

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

**MUNICIPAL SERVICES, FACILITIES & INFRASTRUCTURE COMMITTEE**  
**MEETING MINUTES**

**Wednesday, August 23, 2023**

**6:00 PM**

**Council Chambers,  
City Hall**

**Members Present:**

Mitchell H. Greenwald, Chair  
Randy L. Filiault, Vice Chair  
Robert C. Williams  
Catherine I. Workman  
Kris E. Roberts

**Staff Present:**

Elizabeth A. Dragon, City Manager  
Thomas P. Mullins, City Attorney  
Don Lussier, City Engineer  
Andy Bohannon, Parks, Recreation, and  
Facilities Director  
Kürt Blomquist, Public Works Director

**Members Not Present:**

*All Present*

Chair Greenwald called the meeting to order at 6:00 PM and explained the procedures of the meeting. He continued that they will address the second agenda item first, because people who were planning to attend this meeting regarding the first agenda item had not arrived.

**2) Uncollectable Sewer/Water Bill – 64 Valley Street - Public Works Director**

Chair Greenwald asked to hear from Mr. Blomquist. Kürt Blomquist, Public Works Director, stated that there is an unusual situation. He continued that he cannot remember the last time he had to bring an uncollectable bill to the Committee and the Council.

Mr. Blomquist continued that the residence at 64 Valley St. was sold in a private sale, meaning the seller did not use a real estate firm or agent. They used a lawyer to do the sale. Typically, when a property is sold, the agent representing the seller will contact the Revenue Collection Office and request a final read for the property on a particular date. Staff does that read. If there was any usage prior to the exchange of the property, the read identifies that, and that sets up the account for the new owner. A person from the lawyer's office handling the sale contacted the Sewer/Water staff and the Revenue Collection Office and asked what the current bill was. The person from the lawyer's office did not clearly indicate what was happening. City staff now believes, after working through the issues here, that probably it was a new person in the attorney's office. The Sewer/Water person gave the requested information about what was due at that time.

Mr. Blomquist continued that a little time went by, and the new property owner took over and contacted the City when they were placed on the account and received a bill. The new owner

asked the City why they were paying for the previous owner's usage. City staff realized that the office handling the sale of the property did not follow the typical procedures. Thus, with the information the City had about when the sale occurred, they were able to generate a bill for the new owner for the period they owned the property, as well as generate a bill for what the previous owner owed. City staff had an out-of-state address for the previous owner and mailed the bill to inform the previous owner what they owed the City of Keene. Unfortunately, the previous owner did not respond to the City. The Revenue Collection Office made multiple attempts to get the person to communicate, including using registered communications. Those were returned because no one would sign for them. This went on for several months. Simultaneously, City staff attempted to contact the attorney's office and requested that they pay the outstanding bill. City staff did not receive any confirmation that the attorney's office would be moving forward with that. That went on for about six months.

Mr. Blomquist continued that finally, in his discussions with the Finance Director, they got to the point where the bill became uncollectable. The bill is for \$787.86. City staff looked at what it would take if they were to file in small claims court to get the bill paid. They determined that the staff time would be substantial due to the person no longer residing in the state. It would exceed the \$787. The City probably expended that just in their past efforts to date.

Mr. Blomquist continued that the normal process for outstanding bills is for staff to shut the water off at the property and, if necessary, place a lien on the property. That is why staff normally does a good job at collecting outstanding bills. In this particular case, it was a new owner, and staff felt it was inappropriate to shut their water off for a bill owed by the previous owner.

Mr. Blomquist continued that the City Code gives the City Council the authority to abate, reduce, or forgive *"any bill or assessment for any rate, roll, or charge which may be or which may become legally due to the City, on an account of water or sewer service."* In this context, "forgive;" it is an older word for how you dispose of debt. He and the Finance Director recommend this because the bill has become uncollectable, and they need to clear the books on it. They recommend that the Council forgive this outstanding \$787.86 for this property.

Chair Greenwald stated that that is a good explanation. He continued that with the thousands of water/sewer bills, it is outrageous that this is the only one that has become uncollectable – at least, in all of his years.

Councilor Roberts stated that he understands that it is uncollectable, and he knows it not worth going after in small claims court, but he will vote "no" on this out of principle. He continued that people who buy and sell should know these (matters). They did not do it, and it seems like the individual is making a conscious effort to not pay this bill. That is why he will vote "no." It is an enterprise fund, and by this individual not paying their bill this debt is being shifted to all the other people who are paying their bills on time.

Councilor Workman stated that she agrees with Councilor Roberts. She continued that she does not like the precedent that that will set, of (people thinking) they can run and hide and not pay their bills. She is particularly dismayed by the response, or lack thereof, from the local law office, assuming it was a local attorney who handled the transfer of property. She understands the previous owner trying to run and hide, but she does not like the way the lawyer is handling it. She asked if the staff was allowed to name the law office. She is curious to know because she would not want to do business with them. To some people, \$787.86 may seem like pennies, and it is a small amount in the grand scheme of the City's budget, but it is close to \$1,000. To her, \$787 is a lot of money. That is money the City is now out because someone did not pay their bill. She thinks they should name the law office if they are allowed to.

City Attorney Tom Mullins stated that Attorney Hockensmith's office conducted the closing.

Mr. Blomquist stated that he appreciates Councilor Workman's and Councilor Roberts's concerns. He continued that regarding setting a precedent, whether you are a private business or the City, you go through as much as you are capable of to collect what is legally owed to you. However, as they may be aware, there comes a point where it is not always possible. A private business can write it off as part of doing business. A municipal business does not necessarily have that same capability, but as the Finance Director indicated, they do need to balance the books. Declaring this bill uncollectable is a way of doing that. He does not believe it is setting a precedent. He is sure the folks in the attorney's office have learned. Again, he believes this was a person who was new to their role. He cannot remember the last time he had to ask the Council to consider something like this, because as he said, usually the City's hammer of "We turn your water off until you pay the bill" works well. Staff works diligently with the City's customers to help them when they have issues with payment, and they are usually very successful in getting them paid and not having to deal with these kinds of issues. He appreciates Councilor Workman's and Councilor Roberts's sentiment, but he encourages the Council's forgiveness on this so the Finance Director can make sure the books are equal. If this continues to carry on, it is an issue for the City's finances.

