

**City of Keene**  
**New Hampshire**

**PLANNING, LICENSES AND DEVELOPMENT COMMITTEE**  
**MEETING MINUTES**

**Wednesday, May 10, 2023**

**6:00 PM**

**Council Chamber,  
City Hall**

**Members Present:**

Kate M. Bosley, Chair  
Michael Giacomo, Vice Chair  
Philip M. Jones  
Gladys Johnsen  
Raleigh Ormerod

**Members Not Present:**

*All Present*

**Staff Present:**

Elizabeth A. Dragon, City Manager  
Thomas P. Mullins, City Attorney  
Rebecca Landry, Communications &  
Marketing Director/ACM  
Kürt Blomquist, Public Works  
Director/EMD/ACM  
Don Lussier, City Engineer  
Jesse Rounds, Community Development  
Director

Chair Bosley called the meeting to order at 6:02 PM.

**1) Keene Music Festival – Request to Use City Property – September 2, 2023**

Chair Bosley welcomed the applicant, Pablo Fleischmann. Mr. Fleischmann said the proposal was to have the Keene Music Festival on September 2, 2023. He promised good weather and fun. He appreciated the City's support. Chair Bosley asked if there were any differences in the request this year. Mr. Fleischmann said primarily no, but it always varies based on the number of bands and availability of private properties, but they try to not grow too much.

Chair Bosley asked for comments from Kürt Blomquist, Public Works Director/EMD/ACM. Mr. Blomquist said the necessary protocol meetings had occurred and there were very minimal changes to the request this year. He advised moving forward with the licensing recommendations Staff provided.

Chair Bosley asked if there would be a rain date. Mr. Fleischmann said he would stay in touch with City Staff. He said that since the Festival's inception in 2001, it had only rained a few times and they were able to still manage the event safely. He said that they would choose to cancel if there were impending weather versus rescheduling. Chair Bosley noted that rain dates were being suggested for applications so there are no last-minute challenges in the case of bad weather.

Councilor Jones recognized Mr. Fleischmann's consistent efforts to make this event a success. The Councilor was grateful for these efforts that bring visitors to Keene. Mr. Fleischmann noted that the festival is run entirely by volunteers.

There were no public comments and no further Committee comments or questions. As such, Chair Bosley entertained a motion by Councilor Johnsen that was duly seconded by Vice Chair Giacomo.

On a vote of 5–0, the Planning, Licenses, and Development Committee recommends that the Keene Music Festival be granted a street fair license to use downtown City rights-of-way for purposes of conducting merchant sidewalk sales, as well as use of downtown City property on Central Square, Railroad Square, and designated parking spaces on Main Street to conduct the Keene Music Festival on Saturday, September 2, 2023 from 8:00 AM to 10:30s PM. In addition, the applicant is permitted to close off a portion of Railroad Street, from Main Street to the westerly entrance of the Wells Street Parking Garage, a portion of Church Street from Main Street to the entrance of the Vision Financial parking lot, and Lamson Street from Main Street to Federal Street. This permission is granted subject to the following conditions: the signing of a revocable license and indemnification agreement; that the petitioner provide a certificate of liability insurance with the City of Keene listed as additional insured in the amount of \$1,000,000; submittal of signed letters of permission for the use of any private property, and compliance with any recommendations of City staff. In addition, the petitioner is granted use of the requested parking spaces free of charge under the provisions of the Free Parking Policy. Petitioner agrees to absorb the cost of any City services over and above any amount of City funding allocated in the FY 24 Community Events Budget. Said payment shall be made within 30-days of the date of invoicing.

- 2) **Spectrum Cable/Charter Communications – Request to Install and Underground Communication Conduit in the Right-of-Way**
- 3) **Staff Response: Spectrum Cable – Request to Install a Conduit Within the Right-of-Way**

Chair Bosley heard agenda items 2 and 3 together.

Chair Bosley welcomed the applicant, Ryan Snow, Construction Coordinator for Spectrum Cable/Charter Communications. Mr. Snow explained that Charter Communications wanted to install fiber optic communication wires to supply the UPS facility on Cornwell Drive. The applicant requested to dig in the City’s right-of-way from Krif Road (in front of Douglas Toy Company) to the facility on Cornwell Drive.

Chair Bosley asked for comments from the City Engineer, Don Lussier. Mr. Lussier said that this request was before the Committee because of some quirks in NH law. He said that if Spectrum Cable was a regulated utility, like Eversource, they would be permitted to use the City’s right-of-way under NH law. Spectrum Cable operates within the City under a franchise agreement, which does not give them the same legal status. He said this was not the first time this sort of work had occurred in the City. Staff was asking that the Council grant the City Manager permission to negotiate a license agreement that would have a lot of the same provisions regarding relocation at the utility’s expense if they must relocate for City or public purposes. These provisions would not exist under the same statutory structure, so the Council’s permission was needed for the City Manager to sign the license agreement.

Chair Bosley asked what other utilities were in this part of the right-of-way. Mr. Lussier said there were water, sewer, and some drainage utilities; he thought there were electrical utilities underground there as well. He explained that the applicant would have to “dig safe,” meaning they must mark the existing utilities (with guidance from Staff) to determine where the new cables would go and that there were no conflicts or a potential for maintenance problems in the future. Chair Bosley wanted all parties notified during a project like this. Like for the downtown utility project, she wanted to see any utility updates occurring while the right-of-way is already excavated to limit expenses. Mr. Lussier noted that the work would be on the shoulder, so there would be no asphalt replacement.

Councilor Jones asked how the City’s “Dig Once” Policy that was established 10 years ago would apply to this project so that any relevant utility work would occur while the right-of-way was already excavated for a project. If they did not, he thought there would be an additional cost for the utility provider. Mr. Lussier said there was nothing in the current City Code that would warrant charging the utility company more for work like this. He thought the Dig Once Policy the City had operated under for some time focused more on City projects, though with all City systems staff would coordinate work with the utility vendors already in the street. The City had no plans for any infrastructure work on Cornwell Drive and doing so would be a substantial new project.

Vice Chair Giacomo said it was good that the work would be on the shoulder for minimal asphalt disruption that could impact the surrounding businesses. Mr. Lussier said there would definitely be some inconvenience. He said that they would essentially trench across Krif Road from north to south along the southern shoulder, and they would trench across Krif Road again from south to north when they reach Cornwell Drive. When working on Krif Road, the applicant would have to keep the road open to traffic, so they would likely have to excavate half the trench, install the conduit, backfill, and switch the traffic. Mr. Snow said most of the traffic passing would be from UPS, so they were coordinating their operations to conduct this work at the best times. The City Engineer added that if the Council approved this license, Spectrum would still need an excavation permit from the City; the permit is the City’s trigger to begin working out the details about placement, traffic control, timing, etc. Vice Chair Giacomo said it was exciting to see more places getting fiber optic in town and he called it a good project.

