

City of Keene
New Hampshire

PLANNING, LICENSES AND DEVELOPMENT COMMITTEE
MEETING MINUTES

Wednesday, April 10, 2024

6:00 PM

**Council Chambers,
City Hall**

Members Present:

Kate M. Bosley, Chair
Philip M. Jones, Vice Chair (arrived at 7:27 PM)
Robert C. Williams
Edward J. Haas

Members Not Present:

Ward 1 Council seat vacant

Jay V. Kahn, Mayor (left early)

Staff Present:

Elizabeth A. Dragon, City Manager
Thomas P. Mullins, City Attorney
Amanda Palmeira, Assistant City Attorney
Rebecca Landry, Deputy City Manager
Patty Little, City Clerk (left early)
Steve Stewart, Police Chief (left early)
Don Farquhar, Fire Chief
Aaron Costa, Assistant Public Works
Director/Operations Manager

Chair Bosley called the meeting to order at 6:01 PM.

1) Animal Control Program – Animal Control Officer

Chair Bosley welcomed Michelle Grimes, the City’s new Animal Control Officer (ACO), and Police Chief, Steve Stewart. Chair Bosley asked what a typical work week would look like for the ACO. Ms. Grimes said her role will involve being a mediator for locals and neighborhoods, helping to find solutions and keep the peace with creative solutions. It is important to her to always hear both sides of a story—without bias—because these situations are usually not black-and-white. Ultimately, her goal is to keep everyone safe.

Chair Bosley requested an update from City staff about concerns Councilor Williams raised in a letter to the Council. The City Manager said that in reviewing the Ordinance on Nuisance, Menace, and Vicious Dogs, she found that there is an opportunity to increase the fines for second (and more) offenses. In Section 10-36 of the City Code, the fines are listed. For second offenses, the fines could be increased from \$50 to \$100 for nuisance dogs, from \$100 to \$200 for menace dogs, and from \$200 to \$400 for vicious dogs.

Councilor Haas welcomed ideas from Ms. Grimes for how the Council should approach this Ordinance; he wondered if the City was bound by these fine levels. Ms. Grimes said that if nothing else, this started an important conversation. Ms. Grimes was having conversations with the Assistant City Attorney, Amanda Palmeira, and Police Chief, Steve Stewart, to discuss options and how to oversee anything enacted. Ms. Grimes’ priority is being able to follow

through on anything enacted. She was researching how other ACOs in NH and other states approach the various challenges of this position. She recalled (as discussed at the last meeting) that municipalities in NH cannot require the muzzling of any dogs. With few other options in this regard, she would usually revert back to the importance of owners complying with their responsibilities.

The City Manager recalled that the City had not had an ACO for some time, so having someone available to follow-up on complaints and mediate was critical. She hoped Ms. Grimes would have an opportunity to settle into the role and get a sense of community dynamics where she might need more authorization. In the meantime, the easiest thing the City could do was to increase the fines.

Chair Bosley asked about resources for people with problem dogs, like training. Ms. Grimes said everyone has their own thoughts about behavior and trainers. As a certified animal trainer, she is passionate about quality and licensed animal training. She said—with certainty—that any dog could get used to a muzzle with proper advanced reinforcement. However, muzzles can cause backlash when a dog is approached with a muzzle suddenly, triggering a dog's fight or flight response. She can refer owners with challenging dogs to other certified trainers. Ms. Grimes said that often, alleviating these challenges is more so about training the owner than the dog. Chair Bosley said she would be interested to hear from Ms. Grimes later in the year about her experiences, especially with the opening of the dog park, for example.

Councilor Williams agreed with raising the fines, to an extent. He was more interested in prevention than punishment. He was still interested in muzzling or other options, like electronic collars. He understood that the City was limited by the State, but he spoke with a NH Representative who might be willing to take up this cause. He agreed with Chair Bosley that hearing about community data on dog attacks and outcomes would be useful. He asked about the certification for dog trainers. Ms. Grimes said that anyone could call themselves a dog trainer, but there is an accredited certification from the Council for Professional Dog Trainers (CPDT). While there are other certification courses offered, this accreditation is important. Councilor Haas asked how to identify an accredited dog trainer. Ms. Grimes said there is a log of trainers on the CPDT website, including those who are Knowledge & Skills Assessed (KSA). Ms. Grimes is Levels 1 and 2 certified for animal control, with 20 years of experience.

