

01/18/2024

A regular meeting of the Keene City Council was held on Thursday, January 18, 2024. The Honorable Mayor Jay V. Kahn called the meeting to order at 7:00 PM. Roll called: Kate M. Bosley, Laura E. Tobin, Michael J. Remy, Randy L. Filiault, Robert C. Williams, Edward J. Haas, Philip M. Jones, Andrew M. Madison, Kris E. Roberts, Raleigh C. Ormerod, Bryan J. Lake, Catherine I. Workman, Bettina A. Chadbourne, Thomas F. Powers, & Mitchell H. Greenwald were present. Councilor Tobin led the Pledge of Allegiance.

MINUTES OF THE PRECEDING MEETING

A motion by Councilor Greenwald to approve the January 4, 2024 inauguration minutes and regular meeting minutes as presented was duly seconded by Councilor Bosley. The motion carried unanimously with 15 Councilors present and voting in favor.

ANNOUNCEMENTS

Mayor Kahn and the Council wished a extended best wishes to Councilor Tobin, who is celebrating a birthday during the month of January.

The Mayor went on to announce that the proposed Capital Improvement Plan (CIP) for 2025–2031 was provided to the Council. On Saturday, January 20, starting at 8:00 AM in Heberton Hall (refreshments at 7:30 AM), there will be a workshop on the CIP, which should conclude by 11:00 AM. The workshop will begin with small table reviews of the CIP with City Councilors and Planning Board members. The actual review of the CIP will start with the Finance, Organization, and Personnel Committee at their January 25, February 8, and February 22 meetings, which will all start at 5:30 PM. Light dinners will be provided in advance.

Mayor Kahn also announced a workshop on the City Council’s Rules of Order on February 13 at 7:00 PM in the Council Chamber.

The Mayor concluded by reminding the Council that the annual Statement of Interests form was provided to the Council and should be completed and returned to the City Clerk by the end of January.

RETIREMENT PROCLAMATION – DIANE THEALL

Councilor Powers read into the record a proclamation honoring Diane Theall upon her retirement after 35 years of service to the City of Keene Police Department. Mayor Kahn, the Council, and City Staff congratulated Ms. Theall.

RETIREMENT PROCLAMATION – KÜRT BLOMQUIST

Mr. Blomquist’s retirement proclamation was rescheduled for the February 1 Council meeting.

RECOGNITION – TED MCGREER/TED’S SHOE & SPORT – GOLD METAL SERVICE AWARD FOR CUSTOMER SERVICE

In keeping with his goal to recognize the achievements of City businesses, students, and residents, Mayor Kahn welcomed Ted McGreer of Ted’s Shoe and Sport to be recognized. Mayor Kahn reported that Mr. McGreer was awarded the 2023 Gold Medal Service Award by Footwear Insights, which is a trade magazine for independent shoe stores. The application process for the award was challenging and included a mystery shopper visiting the store and being judged on criteria including customer service, problem solving, performing under pressure, and adjusting to changing market conditions. Mayor Kahn and the Council applauded Mr. McGreer.

Mr. McGreer was grateful for this honor. He indicated that he likes that Mayor Kahn intends to spotlight Keene’s small businesses and community members. Insight Magazine reaches 10,000 individuals and is sent to every footwear brand and shoe industry retailer in the United States. Ted’s Shoe and Sport received the highest score in the nation. The publisher told him that in 10 years of this award, this was the first time there was a 4-way tie for first place. He was thrilled that this would put Keene on the map. He noted that in business, one is only as good as the team they surround themselves with. He recognized his 2 general managers, Thomas Paquette and Jessica Harms, who have a combined total of 20 years of experience. Mr. McGreer and the managers spend 300 hours of training time with new employees. It requires effort to fulfill their customer-focused mission. He was grateful to have a successful business on Main Street and to have a community that wholeheartedly believes in shopping locally. He was also grateful to Keene State College for providing fantastic students and interns that he had employed for the past 24 years.

PUBLIC HEARING – AMENDMENT TO LAND DEVELOPMENT CODE – CHARITABLE GAMING FACILITIES (ORDINANCE O-2023-16-A)

Mayor Kahn opened the public hearing at 7:16 PM and the City Clerk read the hearing notice. Mayor Kahn welcomed Jesse Rounds, Community Development Director, for an overview.

Mr. Rounds explained that proposed Ordinance O-2023-16-A is an amendment to the Land Development Code that originated because prior to this amendment, charitable gaming facilities were classified as indoor recreation and entertainment facilities. Charitable gaming facilities were not specifically called out in the Land Development Code, so they were interpreted to be a part of that zoning and use. Staff did not want anything open to interpretation. So, they worked to define charitable gaming facilities in the City Code after receiving a letter from former Mayor, George Hansel. Staff reviewed the definition and various types of charitable gaming facilities in NH to determine a definition that reflects charitable gaming in NH, after which Staff tried to determine the best places for this use in the community. Initially, Staff presented the Joint Planning Board-Planning, Licenses, and Development Committee with a definition that focused purely on games of chance, which is one type of charitable gaming. The Joint Committee asked Staff to revise the definition to include Bingo and Lucky 7. Based on this feedback, Staff revised the draft ordinance to include Games of Chance, Bingo, and Lucky 7 uses, while still protecting the ability of charitable organizations to hold Bingo as an accessory use. A change was also proposed for the Downtown

District that would prohibit drive-throughs. Any existing drive-throughs in the District would be allowed to continue and any that were proposed or in process would be allowed to continue. In the future, drive-throughs would only be allowed Downtown by special exception, which Mr. Rounds called a somewhat onerous process. This amendment was proposed to reflect the fact that drive-throughs might not be appropriate in a dense, walkable downtown area.