There were no public comments and no further Committee comments or questions. As such, Chair Bosley entertained a motion by Vice Chair Giacomo that was duly seconded by Councilor Jones.

On a vote of 5–0, the Planning, Licenses, and Development Committee recommends the acceptance of the communication to request to install an underground communication conduit in the right-of-way as informational. The Committee also recommends that the City Manager be authorized to do all things necessary to negotiate and execute a license agreement with Spectrum Cable for the construction and maintenance of private infrastructure, including but not limited to underground telecommunications conduit, cables, appurtenant equipment, and any other item or property identified within the right-if-way of Krif Road and Cornwell Drive, provided that all documents are in a form and format acceptable to the City Engineer and City Attorney.

- 4) **Covenant Living of Keene – Request for a License to Install and Maintain Two Private Crosswalks on Public Right-of-Way – Wyman Road**
- 5) **Staff Response: Covenant Living of Keene – Request for a License to Install and Maintain Two Private Crosswalks on the Public Right-of-Way**

Chair Bosley heard agenda items 4 and 5 together.

Chair Bosley welcomed the applicant, Gregg Burdett, Executive Director for Covenant Living of Keene. Mr. Burdett said he had been working with the City Engineer and other City Staff. He said this was the final stage of the conditional approval for 2 crosswalks on Wyman Road. Mr. Burdett said that Covenant Living is located on this stretch of busy road, where he said a lot of high school kids come through to cut across Old Walpole Road. There had been a number of near misses of pedestrians. The applicant had worked with Eliza Sargent and the engineers of SVE Associates to receive the initial approval a few weeks prior to this meeting. Mr. Burdett said there were 2 conditions placed on that approval and he was working with the City Engineer on these issues.

Chair Bosley requested comments from the City Engineer, Don Lussier, who said this was the culmination of a process he had been working through with Mr. Burdett and some residents of Covenant Living. He said the request was for 2 crosswalks that would look like any others in the City. He explained that the issue was that these crosswalks would connect one piece of private property to another. He noted that there were no public sidewalks anywhere on Wyman Road, so these crosswalks would not really serve a public purpose, which he had discussed with the applicant. Mr. Lussier said the applicant agreed to install the crosswalks and to maintain them into the future through this license agreement. Covenant Living was trying to improve safety for pedestrians going between their facilities. If approved by the Council, this would be in addition to an existing license for an underground tunnel and various utility lines approved by the Council in 2017.

Chair Bosley noted that crosswalks alone do not serve to slow traffic, adding that the City had transitioned to lighted crosswalks in many locations. She asked if the applicant planned to have any signage to warn drivers. Mr. Burdett said that the Planning Board had approved advanced warning flashing lighted beacons that operate with a pedestrian push button. Mr. Lussier agreed to the advanced lighted beacons would be between 100–200 feet of the crosswalks because the sight distance challenges in that area.

There were no public comments and no further Committee comments or questions. As such, Chair Bosley entertained a motion by Councilor Jones that was duly seconded by Councilor Ormerod.

On a vote of 5–0, the Planning, Licenses, and Development Committee recommends the acceptance of the communication to request for a license to install and maintain two private crosswalks on public right-of-way as informational. The Committee also recommends that the City Manager be authorized to do all things necessary to negotiate and execute a license agreement with Covenant Living of Keene for the construction and maintenance of private

infrastructure, including but not limited to two (2) private crosswalks along with appurtenant pedestrian beacons, signage, pavement markings, and any other item or property identified within the right-of-way (ROW) of Wyman Road, provided that all documents are in a form and format acceptable to the City Engineer and City Attorney.

- 6) **Peter Espiefs – Requesting that the City Rescind the License to Telecom to Erect Small Cell Wireless Facilities**
- 7) **Ann Savastano – Petition Regarding Small Cell Tower at Summer and Middle Streets**

Chair Bosley heard agenda items 6 and 7 together.

Chair Bosley welcomed the first petitioner, Peter Espiefs, who provided copies of documents to the Committee. He had submitted a petition to the City Council; there were 40 signatures from residents, who opposed a small cell tower planned for installation at the corner of Summer and Middle Streets. Mr. Espiefs questioned whether the City Council would protect the community or go along with this business operation. He said he understood that we live in a capitalist system and businesses have a lot of influence. While he was pressuring the Council, he said the residents were also under a lot of pressure, with lives to live, health, and properties they wanted to preserve. He said the residents had been paying taxes to the City for years. He continued that this telecommunications company had already been granted the permit for this 5G installation and said the company represented to the Council that they had complied with all Federal Communications Commission's (FCC) regulations. Mr. Espiefs said that was inaccurate, unreliable, and not based in science. He asserted that the FCC was in the pockets of many industries. Because he used to work for the Federal government as an attorney for the Department of Agriculture, he said he knew how these things worked. To illustrate his point, he shared a story from his career when poultry companies did not comply with 50 requests to follow Federal regulations, which resulted in the Department of Agriculture suing companies. In that instance, he said the Department Secretary told the lawyers to drop the suit because the companies would get congresspersons and senators to lower the Department's budget. Mr. Espiefs said that was when he learned that many people were not working for the public good. He questioned again whether the City Council would represent the residents of Keene and protect them as human beings.

Chair Bosley welcomed the second petitioner, Ann Savastano, who said she was just a concerned citizen and not a scientist, but she believed there was significant cause for concern. She said concern was also growing in the scientific community about potential adverse health effects for humans and the environment (e.g., pollinators, flora, and fauna). She recalled frequent rhetoric that the City could not do anything about this even if it wanted to because the telecommunications companies would sue the municipality for halting the roll-out of 4G and 5G. She thought the impending small cell tower at Middle/Summer Streets would be the fourth one in Keene to support 5G, which she believed penetrated walls. She said there was already 4G in the community providing no interruptions in cell phone service.

Ms. Savastano continued discussing the concerns outlined in her petition. She cited sources that claim that there are serious and growing health concerns, despite the FCC choosing to not

address them even when mandated in August 2021 by the U.S. Court of Appeals. Ms. Savastano quoted that Court decision: “*Under this highly differential standard of review [referring to the FCC], we the Commission find the FCC order as arbitrary and capricious in its failure to respond to record evidence.*” She said there were approximately 11,000 scientific studies showing the harmful effects of exposure to radiofrequency radiation. She said that radiation at levels below the Commission’s limits might cause negative health effects unrelated to cancer. In the Court’s ruling, the FCC was ordered to re-examine its standards for wireless radiation exposure and to provide a review of wireless harms that is compliant with the law for non-cancer harms. Ms. Savastano explained that earlier in 2023, Barrington and Sheffield, MA, both issued articles asking for a moratorium on the 5G roll-out because the FCC had not complied with showing evidence that their standards were safe. The last tests were conducted prior to the 1996 Telecommunications Act. She said it was possible for Keene’s City Council to pursue a similar moratorium. She recalled that the MA towns with moratoriums were not being sued. One town designated fees for telecommunications companies for annual inspections of all the small wireless facility sites; yearly, the companies would have to pay for those inspections, which some companies refused and decided to go elsewhere. Ms. Savastano said there were some creative ways if the City Council was truly concerned about potential health impacts and the environment.