Chair Bosley asked how Ms. Grimes had found the ACO position so far. Ms. Grimes said she was settling in, getting to know the organization, the Police Department, and the Humane Society. Chair Stewart added that Ms. Grimes brings subject matter expertise that Police Officers do not have. Overall, Ms. Grimes said it had been an easy transition. Chair Bosley wondered whether Ms. Grimes would face issues with other wildlife. Ms. Grimes said it is common for her to receive calls about livestock as well; neglect of these animals can appear differently than for dogs and cats, which is another reason that education is important.

The Committee thanked Ms. Grimes.

There were no public comments.

Councilor Williams made the following motion, which was duly seconded by Councilor Haas. On a vote of 3–0, the Planning, Licenses, and Development Committee recommends accepting the presentation on the Animal Control Program as informational.

2) **Farmer’s Market of Keene – Request to Use City Property – 2024 Farmer’s Market**

Chair Bosley welcomed the applicant, Bruce Bickford, who said the request was the same as last year. The Market would be open from 9:00 AM–1:00 PM from April 20–October 31. The Market is full, with 30 vendors, and a waiting list of approximately 20. This year, there are fewer farmer vendors for things like vegetables, and more other products like alcohol, cheese, or wood working.

Councilor Williams asked what is required to be a vendor. Mr. Bickford said there is a requirement for the Market to be comprised of 60% farms from Cheshire and the surrounding counties. The goal is to keep it local, but sometimes if there is a need, there could be an exception on the distance requirement, which is rare.

The City Manager said the City was excited to have the Farmer’s Market back. She noted that the third agenda item was withdrawn because the vendor is not local. The total request for the Market footprint was 40 parking spaces, which have a \$5,200/season parking meter value. The Market pays the City \$932 for the whole season. Councilor Williams asked what the \$932 fee was based on, and the City Manager replied that it was an older fee that needs to be reviewed. The fee was not adjusted during Covid because the Farmer’s Market has a very narrow margin to operate. There was agreement amongst the Committee and City Manager that it did not make sense to adjust the fee before the downtown infrastructure project design and disruption on Gilbo Avenue, which could change the location, etc., of the Farmer’s Market.

Discussion ensued about whether any vendors might be interested in expanding their schedules for the other months of the year. Mr. Bickford recalled that in the past, there was a well-attended winter Market at the former Elm City Brewery until it was sold. Then it moved to the Waldorf School, which was not attended as well. Mr. Bickford was confident that many vendors would be interested in expanding the Market. Chair Bosley said that was great news to know while heading into the downtown project redesign.

Chair Bosley opened the floor to public comments.

Kevin Blake Amacker, owner of Copper Cannon Distillery in West Chesterfield, NH, spoke very highly of the Keene Farmer’s Market, which had been great for his business. Last year, Copper Cannon attended as a guest applicant, and the profits paid for one of his employees who is local to Keene. Mr. Amacker explained that Copper Cannon makes all their own distillations and fermentations. He said the Farmer’s Market had positively impacted his business. He commented

on his business' local focus, with the products to make beer, bourbon, and vodka sourced nearby. The Distillery's byproducts are also donated to a local farm in Surry, NH.

Hearing no further public comments, Chair Bosley entertained a motion from Councilor Haas that was duly seconded by Councilor Williams.

On a vote of 3-0, the Planning, Licenses, and Development Committee recommends that the Farmer's Market of Keene be granted permission to use 22 spaces along Gilbo Avenue and 18 spaces on the other side of the median strip in the Commercial Street parking lot from Saturday April 20, 2024, to Saturday, October 26, 2024. Said permission is subject to the following conditions:

- the furnishing of a certificate of liability insurance in the amount of \$1,000,000 naming the City of Keene as an additional insured;
- the signing of a standard revocable license and indemnification agreement;
- the receipt of a total rental fee of \$932.00 (payable on the first day of every month at \$155.00 per month);
- access to City electrical shall also be provided at a fee of \$60.00 for the season;
- obtainment of all necessary permits and licenses and compliance with all laws, and compliance with any recommendations of City staff.

It is further recommended that the Farmer's Market of Keene be allowed to erect sandwich board signs on City property prior to the start of sales, subject to review and approval by City staff with respect to the number and location. The signs must be removed immediately after the sales have concluded.

3) WITHDRAWN: Cathedral Ledge Distillery – Request to Participate in the Keene Farmer's Market

This application was withdrawn because the company is not local, as described during the Farmer's Market's application.

The following motion by Councilor Haas was duly seconded by Councilor Williams.

On a vote of 3-0, the Planning, Licenses, and Development Committee recommends accepting the communication regarding the Cathedral Ledge Distillery request to participate in the Keene Farmer's Market as informational.