Mayor Kahn opened the floor to public comments.

John Conforti, Chief Compliance Officer for the NH Lottery Commission, noted that he oversees charitable gaming. He continued that charitable gaming in NH has 2 parts. First RSA 287-D regulates Games of Chance, which are traditional casino games such as blackjack, poker, and roulette. Games of Chance facilities can also apply for other licenses, including Historic Horse Racing and Lucky 7 tickets. Bingo is regulated under RSA 287-E, which can and traditionally does include Lucky 7 sales. Mr. Conforti explained that as of this meeting date, there were 14 Games of Chance facilities operating in NH, including 1 in Keene. Others could open soon. The legislature was considering whether to expand the opportunity for Games of Chance facilities to also apply for Historic Horse Racing licenses; as of this date, that right was limited to facilities that were in existence as of May 2020. Several NH Bills considered extending the moratorium on future Historic Horse Racing facilities.

Councilor Williams asked Mr. Conforti to explain Lucky 7 and Historic Horse Racing. Mr. Conforti explained that Lucky 7 is generally pull-tab tickets (boxed tickets or defined deals) that look like scratch tickets and reveal a result. Lucky 7 is often sold by charities. Lucky 7 has set deals with a set prize payout and in certain cases, those tickets can be loaded into an electronic dispenser, which can look and feel like a gaming machine, but are still dependent on the ticket itself. Lucky 7 has historically been sold alongside Bingo games but was expanded to be sold with Games of Chance. Next, Mr. Conforti explained Historic Horse Racing machines, which are relatively new in the State of NH. Historic Horse Racing is also a terminal-based game, with the look and feel of slot machines or video lottery terminals seen in other jurisdictions. It is called Historic Horse Racing because the result is dictated by the result of past run Historic Horse Races. Instead of generating the result out of a random number generator, it generates the result from a series of past races that are anonymous to the player but known to the machine. In a charitable gaming facility, there are 2 ways of playing Historic Horse Racing: playing like a traditional casino game and pushing buttons to get a result or playing in an attempt to handicap the historic races to get the result that way. As of the date of this meeting, there are 10 facilities (2,000 machines) with Historic Horse Racing in NH and Mr. Conforti said they generate a decent amount of revenue compared to Games of Chance alone.

Councilor Bosley asked for more details on the current moratorium and the proposed legislation for the continuation of the moratorium. She also asked for Mr. Conforti's interpretation of the reason for the moratorium. Mr. Conforti explained that as of this date, the law stated that only Games of Chance facilities that were in existence as of May 2020 could apply for a Historic Horse Racing license, limiting the field for potential Historic Horse Racing facilities; he thought 16 facilities met that definition. The restriction will be in place until July 1, 2024. So, if the legislature does not act on it by that date, there would be open access for individuals or entities to apply for Games of Chance

facilities and Historic Horse Racing facilities. There were 3 separate pending Bills to address this, and one of those Bills would simply extend the moratorium for 2 more years. There is also a Charitable Gaming Facility Study Commission appointed by the NH Governor. One of the Bills gives this Commission time to do its work but would make no other changes to the law. Two other Bills would extend the moratorium for 4 years but allow an expansion for Games of Chance facilities that had applied as of October 2023 (5 potential applicants). Those 5 applicants would be the only other Historic Horse Racing facilities allowed in NH. Mr. Conforti said the moratorium was initially enacted because there was trepidation about completely unfettered access to Historic Horse Racing machines. There was also concern about restricting trade when the Historic Horse Racing legislation was passed. As a compromise, the legislature grandfathered these facilities that existed to allow these Games of Chance facilities to operate Historic Horse Racing. Mr. Conforti said the legislature seemed to feel that there were enough facilities already and there seemed to be a large consensus that a moratorium is necessary. The question remained of how many years the moratorium should be and whether it opens the door to any other facilities before the door closes again.

Mayor Kahn asked if there were any other communities in NH considering an Ordinance like this one. Mr. Conforti said that Rochester already passed a similar Ordinance. The Concord City Council was considering something like this too because a business on their Main Street was applying for an expanded facility. Conway was also considering legislation to rezone charitable gaming facilities.

Councilor Workman asked Mr. Conforti to speak about incentives or percentages of revenue from these facilities that fund gambling addiction services. Mr. Conforti said there were several gambling expansions in NH over the past several years, including sports betting in 2019, with a funding mechanism from the State for a Council for Responsible Gaming through the NH Lottery Commission. The funding level was \$250,000 per year. There are other responsible gaming initiatives required for sports betting and charitable gaming facilities. He reiterated that there is a Charitable Gaming Study Commission, which was considering the right level of responsible gaming funding. Mr. Conforti said it was clear that as revenues get higher, there needs to be more investment (monetary, programs, and resources) in responsible gaming.