Ms. Savastano discussed the possible serious environmental impacts of 5G. She cited potential impacts on pollinators (i.e., insects and birds). She also recalled that Keene is a “Tree City,” and she believed that tree cutting was necessary to facilitate transmission of 5G microwave radiation, which she believed leaves and foliage would absorb. She also thought that microwave radiation was small enough to be absorbed by insects. She recently spoke with an urban forester in MA, who was also concerned about this possibility; Ms. Savastano cited an instance she heard about when a telecommunications company came in at night and cut trees to a certain height so that 5G waves could reach their destinations. She said the City had reason to be concerned. She cited some webinars she listened to about the potential impacts to flora and fauna—she believed there were over 530 peer-reviewed studies on the topic. She said the precautionary principle should be applied before any new small cell deployments. She quoted a study titled “The Effects of Wireless Radiation on Birds and Other Wildlife”: “*The biodiversity of insects [i.e., pollinators] is threatened worldwide. Numerous studies have reported the serious decline in insects that has occurred in recent decades. The same is happening with the important group of pollinators with an essential utility for pollination of crops, loss of insect diversity, and abundance is expected to provoke cascading effects on food webs and ecosystem services. Evidence for the effects of non-thermal microwave radiation on insects has been known for at least 50 years. The review carried out in the study shows that electromagnetic radiation should be seriously considered as a complementary driver for the dramatic decline in insects in synergy with agricultural intensification, invasive species, and climate change. The extent that anthropogenic electromagnetic radiation represents a significant threat to insect pollinators is unresolved and plausible. For these reasons, and taking into account the benefits they provide to nature and humankind, the precautionary principle should be applied before any new deployment, such as 5G, is considered.*” Ms. Savastano recommended that Councilors read about the precautionary principle, which she said was accepted internationally.

Ms. Savastano continued discussing potential impacts she perceived to Keene's Historic District. She cited the "impropriety and insult" of placing this cell tower in the middle of this District, which contains Jonathan Daniels' home and other very historic buildings with beautiful architectural details. She said she knew one home in that area was on the NH Historic Registry. Ms. Savastano quoted the Cheshire County Historic District Chairman, Alan Rumrill, as saying: "*The School Street neighborhood is certainly historically important for Keene. The neighborhood is adjacent to and/or part of the downtown Historic District and contains several structures that are important to the historic character of Keene.*" Ms. Savastano thought the Council was aware of the Historic Preservation Act of 1966, which requires Federal agencies to consider the effects of their projects on historic properties. She said the small cell wireless facilities were applicable in this case and that any Federally assisted project had the potential to effect historic properties through a Section 106 review pre-construction. She did not know whether that had occurred for this small cell tower proposed in her neighborhood. She said this stipulation provided legitimate reason to pause this construction. Section 106 gives the Advisory Council on Historic Preservation, interested parties, and the public a chance to weigh-in before final decisions. She quoted Mr. Rumrill again as stating that, "*a 106 Review is in order.*" Ms. Savastano cited a recent 5G roll-out in NY that was paused because this pre-construction review had not occurred. She noted that she had shared many of these studies and instances with the Council.

Next, Ms. Savastano discussed the public perception that having these cell towers in their neighborhoods would result in a significant loss of property values. She quoted NH Representative Lucius Parshall, who had been concerned about this issue and co-sponsored a non-partisan bill with Senator Denise Ricciardi. The bill would place limits and setbacks on these towers because of the potential health concerns. Ms. Savastano said that as far back as 2005, Mr. Parshall wrote that studies indicated home, and rental prices could decline by 20% due to proximity to wireless antennas; more than 90% of homebuyers and renters said they would be less interested in or pay less to rent/own properties near these antennas. Ms. Savastano called this situation a clear disregard of the de facto primarily residential nature of the Middle/Summer/School Streets neighborhood. She noted that a site developer, Tilson Tech, was hired by U.S. Cellular and inaccurately listed in their application that the Middle/Summer Streets site is non-residential. Ms. Savastano said that a recent Zoning law changed, this neighborhood was now in the Downtown Transition District, which she understood to be the basis for the company claiming this was non-residential. She noted that this site in the Historic District would be practically on the lawn of a person with a pacemaker and across the street from a new family with kids who moved there for the historic nature. She cited Article 8 of Keene's Small Cell Wireless Ordinance, which states that residential areas are the least desirable for the placement of these towers. Yet, she said there were towers across from the hospital, in residential areas, next to schools, and in the Historic District. She said that constructing this facility went against the intent of the Ordinance. She added that the neighborhood already had 4G coverage with no gaps in phone service. She thought the purpose of the new facility was solely to roll out the grid to support 5G antenna within that grid; she thought the towers had to be 1,640 feet apart. She said that within that grid, there would be 5G antennas on light poles at distances of 100–150 feet apart.

Ms. Savastano said that not all neighbors were available to sign the petition and 3 declined, but everyone else she talked to did not want this constructed. She recalled that fiber optic options are much better than 5G in many ways, calling it safer and without needing to invoke the precautionary principle in terms of the environment and human health; she also called it more efficient and economical, and said it could not be hacked. Ms. Savastano said there were privacy considerations for 5G, noting that all “smart” appliances in a home could be compromised. On economics, she quoted the Institute of Electrical and Electronics Engineers (IEEE) and the Association of Electrical Engineers as stating that: “*Wired solutions use up to 10 times less energy than wireless technology, is up to 100 times faster, is more reliable and resilient, and it works during power outages.*” She added that wireless technology is constantly being upgraded because these telecommunications companies need to keep selling new products; she said 6G was in the works and she had heard reference to 10G. She said wired solutions are better for security and privacy. Ms. Savastano mentioned an educational webinar by a person who had presented to different groups of the Keene community, Cece Doucette. Ms. Savastano said that people interested could attend Ms. Doucette’s short webinar at [www.MA4safetech.org](http://www.MA4safetech.org) on May 11 at 6:00 PM; the video would be available after for anyone who registered.

Mr. Espiefs questioned whether the City Council took any steps to listen to a medical board about this inquiry. Chair Bosley explained the process this Ordinance had been through. This Ordinance came before the City Council several years ago and it has been revised since. Keene initially placed a moratorium on forward progress until the NH Commission report was published. She said the State’s report was very erroneous and essentially indicated that all wireless had the potential for negative effects, but they did not identify certain frequencies.

