS. OTHER RIGHTS, EASEMENTS, OR RESTRICTIONS MAY EXIST WHICH A TITLE EXAMINATION OF SUBJECT PARCEL(S) WOULD DETERMINE.
- WETLANDS WERE NOT OBSERVED ON THE SITE.

**TAX MAP 85 LOT 2-3.01
 BOUNDARY LINE ADJUSTMENT PLAN
 WINCHESTER STREET
 & MATTHEWS ROAD
 KEENE, NEW HAMPSHIRE 03431**
 OWNED BY
HUTTER CONSTRUCTION CORPORATION
 P.O. BOX 257, NEW IPSWICH, NH 03071
 PREPARED FOR
HUTTER CONSTRUCTION CORPORATION
 SCALE: 1"=20' JANUARY 27, 2006

TFM Civil Engineers, Land Surveyors, Environmental Scientists, Land Planners
 The Center at Keene
 149 Emerald Street
 Keene, NH 03431
 Phone (603) 352-3085
 Fax (603) 355-1022
 Bedford, NH • Manchester, NH • Keene, NH • Salem, NH • Portsmouth, NH

82353.01 236 SHEET 1 OF 1
 DR JH FB 82353-01
 CK HM CADFILE

CAB 13 DR-2 # 068



CITY OF KEENE NEW HAMPSHIRE

ITEM #K.4.

Meeting Date: April 20, 2023
To: Mayor and Keene City Council
From: Finance, Organization and Personnel Committee, Standing Committee
Through:
Subject: **Relating to the Appropriation of Funds from the General Fund Unassigned Fund Balance (Fire Department Staffing) Resolution R-2023-18**

Council Action:

In City Council April 20, 2023.

Report filed. Voted unanimously for the adoption of Resolution R-2023-18.

Recommendation:

On a 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends adoption of Resolution R-2023-18.

Attachments:

1. R-2023-18 Fire Department Staffing_adopted

Background:

The Manager addressed the Committee next and stated at the March 20, 2023, FOP meeting she brought forward a request to hire four additional firefighters, one for each shift and to move that process forward now. She indicated staff also presented information related to overtime. The City has been paying for that extra person on the shift for almost two years using overtime. She noted that money is being moved from the Police Department budget to the Fire Department budget mostly to cover overtime. Ms. Dragon stated this proposal will reduce the amount of overtime that is being used and will also provide coverage.

The addition of the one per shift would bring the staffing level to 11 firefighters per shift which would support the minimum staffing level of 10. She noted the Resolution before the Committee tonight was revised after speaking with the Committee to only cover the remainder of the fiscal year. The Resolution before the Committee would fund six weeks or 42 days for the four firefighters and the additional operating related expenses which are contractual training related expenses, gear, licenses, background check, and FPA physicals. The other operating expenses amount to about \$41,000.

The Resolution in total is for \$102,416.54 and would appropriate these funds from Fund Balance. She added staff is also requesting these positions be included in next year's budget (part of the FY24 budget) but outside of fiscal policy limitations. The Manager explained fiscal policy limitations talk about the CPIU over the past three years and it is difficult to factor four fighters within those parameters and hence she is requesting that this not be part of the fiscal policy conversation, and to

do it separately.

This process originated from the Fire Staffing Committee that was created over a year ago when the City took an in depth look at the number of calls and the increase of calls, the types of calls, the length of time it takes to respond to a call; all that with no change in staffing since 2008. The Committee wholeheartedly supported the increase of the four additional firefighters. The City did apply for a grant but unfortunately were not successful at getting that grant. Hence, the reason for this request tonight.

Councilor Madison made the following motion, which was seconded by Councilor Remy.

On a 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends adoption of Resolution R-2023-18.



CITY OF KEENE

In the Year of Our Lord Two Thousand and Twenty Three

A RESOLUTION Relating to the Appropriation of Funds from the General Fund Unassigned Fund Balance

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

WHEREAS: Resolution R-2022-33 Relating to Fiscal Policies states all departments are authorized to vary actual departmental spending from line item estimates provided the total departmental budget is not exceeded within each fund; provided however, that any item specifically eliminated by the City Council during budget approval cannot be purchased from another line item without City Council approval; and

WHEREAS: Any unexpended funds in a personnel line related to a vacancy cannot be expended without prior approval from the City Manager and the City Council unless funds are being expended to fill a vacancy, recruiting, or to employ temporary help including professional and contract services;

NOW, THEREFORE, BE IT RESOLVED by the City Council that the use of General Fund Unassigned Fund Balance in the amount of one hundred two thousand four hundred sixteen dollars and fifty-four cents (\$102,416.54) be used to fund the appropriation for four new firefighters in the Fire Department departmental budget as follows:

Personnel and related personnel expenses	\$ 61,188.54
Operating related expenses	<u>41,228.00</u>
	<u>\$ 102,416.54</u>

In City Council April 6, 2023.
Referred to the Finance, Organization and Personnel Committee.