Chair Greenwald stated that this is a good discussion and Councilor Workman and Councilor Roberts are making a good case. He continued that it reaches a point where it is a business decision, and the staff time involved with collecting this amount, and the reality is that when you get a judgment from small claims court, collecting that judgment is very difficult. If the person is out of state, it is "not even worth the postage." He is sure that the attorney(s) who did the closing will not let this happen again.

Councilor Filiault stated that he is with Chair Greenwald on this, although he agrees with the comments Councilor Workman and Councilor Roberts made. He continued that it does not make sense to go after \$787, if it would wind up costing the City a couple thousand dollars in staff time, court fees, and chasing people around. You cannot say to the taxpayers, "We saved you \$787 but it cost us \$2,000 to go get it." He is using a rough number; it could be higher. He has been here over two decades and can count on one hand the amount of times the City has had

to ask the Council to forgive a bill. Thus, the City obviously does not have a problem and has done a phenomenal job over the years. They should forgive the money and move on.

Councilor Williams asked what the negative effect is of leaving an open debit like this on the books. City Manager Elizabeth Dragon replied that she does not think the auditors are crazy about it, but it can be “bad debt.” She continued that eventually, you have to write off the bad debt and clean it up. It is still relatively new; she thinks it is from [2022]. The City will not get dinged on its audit as a result of that, but at some point, it will need to be addressed. She thinks the bigger concern was whether to spend more staff time because the next step would be the City Attorney’s Office, and because it is an out-of-state case, it would be more costly to pursue. Councilor Williams replied that if they were ultimately going to have to write off the bad debt anyway, he would just as soon get it done tonight.

Chair Greenwald asked for public comment. Hearing none, he asked if the Committee had anything further to say. Hearing none, he asked for a motion.

Councilor Williams made the following motion, which was seconded by Councilor Filiault.

On a vote of 4-1, the Municipal Services, Facilities, and Infrastructure Committee recommends that the City Council forgive the Sewer/Water Bill for 64 Valley St., Account 0899-09, in the amount of \$787.86 as being uncollectable. Councilor Roberts was opposed.

- 3) Relating to the Acceptance of Deed and Return of Layout – Brookfield Lane**
- Resolution R-2023-28**
- Resolution R-2023-29**
- Report on Planning Board Review of Brookfield Lane**
- Written Public Comments – Tad Lacey**
- Written Public Comments – Ross Conklin**

Chair Greenwald stated that relating to the acceptance of deed and return of layout, Brookfield Lane, the Petitioner has asked for a number of waivers. He continued that the Committee has three Resolutions, a report from the Planning Board, and written comments from Tad Lacey and Ross Conklin.

Chair Greenwald asked the City Attorney to first explain what the public can or cannot comment on, since there has been a public hearing. The City Attorney replied that according to the City Council Rules, because it was the subject of a public hearing and the public had the right to speak and submit further written comments, no further public comment is allowed. He continued that if the applicant has specific questions of the City, they could answer those, but generally, the public is not allowed to speak at this point.

Councilor Roberts asked if this is the one that had the on-site hearing last week. Chair Greenwald replied yes. Councilor Roberts replied that he was not present at that, so he is not

allowed to participate tonight. Mr. Blomquist replied yes, since Councilor Roberts did not participate (in the on-site hearing), he is unable to participate in the Committee's discussion or vote and he is unable to participate in the City Council's discussion and vote.

City Engineer Don Lussier stated that they are here to talk about a petition that has come before the Committee and the Council for the layout of a new public highway. He continued that the Petitioner has requested that the new public highway be known as Brookfield Lane. This was the subject of last week's public hearing and site visit.

Beginning a slide presentation, Mr. Lussier continued that if the Council approves this petition and adopts this as a new public highway, the City) will be taking responsibility for new public infrastructure. Specifically, it will include about 850 linear feet of new roadway, 1,350 feet of public sewers, and two culverts. The sewers will connect to existing sewers on the Langdon Place parcel. When Langdon Place was developed, the developer foresaw the opportunity to develop across the street, and they included with their development a sewer easement to the City, to have public sewers across that property. The developer of this residential development proposes to connect to those sewers that already exist.

Mr. Lussier continued that the authority and process for laying out a public highway is found in State law. RSA 231 lays out the requirements and the items that have to be done. You must have a petition, which was submitted to the Council by the property owner. You have to have a notice, at least 30 days in advance, of a public hearing to do the site visit; that happened last week. There has to be a referral to the Planning Board. The MSFI Committee's agenda packet has a letter from the Planning Director. In the case of this development, the developer went to the Planning Board before submitting the petition, and the Planning Board has already approved the subdivision plan. They have the Planning Board's approval for the new roadway.

Mr. Lussier stated that by State law, the Council gets to decide what the damages are for roadway layout across private property. In this case, the property owner is the one making the petition. The City requires, as part of its process, that the property owner sign a waiver of those damages. Obviously, the City will not pay them to take property that they are developing and giving to the City. The last step is the "Return of Layout." It is a 7document that gets filed with the City Clerk's Office, and that is the last step that turns a strip of land into a public road and makes the City responsible for the maintenance of it.

Mr. Lussier continued that the City's implementation of these regulations is described in Chapter 22 of the Land Development Code (LDC), Public Infrastructure Standards. Some relevant quotes are: "*All public infrastructure shall be formally laid out and accepted.*" In other words, this process of layout and acceptance is what they are supposed to use. Other processes can be used, prescription and whatnot; but they are used less often. The City Council has adopted the layout as its process for establishing public ways. The LDC says, "No improvements shall be considered for layout until such infrastructure has been demonstrated to meet all standards in this article." That is a paraphrase of a much longer paragraph, which says that those public

infrastructure standards, which cover everything – such as pavement, sidewalks, trees, water and sewer utilities, drainage, and telecom - apply when they are accepting new public infrastructure. Finally, *“Requests for waivers from the standards of this article shall be addressed in writing to the City Engineer, who shall make written recommendations to the City Council.”* That is what he is doing here tonight with the rest of this discussion.