4) Copper Cannon Distillery – Request to Participate in the Keene Farmer's Market

Chair Bosley welcomed Kevin Blake Amacker, owner of Copper Cannon Distillery in West Chesterfield, NH. Mr. Amacker requested to be an approved vendor at the Keene Farmer's Market again this year. Since selling at the Farmer's Market as a guest in 2023, he felt the Keene Community had been a large part of his business' growth. He tries to give back to the local community, including collaborations with the Keene Country Club and donations to the Humane Society, for example. He has an employee who lives in Keene and runs the Distillery's booth

Farmer's Market, which pays for the employee's salary. He recalled how welcomed he felt in 2023.

The City Manager and Mr. Amacker engaged in a brief discussion of how many open storefronts are available in Keene and if Mr. Amacker is interested in expanding his business to Keene. Mr. Amacker said he had considered a satellite location but had not explored options in Keene yet. He added that before the Market Basket was constructed at the Swanzey-Keene border, there was a large Bardwell Farm barn, and beams and other products from that demolished barn were used to construct the Copper Cannon Distillery. There was also a brief conversation about how Mr. Amacker's products are made.

The Committee appreciated Mr. Amacker's commitment to the local community. In particular, Councilor Williams expressed appreciation for Mr. Amacker working to build the local value chain, especially of agricultural products.

The City Manager confirmed that once she signs the permit, Mr. Amacker can send it to the NH Liquor Commission, which will send back the certification that he will then submit to the City as the final step.

The following motion by Councilor Williams was duly seconded by Councilor Haas.

On a vote of 3-0, the Planning, Licenses, and Development Committee recommends that Copper Cannon Distillery be granted permission to sell alcohol and provide individual product samples to patrons at the 2024 Keene Farmer's Market on City property licensed to the Farmer's Market of Keene in accordance with the requirements of the State Liquor Commission. Said permission is contingent on the following: submittal of a signed letter of permission from the Farmer's Market of Keene; obtainment of all necessary permits and licenses and compliance with all laws.

5) Brewbakers Café – Request to Use City Property – Adjacent to Wilson Street – Outdoor Dining

Chair Bosley welcomed the applicant, Jeff Murphy, owner of Brewbakers Café on Main Street as well as Turnover Coffee on Emerald Street. Mr. Murphy explained that he had worked with City staff over the past several years to handle right-of-way issues on the Wilson Street side of the Brewbakers building. This area is technically a part of the Brewbakers property, but at some point, it was assigned as the City's right-of-way. Now, his property only extends two feet from the Brewbakers building. During Covid, Brewbakers was allowed to have sidewalk seating there and in 2023, he applied for outdoor seating and learned of the right-of-way issue. Mr. Murphy worked with former Public Works Director, Kürt Blomquist, who found a temporary solution using jersey barriers, with the intention of finding a way to allow a Parklet there. Mr. Murphy had been happily working with the City Clerk, City Manager, Department of Public Works, and Code officials, who had all be very helpful. He was working with contractors on a design for the Parklet, including nice garden beds and a rainwater catchment.

The City Manager, Elizabeth Dragon, reiterated that during Covid, there had been additional flexibility for this request, despite this outdoor seating not qualifying for a sidewalk café or a Parklet. City Staff worked with Mr. Murphy, letting him know that while this would not occupy parking spaces, staff still wanted him to comply with the Parklet Ordinance. This year, Mr. Murphy's application met the requirements for a Parklet. These licenses are typically issued by the City Clerk's office under City Code Section 46-92, which allows the Clerk to bring applications like these—that do not fit clearly in any category—to the Council for approval. When a sidewalk café license is first issued, the Council must approve it to qualify for serving alcohol. The City Manager was pleased with Mr. Murphy's design, which met all requirements of the Parklet Ordinance. The City Manager commended the City Clerk's office for creating a checklist for Parklets that other departments can use when visiting and approving future parklets. After passing the inspection, the City Manager recommended issuing the permit. The City Manager also advised Mr. Murphy that in the future, these requests would be approved administratively.

Chair Bosley welcomed Keene's Fire Chief, Don Farquhar, who had visited the site on March 19 with representatives of the Community Development Department and Public Works. It was an excellent application, and the site was fully compliant, so the Chief supported the application.

There were no public comments.