City Clerk


George S. Hansel, Mayor

PASSED April 20, 2023



CITY OF KEENE NEW HAMPSHIRE

ITEM #K.5.

Meeting Date: April 20, 2023

To: Mayor and Keene City Council

From: Duncan Watson, Assistant Public Works Director

Through: Kurt Blomquist, ACM/Public Works Director
Elizabeth Dragon, City Manager

Subject: **Relating to Use of the Solid Waste Unallocated Fund Balance to Enable Common Space Renovation at the Transfer Station/Recycling Center Resolution R-2023-20**

Council Action:

In City Council April 20, 2023.

Referred to the Finance, Organization and Personnel Committee.

Recommendation:

Refer Resolution R-2023-20 to authorize the City Manager to do all things necessary to allocate \$52,564 from the Solid Waste Unallocated Fund Balance to complete the funding of the common space renovation at the Transfer Station/Recycling Center for First Reading.

Attachments:

1. R-2023-20 FY23 Use of Solid Waste Fund Balance for Common Space project cost increase_Referral

Background:

The City of Keene operates a Recycling Center and Transfer Station, located at 55 Old Summit Road. The facility was built in 1994, and the common areas that include the Transfer Station's office, employee breakroom, locker room, and restrooms have not been renovated in the 29 years the facility has been in operation.

Several years ago, a capital project was conceived to address the necessary renovations and \$175,000 was allocated through the capital project process. In 2022, the City contracted with KCS Architects to design the renovation and provide biddable specifications. The cost of the design and specifications was \$14,000, leaving a current project balance of approximately \$161,000. Project bids were received on April 10, 2023 with two bids: \$182,286 from Monadnock Commercial Building, and \$267,283 from Triple Construction LLC. Furthermore, the required electrical work/fire alarm portion of the project was slated to be done through the firms that has serviced the electric and fire alarm respectively due to the complexity of wiring, and the contractor's familiarity with the system. The proposals for the electric system and fire alarm total approximately \$26,500. To ensure project completion, a \$4,778 contingency allowance has also been factored into this funding request to cover any unexpected issues after construction begins.

When the original project budget was conceived in 2019, it did not factor in unprecedented inflation in 2022-2023 affecting pricing for materials and labor. Currently the project is \$52,564 underfunded.

Original Project Budget	\$175,000 (Current Funding Available)
Design/Specifications	\$14,000 (Funds Spent)
Low Bid (Monadnock Commercial)	\$182,286
Electrical	\$21,150
Fire Alarm System	\$5,350
Contingency	\$4,778
Total Underfunded	\$52,564

The Solid Waste Division refers Resolution R-2023-20 to authorize the City Manager to do all things necessary to allocate \$52,564 from the Solid Waste Unallocated Fund Balance to complete the funding of the common space renovation at the Transfer Station/Recycling Center to City Council for First Reading. The funding would come from the Solid Waste Fund Unallocated Reserve which has a current balance of \$2,500,000.



CITY OF KEENE

In the Year of Our Lord Two Thousand and Twenty Three

A RESOLUTION Relating to the appropriation of funds from the Solid Waste Fund Unassigned Fund Balance

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

WHEREAS: The City of Keene operates a Recycling Center and Transfer Station at 55 Old Summit Road. The facility was built in 1994, and the common areas that include the Transfer Station office, employee breakroom, locker room, and restrooms have not been renovated in the 29 years the facility has been in operation; and

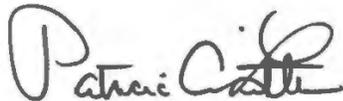
WHEREAS: A capital project in the amount of \$175,000 was approved through the capital improvement program process and funded through the adoption of the City of Keene operating budget process; and

WHEREAS: Due to unprecedented inflation in 2022-2023 affecting pricing for materials and labor for the common area project and the required electrical system/fire alarm work, the capital project is \$52,564 underfunded

NOW, THEREFORE, BE IT RESOLVED by the City Council that the use of Solid Waste Fund Unassigned Fund Balance in the amount of fifty-two thousand five hundred sixty-four dollars (\$52,564) be used to fund the appropriation for the additional cost of the common area and electrical system/fire alarm capital project.

George S. Hansel, Mayor

In City Council April 20, 2023.
Referred to the Finance, Organization and
Personnel Committee.


City Clerk