Vice Chair Giacomo discussed the NH report from 2020. He said it was a 390-page report and he read it in its entirety. He thought that some people at the State level realized that the results were “ridiculous” and as such, had spoken little about it in the years since. No action was taken, and the State provided no further guidance. The Vice Chair recalled that NH is not a “Home Rule” State, meaning the Council has no ability to overrule anything provided by the State. His understanding was that the City could not impose any kind of moratorium on anything like this unless explicitly allowed that right by the State. He said the State’s report did not change the existing rules in any way at that time. This discussion had been on the PLD Committee’s “more time” agenda for over a year, and the Council had to accept that the rules had not changed.

Chair Bosley noted that it was really hard for the City to develop appropriate recommendations from the report because it did specify anything. She recalled that the whole City had 4G at this point but noted that the Ordinance prohibited the construction of those facilities near schools, hospitals, and vulnerable populations; the recommendation was for those facilities to have wired connections. She said the City was required to allow these facilities or the City could face a lawsuit. So, the State’s guidance would have been helpful when crafting this Ordinance, which did at least give the City some control of placement, with residential neighborhoods lowest on that scale. She thought there was a categorized list within the Ordinance that provided setbacks for vulnerable populations. Since the Ordinance was adopted, the City Council heard concerns from the public, usually when a new facility was proposed in a neighborhood. Thus, there had been revisions to the Ordinance since. Chair Bosley said she re-read the minutes from when this matter last appeared before this Committee, and she was not surprised that this neighborhood had

organized to this level. She said at that time, she tried to express that this Committee and the City Council were really not the appropriate bodies to address these concerns. Chair Bosley believed the appropriate entity would be the court system. She noted that if the Public Works Director had not allowed the new facility, the telecommunications company could not come to the City Council to override that decision, they would have to go through the court system. While Chair Bosley heard the petitioners' concerns, she wanted to show them the right steps to move forward. She reiterated that the State gave municipalities no support to be able to restrict these applications. The Chair suggested that the petitioners contact their senators and representatives.

Ms. Savastano stated that from her conversations with Lucius Parshall, she believed that the NH Commission study was taken very seriously by the Committee on Science, Technology, and Energy. She added that there was a bill put forth in the past session; due to some last-minute pressure from the cellular telecommunications industry, one person and the chair switched their votes. She thought everyone else was more or less in agreement that science supported the bill. Ms. Savastano said another bill was planned for the next session, which she said was on the basis of a lack of science. Ms. Savastano said she was trying to show the Council a way that they could take action for a moratorium, or even just to take action on this specific facility until the appropriate review occurs (Section 106 of the National Historic Preservation Act [NHPA]). She said she spoke with a NY lawyer, Andrew Campanelli, who works specifically with municipalities. He told Ms. Savastano that there are ways to write ordinances that provide setbacks that align with the precautionary principle; she said Mr. Campanelli would be willing to consult for a very minimal fee. Ms. Savastano said she also heard that municipalities with proper ordinances had not been sued by telecommunications companies because the companies do not bother if they cannot find a loophole. She reiterated the questions about environmental and health impacts and the need for the City to take whatever action it could.

Vice Chair Giacomo said that a lot of this would be assuming that there is real interest in the City; he thought some Councilors might be interested but stated that he was certainly not. The Vice Chair referred to the dozens of 5G studies dating back 30 years that he had read, including the more recent ones. He noted that he is a scientist by trade and therefore enjoys reading these studies, including very detailed ones that traced the evolution of the "5G is dangerous" movement dating back 7–8 years, when #Stop5G originated. Vice Chair Giacomo questioned the sources of those movements from conspiracy theorists like Alex Jones, publications like the Russian Times, and people like Tucker Carlson. He said that in 2017–2018, this became a partisan debate. Vice Chair Giacomo continued addressing some of the petitioners' concerns. He noted that the City of Keene does not cut tress arbitrarily, whether in the public right-of-way or on public property. He said that pollinators had been declining since the early 1990s, which was well before even 2G. He explained that the wavelength of a 4G antenna is approximately the size of a bee. Because 5G has a higher frequency, it means that it has more of a shielding effect on a biological entity, making it more likely to bounce off that entity. He explained that a 1G or 2G wave is much longer and would actually penetrate an animal. He said higher frequency did not mean it would impact pollinators more; the Vice Chair said he had read countless studies making that claim had disturbingly low sample sizes. He understood that those were "peer reviewed," but noted that out of however many hundreds of thousands of scientists there are, only 800 agreed with this. He stated that if this was a relevant concern that was scientifically validated, he would

probably change his mind and would be fully on board with the precautionary principle. However, based on all the data he had seen, he did not believe there was scientific validity.

Vice Chair Giacomo continued addressing the Historic District. His understanding was that Section 106 of the NHPA clearly states that it applies to Federally assisted projects with the potential to affect historic properties. The installation at Summer/Middle Streets was by a private entity and to his knowledge was not Federally funded. The Vice Chair noted that the National Association of Realtors and the IEEE (the latter of which Ms. Savastano cited) both reported that 5G actually increases property values, especially among populations looking for higher connectivity, which is common for people in their 20s and 30s; he said this was why some people want these facilities near hospitals and colleges. Regarding the concept of “vulnerable populations,” the Vice Chair asked what they would be vulnerable to, noting that physics shows us that it is impossible for a wavelength to penetrate a body, a leaf, or an insect. Further, he said he would love to have fiber optics everywhere, agreeing that it is better technology, but it is not wireless, and you cannot use a cell phone on fiber optic. With the advancement of technology and smart home devices, Vice Chair Giacomo said he did not want to see Keene left behind technologically. While he did not begrudge anyone for being suspicious of new technology, he said that at some point, the actual physics and electromagnetic principles ultimately invalidated those concerns. He said we encounter wavelengths in everyday items like microwaves and cell phones, stating that holding our cell phones 2 inches from our bodies is more of a problem than a small cell wireless facility 20 feet away. Councilor Giacomo reiterated that he had been fighting against a moratorium on 5G for many years and would continue to until he saw legitimate scientific rationale, as opposed to friends circularly referencing each other’s sources.

Mr. Espiefs questioned whether the Vice Chair had said the same things to Ken Chamberlain, an electrical engineering professor at the University of NH. Vice Chair Giacomo said he had spoken with Mr. Chamberlain, and they disagreed; he added that Mr. Chamberlain is not a professor of 5G electromagnetics. Mr. Espiefs noted that the Vice Chair was not a professor of 5G electromagnetics either. Mr. Espiefs continued stating his understanding from an epidemiologist that electrical waves heat human tissue. He added that the World Health Organization is involved and nations like Israel and France had prohibited this technology. Mr. Espiefs was not convinced that anyone on the Council had investigated this matter. He thought the City was relying on the FCC regulations, which he called worthless based on the Court ruling.