Mr. Lussier continued that the Petitioner has asked for four waivers to those public infrastructure standards. The first one is Section 22.3.7 A., the standard that covers sidewalks. It says, *“Sidewalks shall be required on at least one side of any proposed street in any residential zone.”* This is a residential zone, and it applies. In this case, Public Works staff recommends the Council grant this waiver. There are no connecting sidewalks anywhere near this neighborhood; it is an island to itself. It would be very difficult for the City to do routine winter maintenance and get a piece of equipment out there to plow it. The Code has a provision where the applicant provides an alternative system of pedestrian accommodations. This applicant proposes to build a footpath on their private property that will connect to the Cheshire Rail Trail system, which is just behind and adjacent to the development. City staff thinks this is a good alternative. It allows people convenient and safe access to the trail network, which they can then use to access downtown Keene and all of the amenities.

Mr. Lussier continued that the next waiver request is Section 22.3.8.B., the standard regarding street lighting. The relevant parts are, *“Streetlights shall be required at intersections in all zoning districts and along the length of proposed public streets in all residential zoning districts.”* It is applicable here. It would require that they have streetlights at a maximum of 400 ft. spacing, so for this road, staff recommends one at the beginning of the intersection with Whitcomb’s Mill Rd., one at the end of the cul-de-sac, and one in the middle of the road. The project’s engineer spoke last week about the benefits of having a dark sky to enjoy at night, but the standards are there because people who live in these residential districts generally want to have a lit street so that at night, they can safely walk their dogs and ride their bikes. The City Council established that as a standard. City staff have not really seen a compelling reason to not uphold that standard, so they recommend against granting that waiver.

Mr. Lussier continued that the next waiver relates to sidewalks, 22.3.[7] D, *“When underground street lighting feed is required, telephone, electric, and cable TV shall be located underground also.”* It is applicable in the Low Density District. In this case, the standards would require that those streetlights be fed underground, and therefore, all the other utilities would be required to be fed underground. Last week, the project’s engineer spoke about the difficulty in obtaining conduit to put those utilities underground. He himself cannot verify or validate that; however, the Council adopted the standard for a specific reason, that this was the aesthetic they wanted Keene’s residential neighborhoods to have. Staff recommends against granting the waiver.

Mr. Lussier stated that the last waiver is regarding street trees, Section 22.3.16.A, *“There shall be at least one deciduous tree of a minimum 2-inch caliper at planting and of a species approved by the Public Works Director for every 50 feet interval of each side of any new street or*

*extension of any existing street.*” He continued that the standards, presumably, are adopted to achieve a specific goal, which may be aesthetics, but also it is about achieving things like reducing the heat island effect, mitigating climate change, and addressing storm water concerns. All of those are addressed by the presence of street trees. The standards have a caveat for the Petitioner to provide those street trees either in the public right-of-way or within 20 feet of it. He does not know if the applicant has decided to do it one way or the other. The applicant has requested a waiver from this standard. Staff does not see a compelling reason to not have street trees. Last week it was discussed that the property is heavily wooded, but once that development is built and people buy those lots, there is no way of telling property owners they cannot cut trees down on their property. That is not to say that everyone is going to clear-cut their front yards, but the standards exist to protect the City’s interest in having that aesthetic quality and having those benefits of street trees. Staff recommends against the waiver.

Chair Greenwald stated that the Committee has two Resolutions, a report from the Planning Board, comments (from the public), and these waivers. He asked the City Attorney if each of these should have separate motions. The City Attorney replied that each Resolution requires a separate motion and action. He continued that the return of layout gets filed if the Committee and Council agree to accept the road as a public way, so there does not need to be a specific motion on that, because that will just get recorded with the City Clerk’s Office if the Council agrees to the petition. He has a question for the City Engineer. There was an option on here to place it on more time. He asked if that was because of the question with the Planning Board. Mr. Lussier replied that he thinks so, but that has been resolved, since the subdivision has been approved by the Planning Board.

The City Attorney stated that he thinks they should have a motion to accept both Resolutions. Chair Greenwald asked what R-2023-28 is. The City Attorney replied with the acceptance of the deed. Mr. Blomquist stated that the Committee should accept the communication from the Planning Board. Chair Greenwald asked what R-2023-29 is. The City Attorney replied the Resolution for the layout of Brookfield Lane and its public utilities and improvements. He continued that the Committee has to discuss the waivers in connection with that, and whether they want to grant those. If the Committee decides to make a change with respect to the waivers, then R-2023-29 will have to be amended, because that Resolution currently includes the waivers that are being requested.

Chair Greenwald stated that he is trying to determine the process. He continued that the Planning Board communication would be accepted as informational, and comments from Mr. Lacey and Mr. Conklin would be accepted as informational as well. Mr. Blomquist replied that the Committee needs to then vote on each waiver, to recommend approving or denying. He continued that then they would need to amend R-2023-29, saying (something like), “recommend adoption of R-2023-29 based on the vote of the various waiver requests.” Councilor Filiault asked if the Resolution would then become an A version. Mr. Blomquist replied yes.

Chair Greenwald stated that Mr. Conklin's and Mr. Lacey's comments are appreciated. He asked if the Committee had anything to say about those comments. The City Attorney suggested Chair Greenwald explain what those communications were, which were submitted after the public hearing, and the public has not had an opportunity to hear those.

Chair Greenwald read:

*"Dear Councilors,*

*As a follow-up to my testimony at the last City Council meeting:*

*No further City approvals should be given to the Brookfield Lane development until significant safety improvements are made to the Whitcomb's Mill Rd./Rt. 9 intersection. That intersection has always been dangerous, and the incremental development on the westerly side of Keene, e.g. the junior high, the YMCA, Summit Rd. area businesses and condo developments, the rail trail parking lot, and car dealerships (test drives), have dramatically increased the use of the intersection with virtually no safety improvement.*

*This development will only add to the safety issues. There have been numerous accidents over the years, but it seems it might unfortunately take the ultimate sacrifice to get anyone's attention, as occurred at Rt. 9/Base Hill Rd. after years of the locals dealing with the unsafe conditions.*

*Among the issues are 1) very high speeds (on Rt. 9), 2) lack of turning lanes, 3) poor warning to 55+ mph drivers that an intersection is coming, and 4) blind spots.*

*Suggested improvements are reducing the Rt. 9 speed zone from 55 to 40 mph from the roundabout at Base Hill Rd. to .5 miles west of Whitcomb's Mill Rd., a blinking light at the intersection of Whitcomb's Mill Rd. to warn Rt. 9 travelers, and improved turning lanes onto Whitcomb's Mill Rd.*

*By the way, an EMT was administering to the driver of a smashed up car on Rt. 9 just a few yards below the Daniels Hill Rd. intersection (same area as Whitcomb's Mill Rd.) this past Friday afternoon. Such is life in this neighborhood.*

*Respectfully,*

*Tad Lacey"*

Chair Greenwald asked Councilor Workman to read Mr. Conklin's letter for the record.