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

On a vote of 3–0, the Planning, Licenses, and Development Committee recommends that Brewbakers Café be granted the use of City property to place tables and chairs on the city right-of-way on the Wilson Street side of their establishment located at 48 Emerald Street for the serving of food and alcohol to patrons seated in the café area. This license is also subject to the following conditions: subject to the signing of a revocable license and indemnification agreement; submittal of a certificate liability insurance in the amount of \$1,000,000 listing the City of Keene as an additional insured; compliance with the requirements of Chapter 46 of the City Code of Ordinances; compliance with the administratively issued City of Keene Parklet Guidelines that are applicable to the particular area of use; compliance with any other recommendations of City staff; that no materials, gravels, or any other alterations to the site may be made without prior approval from staff; and that the property be maintained and returned to its original state at the expiration of the license with staff reviewing the condition of the area at the end of the season to determine any needed maintenance. This license shall expire on November 1, 2024.

6) **Keene Pride – Request to Use City Property – Keene Pride Festival – September 15, 2024**

Chair Bosley welcomed Adam Toepfer, President of the Keene Pride Board. Mr. Toepfer said the request was essentially the same as in 2023, with the event located at Central Square and some of Roxbury Street, and the same time of 12:00 PM–6:00 PM. Chair Bosley was pleased to see these annual festival requests, which indicate that the events are successful.

Fire Chief Farquhar agreed that the application was essentially the same as last year and staff fully supported approving the request.

Councilor Haas wondered if Mr. Toepfer had learned any lessons from the first years of running an event like this. Mr. Toepfer said there were minor things in the past that City staff helped with, like filling the dunk tank. During the first year, they learned to focus the event at Central Square versus Railroad Square. He said it is daunting trying to organize an event like this the first time, without knowing what to apply for from the City. As such, he suggested a simple checklist that a new festival organizer could use to guide them through the approvals process.

There were no public comments.

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

On a vote of 3–0, the Planning, Licenses, and Development Committee recommends that the Keene Pride Group be granted permission to use downtown City rights-of-way on Sunday, September 15, 2024, to conduct a Keene Pride Celebration, including participating downtown businesses decorating their storefronts for the week leading up to the event date, conditional upon the following:

- This license is granted based upon the event scope presented to City staff during protocol meetings held to date, changes or additions to the license may require that an amended license be issued by the City Clerk and no changes to this license or the associated protocol documents will be accepted after August 1, 2024;
- The furnishing of a certificate of liability insurance in the amount of \$1,000,000 naming the City of Keene as an additional insured;
- The signing of a standard revocable license and indemnification agreement;
- That the agreed upon footprint and layout for the event shall encumber Central Square, including the traveled portion of the road requiring the following road closures: Central Square, West Street at Central Square (with a slip lane for eastbound West Street traffic to go south on Main Street), Roxbury Street from the easterly side of the Hannah Grimes Parking Lot to Central Square, Washington Street from Vernon Street to Central Square, and Court Street from Winter Street to Central Square;
- That the Petitioner is permitted to place porta-potties and a dumpster in City parking spaces located at the base of Washington Street, and additional porta-potties on Roxbury Street from Friday, September 13, 2024, to Monday September 16, 2024, which will be chained together and affixed to ensure they are not vandalized while unattended overnight;

- That the actual event will be held from 12:00 PM to 6:00 PM with the times for set up and clean up to be established with City staff;
- That free parking be granted under the provisions of the free parking policy for City parking spaces on Washington Street and Roxbury Street needed for storage of equipment from Friday, September 13, 2024, to Monday September 16, 2024, and spaces within the event footprint on the day of the event;
- The submittal of signed letters of permission from any private property owners for the use of their property; and
- Said permission is granted subject to obtainment of any necessary licenses or permits and compliance with all laws; and compliance with any recommendations of City staff. In addition, the Petitioner agrees to absorb the cost of any City services over and above any amount of City funding allocated in the FY 25 Community Events Budget. Said payment shall be made within 30-days of the date of invoicing.

7) Pathways for Keene – Request to Use City Property - 4 on the 4th Road Race – July 4, 2024

Chair Bosley welcomed the applicant, Sarah Greene, President of Pathways for Keene, Inc. Ms. Green said the event was essentially the same as the past 20 years. However, this year there is a different goal. In the past, Pathways for Keene’s fundraising efforts funded the Rail Trails and the North and South Bridges. Now, they were focusing on the Prowse Bridge. While the project is still a few years out in the City’s Capital Improvement Program, Pathways for Keene was focused on bridging that gap over Rt-101. So, this year’s Race will fund the first segment of a very large project.

Chair Bosley asked Ms. Greene to highlight Pathways for Keene’s donations to the City over the years. Ms. Greene said it was approximately \$50,000/year.

Fire Chief Farquhar said the protocol meeting occurred successfully on April 2 and the application was essentially the same as the past 20 years. Staff fully supported approving the application.

There were no public comments.