Michael Atkins, an Attorney from Peterborough, represented Dorrie Maston, a business owner in downtown Keene. Mr. Atkins stated opposition to the proposed amendment for 3 reasons:

1. The amendment was not in the best interest of the City and downtown.
 - a. Mr. Atkins referred specifically to Keene's 2010 Comprehensive Master Plan, which has the purpose of a sustainable community that is economically, environmentally, and socially healthy and resilient. He thought that providing entertainment opportunities would enhance the social and economic health of the City.
 - b. He said that the downtown goals listed in the Master Plan should inform the Council's decision. Specifically, he referred to the need outlined in the Master Plan to add recreational opportunities downtown for both visitors and residents.
2. The proposed amendment was based on literally no objectively verifiable information.
3. After attending all the public meetings, Mr. Atkins respectfully submitted that the proposed amendment was contrary to the law.

Mr. Atkins read statements from members of the community. First, Robin Smith, an Associate Broker at RE/MAX, wrote:

For 25 years I have been a realtor in this community. One of the hardest things I find in my job is to sell people on residing in Keene. Yes, our small city is beautiful. However, the obstacle that I come across is that the property taxes are too high, the shortage of housing, that you must travel out of town to participate in any activities, and the shopping is limited. I am in support of a downtown casino. Not only will this bring more people into our community to participate, but then those same people will shop and dine at our restaurants downtown, which in turn will bring more money to support other local small businesses. We need different types of businesses to attract folks to our area to hopefully become a destination city for a weekend/vacation time. I certainly hope that you will strongly consider this downtown and say no so that our downtown can once again start to thrive.

Next, Mr. Atkins read a prepared statement from Dick Thaxton, a licensed real estate broker in NH, VT, and MA:

While I'm not a resident of Keene nor still operate a business, I have a lifelong familiarity with downtown Keene that extends well back to the 1960s. I remember when Steamtown USA started in Keene and anticipated Keene becoming a major tourist destination, and I remember when Keene proudly boasted of having the widest Main St. in America. We had significant shopping opportunities and Main Street had a vibrant and profitable economic impact on the region. Objectively, there is little in downtown Keene to attract visitors as it is today. There is undeniably a fair number of excellent eateries and bars, but little else. The addition of a charitable gaming opportunity is both reasonable and complementary to downtown Keene's current businesses. I would strongly encourage that this move to prohibit charitable gaming in downtown Keene be reconsidered as it would be deleterious to the economic growth and vibrance of the area. In my considered opinion, as someone who has devoted most of the last 43 years to the sale and development of both residential and commercial real estate, this proposal is a mistake.

Mr. Atkins continued stating that Ms. Maston's casino would provide 10–12 new full-time jobs and part-time employment, which would contribute to Keene's economy. He also suggested that the Council should vote against this amendment prohibiting charitable gaming in the Downtown Core District. He stated again that there was no objectively verifiable information or data to support this amendment. He said the only reasoning he heard during the public meetings was about parking. He said that downtown parking is the same for every business and this use would not change the limitations of parking. This use would have a capacity of no more than 75 people. He asserted that Ms. Maston could open a nightclub at the same location with a capacity of 200 at all hours, which had not worked well in the City in the past. Conversely, Ms. Maston provided a recreational opportunity. Mr. Atkins respectfully submitted that this made no sense and was contrary to applicable law. He recalled that Ms. Maston owns the Pour House and several adjacent buildings. He said the proposed charitable gaming facility would be at the adjoining property.

Mr. Atkins explained that beginning in September 2023, Ms. Maston began the process to pursue a charitable gaming facility license from the State of NH. This is one of the most highly regulated

businesses in the State, despite being a relatively new use. Mr. Atkins continued, explaining that when Ms. Maston started looking at existing charitable gaming facilities in September 2023, she did additional due diligence, and expended significant time and resources. She consulted with State officials about the license application, the process, and the requirements. After, she met with City officials, requested particular information from the City, and explained in detail what her goal was. Mr. Atkins said Ms. Maston was then surprised when shortly thereafter, former Mayor Hansel submitted a letter to the City Council on September 29, 2023, suggesting that downtown Keene should not have charitable gaming. Former Mayor Hansel did not propose an amendment in his letter, which had since prohibited Ms. Maston from moving forward. On October 13, 2023, Ms. Maston submitted an email to all (then) sitting City Councilors to express her concerns about Mayor Hansel's letter and specifically outlined that the amendment would prohibit her business from having specific indoor entertainment and prohibit her from using her business for her own economically viable purposes. The existing charitable gaming facility in Keene's Downtown Core is a 5-minute walk from Ms. Maston's location. During all the public meetings, Mr. Atkins said he only heard 1 person (from the 1 charitable gaming facility in Keene) speak in support of this amendment. Mr. Atkins suggested that those circumstances should give the Council pause when voting on this amendment. Lastly, Mr. Atkins reiterated that the proposed amendment was contrary to NH's Preemption Doctrine—municipal legislation is preempted if it contradicts State law and is contrary to the legislative intent underlying a statutory scheme, whether express or implied. Mr. Atkins said the proposed amendment was preempted by State law and contradicted the specific purpose RSA 287-D. He added that 35% of the profits from charitable gaming facilities support non-profits in Keene and NH, thus benefiting the community. Mr. Atkins also submitted that this amendment would be contrary to both the NH and U.S. Constitutions, and application of the proposed amendment would deny Ms. Maston her economically and legally authorized use of her property. He asked the Council to vote in opposition.