Councilor Workman read:

*“I’m writing to express my concern about the traffic intersection at Whitcomb’s Mill Rd. and Rt. 9, West Keene. This traffic intersection is already very congested and dangerous. The additional traffic resulting from the Brookfield Lane development will make it even more so. I know there have been at least two serious accidents in the last three years. I believe one resulted in the death of a passenger. The sight lines to the west are not good. When sitting on the north side of the road, the high guardrails force the driver to pull up very close to crossing traffic. When sitting on the south side, the tree line and road curvature make it challenging to see eastbound traffic. This intersection gets very crowded when Keene High School dismisses, and often drivers get impatient.*

*I strongly encourage you to see if there is any way to work with the NH Department of Transportation to make this intersection safer prior to, or alongside, the approval of Brookfield Lane development.*

*Thank you for your consideration,*

*Ross Conklin”*

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

On a vote of 4-0, the Municipal Services, Facilities, and Infrastructure Committee recommends accepting the communications from Tad Lacey and Ross Conklin as informational.

Chair Greenwald stated that next, they will address the Planning Board review of Brookfield Lane.

Councilor Filiault read the memo from Jesse Rounds, Community Development Director:

*“At the May 22, 2023 meeting of the City of Keene Planning Board, the Board voted to conditionally approve S-03-23 (Conservation Residential Development Subdivision) and SWP-CUP-02-23 (Surface Water Protection Conditional Use Permit) for the property located at 19 Whitcomb's Mill Rd. Once all conditions precedent are met, the petitioner may request the Planning Board to vote to provide final approval for the subdivision of the land.*

*Conditions precedent numbers 8 and 9 refer to a proposed public street to be laid out and constructed on the property. Condition 8 requires that the applicant obtain approval from the Keene City Council for all necessary waivers from Article 22 of the Land Development Code for the proposed new street design. Condition 9 requires that the applicant obtain approval from the Keene City Council for the layout of the new street and that “an adequate security” be posted for the construction of same as approved by the City Engineer and Community Development Director.*

*The applicant subsequently brought the proposed public street to the City Council on August 14, 2023. This application to the City Council is in accordance with both the conditions precedent of the Planning Board's conditional approval and with Article 22.2 of the City of Keene Land Development Code."*

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

On a vote of 4-0, the Municipal Services, Facilities, and Infrastructure Committee accepted the memorandum from the Community Development Director as informational.

Chair Greenwald stated that the Committee will next address R-2023-28, acceptance of the deed. He asked for questions or comments. The City Attorney suggested addressing the waivers first, because that could influence how they go about accepting the deed.

Chair Greenwald stated that the applicant has requested a number of waivers, some of which the City is in favor of, and some of which the City is not. He continued that the Committee will consider each waiver one at a time. The first one is regarding sidewalks. The City Code wants sidewalks on most any street, but for this one, staff says sidewalks are not essential because there are provided pathways and connections. He thinks this solution is good, and he is glad to hear that they are not requiring concrete sidewalks and granite curbs in a rural neighborhood, which he thinks the Code needs to address and give more flexibility to. He asked if anyone wanted to make a motion.

The City Attorney stated that he has a suggested change to the motion, to make the motion consistent with the other recommendations. He continued that the [recommended motion] would be "move to recommend the approval of the requested waiver," if the Committee is inclined to do that. The recommended motion says, "move to recommend the requested waiver."

Councilor Williams stated that [the recommended motion] says that "sidewalks shall be required," and they are saying the opposite of that. He asked if they should say "shall not be required." The City Attorney replied that it is "the approval of the requested waiver." The sidewalk is only referencing the 22.3.7.A, which is why he wanted to make it clear.

Councilor Williams made the following motion, which was seconded by Councilor Filiault.

On a vote of 4-0, the Municipal Services, Facilities, and Infrastructure Committee recommends approving the requested waiver of Section 22.3.7.A., "Sidewalks shall be required on at least one side of any proposed street in any residential zoning districts."

Chair Greenwald stated that street lighting is the next requested waiver. He continued that the Code wants streetlights in all zoning districts along the length of the road. The Petitioner is requesting that they not be required. City staff recommends that they should be.

Councilor Williams asked if this would be a standard City streetlight, and if those have any features that protect the night sky. Mr. Lussier replied that the current Code says that all new streetlights should be solar-powered. He continued that there is not a lot of precedent for that yet. That is what they are installing, for example, on Winchester St. right now. It also requires all of the streetlights to be fully cutoff, so it avoids glare and uplighting.

Chair Greenwald stated that if they do require streetlights, then they will be requiring underground wiring, whether it is needed or not, which is an anomaly to the Code. He continued that he keeps hearing, “housing, housing, housing,” particularly affordable housing. This is not going to be low-income housing, but increased expenses heaped on a builder/developer are reflected in the price of the housing. Most of the Committee has been to the site. It is rural, which is part of the allure. Putting up streetlights does nothing for him. He lives on a dead-end road that predates all City Codes, and residents get along fine without streetlights, and with overhead wiring. He is more in favor of making the housing a little more affordable, a little more encouraging for builders, so he is good with waiving the streetlight requirement as well as the underground wiring.

Councilor Filiault stated that he agrees with Chair Greenwald, especially given the rural nature of this development. He continued that it will be a little darker, which he thinks many people would like, given the rural character of the neighborhood. If anyone wants a bit of lighting, he is sure there will be some porch lights put on out there. He has no problem with the request, based on where the development is proposed.

Councilor Workman stated that her concern is the number of streetlights. She continued that it sounds like there would only be three. Having worked at Langdon Place, she is familiar with their lighting. They have many lights throughout the property, but they are not what one would deem a typical streetlight. She asked it would be possible for Brookfield Lane developers to mimic the lighting at Langdon Place to blend with the character of the neighborhood.