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

On a vote of 3–0, the Planning, Licenses, and Development Committee recommends that the City Council grant permission to Pathways for Keene to sponsor a running race on Thursday, July 4th, 2024, subject to the signing of a revocable license and indemnification agreement and the submittal of a certificate of liability insurance in the amount of \$1,000,000 listing the City of Keene as an additional insured. In addition, the Police Department shall identify Railroad Street immediately adjacent to Railroad Square as a No Parking zone from the hours of 6:00 AM to 11:00 AM. This license is conditional upon the petitioners providing an adequate number of

volunteer race marshals to ensure runner safety along the course, and subject to any recommendations of City staff. The Petitioner agrees to absorb the cost of any City services over and above any amount of City funding allocated in the FY 25 Community Events Budget. Said payment shall be made within 30-days of the date of invoicing.

8) Keene Young Professionals Network – Request to Use City Property – 2024 Taste of Keene Food Festival

Chair Bosley welcomed Councilor Andrew Madison, representing the Keene Young Professionals Network (KYPN). Councilor Madison said this would be the fourth year of the Taste of Keene Food Festival, which had been very successful. He recalled that during Covid—and specifically 2021—the downtown restaurants were struggling, with many unable to accommodate social distancing inside their restaurants. So, this Festival was an opportunity to set-up outside. It was a big success. He said this is not a money-making opportunity for KYPN, as all the money goes back to the restaurants. Festivalgoers purchase tokens that are redeemed for tastes from the various restaurants. Any extra money covers costs and in a good year, KYPN will break even. Much of the event funding comes from sponsors. Councilor Madison explained that this year, instead of the Festival footprint extending to Railroad Square, it will extend to Eagle Court, as several businesses were upset in the past that they did not have as much traffic as those on the main thoroughfare. Further, it is easier to make a U-turn at Eagle Court/Emerald Street than at Gilbo Avenue.

Councilor Madison continued, explaining how alcohol service at the Festival would be changing this year. In the past, there was a beer garden for small (2-ounce) tastes in the Hannah Grimes parking lot. Those over age 21 were provided with a wristband to indicate they were of age. This year, KYPN received permission from the NH Liquor Commission to intermingle alcohol in the main Festival area. With wristbands, festivalgoers can purchase and walk around the Festival footprint with their small cups of beer/spirits; the cups will be a special color to be obviously distinguishable. To facilitate this change, KYPN will hire six private security guards and the Keene Police Department will provide six Officers to ensure only those of age have access to alcohol and that alcohol does not leave the premises. The City and KYPN had a plan to make this work.

Chair Bosley was excited to see this Festival come back. She noted that people can taste alcohol at the Farmer's Market, which does not supply security guards, for example. She was happy there would be security at the Food Festival for this reason.

Fire Chief Farquhar agreed that there was a good plan for the alcohol changes this year. He met with Councilor Michael Remy, Police Lt. Maxfield, and a representative from the Liquor Commission, all of whom supported the plan, which is not uncommon and had been successful elsewhere in NH. He was comfortable with the two control measures of wristbands and special cups. He explained that for restaurants already permitted to distribute alcohol in their

establishments, a Liquor Commission agent will visit them to explain how alcohol sales will proceed during the event.

Councilor Haas wondered if the tokens could be used at other Keene restaurants outside the festival footprint. Councilor Madison said that could be a possibility in the future, but for now the tokens are for the street vendors. Visitors can use cash outside the Festival footprint to support other Keene businesses.

Chair Bosley mentioned that the Food Festival coincides with the Art Walk again this year. Councilor Madison agreed that last year, the coincidence was mutually beneficial, gaining a lot more exposure for the artists and positive feedback from Festivalgoers.

In response to the City Manager, Councilor Madison confirmed that the private security guards and Police are intended to contain the alcohol sold within the defined event area. The City Attorney, Tom Mullins, added that he would follow-up with the City Clerk for the communication from the Liquor Commission that would tie food service with the provision of alcohol. Councilor Madison confirmed again that the alcohol can be carried throughout the event footprint.

Chair Bosley opened the floor to public comments.

Mayor Jay Kahn commented on interconnections. He had spoken with many downtown businesses, who are organizing as a group to have a unified voice on the downtown project. He noted the upcoming auto show in May, and another festival/event planned during nearly every other month of the year. Mayor Kahn commented on these collective actions and the visibility of these events that are excellent marketing opportunities for the City. Councilor Madison agreed, noting that over the past decade, Keene had become a City of festivals in a very positive way, setting the City apart in NH and New England.

Hearing no further comments, Chair Bosley closed the public hearing.