Michael Rizzoli of Swanzey is an abutter to Ms. Maston's property downtown, and she is also his landlord, friend, and fellow business owner. Mr. Rizzoli opposed changing these rules with such short notice. He said Ms. Maston is a responsible business owner and she was trying to bring more good paying jobs to the area. Frankly, he stated that as an abutter, he did not oppose this legal entertainment venue, stating that it would be good for the downtown. He thought the business should be allowed to succeed or fail. He thought it was wrong for the Council to interfere with business.

Jimmy Tempesta of Swanzey did not know Ms. Maston but he was speaking for small businesses, one of which he owns in Keene. He said his story was the American dream, having built a small business to support this family. He thought it was problematic to try to prohibit this business type when the City had already chosen to allow it elsewhere; one such venue in Keene had not caused problems. He spoke about his mother and her friends who regularly enjoy coming to Keene to visit the other casino, when they also walk around and visit small businesses downtown. Mr. Tempesta did not think there would be problems with this venue on Main Street, especially as this location would be better lit and possibly safer to visit at night compared to Keene's other casino. He thought the days of gambling problems were gone. He was confused about why the City had approved the other venue 3 years ago but would not approve this venue. He called Ms. Maston a hard-working business owner, who had proved herself as a respectful business owner downtown. He did not think this decision should be up to the City Council, but instead up to the Keene voters. He thought the citizens clearly wanted these

uses as people are frequenting the existing casino. If it is not good for Keene, the business will fail, but he thought Ms. Maston should have the opportunity to try.

Bill Hay of 22 Middle Street spoke in favor of the proposed ordinance amendment. When he first heard about this matter, he thought about the character of the downtown, and he thought this venue would stand out as not fitting in. He was surprised that Ms. Maston was opposing this, given her past efforts to “save the Square,” presumably based on its character. He understood that there was a similar venue a few blocks away, but said that when gambling, the losers are always paying the winners, and the owners take a piece of that, so they do not care who wins or loses. Mr. Hay called it a regressive, voluntary tax on people “who do not know math very well.” He thought that approving this venue on Main Street would be a big mistake.

Rick Horton of Winchester is the owner of Outlaw Brewing Company. His business was built on the food and beverage industry in Keene. He recalled the journey from his first beer sold in Keene that led him to opening his business in Winchester. There were roadblocks to locating his business on Winchester’s Main Street. When he tried to revive an old farm, there was opposition despite limited attractions in the town. He warned against the City Council believing this venue/activity is bad before giving it a chance. Mr. Horton said businesses had been hard, with 2023 as the worst year since opening. He opposed the Ordinance and said the City should allow any business to try to be successful. He echoed Mr. Tempesta’s comments about the American dream.

Bradford Hutchinson of 305 Marlboro Street spoke about this proposed amendment based on his long-term experiences on Main Street and in the downtown. He thought the only opposition to charitable gaming facilities downtown was coming from City Hall. He recalled that there had been a casino at the Colony Mill for years, as well as a newer one on Emerald Street. He had not heard of serious issues with either of those businesses, though he said there could have been issues he was not aware of. He thought this effort by the City was mean spirited, petty, and small minded. He thought this was a waste of time and energy. He thought no one had ever visited a casino, lost a lot of money, and been surprised by that outcome. He thought this business was apt, as there are many with high incomes in the community who like to gamble, which is fine because that is their prerogative. He had not heard any serious opposition from the community. Mr. Hutchinson thought there were a lot of “we don’t want this around here” comments, which he thought were problematic. He thought Ms. Maston’s venue would be upscale and boost the economy because she is a smart businesswoman.

Councilor Jones wanted it to be very clear to the public that this hearing was about an amendment to the Land Development Code, and not about any specific business. Mayor Kahn agreed that this was not regarding any particular application. He asked the public to focus their comments on the Ordinance.

Jared Goodell of 39 Central Square clarified an insinuation that he had an economic interest in Ms. Maston’s business. He stated that he had been uninvolved with that business for more than 1 year. He recalled Mr. Atkins positing that there was no verifiable information regarding traffic and parking. He said there were accurate datasets and real studies (available via the Public Works Department) for traffic worldwide from the Institution of Transportation Engineers (ITE). That data allows for

projecting the impact of a business on the surrounding roads, traffic, and infrastructure. Having helped to build Ms. Maston's proposed casino, and based on ITE data, Mr. Goodell said he knew that the casino could generate a fair amount of traffic; he thought the metric was 1.3 persons per car compared to 3–4 persons per car for a restaurant. He addressed comments that a casino would negatively impact the downtown and other businesses there. Mr. Goodell believed that this casino would have a negative impact because gamblers are not that interested in food and drink; he said they are there to gamble and sit at machines for hours on end. When coming to this meeting, he counted 4 available parking spots on Central Square on a Thursday night. He did not think the current downtown parking could support 75 new patrons and thought it would cause other businesses to suffer from lack of parking; compared to a restaurant, casino patrons would park for many hours (problematic with parking regulations on Main Street) compared to just 1 hour. Mr. Goodell completely agreed that the City should not restrict businesses. Still, he said that businesses in Keene are successful because of good zoning. This is why there are not car dealerships on Main Street, for example. He thought the Keene voters had considered gaming many times and had routinely turned it down, which he thought countered the very vocal crowds at all the public hearings. He did not think Cheshire County's parking behind the proposed casino would be available for casino patrons. Lastly, Mr. Goodell said that this proposed casino was already offered for sale to bigger companies, and he warned that casinos never get smaller, but regularly expand.