Mr. Lussier replied that it certainly is possible; he is just trying to think of what form that would take, in terms of the City Council’s motion and adoption of a Resolution. He continued that he is not sure he knows the answer.

Mr. Blomquist stated that something for the Committee to think about is that these become the City’s responsibility. He continued that these would not be the responsibility for the future residents of the project. They have to remember that with all of these projects, the developer eventually goes away, and then the infrastructure becomes the City’s responsibility. Having a set of streetlights that is not in the City’s inventory is an additional cost to the City, which is something to think about for the long term. If they do not go underground for electrical and telephone, there will be utility poles on Brookfield Lane. That is how the electricity will get there. He is confident that if future residents feel it is too dark there, they will come in and request that the City place streetlights out there. Hopefully, the Council would be putting on the record that when a future resident comes in requesting streetlights, the Council would be able to

deny that request, having determined that streetlights are not appropriate for the location. That is something to think about.

The City Manager stated that she will add one more thing for the Committee to think about – they have heard comments from the public about the safety of that intersection. She continued that lighting at an intersection does improve the safety of the intersection.

Chair Greenwald stated that the intersection is on City land, also, if there was a real need and desire to have a streetlight at the intersection. Mr. Blomquist replied that it would be the intersection of Brookfield Lane and Whitcomb's Mill Rd. He continued that again, they would be placing the responsibility of the costs onto the general taxpayer. There is a developer saying “We want to do this,” and it is typically appropriate to have the developer provide that infrastructure, because ultimately, the responsibility for its replacement and its cost falls back onto the City. As the Committee is considering this, he concurs with the City Manager that if the Committee wishes to not require streetlights down the street, the intersection should be lighted, for safety. The Federal Highway and the City Engineer could comment on this. On rural roads there is more of an emphasis because rural roads have a higher vehicle accident rate than urban roads, and typically those accidents are more severe at areas where there is a change, such as curves or infrastructure. Lights are warranted for those.

Chair Greenwald replied that they could say there needs to be a streetlight at the intersection and not trigger the other four and the underground utilities. He asked if that is correct. The City Attorney replied yes, and he was going to make that suggestion as a sort of compromise. He continued that if the Committee wanted to recommend the approval of the requested waiver, with the exception of a streetlight to be located at the intersection, they could do that.

Councilor Williams asked if they would still be able to require underground wiring if they did not do the streetlights. Mr. Lussier replied that the way that the LDC is currently written, the requirement for underground wiring is a subparagraph of the streetlight section. He continued that it is probably not the best way of structuring it, now that they are getting into this, but because of the way it is written, that requirement for underground wiring would only apply if the streetlights had to be fed underground.

Chair Greenwald stated that his concern is the cost of doing it. He continued that he knows it is very expensive. The developer has to build the road, which is not inexpensive work.

Councilor Williams stated that he is strongly in favor of underground utilities. He continued that he is neutral about the streetlights but would be supportive if it includes underground utilities. He understands that cost is an issue here. He would be more concerned if they were talking about \$200,000 houses rather than \$500,000 houses. At that level, he thinks that the people moving in there will not be too hurt to pay what it costs additionally to put the utilities underground, which would save the City money in the long term. Underground wires are not affected by ice storms. They are more secure, in terms of the power not going out. The poles do

not need to be replaced as often. You could make the case that if you do not bury the wires in the beginning, you are taking that cost and shifting it onto the general public down the line. He would rather those costs are covered upfront.

Chair Greenwald stated that they will vote on each topic separately but are discussing them jointly. He asked about the trees. He continued that the LDC wants one deciduous tree, with a minimum of 2-inch caliper, every 50 feet. They have not heard what the Petitioner thinks about this, or maybe he missed it at the presentation. He asked Mr. Blomquist what the problem with this is for the Petitioner. The City Attorney replied that he recalls that the problem was the cost and the fact that it is a rural zone with many trees. He continued that that was the point the Petitioner was making.

Councilor Williams stated that he would prefer to keep the trees. He continued that one reason is that street trees reduce speeding, and this road looks like it has the opportunity to be a bit of a speedway getting down to the circle at the end. He thinks trees encroaching on the road a bit would slow cars down a little and it would be a little safer.

Councilor Filiault stated that he agrees with the waiver. He continued that as they saw with the site visit, all that is out there are trees. The comment was made that maybe a property owner will decide to clear cut a few, but he thinks the people who will move there are looking for the rural character and probably will not be removing too many trees. With some projects in the city, he understands that they need trees to add a little character, but this is an extremely wooded, rural area. He thinks there are enough trees, and adding more is an unnecessary added expense.

Councilor Workman stated that she supports the denial of this waiver, because they are discussing a lot of “what ifs” and putting a lot of faith on unknown homeowners, hoping they do the right thing. She continued that as was pointed out, the Council decided to have these safeguards in place for a reason, so they can maintain the character of the city. She thinks this is a simple solution and they should deny this request because they do not know what the potential homeowners are going to do. They may come in and completely clear their land. The Council would have no control over that, but this, they do have control over.

Chair Greenwald asked if someone wanted to make a motion about the streetlights.

Councilor Workman made a motion for the Municipal Services, Facilities, and Infrastructure Committee to recommend the denial of the requested waiver of Section 22.3.8.B, “Streetlights shall be required at intersections in all zoning districts and along the length of proposed public streets in all residential zoning districts.” Councilor Williams seconded the motion.

Chair Greenwald stated that just to be clear, the denial will mean that the full requirement of streetlights will be required. He continued that the possibility they just discussed, of just the streetlight at the intersection, would not be part of this motion.

Chair Greenwald made a motion to amend the motion to require a streetlight at the intersection only. Councilor Williams seconded the motion.

Chair Greenwald stated that he thinks the safety issue is the intersection, and that is it. He continued that he does not think anything further is necessary, and the dark sky at night is very important for the rural nature of this location.

The motion to amend passed with a vote of 3-1. Councilor Williams was opposed.