Chair Bosley believed that the court system would be the best avenue for the petitioners to pursue if they were not content with this Committee’s decision. She said she wanted to hear from the City Attorney about the Historic District and Section 106 of the NHPA. She said she looked at the Historic District map, which happened to end at the corner of Middle and Summer Streets.

The City Attorney, Tom Mullins, began by assuring the petitioners that this was a frustrating matter for everyone. He explained that when the FCC rule was promulgated, hundreds of municipalities challenged it through the 9<sup>th</sup> Circuit Court of Appeal based on a lot of the arguments the petitioners espoused at this meeting. He said that everyone was in agreement that the rule was an absolute overreach by the FCC into every public right-of-way in the nation. Unfortunately, the 9<sup>th</sup> Circuit Court of Appeal decided to uphold the FCC rule with some greater latitude for municipalities to regulate these small cell wireless facilities based on aesthetics. He

said that this ultimately would fall under the umbrella of the Federal rule until people like the petitioners across the country realize that this is fundamentally a political question that must be answered at the Federal level. Until that happens, the City Attorney said that Keene would be constrained.

On the Historic District, the City Attorney explained that a property/building would need to be on the National Historic Registry—not just within Keene’s Historic District or on the NH Registry—to require that review. His understanding was that after this application was approved by the City, the applicants had to appear before and submit information to the FCC to receive its concurrence on the National Environmental Policy Act (NEPA) review. He said that the limitations of the FCC’s review of tower placement are fairly narrow and primarily apply in areas with a clear detrimental environmental impact on wetlands, wildlife corridors, forestry, and tribal zones, etc. Unless the company met those requirements under the siting regulations, they would be categorically exempt. He noted that the site of the wireless facility at Middle/Summer Streets was not near anything on the National Historic Registry, despite being in Keene’s Historic District. The company would have to go through that review process. The Chair asked if the City would receive a copy of that review. The City Attorney wanted to be clear that he was not dismissing any of the petitioners’ concerns, but from his perspective, the valid point was that Keene was very constrained in what it could do and the City could not regulate these things based on purported health effects.

The City Attorney continued, explaining that there were some things that could be done with Keene’s Ordinance, which was adopted on May 7, 2020. He noted that he was familiar with the NY lawyer Ms. Savastano referenced and said he had some valid points that were worth reviewing with the City’s Ordinance. However, the City Attorney said the NY lawyer was very clear that municipalities should not place a moratorium on the facilities. Options for Keene’s Ordinance included adding a requirement for telecommunications companies to submit their FCC certifications after they are obtained. He added that some cities’ ordinances include a requirement to regularly test these wireless facilities to ensure they are in compliance, but the City was not obligated to do that and the municipality would have to pay for it.

The City Attorney recommended accepting these petitions as informational. However, he said he would proceed with reviewing the Ordinance. He was in discussions with legal counsel in NH about possibilities. As the City Attorney, he could not advise the City Council to take action that would land the City in the Federal District Court. His experience taught him that litigation is, by itself, expensive and unpredictable. He did not want the City in a position with a moratorium or regulating on the basis of the purported health effect that would land them in court. Still, he would certainly consider the petitioners’ points when reviewing the Ordinance. The City Attorney cited the Environmental Health Trust case that Mr. Espiefs referenced. The City Attorney said that ultimately, in that case, the Court did not say there were detrimental health effects, but concluded that it took no position in the scientific debate regarding the health and environmental effects of radiofrequency radiation and that the FCC’s cursory analysis was insufficient. He could find no evidence that the FCC had followed through on this District Court finding. He would also be reviewing cases from MA that Mr. Espiefs cited. Chair Bosley asked if there was any case law from NH and the City Attorney said no.

Councilor Jones recalled that in 2020, there was a moratorium until the State Commission made a decision; he recalled that being a split decision and asked if the City Attorney recalled the results. The City Attorney could not recall but noted that both majority and minority reports were published, with the majority aligned with tonight's petitioners arguing the negative health effects. The State of NH had an opportunity to do something with those reports, and 2 instances of trying had not been adopted. He thought it was possible that some new initiatives would come forward soon. The City Attorney reiterated that Keene could only act with the authority given to the City by the State of NH. He would welcome more guidance. He also reiterated that the petitioners should be talking about this with their legislators.

Chair Bosley noted that the Zoning Districts within the Ordinance reflect back to the Zoning Ordinance, which was in effect before the Land Development Code. While the neighborhood in question was not within one of those protected areas, it also would not have been in a previous protected area as it was in the Office District previously. She thought some grace could be given to some of these transitional neighborhoods. Chair Bosley cited some mixed-use neighborhoods that could be given some preference on that list as well.

Chair Bosley asked for comments from the Public Works Director/EMD/ACM, Kürt Blomquist, as to why this location was chosen over a main thoroughfare. Mr. Blomquist said that the telecommunications company representative looked at a number of different areas in the City because they had 4 applications at the time. He said that this location at Middle/Summer Streets did not have aboveground utilities, where a new tower would not be permitted underneath. He said the company initially proposed to place this facility in a much narrower grass area in front of several residential units. Mr. Blomquist recalled that Keene's Ordinance did not list where these small cell wireless facilities are prohibited but provides an order of preference. He mentioned working with a company in the instance of Carroll Street, noting that the companies want to serve residential areas. Ultimately, he thought the location at Middle/Summer Streets was better than what was proposed originally. When working with these companies, the Chair asked if it is a process of finetuning the correct location that is in both the companies' and City's best interests. Mr. Blomquist said that is the goal anytime Staff works with petitioners. Chair Bosley asked how many other towers were in Keene. Mr. Blomquist said there were many more on private property than public property. Those on public property are in the Winchester Street, Allen Court, and Carroll Street areas, as well as one in the State right-of-way off Ashbrook Road.

Chair Bosley said she wanted to be as restrictive as possible with the transmitters in the public right-of-way. However, she noted that there are dozens of private properties throughout the City that the City cannot regulate. She was unsure why an applicant would need to come to the City for any sort of license in conjunction with installation on private property. The City Attorney said that would be subject to the Building Code. She recalled some locations in the City that needed Historic District approval for matters like shielding and colors. She did not think there was a way for the City to get away from these antennas installations.

Councilor Jones spoke positively about the petitioners energizing the community. Still, he thought the City Council was the wrong public body to address these concerns. Councilor Jones said he knew Representative Lucius Parshall and knew of the proposed bill before the Science,

Technology, and Energy Committee. He continued the bill did not make the crossover and would not come up again until the second half of the biennium. The Councilor agreed with Mr. Espieffs' comments about big business. Councilor Jones thought he was one of the only people in the room who had tried to read the 400-page Telecommunications Act of 1996, when Keene's Mayor, Pat Russell, was Chair of the Technology Committee. He agreed that the telecommunications companies "pulled the wool over" the eyes of the public and communities for the sake of big business. Still, he did not know how the City Council could rescind the Small Cell Wireless Facilities Ordinance because doing so would take away what latitude the City does have to regulate height requirements and distances between towers (minimum 750 feet apart). Without the City's Ordinance, telecommunications companies would only have to meet those FCC regulations. If there were answers to some of the difficult questions from the petitioners and City Attorney, then Councilor Jones would support revising the Ordinance accordingly.