Peter Hansel of 61 Bradford Road spoke in favor of the proposed amendment. He agreed with comments about businesses being successful because of good zoning. Having lived in Keene since 1979, he had seen a lot of change in the City. He recalled debate over a zoning ordinance shortly after he moved to Keene, when a large, enclosed mall was proposed downtown. Fortunately, that spurred the large downtown renovation and beautification in the 1980s, when the City changed the types of businesses allowed downtown. He did not agree with previous speakers who questioned the value of the downtown, noting that Keene has one of the greatest downtowns in New England and the nation. Mr. McGreer's award was an example of businesses to be proud of on Main Street. It took a lot of care to arrive at the viability and vibrancy of the downtown, much of which was driven by zoning. He thought this was not about allowing one casino in one location downtown, but more about opening the door to having multiple casinos or other developments (e.g., car washes) downtown. He agreed that parking could be negatively impacted by the casino operations. Mr. Hansel was clear that he opposed casinos in general and had worked on this with the NH legislature. Now, the law allows certain types of gambling. He did not oppose the existing casino on Keene, but he was opposed to zoning that would allow many of these venues downtown. He agreed with the previous speaker that casinos never get smaller.

Chris Coates of 30 Gilsum Street, the Cheshire County Administrator, began by stating the County's parking lot behind Ms. Maston's proposed casino would not be available to those patrons. He continued, noting that he had mixed feelings about this Ordinance. He said the County had worked hard to be good stewards of its properties, including investing non-taxpayer's monies into upgrading facilities, including the Keene campus, to showcase the downtown area with this building. He was also concerned about this proposed amendment while the City is redoing its Master Plan. He thought that approving this amendment would create a policy that could have ripple effects of issues seen nationally. He added that there were big box stores and a car dealership downtown in the past. While

the City is considering the future evolution of the downtown, Mr. Coates was concerned about the City properly defining what should be allowed in the downtown, and more importantly, what should not be allowed (e.g., past stores that sold drug paraphernalia). He provided the example of citizens struggling with alcohol abuse while there are bars up and down Main Street. He wondered if future efforts would be to prevent lottery tickets being sold downtown. His greatest concern was with the City setting a precedent. Mr. Coates asked the Council to consider the future of downtown Keene when voting on this amendment. Still, he said Ms. Maston was a long-term neighbor, with a good working relationship with the County.

Toby Tousley of 500 Washington Street said he did not oppose this proposed amendment. Like others, Mr. Tousley lived and ran businesses in downtown Keene for a long time. He expressed concern about the government limiting businesses, which many business owners commented on. He was unsure about Mr. Atkins' comments. Mr. Tousley referred to another comment about sexually oriented businesses, which are not allowed on Main Street or most other places in the City. He did not understand the opposition to this when another casino had been approved already.

Ted McGreer of 18 Forest View Road said he could not imagine—as an entrepreneur coming to Keene 20 years ago—being told his type of business was not allowed. As the only retail store on Main Street, with private parking in the back, he had no issue with the Colonial patrons using that parking on the weekend. Having sat on the boards of 10 non-profit organizations, he knew that some profits from Ms. Maston's casino had supported non-profits in the community. With Ted's Shoe and Sport having had low retail in December 2023 (half of what anticipated), and with the loss of other businesses downtown, he noticed a lot less people meandering downtown. He said that when people come downtown, all retailers and restaurants win. Mr. McGreer added that any business downtown must abide by the Sign Code, including no illuminated or animatronic signs and no blinking lights. Thus, he thought a casino downtown could be done tastefully. He urged the Council to be careful about limiting an entrepreneur from having a business in this corridor and creating jobs.

Hearing no further comments or questions, Mayor Kahn closed the public hearing at 8:34 PM, except for written comments, which will be accepted until 1:00 PM on Tuesday, February 6. Written comments must be signed and submitted to the City Clerk's office by this date and time to be included in the record. The Planning, Licenses, & Development Committee will review the Ordinance at their February 7 meeting at 6:00 PM, during which no more public comments will be allowed.

A true record, attest: 
City Clerk

CONFIRMATIONS

Mayor Kahn nominated the following individuals to City Boards and Commissions. To the Ashuelot River Park Advisory Board: Dian Mathews – re-nominated as a regular member, with a term to expire December 31, 2026; to the Assessor's Board: Jason Frost – re-nominated as a regular member, with a