Chair Greenwald stated that the motion stands amended, to require a streetlight at the intersection. The City Attorney replied that now they need to clarify the motion, because they do not want the other two streetlights (that the LDC requires). He continued that the amended motion would be, "Move to recommend the approval of the requested waiver of Section 22.3.8.B, except for the placement of a streetlight at the intersection."

The motion passed with a vote of 4-0.

Chair Greenwald stated that the next issue is the request that the underground wiring be waived.

Councilor Filiault stated that he has a technical question. He continued that the (LDC requires) underground wiring "*when underground streetlight feed is required,*" but because of the motion they just made, they will not have streetlights there anyhow, so this is a moot point. The City Attorney replied that there will be underground lighting at the intersection. Councilor Filiault replied yes, at the intersection, but going into the project, this is no longer needed. The City Attorney replied that that would be his take on it, too.

Mr. Blomquist stated that perhaps for clarity's sake, the Committee could move to recommend granting the waiver for the underground wiring. He continued that it is a little confusing how these two interact with each other. The City Attorney replied that it is also a little confusing in the LDC.

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

On a vote of 3-1, the Municipal Services, Facilities, and Infrastructure Committee recommends approving the requested waiver to Section 22.3.7.D, "When underground street lighting feed is required, telephone, electric, and cable TV shall be located underground also." Councilor Williams was opposed.

Chair Greenwald stated that the Petitioner requests a waiver for the deciduous trees.

Councilor Williams made a motion to recommend denial of the requested waiver of Section 22.3.16.A, "There shall be at least one deciduous tree of a minimum 2-inch caliper at planting

and of a species approved by the Public Works Director for every 50 feet interval of each side of any new street or extension of any existing street.” Councilor Workman seconded the motion.

Chair Greenwald stated that just to be clear, the motion is to require the trees to be planted. He continued that the Petitioner is asking that that not be required.

The vote was 2-2. Councilor Workman and Councilor Williams were in favor, and Chair Greenwald and Councilor Filiault were opposed. Chair Greenwald asked what they do now. The City Attorney replied that it goes to the City Council with no recommendation.

Chair Greenwald stated that now they can move R-2023-28, acceptance of deed. The City Attorney replied that he recommends doing them in the other order, beginning with the layout, R-2023-29. Mr. Blomquist added, the A version, subject to granting or denial of the requested waivers. The City Attorney replied yes, it would be R-2023-29-A. He continued that they will need to recraft Section 7 of the Resolution in accordance with what was just decided, rather than doing that on the fly. Mr. Blomquist replied that they can pass it tonight as an A version, and the background notes will be there. The City Attorney replied yes, they will submit the A version to the City Council with the changes.

Chair Greenwald made a motion to recommend the approval of Resolution R-2023-29-A. Councilor Filiault seconded the motion.

Councilor Filiault stated that regarding the letters that Mr. Lacey and Mr. Conklin sent, and their comments made before the City Council about what should be part of the project, that intersection is very dangerous. He continued that that is not a City street; it is a State highway. His question is whether the State has been notified or talked to about this intersection. He was listening to the scanner the other night right when an accident happened there. He wants to make sure the State will be involved here, because it is the State’s intersection.

Mr. Blomquist replied that the answer to Councilor Filiault’s question is yes. He continued that the issue is that at the end of the day when the State looks at these, they look at statistical data, and to date, they have not found sufficient reasons to perform any changes at the State’s cost. City staff is working with the Southwest Regional Planning Commission (SWRPC) and will be requesting to the State a “road safety audit.” The State will either approve or disapprove the road safety audit. Councilor Filiault asked Mr. Blomquist to send that study back to the MSFI Committee when they have it. Mr. Blomquist replied yes, but so the Committee is aware, it will probably be a year away. He continued that they first have to submit it, and it goes through a State committee he himself participates in, Highway Safety Program Committee. That committee funds all the road safety audits across the State. They review the information and determine whether the applicant meets the criteria. Then the on-call engineering contractor goes out and performs the audit and reports back. That process takes about a year. Councilor Filiault replied that he understands that, and wants to point out there is a potential development down the road that will be increasing traffic in this location, which is updated information for the State to

be aware of. Mr. Blomquist replied yes, and he wants the Committee, the public, and the Council to understand that this is not something that just happens quickly; it is a process.

The motion passed with a vote of 4-0.

The City Attorney stated that the A version that will go to the City Council for its consideration next week will not change anything with respect to the street trees until the Council acts. He continued that assuming the Council acts and makes a change, there may be a B version.

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

On a vote of 4-0, the Municipal Services, Facilities, and Infrastructure Committee recommends the adoption of Resolution R-2023-28.

**1) Keene ICE Expansion – Expanded Locker Rooms - Keene State College**

Chair Greenwald stated that Keene ICE is in a City building. He continued that the Parks, Recreation, and Facilities Director is the administrator of the ice arena.

Andy Bohannon, Parks, Recreation, and Facilities Director, stated that they are in the exploratory stages of Keene State College (KSC) possibly expanding the footprint of the Keene ICE arena. He continued that to give some history, Keene ICE was formed in 2011, began to do fundraising, and created this amazing facility for the City of Keene with one sheet of ice, several locker rooms, and bleachers. Unused space under the bleachers was potentially tapped for future growth. The new arena has been a great success for all the programs that have been involved, from hockey championships with the high school and the KSC men's club team, to women's leagues, to the Learn to Skate program. The Learn to Skate program has really taken off and has become a focal point of the community, which was the whole intention of the program when it was started.

Mr. Bohannon continued that success drives more success, and that is what KSC is looking at today – how to expand their community and resources and get more students involved in the college. The prime way to do that is through athletics. They have funding to expand their athletic program with the men's and women's varsity hockey programs, along with Esports, which he is also excited about because the Rec Center has an Esports program. He will be talking with (KSC's) Athletic Director about that. KSC is looking for the opportunity to expand the locker room space and work with the City to expand the locker rooms underneath the bleachers and into the City space behind that. In that space, the City has basic storage of some old materials that they need to either hold for a while or move. This is a real win for Keene ICE, to be able to utilize ice time that is not necessarily used during the middle of the day for the practice sessions, as well as for the rink services group that manages the rink. Their president, Gary Warner, would be doing all of the scheduling for them. They would also take care of making sure they meet the correct guidelines from the NCAA. At the last Keene ICE board

meeting, the board was in support of this action. He and Nathalie Houder, KSC Vice President for Finance and Administration, are here tonight to give an update. Raphal Podniesinski, chair of the Keene ICE board, is also here. He asked Ms. Houder to speak.