Mr. Espieffs reiterated that the installation at Middle/Summer Streets would only be 25 feet from the adjacent house where someone has a pacemaker and 100 feet from his house. He did not understand why that location was chosen. Councilor Jones agreed but said he did not have the answer. Mr. Espieffs said people's lives would be at risk and he asked what the Council would do about it. Chair Bosley replied that unfortunately, the Council was being advised that it had little recourse to overturn the Public Works Director's decision. The Chair recommended that the petitioners should pursue litigation with the Federal Court in Concord. The City Attorney said that litigation of this type is generally filed in the Federal District Court. He said the City's Ordinance did not have any further administrative appeal option, but the Public Works Director does have some authority to work with a provider in case of a dispute. Any appeal at that point would be through the court system.

Ms. Savastano stated her belief that the City Council could do some things about this. She referred to the application for the small cell wireless facility at Middle/Summer Streets and said the site developer under U.S. Cellular, Tilson Technologies, had to complete various forms. On one form, they could not guarantee 4 key things, which meant they were required to complete a radiofrequency study prior to construction. She was unsure how they could have done an emissions study prior to construction but thought the City should require it before installation. In response to Councilor Giacomo, Ms. Savastano stated that the NHPA would apply to this application. She cited a letter from the FCC to City Bridge that specified that these facilities constitute an "*undertaking pursuant to NHPA 2,*" and she said they are considered federally assisted. She also said that a property did not have to be on the National Historic Registry to qualify but only had to be eligible for the Registry; she and her neighbors thought their area could be eligible. Therefore, she thought a pre-construction review could be legally required.

Ms. Savastano said she was happy to hear that Vice Chair Giacomo would seriously consider action if he was convinced that these were detrimental in some way; she would be happy to share more studies with him. She restated her understanding that insects do absorb 5G (not 4G) and that these electromagnetic frequencies impact the ability of honeybees, butterflies, migratory birds, and more to navigate the Earth's low intensity electromagnetic field. Ms. Savastano also mentioned communications with the Library Director, Marti Fiske, who is interested in this. Ms. Fiske hosted a community conversation on this matter. Ms. Savastano said Ms. Fiske was willing to co-sponsor a panel on the potential health and environmental impacts, with representatives

from both sides of the issue. Ms. Savastano referred to an emissions study from November 2022 and she cited the probable eligibility for the NHPA pre-construction review. Chair Bosley asked if Mr. Blomquist could address the emission study. Mr. Blomquist said he would have to review it again before speaking to it. The Chair advised Ms. Savastano to follow up with Mr. Blomquist.

Vice Chair Giacomo agreed that if he believed there was new, convincing data, it would be his job as a scientist to change his mind. He recalled constituents sending him thousands of studies when this conversation began 4 years ago; he read as many as possible. He said some of the studies proved the opposite of what they sought to prove, showing no harm. Other studies had sample sizes like 6, which could not be statistically significant. He said there were countless problems with most of the studies he read so far, noting how 20–30 articles tended to circularly reference each other, which did not indicate scientific rigor. The Vice Chair stated his understanding that the telecommunications companies were tied to the scientific community and the government; he called it gross, stating that he hated it as much as anyone else. He agreed that he would also be fine with more testing of radio frequencies if it would not cost the taxpayers, adding that if there was nothing to hide, the companies would be happy to have tested. Vice Chair Giacomo recalled Mr. Espiefs mentioning that Germany, France, and Israel prohibited this technology; the Vice Chair clarified that those nations were against the Chinese manufactured technology that posed national security concerns, it was not about health concerns. He continued expressing his concerns about the NH State Commission, in which two-thirds of the panel were already on the record as being against 5G before it began. He said that anyone paying attention to scientific studies would obviously see that there is no glaring emergency. Still, the Vice Chair reiterated that if data came forward, then it would be his responsibility to consider changing his mind.

Councilor Johnsen said she was listening intently and found the information interesting. If the 5G was so dangerous, she said she wanted to hear from physicians.

Councilor Jones recalled that before Covid, he spoke with a technology attorney, who told him not to try prohibiting 5G or to cap the technology available at 4G. Otherwise, he said that telecommunications providers would try to play games and roll out things like 4.8G or 4.9G. Councilor Jones recalled that the Keene Library lends out certain equipment and he thought they could acquire a radiofrequency monitors that residents could use to test around their homes; there was a similar program in Ashby, MA. That would be the Library Staff's decision, not the Council's.

Ms. Savastano replied to some of Vice Chair Giacomo's points. She agreed that the City could not roll back technology, but she said there was even better and safer technology. While everyone has a cell phone, she said there were ways to prevent 5G from entering homes, particularly with fiber optics, which some cities opted for over 5G. She said decent cell phone service was available already with 4G. Ms. Savastano advocated moving forward progressively in a way that protects the environment and health. She also believed that Switzerland and Greece banned 5G but agreed that Israel and Italy banned the technology for national security. She asked the Council to make an admirable decision. She also agreed that 2 of the past FCC chairmen were from the telecommunications industry, adding that this resistance effort would take grassroots organization. Ms. Savastano added that Burlington, VT, required the

telecommunication companies to test radiofrequencies annually and the companies said no, so there was no 5G in Burlington and she thought the town was still managing well without it. She noted that she spoke with the Library Director about carrying one of the meters, which cost \$400. There was only \$200 in the Library's budget for any object, so the remaining \$200 would need to be granted or fundraised. She hoped the City Council would take an action that would require further testing by the telecommunications companies so that construction could halt on the Middle/Summer Streets tower.

Councilor Ormerod said he had listened carefully, read all the relevant reports, and he looked forward to possibly amending the Small Cell Wireless Facilities Ordinance. He looked forward to hearing the additional legal advice the City Attorney mentioned.

Chair Bosley reiterated that while the Council took this seriously, their hands were largely tied. Chair Bosley opened the floor to public comments.