term to expire December 31, 2026; to the Bicycle/Pedestrian Path Advisory Committee: Councilor Edward Haas – new nomination as a regular member, with a term to expire December 31, 2026; to the Building Board of Appeals: Donald Flibotte – re-nominated as a regular member, with a term to expire December 31, 2026; to the Congregate Living & Social Services Advisory Board: Thomas Savastano – re-nominated as a regular member, with a term to expire December 31, 2026, Jennifer Seher – re-nominated as a regular member, with a term to expire December 31, 2026, Medard Kopczynski – re-nominated as a staff member, with a term to expire December 31, 2026; to the Conservation Commission: Councilor Robert Williams – re-nominated as an ex-officio member, with a term to expire December 31, 2025, Eloise Clark – re-nominated to change from a regular to alternate member, with a term to expire December 31, 2026, John Therriault – re-nominated as an alternate member, with a term to expire December 31, 2026; to the Energy & Climate Committee: Councilor Raleigh Ormerod – re-nominated as an ex-officio member, with a term to expire December 31, 2025, Jude Nuru – re-nominated as a regular member, with a term to expire December 31, 2026, Charles Redfern – re-nominated as an alternate member, with a term to expire December 31, 2026; to the Historic District Commission: Hope Benik – re-nominated as a regular member, with a term to expire December 31, 2026, Russ Fleming – re-nominated to change from a regular to alternate member, with a term to expire December 31, 2024; to the Housing Standards Board of Appeal: Donald Flibotte – re-nominated as a regular member, with a term to expire December 31, 2026; to the Human Rights Committee: Daniel Aronson – re-nominated as a regular member, with a term to expire December 31, 2026, Marti Fiske – re-nominated as a staff member, with a term to expire December 31, 2026, Ritu Budakoti – re-nominated as an alternate member, with a term to expire December 31, 2026; to the Partner City Committee: Mari Brunner – re-nominated as a regular member, with a term to expire December 31, 2026, Councilor Andrew Madison – re-nominated as an ex-officio member, with a term to expire December 31, 2025, Michael Giacomo – re-nominated as a regular member, with a term to expire December 31, 2024; to the Planning Board: Councilor Michael Remy – re-nominated as an ex-officio member, with a term to expire December 31, 2025, Roberta Mastrogiovanni – re-nominated as a regular member, with a term to expire December 31, 2026, Gail Somers – re-nominated as an alternate member, with a term to expire December 31, 2026, Tammy Adams – re-nominated as an alternate member, with a term to expire December 31, 2026; and to the Zoning Board of Adjustment: Richard Clough – re-nominated as a regular member, with a term to expire December 31, 2026.

A motion by Councilor Greenwald to confirm the nominations was duly seconded by Councilor Bosley. The motion carried unanimously on a roll call vote with 15 Councilors present and voting in favor.

Mayor Kahn thought it might be apt to review the City's 20 statutory boards and commissions to for consistency in membership.

CONFIRMATION

Mayor Kahn nominated Edward Guyot to serve as a regular member of the Zoning Board of Adjustment, with a term to expire December 31, 2026. A motion by Councilor Greenwald to confirm the nomination was duly seconded by Councilor Bosley. The motion carried unanimously on a roll call vote with 15 Councilors present and voting in favor.

NOMINATIONS

Mayor Kahn nominated the following individuals to serve on City Boards and Commissions. To the Bicycle/Pedestrian Path Advisory Committee: Diane Duffy – new nomination to serve as an alternate member, with a term to expire on December 31, 2025, Samantha Jackson – to change from an alternate to regular member, with a term to expire on December 31, 2026, Autumn DelaCroix – to change from an alternate to regular member, with a term to expire on December 31, 2025; to the Conservation Commission: Barbara Richter – new nomination to serve as a regular member, with a term to expire on December 31, 2026; to the Congregate Living & Social Services Licensing Board: Ashok Bahl – new nomination to serve as an alternate member, with a term to expire on December 31, 2026; to the Planning Board: Sarah Vezzani – new nomination to serve as a regular member, with a term to expire on December 31, 2026, Michael Hoefler – new nomination to serve as an alternate member, with a term to expire on December 31, 2026; and to the Trustees of Trust Funds and Cemetery Trustees: Ely Thayer – new nomination to serve as a regular member, with a term to expire December 31, 2026.

The nominations were tabled until the next regular meeting.

NOMINATION

Mayor Kahn nominated Emily Benson to serve as a regular member of the Keene Housing Authority, with a term to expire December 31, 2028. The nomination was tabled until the next regular meeting.

COMMUNICATION – COUNCILOR GREENWALD – DESIGN ISSUES TO BE CONSIDERED IN THE DOWNTOWN IMPROVEMENT PROJECT

A communication was received from Councilor Greenwald, identifying several design issues that need to be explored as part of the next stage of the design process for the downtown infrastructure project, and requesting proactive input from the other Councilors on these issues.

Mayor Kahn recognized Councilor Greenwald, who hoped that the continuing work on the downtown project would be in the spirit of cooperation. He asked the Council to be proactive instead of reactive. If Councilors hear ideas from constituents, he asked them to share those with him or the City Manager to be relayed to the consultant for analysis. His letter outlined issues he heard from constituents and ones important to him.

Mayor Kahn referred the communication to the City Manager and the Municipal Services, Facilities, and Infrastructure Committee.

COMMUNICATION – COUNCILOR REMY – ENFORCEMENT OF WINTER PARKING BAN

A communication was received from Councilor Remy, recommending that the City Council review

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the winter parking rules and only enforce a parking ban during announced winter weather advisories or warnings.

Mayor Kahn recognized Councilor Remy, who brought this forward because there was a parking ban in November, when there was no snow. He would like Staff/the Council to consider if there are other ways to determine whether parking should be allowed downtown when no snow is predicted.