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

On a vote of 3–0, the Planning, Licenses, and Development Committee recommends that the Keene Young Professionals Network be granted permission to use downtown City rights-of-way on Saturday, June 1, 2024, and reserving a “rain date” of Sunday June 2, 2024, in the event of inclement weather, to conduct a Food Festival conditional upon the following:

- The furnishing of a certificate of liability insurance in the amount of \$1,000,000 naming the City of Keene as an additional insured;
- The signing of a standard revocable license and indemnification agreement;
- That the Petitioner agrees to absorb the cost of any City services over and above the amount of City funding allocated to the event, and agrees to remit said payment within 30-days of the date of invoicing;

- That the footprint and layout for the event shall encumber the traveled portions of Central Square, Main Street both sides from Central Square to Emerald Street and Eagle Court, and a portion of Railroad Street. Road closures may include any portions of other streets needed to facilitate detour routes. The full extent of road closures and detour routes shall be agreed upon with City staff;
- That the Petitioner is permitted to place porta-potties in City parking spaces with the specific locations to be determined in conjunction with City staff from Friday, May 31, 2024, to Monday June 3, 2024, which will be chained together and affixed to ensure they are not vandalized while unattended overnight;
- That the actual event will be held from 11:30 AM to 4:00 PM with the times for set up and clean up to be established with City staff;
- That the Petitioner is granted permission to serve alcohol beverage samples for consumption within the event footprint subject to the terms and conditions of a one-day license from the NH Liquor Commission, and any conditions of City staff;
- That free parking be granted under the provisions of the free parking policy for City parking spaces needed for storage of equipment and placement of porta-potties from Friday, May 31, 2024, to Monday June 3, 2024; and spaces within the event footprint on the day of the event;
- The submittal of signed letters of permission from any private property owners for the use of their property; and
- Said permission is granted subject to obtainment of any necessary licenses or permits and compliance with all laws; and compliance with any recommendations of City staff.

9) Cellular Tower Lease Agreement – Assistant Public Works Director/Operations Manager

Chair Bosley welcomed Aaron Costa, Assistant Public Works Director/Operations Manager. Mr. Costa explained that he was present to request that the City Manager be authorized to do all things necessary to negotiate and execute a lease agreement with Towers LLC for the installation of a cellular tower on City-owned property. The Water Fund owns property off Arch Street that was formerly the YMCA Camp. The City purchased the property for a future groundwater well site. The City was approached by Towers LLC—a company that installs cellular communication towers—because they were interested in this property that is in an area with poor Verizon Wireless service. Mr. Costa met with representatives of Towers LLC at the proposed site so he could ensure the tower would not interfere with any future City plans for source water development. He said the proposed tower would be 110 feet tall and enclosed in a 100-foot by 100-foot fence. Once the City Manager negotiates the terms of the lease agreement, it would trigger the rest of the approval process with the Community Development Department.

The City Manager, Elizabeth Dragon, agreed that this is a good opportunity to add some additional coverage for Verizon in this area where it is lacking. It is also an opportunity to add revenue to the Water Fund. She said that Deputy City Manager, Rebecca Landry, pointed out

that there should be a conversation with Towers LLC about whether the City needs to collocate any equipment for public safety, which the City Manager would follow-up on if approved.

Chair Bosley asked if there was a 5G tower in that area. The City Manager and Mr. Costa were unaware of the technical details of the proposed tower. Chair Bosley thought it was too tall to be a 5G tower, which are lower with a much shorter spread. The Chair said she knew that there had been some very lucrative 5G tower locations, and she knew the City Manager would negotiate well. The City Attorney, Tom Mullins, said staff were intentionally very explicit about the size of the proposed tower and footprint in the background notes to try to assure the public that it is not going to be a 5G tower at this point. It will look like a more traditional cell tower. Chair Bosley attested to the poor Verizon coverage in that area. She hoped Verizon would work with other cellular providers in the future to minimize the number of towers.

Councilor Haas asked if there was other evidence of the weakness of cell signals in that area besides anecdotal. There was none provided other than from Chair Bosley, who said the 10 people in her Verizon business plan cannot use their phones in that area. Councilor Haas added that people were familiar with 5G towers, which are sometimes located in difficult places. When going through the permitting process, he hoped City staff would look at technology with Verizon and how 5G coverage might be incorporated with this tower, noting that technology changes fast.

Vice Chair Jones arrived.

Councilor Williams asked whether this tower would be monopole or lattice-style. Mr. Costa provided a drawing to the Committee, which showed Councilor Williams that it would be monopole, which must be maintained if they sustain very high winds. He asked if there would be anything in the drop zone. Mr. Costa said no.