City Councilor (at large), Randy Filiault, said he was fortunate to have the opportunity to attend the very informative May 8 neighborhood workshop but that unfortunately, he was the only City Councilor who attended. He thought this was different from most issues that come before the Council because there are experts speaking out on both sides of the issue. Since one group of citizens believed this to be a life-or-death issue, Councilor Filiault was concerned. He reiterated that none of the Councilors are 5G experts. Due to public concerns, he did not think it was fair for the Council to say this is the State and Federal governments' responsibility. He said that only a majority of 8 City Councilors were needed to take action on a matter. While sometimes those Council actions could make the City at risk of a lawsuit, he thought this issue was worth it and that this was what the Council was elected to do. Councilor Filiault did not think this was a hard decision. He compared this issue to studies that revealed the health ramifications of tobacco use, noting that the tobacco companies funded studies to downplay the dangers. Councilor Filiault said it was essential for the Council to act on this now. He realized the Committee was considering accepting these petitions as informational, which he did not support. Instead, he hoped this matter would be placed on more time so the Committee could review the Ordinance with the City Attorney's advice and discuss amendments at the next meeting. He thought this was too important to ignore. Councilor Filiault likened sending the petitioners to the State or Federal level to the Council brushing this off when there could be serious ramifications.

Tom Savastano of 75 Winter Street referenced the NH Commission to Study the Environmental and Health Effects of Evolving 5G Technology that was issued on November 1, 2020. He stated that the report was highly respected by the European Union. He discussed the "Home Rule" issue, which seemed to him like the State of NH was giving Keene the right to do something. Mr. Savastano asked the PLD Committee and full Council to interact with the Commission's report. He quoted recommendation 7 from the NH report: *"Any new wireless antennae located on a state or municipal right-of-way or on private property [should be] set back from residences, businesses, and schools. This should be enforceable by the municipality during the permitting process unless the owners of residences, businesses, or school districts waive this restriction. Local public rights-of-way are under the jurisdiction of municipalities and the Commission feels that municipalities should uphold the rights of individuals impacted by antennae. The Commission also supports the right of property owners to manage decisions on non-essential*

*devices being placed in front of their property. The Commission believes that it is important to prioritize citizen safety, particularly as 5G is an upgrade rather than the provision of wireless service to unserved areas.”* Chair Bosley asked if a specific setback distance was listed in the report. Mr. Savastano said it might say that elsewhere in the report, but that was not specified in the paragraph he had in front of him.

Chair Bosley thought the City had included language in the Ordinance to provide some setbacks for the locations Mr. Savastano identified with vulnerable populations. The Chair stated her understanding that the license to U.S. Cellular for the facility at Middle/Summer Streets was granted under the City’s original Ordinance and nothing the City Council did moving forward would affect that tower application. The City Attorney said that was essentially correct. He said the City’s Ordinance did not presently include any of the specific requirements that would need to be in place to have any say in this application. The City Attorney thought that the applicant still had to receive approval from the FCC. Regarding the National Environmental Policy Act and proximity of towers to historic structures, he remarked that it was true that—at least at this time—there could be future structures on the National Historic Register, but it was the City Attorney’s understanding that the FCC could choose not to deny a tower on that basis.

Chair Bosley explained to the petitioners that the current options available to the Council would not necessarily affect this specific application. Ms. Savastano said she would follow up with Mr. Blomquist about the requirement for radiofrequency emissions testing.

Ms. Savastano thought there was an amendment to Keene’s Ordinance that included setbacks for these facilities; she thought they had to be 1,640 feet apart. She thought the NH Commission’s recommendation was for municipalities to require 1,640-foot setbacks from perceived vulnerable areas with nursing homes, hospitals, schools, etc.

Vice Chair Giacomo recalled when this matter was presented to the Council by Ms. Lori Schriver in 2019 and when it was presented again in 2020. He believed the 5G technology range on the antennas was only 1,500 feet, so 1,650 feet would essentially remove any functionality from those towers. Thus, he thought an increase to 1,650 was effectively a ban. He said the City Council did not vote to approve that part of the Ordinance at that time, which he reiterated would in effect be a ban of 5G.

Mr. Espieffs encouraged everyone to educate themselves on this matter. He referred to Ms. Doucette, who represented MA for Safe Technology at a presentation at the Library for the Rotary Club. He noted he would share a handout with the Council on the electromagnetic field of wireless communication and the biological and health effects. He recalled that in 2021, the Council discussed having 1,500–1,600-foot setbacks. Mr. Espieffs understood that this matter placed stress on the Council, but he said the residents were the ones having to live with the stress of possibly having this tower in their neighborhood. He reiterated his belief that this technology was unsafe for the local people, who are taxpayers.

Vice Chair Giacomo moved to recommend the acceptance of the communications and the petition regarding a small cell tower at Summer and Middle Streets as informational. The motion was duly seconded by Councilor Johnsen. Discussion ensued.

Councilor Jones did not want this public concern to fall to the wayside, which he said could happen by accepting these petitions as informational. However, he would not recommend placing the matter on more time because that would require the Committee to ask City Staff to take specific action. Chair Bosley and Councilor Jones agreed that more time did not feel appropriate for this request because all of the changes the City had the authority to make would not affect this tower approval for Middle/Summer Streets, and doing so would simply drag the matter out for the petitioners and would not stop the process.

Vice Chair Giacomo understood the inclination to place agenda items on more time but recalled that this issue had been on more time for 4 years, during which time the City Councilors should have already been doing their own research on this technology and the debate. The Vice Chair said he had spent those 4 years pouring over scientific documents, including those that disagreed with this perspective. Vice Chair Giacomo found it insulting to assert the Council needed more time to review the reports when those sources had been available to the Council for years. He said he had listened to all the community members who voiced concerns and he was still not convinced. He said there were very few 5G experts and no one on the Council was an expert, and most in the community likely were not as well. Still, Vice Chair Giacomo was trained to read scientific papers and to learn the principles therein. He did not want to see the City of Keene embarrassed by enacting the type of moratorium the petitioners suggested. The Vice Chair said this issue did not need more time. Councilor Jones agreed he was not suggesting placing this on more time, but he wanted the residents to know that this issue could still reappear before the City Council in the future.

Chair Bosley asked if the petitioners had any questions about the motion. Ms. Savastano asked for the opportunity to make a few more comments. She explained that she was suggesting that there should be some historic review of the area proposed for the Middle/School Streets corner. She also suggested that the City Attorney consult with NY Attorney Andrew Campanelli on this application. Chair Bosley clarified that there were no amendments that this PLD Committee could recommend that would affect this tower application. She said it was clear that the Committee could not give specific direction to the Public Works Director, but if the petitioners felt that Mr. Blomquist did not follow the due process, they could speak with the City Manager. Ultimately, it would take a Federal District Court to overturn Mr. Blomquist's decision. Chair Bosley also clarified that despite these challenges, the Council was not disregarding the community's concerns. The Chair did want to impress upon the public that these towers had been erected throughout the City and most people were not aware they were near. She said this neighborhood was only notified about the installation at Middle/Summer Streets because it would be on public property. She reiterated that the Court system would be the best recourse for the petitioners. Ms. Savastano would share information with the Council about an electromagnetic frequency medical conference that required registration by June 15; she heard it was comprehensive and people learned a lot. Chair Bosley noted that members of the public could also submit written comments to the City Clerk on this matter.