Mayor Kahn referred the communication to the Municipal Services, Facilities, and Infrastructure Committee.

**FOP REPORT – REQUEST TO USE CITY PROPERTY – ICE & SNOW FESTIVAL –
FEBRUARY 3, 2024**

A Finance, Organization, and Personnel Committee report read, unanimously recommending that the Keene Downtown Group 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 Central Square and Main Street to conduct the Ice and Snow Festival on Saturday, February 3, 2024, from 10:00 AM to 4:00 PM, and reserving an inclement weather date of Sunday, February 4, 2024. In addition, the applicant is permitted to close off a portion of Railroad Street from Main Street to the exit of the Wells Street Parking Garage. This permission is granted subject to the signing of a revocable license and indemnification agreement, submittal of a certificate of liability insurance in the amount of \$1,000,000 listing the City of Keene as additional insured, submittal of signed letters of permission from the owner for any use of 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. The Petitioner agrees to absorb the cost of any City services over and above the amount of City funding allocated in the FY 24 Community Events Budget.

A motion by Councilor Powers to carry out the intent of the Committee report was duly seconded by Councilor Remy. The motion carried unanimously with 15 Councilors present and voting in favor.

**FOP REPORT – 2024 NH DEPARTMENT OF SAFETY, STATE HOMELAND SECURITY
NHTOA TEAM ALLOCATION GRANT – POLICE DEPARTMENT**

A Finance, Organization, and Personnel Committee report read, unanimously recommending that the City Manager be authorized to do all things necessary to apply for, accept, and expend the 2024 NH Department of Safety, State Homeland Security NHTOA Team Allocation Grant in the amount of \$5,142.41. A motion by Councilor Powers to carry out the intent of the Committee report was duly seconded by Councilor Remy. The motion carried unanimously with 15 Councilors present and voting in favor.

**FOP REPORT – FFY24 NEW HAMPSHIRE HIGHWAY SAFETY EQUIPMENT GRANT 24-095 –
POLICE DEPARTMENT**

A Finance, Organization, and Personnel Committee report read, unanimously recommending that the City Manager be authorized to do all things necessary to accept and expend the FFY24 New Hampshire Highway Safety Equipment Grant in the amount of \$64,673.50. A motion by Councilor Powers to carry out the intent of the Committee report was duly seconded by Councilor Remy. The motion carried unanimously with 15 Councilors present and voting in favor.

FOP REPORT – INVEST NH MUNICIPAL PER UNIT AWARD #MPU22-123 AUTHORITY TO ACCEPT AND EXPEND – COMMUNITY DEVELOPMENT

A Finance, Organization, and Personnel Committee report read, unanimously recommending that the City Manager be authorized to do all things necessary to accept funds awarded to the City by the InvestNH program of the New Hampshire Department of Business and Economic Affairs as a result of the development of 15 affordable housing units located at the private housing development at 310 Marlboro Road. A motion by Councilor Powers to carry out the intent of the Committee report was duly seconded by Councilor Remy. The motion carried unanimously with 15 Councilors present and voting in favor.

FOP REPORT – RECOMMENDED ACTIONS TO ADDRESS THE CURRENT AND FUTURE STATE OF THE CITY'S STREET TREES – CONSERVATION COMMISSION

A Finance, Organization, and Personnel Committee report read, unanimously recommending that the report be accepted as informational, and the City Manager be directed to consider the recommendations as part of the upcoming budget and capital planning processes. A motion by Councilor Powers to carry out the intent of the Committee report was duly seconded by Councilor Remy.

Councilor Williams thanked the FOP Committee for receiving the Conservation Commission's recommendation and for a good discussion. It is widely recognized that a lot of Keene's beautiful trees are older and might not live another 20 years, so it was important to start thinking about how to replace them, especially with pests like the emerald ash borer. Councilor Williams also appreciated the City Staff's work on this effort. It was former Public Works Director, Kurt Blomquist, who had many ideas, like a tree survey to understand the source of the problems. Councilor Williams was grateful for this idea to treat trees like the infrastructure assets that they are, tracked with all other City assets.

Councilor Jones requested that a summary of this issue be sent to the Master Plan Steering Committee to help inform their decisions.

Councilor Madison agreed that trees should be considered as a part of the City's important infrastructure. He hoped that the Council and Master Plan Steering Committee would consider trees as the ecosystem/environmental services they provide to the community (e.g., soaking up stormwater or holding soils in place), which can have significant financial benefits. The City's trees are an essential part of its stormwater management system. He supported developing an asset management plan for City's trees and he thanked the Conservation Commission Chair, Sparky Von Plinsky, for his letter to

the Council. Councilor Madison hoped the Master Plan Steering Committee would give this matter the attention it deserves.

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

FOP REPORT – CEMETERY MASTER PLAN – PARKS, RECREATION, AND FACILITIES DIRECTOR

A Finance, Organization, and Personnel Committee report read, unanimously recommending the expenditure of up to \$65,000 in the Cemetery Trust Fund B – Capital Reserves be authorized for a professional services contract to create a Master Plan for Monadnock View Cemetery. A motion by Councilor Powers to carry out the intent of the Committee report was duly seconded by Councilor Remy. The motion carried unanimously with 15 Councilors present and voting in favor.