The City Attorney added that the Planning Board would review this proposal because there is a telecommunications section in the Land Development Code.

There were no public comments.

Councilor Haas made the following motion, which was duly seconded by Vice Chair Jones.

On a vote of 4-0, the Planning, Licenses, and Development Committee recommends that the City Manager be authorized to do all things necessary to negotiate and execute a lease agreement with Towers LLC for the installation of a cellular tower on City-owned property.

10) Councilor Madison – Potential Changes to Council Disciplinary Process

Chair Bosley welcomed Ward 3 Councilor Andrew Madison to speak about his letter to the City Council. Councilor Madison explained that his letter was in response to some troubling incidents with City Council candidates in the last few years. During the last two mayoral elections, City

staff members had to file restraining orders against two different candidates. Another City Council candidate harassed Keene firefighters on social media for not receiving their union's endorsement. Statewide, there had been other recent incidences at the Statehouse, with a State Representative living outside their district for over a year, for example. Further, a State Representative from Claremont threatened to murder a police chief and sexually assault the wives and daughters of several Claremont police officers. Still, Councilor Madison said that the Speaker of the NH House was unwilling to act.

Councilor Madison continued, noting that he spoke with the City Attorney and Assistant City Attorney about his concern that the City Council's disciplinary process is not robust enough and that there was a disconnect in the City Council's ability to find out about these incidents and take action. He realized that there was very little the City Council could do about incidents with Council candidates, but he felt there was a high chance someone like this could be elected to the Council, particularly given that many times Council seats are uncontested. With these warnings over the last four years, he preferred that the Council have an updated policy in place. He was concerned that under the current policy—hypothetically—if an employee was uncomfortable with an interaction with a councilor, they would report it to their supervisor and/or HR, who would take it to the City Manager, who would then consult the Mayor. Councilor Madison was concerned that such a complaint would pass through too many individuals in the organization who could block moving the issue forward. He wanted to identify a way so that no one person can block an ethics complaint against a councilor/mayor from moving forward. He was clear that he was not referring to the current Mayor or City Council.

Chair Bosley requested comments from the City Manager, Elizabeth Dragon, who appreciated Councilor Madison bringing this forward. The City Manager explained that since becoming the City Manager in 2017, she had not needed to use the formal disciplinary process. However, she did have to have conversations with a former Mayor about a councilor's behavior. She said there is a grey area at times when staff are uncomfortable or put in a difficult position. Still, she knew there was the potential for something more serious than discomfort to occur. One of her priorities was to enact more ongoing, on-the-job trainings (beyond the training at hiring) for staff about various things, including the Disciplinary Policy. The Charter talks about administrative affairs going through the City Manager, and is very clear that a councilor or mayor going to a staff member and asking them to handle something differently is a direct violation. Even if it was not in the City Charter, references to NH law could be added as a preface. She agreed that it is possible for someone to be elected who has a grudge against her or another department head. If another staff member was harassed, it is the City Manager's job to address it; if it happens to the City Manager, it is the Mayor's responsibility to address it, and if the Mayor does not, it would be up to the full Council. The City Manager was comfortable with the Disciplinary Policy in place, but she wanted to add references to the Charter and NH law about non-interference. Further, Deputy City Manager Landry was working on an administrative directive to staff that articulates appropriate behavior from an elected official is and how to respond to inappropriate behavior, including candidates and those elected but yet to be sworn in. Education will be

important. Sometimes staff think they should take the Council or Mayor's word as gospel and do not understand that no one elected official alone has authority.

Chair Bosley said she heard Councilor Madison's concern that a complaint could be halted at one of the various stages the City Manager mentioned. Chair Bosley asked where an administrative directive falls within the City Council's purview. The City Manager said it is not within the Council's purview. Chair Bosley asked, if a concern rises from a staff member and they do not get the support they need from the City Manager or Mayor, how they could come directly to the Council; Chair Bosley said everyone else in the community can bring concerns to the Council. The City Manager explained that she works for the City Council, but the other City employees work for her. If an employee comes to a councilor because they feel a complaint is not being addressed by the City Manager, it would be most appropriate for the councilor to have a conversation with the City Manager to understand how it is being addressed. It would be inappropriate for a councilor to ever have a direct conversation with an employee about a complaint without speaking with or incorporating the City Manager. This is why the Charter is very clear that the City Manager is one of the individuals that can always be a part of the Council's conversations, which helps to prevent end-runs.