On a vote of 5–0, the Planning, Licenses, and Development Committee recommends the communications and the petition regarding the small cell tower at Summer and Middle Streets as informational.

**8) Cole Mills – In Opposition to Ordinance O-2023-02: Minimum Lot Size in Rural Zone**

The City Attorney recommended accepting this communication from Cole Mills as informational because there had already been a public hearing on this Ordinance.

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 recommends accepting the communication in opposition to Ordinance O-2023-02: Minimum Lot Size in Rural Zones as informational.

**9) Relating to Amendments to the Rural District Minimum Lot Size – Ordinance O-2023-02**

Chair Bosley welcomed Community Development Director, Jesse Rounds. Mr. Rounds recalled that there had been a public hearing on this matter already and he wanted to address some comments by the public that he called “factual inaccuracies.” First, he noted concern that this minimum lot size change would not offer any opportunities for workforce/affordable housing, which he said was not the intention of this Ordinance. He also noted that manufactured housing parks—an affordable housing option—would only be allowed in the Rural District (RD) when there is an opportunity for 2-acre lots. He added that it was encouraging that manufactured housing was being discussed but said that was not something the City would be involved with.

Second, Mr. Rounds mentioned public concerns about this Ordinance having a negative environmental impact. He said that environmental protections are in place already at the State and local level that he believed would protect the community. He said there was a situation possible in which 2-acre lots could be developed that could result in some tree cutting. Whereas, he said the majority of acreage in the RD is larger than 10 acres; he said those lots were being conserved for possible forestry options, through which some tree cutting could occur. Still, Mr. Rounds thought there were some issues with the public perception of that impact.

Lastly, Mr. Rounds referred to a question Councilor Ormerod raised at the Joint Committee hearing. Mr. Rounds said a full build-out scenario would be unlikely, but he and Community Development Department Staff discussed where they expected to see this type of development. Staff believed most development was likely to occur on the 28 vacant parcels in the RD that are between 2–4 acres and that would require a variance to develop without this Ordinance in place. If this Ordinance was adopted, those were the existing lots most likely to be developed first. Mr. Rounds explained that there are also approximately 30 lots between 4–10 acres in the RD that Staff expected to be developed after the 2–4-acre lots. Additionally, based on the Conservation Residential Development (CRD) regulations that the City Council adopted in 2022, any parcel larger than 10 acres would have to go through a CRD subdivision, not a normal subdivision. This means that for any subdivision in the RD that went through CRD, 50% of the lot would need to be conserved permanently. Mr. Rounds thought the City had a lot of conservation tools at its disposal to preserve all the great landscapes of the RD.

Vice Chair Giacomo spoke about the 2–4-acre lots that Mr. Rounds identified and especially the 2-acre properties. He recalled a comment during the public hearing by Eloise Clark, who expressed concerns about runoff from the RD hillsides if impervious surfaces were increased in the District. He said that obviously, the City has a Steep Slopes Ordinance. Still, the Vice Chair asked whether those 2–4-acre lots that are most likely to be developed first shared the same watershed or whether those properties fed various small streams. Mr. Rounds said that most of those lots were located along main roadways in the RD but they are spread across the landscape and not concentrated in one watershed.

Councilor Ormerod thanked Mr. Rounds for investigating and explaining the possible upper bounds of what a build-up in the RD could look like and called it a really good start. The Councilor mentioned multi-family homes in the RD. Mr. Rounds clarified that multi-family homes are not permitted in the RD, but duplexes are possible in CRD subdivisions. Accessory dwelling units (ADUs) are also permitted in the RD and those options would be bolstered with the ADU Ordinance Councilor Ormerod appreciated that clarification and said there are problems in the community with not enough houses that accommodate full household sizes.

Councilor Johnsen said she attended the last workshop, where she said 4–5 residents were very adamant about not wanting this change. Mr. Rounds said that at the last workshop that preceded the public hearing, he thought there was equal representation of residents who wanted this change and those who did not; some were in favor of options for additional housing. Mr. Rounds said this Ordinance would allow more single-family housing, which was identified as a community need in the Housing Needs Assessment. This minimum lot size change would only be one part of that solution, in addition to expanded options for ADUs. Mr. Rounds said Staff looked at increasing housing in the Commerce District and increasing density downtown as parts of the solution as well.

Councilor Jones had been against this Ordinance since the beginning and had not changed his mind. He still believed that this Ordinance would encourage urban sprawl and would “Nashua-ize” Keene. One reason Councilor Jones moved to Keene was because of its unique Zoning and the fact that urban sprawl into the RD was not allowed. Councilor Jones was still opposed and would share more comments at the Council Meeting on May 18.

Vice Chair Giacomo stated that he was in a weird position because he lives deep in the RD but he also appreciated community concerns about urban sprawl, which he said was completely anti-Keene. While the Vice Chair respected Councilor Jones’ perspective, he believed that the necessary safeguards were in place to prevent excessive sprawl. Vice Chair Giacomo said the Council could continue debating the best minimum lot size, but he thought 2 acres was reasonable and would solve some of the problems the City had. He called it a non-zero probability that this Ordinance would result in something bad. The Vice Chair thought the potential benefits outweighed the downsides.

Chair Bosley noted that she also lived in the RD which is surrounded by 5-acre lots and non-conforming 2-acre lots subdivided in the 1970s. She recalled that this matter was severed from a broader CRD Ordinance because of these concerns. She said the Committee heard public

comments twice. She recalled that there was some finger-pointing from the public directed toward the Council suggesting that the Councilors do not appreciate Keene's rural character, which she said was not the case. She concluded that there would not be one clear solution for Keene's housing needs, but she thought this Ordinance would support young professionals entering the housing market or those who want to upgrade from their starter homes. She said the Housing Needs Assessment proved there is a problem. She noted that between Keene's current tax rate and the value of her home, she would not be able to buy it again and she did not know how her children would stay there, though she mentioned the possibility of an ADU. She thought it was essential to provide some creative opportunities for housing. Ultimately, she thought this would be beneficial and would not strip Keene of its character.

Councilor Johnsen made the following motion, which was duly seconded by Vice Chair Giacomo.

On a vote of 4-1, the Planning, Licenses, and Development Committee recommends the adoption of Ordinance O-2023-02. Councilor Jones voted in opposition.

### **10) Adjournment**

Chair Bosley noted that there was a more time agenda item ready to be heard by the Committee. She deferred that item until the next meeting, or it could be heard by the Council on May 18 if time sensitive.

There being no further business, Chair Bosley adjourned the meeting at 8:38 PM.

Respectfully submitted by,  
Katrinya Kibler, Minute Taker

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