CITY MANAGER COMMENTS

The Assistant City Manager/HR Director, Beth Fox, reminded the Council of the CIP Workshop on Saturday, January 20 starting at 8:00 AM in Heberton Hall (refreshments at 7:30 AM). The workshop will conclude at 11:00 AM.

REPORT – CAPITAL IMPROVEMENT PLAN – CITY MANAGER

A report on the CIP was provided to the City Council by the City Manager. Mayor Kahn referred the Capital Improvement Plan to the Planning Board and the Finance, Organization, and Personnel Committee. The Mayor scheduled a public hearing on the CIP for March 7 at 7:00 PM.

RELATING TO THE ACCEPTANCE AND APPROPRIATION OF UNANTICIPATED BRIDGE REVENUE – RESOLUTION R-2024-04

A memorandum read from the City Engineer, Don Lussier, recommending that Resolution R-2024-04 be referred to the Finance, Organization, and Personnel Committee for their consideration and recommendation.

NON-PUBLIC SESSION

At 9:05 PM, a motion to go into a non-public session to discuss the release of non-public minutes under RSA 91-A:3, II (m) was seconded by Councilor Bosley. On roll call vote, 15 Councilors were present and voting in favor. The Mayor declared a five-minute recess after which the non-public session convened.

The City Attorney explained that this evening a new process was being introduced that would call for the ongoing review and possible disclosure of non-public minutes of the City Council. He continued that as provided by a recent change in State Law, the Council adopted a policy that recognized non-public minutes starting with 2013 and going forward would be covered under this statutory requirement. From a practical standpoint, this review schedule would have the 2014 minutes reviewed

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in December of 2024, the 2015 minutes reviewed in 2025, and continuing forward until the ten-year backlog was disposed of. The City Clerk stated there were 100 sets of minutes included in the backlog to 2013.

In addition, the recommended process would include a review and potential release of non-public minutes from the prior year. Specifically, the schedule going forward would have non-public minutes from January to July of 2023 reviewed for possible disclosure in January of 2024 and the minutes from August to December of 2023 reviewed for possible disclosure in July of 2024.

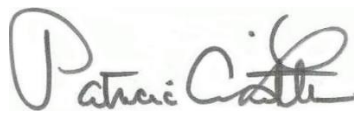
The City Attorney stated the Council had been furnished the non-public minutes of March 7, 2013, April 18, 2013, May 16, 2013, June 6, 2013, July 18, 2013, August 1, 2013, September 5, 2013, October 3, 2013, October 17, 2013, December 5, 2013, and (for the first half of 2023) the minutes of January 31, 2023, and April 4, 2023. He offered his opinion that all the minutes should be released because the circumstances that required the minutes to be withheld from the public no longer applied.

He cautioned the Council not to focus on the subject matter, but rather to focus their attention on whether the circumstances that warranted the minutes being sealed no longer applied. Councilors questioned whether any redaction of the minutes would occur. The Attorney stated that there were no redactions of any information in the set of minutes before the Council. In response to an inquiry as to whether information regarding the proposed purchase price for a particular piece of property would be disclosed, the Attorney indicated that this type of information would be included in any public release.

The Clerk stated that if there was a motion adopted to release non-public minutes, she would remove those sets from the binder of non-public minutes and would mark each set as “publicly released” with a date of the Council action. Those minutes would be added to the binder of public minutes. Finally, the Clerk stated that going forward the non-public minutes would be distributed and reviewed by the Council in an electronic format. In response to an inquiry, the Attorney stated that access to these publicly released non-public minutes would not require a right-to-know request.

The Attorney continued that the vote to release the minutes should be made in public session. He added that regarding the minutes of this the actual non-public session there was no basis to withhold these minutes from the public. Any non-public minutes that are not “sealed” must be publicly disclosed within 72 hours of a meeting. At 9:25 PM as there was no further discussion, the session concluded.

A true record, attest:



City Clerk

RELEASE OF NON-PUBLIC MINUTES

A motion by Councilor Greenwald to unseal the non-public meeting minutes of March 7, 2013, April 18, 2013, May 16, 2013, June 6, 2013, July 18, 2013, August 1, 2013, September 5, 2013, October 3, 2013, October 17, 2013, December 5, 2013, and for the first half of 2023, the minutes of January 31, 2023, and April 4, 2023 because the reasons for the minutes being originally sealed no longer apply

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was duly seconded by Councilor Bosley. On showing of hands, the motion carried unanimously.

NON-PUBLIC SESSION

At 9:34 PM a motion by Councilor Greenwald to go into a non-public session to discuss a personnel matter under RSA 91:A:3, II (b) was duly seconded by Councilor Bosley. On roll call vote, 15 Councilors were present and voting in favor. The City Manager excused herself from the session. Discussion was limited to the subject matter. At 9:39 PM as there was no further discussion, the session concluded.

A motion by Councilor Greenwald to keep the minutes of the non-public session, non-public, until the matter discussed becomes effective was duly seconded by Councilor Bosley. The motion carried unanimously with 15 Councilors present and voting in favor.

A true record, attest: 
City Clerk

ADJOURNMENT

There being no further business, Mayor Kahn adjourned the meeting at 9:40 PM.

A true record, attest: 
City Clerk