The City Attorney, Tom Mullins, explained a few things regarding the Disciplinary Policy. He said it is intended to be a challenging Policy to get through because removing an elected official is a very dramatic step. It was written to restrict the opportunity of someone to trigger the Policy, because it can become a political weapon. If the City Manager believes that a councilor is acting in a manner that should trigger the Disciplinary Policy, she would have a couple of options. First, she could go to the Mayor. Still, if the Mayor refuses to take action—to Councilor Madison's point—and the City Manager thinks that is an inappropriate decision, she can go to one or more members of the City Council to request that the matter be reviewed. At that point, the City Council would have to determine whether to proceed with the Policy. The City Attorney said it was appropriate for Councilor Madison to point out these gaps in the Policy. Councilors are subject to non-interference issues, statutory requirements, the Charter requirements, and more. The City Attorney continued explaining that—hypothetically—if an individual runs for elected office but is not yet sworn in and acts inappropriately, there are some options. In one of the instances Councilor Madison mentioned, there was legal action against an individual because of their interactions with City staff, so that legal action would still apply to the individual once elected to City Council. Also, if an individual runs for City Council and acts inappropriately with a staff member before elected and continues to after being sworn in, this Disciplinary Policy would apply. The City Attorney appreciated Councilor Madison bringing this forward and said this unfortunately seemed to be a larger societal problem. Still, there are opportunities to address it, but there will still be grey areas.

Chair Bosley said that ultimately—hopefully—there would not be a 15-member Council of individuals all willing to ignore an issue like this. Still, she emphasized the need to educate staff about their rights and what is/is not proper. She thought there might be a culture of staff wanting to or thinking they need to do whatever a councilor needs, so some clear boundaries are needed.

The City Attorney added that the Disciplinary Policy was not written with a specific list of violations. This was purposeful. The language in the City Charter is broad, stating that a councilor can be removed for: prolonged absence, inattention to duty, mental or physical incapacity, incompetency, crime, immorality, or misconduct. He said that if a councilor regularly flaunts the other statutory and Charter requirements—especially the non-interference clause—that would trigger the Policy. So, the City Attorney did not recommend adding a list of possible offenses to the Policy because it is impossible to anticipate everything.

Councilor Madison appreciated the City Attorney's comments. The Councilor did not write this letter to waste time. He genuinely wanted to see if there was a disconnect after staff restraining orders against two mayoral candidates, which he called extraordinary, even in this political climate. He hoped that improvements to the Policy would be explored. He wanted the City Council to be reminded that they are guests in City Hall and that they should act accordingly.

Councilor Haas said he recognized Councilor Madison's concern that there appeared to be single points of failure when staff report issues. He thought elections seemed to be the gap, but there was nothing to do about that. He heard the City Manager say that if she brought an issue to the Mayor and the Mayor ignored it, the City Manager felt strongly about her ability to then bring the issue to the City Council. Councilor Haas noticed weakness in the process of department heads bringing issues to the City Manager, at which point a City Manager—hypothetically—could decide not to move the issue forward. Still, it seemed that in such instances, the issue would rise around the City Manager for others to notice.

Vice Chair Jones thanked Councilor Madison for bringing this forward and acting proactively instead of reactively. While there was no existing problem with the Mayor or City Council, it was good to recall that the potential exists. He cited some experiences and behaviors of councilors and mayors over the years. He agreed that it would be helpful to share education and resources with staff. He also agreed that this seemed to be a result of greater societal issues. He thanked the City Manager.

The City Manager added that if an employee feels mistreated by a councilor under the purview of a future City Manager, they could report the issue to HR, their department head could talk to the City Attorney (this is common for advice and recommendation), and there is an opportunity for the employee to go directly to the City Council. Such an action would require the involvement of the City Manager. If a future City Manager ignored an issue, there are other options.

Chair Bosley appreciated that there were other ways built into the process for an employee to have their concern heard and addressed. She agreed that staff need resources to understand their rights. She also agreed that adding the Disciplinary Policy to a more regular training program that is proactive, including training for department heads on how to deal with these issues; the

City Manager said she would add this to her list. The City Manager added that she was working with former Police Chief, Steve Russo, on this City-wide training program.

There were no public comments.

Vice Chair Jones made the following motion, which was duly seconded by Councilor Williams. On a vote of 3-0, the Planning, Licenses, and Development Committee recommends that the communication regarding the Council Disciplinary process be accepted as informational.

11) Adjournment

There being no further business, Chair Bosley adjourned the meeting at 7:56 PM.

Respectfully submitted by,
Katryna Kibler, Minute Taker
April 14, 2024

Edits submitted by,
Patty Little, City Clerk