Ms. Houder stated that as Mr. Bohannon mentioned, their previous conversations have focused on enhancing the community collaboration between KSC, the City of Keene, and the surrounding communities. She continued that ice time is critical. She played ice hockey, as did her son. They have managed to support all of the local high school teams and all of the other organizations that Mr. Bohannon mentioned. The beauty of this is that, as Mr. Bohannon said when he said this is “win/win,” KSC is committing to adjusting their academic scheduling during the time blocks that would allow their hockey teams to avail themselves of ice time that is not being used currently. They are not trying to take on ice time that is used by the high school teams and the organizations already. They are talking about morning towards afternoon. It is a complementary relationship and use of ice time between what is being used now and how KSC would utilize the ice time. The space is not being used right now and would be available for KSC additional construction for the locker rooms.

Ms. Houder continued that having been around for the process from the very beginning, she wants to add that this brings more people to Keene. More students at KSC, more hockey games, would bring traveling teams and other potential visitors to the Keene community to partake in the regular season games they anticipate occurring, and being an NCAA varsity team allows them to participate in post-season play. They have already been approved for the LEC conference [Little East Conference] as one of six members of the LEC for both men’s and women’s. They are ready to go. She is happy to answer questions.

Chair Greenwald stated that he sees that women’s hockey is here, but he was hoping to see other representatives from Keene High School (KHS), Cobras, figure skating, and so on and so forth. He believes they were all notified but did not come. There are some issues he was hoping to ventilate a little bit. He continued that he and Councilor Filiault were both around for the inception of this ice arena and were both believers in it. It is a great recruiting tool for the City and employers, also. They do a good deal of business with C&S, and when new people come in, it becomes part of the tour. It is of interest not only to the college, but also to the City, which is great. His concern, which he thinks Ms. Houder partially addressed, is that ice time is precious, and competitive, regarding who gets it. He wants to make sure that KHS is not practicing at 2:00 AM to make room for KSC. His first priority is the local ones, and with KSC coming in with a new facility, new locker rooms, he wants to make sure it does not overshadow the others.

Chair Greenwald asked if KHS would have access to the new locker rooms. Ms. Houder replied that her “understanding is that they have locker rooms that are already available for them, or they don’t.” She does not know what they use currently. She continued that (KSC) had anticipated that the new locker rooms would be just for KSC. KSC is putting in the investment. However, they anticipate that other parts of the buildout would benefit all of the teams that use Keene ICE, such as a media room and so forth.

Chair Greenwald replied that that could become a negotiable. He continued that perhaps while the work is going on it could provide facilities for [others]. He does not know what the women have versus what the men have, on a high school level, but it could benefit everyone if it happens at the same time. There could be some good discussions. Ms. Houser replied that she would be open to discussions, but she has to say that the investment that KSC has mapped out from a financial perspective has been exclusive for the use of KSC for the varsity teams, because they do require their own locker rooms.

Councilor Roberts stated that he will put his “school board hat” on and say, there was initially a problem at the ice arena with the hockey teams, because the boys were allowed to leave their equipment in their locker room and the girls had to take theirs out every day. He continued that it was a Title IX issue. They have gone on to correct that issue so the girls’ and boys’ hockey teams would have the same items.

Chair Greenwald stated that there has not been a lot of communication about what is going on (at Keene ICE), with the City Council, probably since opening day, so he is excited to hear more from Ms. Houser and Mr. Bohannon.

Ms. Houser stated that KSC considers itself local as well, so they want to make sure that their benefit is not to the detriment of anyone in the Keene community. She continued that she is always available to answer questions. If KSC can move forward, and she hopes they can, it would be with working with Keene ICE, the City, and the organization that operates Keene ICE.

Councilor Filiault stated that he agrees with nearly everything that has been said, and agrees that this is a win/win. He continued that he is a big hockey fan and spends a lot of time at Keene ICE in the winter. He attends many of the KSC hockey club games. He asked if they will be keeping a team also. Ms. Houser replied yes, the club team will stay the way it is, and they have been fortunate to have such a successful club team. They want to add on to that success with two NCAA teams. Councilor Filiault stated that like Chair Greenwald, he wants to make sure that everyone gets along and gets their ice time, and that no one gets the 2:00 AM short stick draw.

Councilor Filiault stated that he heard a comment the other day that when Keene ICE was developed, and the Public Works facility, they laid out in the development that potentially down the road a second sheet of ice could be laid. To be clear, he is not proposing anything. His question is whether that is viable if the success of Keene ICE and the ice time became so tight. He knows one of the reasons they cannot have more tournaments here is the one sheet of ice, because most colleges and high schools require at least two.

Mr. Bohannon replied that he thinks it is viable with the space that they have, with the giant caveat that they probably would be looking at building a brand new facility. He continued that it would take away a significant amount of space from the Public Works operations area, and currently, they do not have that space to do that. They would be giving up quite a bit and

creating quite the facility. Councilor Filiault replied that it sounds like something a future City Council could look at down the road.

The City Manager stated that she wanted to add her thoughts on the KSC's expansion request. She continued that she thinks this is a very exciting opportunity. The college is looking at expending over a million dollars to create this locker room space. In addition, they are working around the existing ice time schedules, which is important. That was a big concern the last time a proposal came forward. The college is very willing to work around that ice time, so that does make it a win/win. Keene ICE, as a separate entity, really could use the additional revenue. They are managing to get by, but as the Committee knows, at times the financial situation with Keene ICE has been strained. Thus, this is a win/win for them as well. In terms of the overall economic development and activity in the city's downtown area and hotels, it will bring additional visitors to the city. She thinks it will also bring additional students to the college, and with the declining enrollment of the last several years, she thinks it is important that they have a way to maintain their level of student population and even slightly grow it. This is an exciting opportunity for the city. There is some work to do, in terms of getting all the agreements in place. Some lengthy agreements were put in place when Keene ICE was created, so tonight she is asking the Committee to recommend authorizing her to begin the negotiations for some of those agreements, with the help of the City Attorney. Then they would come back once they had a final plan in place.

Councilor Roberts stated that he completely agrees with the City Manager. He continued that running a hockey rink is an expensive proposition, and most hockey rinks around the country understand that if you want to be above water, you have to have someone on the ice nearly every hour of the day. Because of many people's passion for ice, whether figure skating or hockey, you can find people/hockey leagues who will play at 2:00 AM. He was here when Rick Scott and his team started looking at creating something in that area. The individual from the candy shop was looking at coming up with proposals. They started to fundraise. With fundraising, you look at what you can do to get off the ground, and now they are off the ground. They knew they would get to a point where some major repairs and other costs would be involved, and to keep it viable, and so they can do those repairs and keep it upgraded and, as others said, make it NCAA standards, they need money/a viable partner. He wholeheartedly supports this.

Mr. Bohannon stated that through board conversations related to ice time and scheduling, he learned that Gary Warner manages about eight rinks in the state. He continued that Mr. Warner recently had this same scenario occur in one of the Nashua rinks. Revere College created a NCAA team and implemented that into the existing schedule of all the high schools and other teams in the Nashua rink. Thus, Mr. Warner is familiar with what needs to happen. It is fortunate that both the high school and college have their schedules way in advance of, say, youth leagues, so Mr. Warner can begin to understand what it is going to look like and forecast way before any problems should arise. He wants the Committee to be aware of the fact that Mr. Warner is already in the mode of looking to make sure this works.

Ms. Houser stated that regarding the investment mentioned, KSC was fortunate enough to receive an investment from the University System of New Hampshire. That is where these funds are coming from. They anticipate that it would be about up to \$1 million, and anticipate that it would be two phases, so they can build the first floor and then get into the second. She wanted to add that detail from a timing perspective investment and so that everyone is clear on where the funding is coming from.

Chair Greenwald asked for comments from the public.

Jodie Ballaro of 242 Concord Rd. stated that she is here representing the Cheshire Ice Cats, women's ice hockey. She continued that she also has a daughter who will be playing for KHS, and a son who played for KHS. The Cheshire Ice Cats' concern is that ice time is of a limited quantity, and there are some realities that are hard to work with. In terms of paying the bills and serving the community, and she appreciates that KSC is absolutely part of the community, her team practices once a week. They are not a group that is spending a lot of money at Keene ICE, and they have worked closely with Keene ICE for a long time to be able to keep their hour. Every year it is a struggle. They get "pushed a little this way, pushed a little that way." Summer comes, camps come in, and the Cheshire Ice Cats are told they cannot practice for a couple weeks because some outside group is there. The outside group has more money to spend, but most of Cheshire Ice Cats players are taxpayers, community members. She thinks everyone would say that they value women's hockey. What can they do to ensure that the Cheshire Ice Cats will still have their space, and that the other groups will, too?

Ms. Ballaro continued that another reality is the weekends. Many people come to the KHS games, for both boys' and girls', on Saturday nights, but now they are talking about two KSC teams also playing, plus the club teams, and Cobras all through the day. She does not know what that is going to look like. In addition, local high schools come in, such as Monadnock. Her question is whether there will be some sort of guiding principles as to how that is scheduled out, such as "this group takes precedence over this one and this one." They already squabble a lot about practice times. Her son, in his senior year, was practicing at 5:00 AM most days. The girls were also practicing very early. Monadnock was practicing right after school, which some would say was a better practice time than the Keene kids had. These are already issues. She knows KSC is talking about taking that time during the middle of day, which is great, but she questions whether that will truly happen as this is rolling out. Ms. Houser mentioned that Gary Warner will be doing the scheduling. Last she heard, Mr. Warner was not actually in Keene, so she assumes he is not physically doing the scheduling and that it might be one of the local people, who might also be potentially involved with the KSC coaching. She asked if it is possible for a neutral person who is not actively on the ice or involved with these teams to do the scheduling. She is sure this is going to be hard. The Cheshire Ice Cats' question is how they can balance the needs of the "bigger fish" and the "little fish" who still want to be there.

Ms. Houser replied that she appreciates the Cheshire Ice Cats' comments. She continued that she was on the Cheshire Ice Cats when it first started, and she appreciates that need for one hour

of ice team, as well as all of the other organizations that Ms. Ballaro mentioned. She thinks allowing KSC to move forward will open the door for having those conversations, and working with Mr. Warner and the folks who work with him on the operating staff at Keene ICE. It is an ongoing conversation and she does not have an answer on the scheduling yet, but she knows that it is a priority to make sure that they acknowledge that there are many important organizations, and children and students in the community, who need to be considered as they move forward to figure out the scheduling. There was a question of whether they can move forward with that block in the day, and yes, that is something KSC is doing. They have their academic areas working on the change to the schedule to make sure that is available. That is part of why KSC thought this would work so well – they are making that commitment to make the change so that it is a complementary engagement between KSC and Keene ICE.

Ms. Ballaro stated that she has one more question. She asked if KSC has a backup plan for if the City says no. She asked if they would try to build their own facility. Ms. Houser replied no, KSC would not build its own. Ms. Ballaro stated that many of the other users who knew about this meeting have reached out to Mr. Bohannon with questions and comments as well. There are people who are watching and are curious about this – overwhelmingly positive, and excited for KSC. They are all in this together, trying to get more kids involved.

Chair Greenwald asked if there was anything further from the public. Hearing none, he asked if there was anything further from the Committee.

Councilor Filiault stated that he has a question for the City Manager. He continued that when the Committee/Council asks her to negotiate, the word “execute” (would not included in the motion), and at this point it would be just “negotiate and return to the MSFI Committee.” They would not want an agreement executed without it first coming back to the MSFI Committee. The City Manager replied yes, that was the intent.

Councilor Filiault made the following motion, which was seconded by Councilor Roberts.

On a vote of 5-0, the Municipal Services, Facilities, and Infrastructure Committee recommends that the City Manager be authorized to do all things necessary to negotiate an agreement with Keene ICE and Keene State College relative to the creation of expanded locker rooms at Keene ICE and report back to the MSFI Committee.

## 2) **Adjournment**

There being no further business, Chair Greenwald adjourned the meeting at 7:36 PM.

Respectfully submitted by,  
Britta Reida, Minute Taker