City of Keene
New Hampshire

MUNICIPAL SERVICES, FACILITIES & INFRASTRUCTURE COMMITTEE MEETING MINUTES

Wednesday, October 22, 2025 **6:00 PM** **Council Chambers, City Hall**

Members Present:
Mitchell H. Greenwald, Chair
Randy L. Filiault, Vice Chair
Catherine I. Workman
Laura E. Tobin
Jacob R. Favolise

Staff Present:
Elizabeth A. Ferland, City Manager
Amanda Palmeira, City Attorney
Don Lussier, Public Works Director
George Downing, Downtown Infrastructure Project Ombudsman

Members Not Present:
All Present

Chair Greenwald called the meeting to order at 6:00 PM and explained the procedures of the meeting. Roll call was conducted.

1) Continued Discussion – Sale of City Property – 100 Church St.

Chair Greenwald asked to hear from the Public Works Director.

Public Works Director Don Lussier stated that to recap, this item first came to City staff's attention through a request from a neighboring property owner, related to activities happening on that City-owned parcel. He continued that during discussions with that property owner, the potential to sell the property to the abutter came up. Staff supported this idea and brought the question to the Finance, Organization and Personnel (FOP) Committee to seek the City Manager's authority to negotiate and execute a purchase and sale agreement. On July 24, the FOP Committee voted to sell the property. The City Council deliberated on August 21, and ended up referring the matter to the MSFI Committee for further review. On September 3, the MSFI Committee discussed it and there was extensive public comment during that meeting. The MSFI Committee voted to sell the property. However, between September 3 and when the City Council picked it back up, there was additional public interest that resulted in the project getting sent back to the Committee for further discussion. The Committee took the matter up again on September 24, and again, after considerable public comment, voted to sell the parcel. When the item returned to the City Council on October 2, it was accompanied by two letters from property owners and a petition signed by 21 neighborhood residents, and a correspondence in support of selling the property. Once again, the City Council had lengthy discussion and sent the item back to the MSFI Committee for additional deliberation, and here they are tonight.

Mr. Lussier continued that they discussed at previous meetings that this property is not a park. Parks are designated by the City Council and listed in City Code. That designation comes with a certain regulatory framework, in terms of prohibited activities and permitted activities. It addresses things like use of tobacco and use of alcohol. This parcel falls under the definition of "unimproved City land." As such, it is designated as the Public Works Director's responsibility, which is why he is here tonight talking with them, instead of Carrah Fisk-Hennessey, Parks and Recreation Director. Public Works's management of these unimproved City properties is minimal. Staff will respond and clear illegal dumping that people report to them, and they will take care of a hazardous tree overhanging abutting property, but they are not actively managing these spaces for the public's enjoyment. They are, by definition, unimproved. Many are land that was either acquired by tax deed because it was useless land or donated to the City as conservation land and it is just there to be preserved as undeveloped land.

Mr. Lussier continued that he mentioned the distinction between parks and unimproved land because over the past few months there have been a number of concept plans and proposals for improvement brought forward. Many of those ideas have merit, but they are outside the realm of unimproved City land. Implementing those ideas would be an implied acknowledgement that the City Council wants to convert this unimproved land to a City park and maintain it as such. He respectfully suggests that they have put the cart before the horse a little bit and have been asking the wrong question. The question now is not "*What should we do with this land?*" The first question the MSFI Committee needs to answer is, "*Is this a property the City Council wants to convert to a City park and manage as a City park?*" With that in mind, he prepared a graphic that shows the subject property, 100 Church St., which is about 5,375 square feet. Within a quarter mile radius are five City park areas. Railroad Square is about 24,000 square feet, which is about four times the size of 100 Church St., and about 1,000 feet walking distance away. The courts at Water St. have a different activity and user group, but that is about 14,000 square feet, about two and a half times the size. That is about 1,400 feet walking distance away. Russell Park is 7 acres, about a quarter mile away. Robin Hood Park is 117 acres, about three quarters of a mile walking distance from 100 Church St. The Church St. pocket park is comparable to 100 Church St., at 12,000 square feet, or about two times the size. It is only 1,200 feet away. Central Square and 92 Church St. are not public parks. Central Square is public right-of-way, so it is a little different from a regulatory perspective. 92 Church St. is part in the right-of-way and part unimproved City land, but he brings it up because it is across the street from the subject parcel and he thinks it would be a good candidate for the kind of volunteer improvements and neighborhood adoption that has come forward as one of the ideas. The neighborhood could become actively involved in planting flowers, maintaining that space, and that sort of thing.

Mr. Lussier continued that you can see there are many open space opportunities for public recreation outdoors within that neighborhood. The question comes down to whether this property is something the City Council wants to develop as a public park. He and Ms. Fisk-Hennessey have discussed this at length. They continue to believe that an improved public park at this location is not necessary, for the reasons he described. That said, if the City Council decides they do want an improved City park at this location, that is the first question to answer. If they come to that conclusion, the next step would be to put this into the CIP, and then through that normal process, go through a thorough public engagement, where everyone would get to weigh in on what amenities they want at the park and what kind of activities would be appropriate there, and

then they would come up with a plan and fund the improvements through the CIP. He recommends that tonight they focus on the question of whether they want this to be a park or not. Everything else, such as the various plans for development, grant opportunities, public adoption of the public space, and more, could be discussed later, if this is a place the City Council wants to develop as a park.

Chair Greenwald thanked Mr. Lussier for focusing the conversation. He continued that the MSFI Committee has had this discussion before, as Mr. Lussier said, and many of the discussions and arguments have already been heard. He thus requests that speakers limit their comments to one to two minutes. This is an open meeting and anyone can speak, certainly including those who wrote letters. The discussion is on whether the City should sell or retain the property. He does not want to hear about the fact that individuals have drug issues, or about homelessness, or the uses, because they are not going to cure society's issues here. They are just talking about whether to keep this little parcel of land. As Mr. Lussier said, if they do decide to retain it, City staff will work on a plan, be it to make it a City park or maybe just another piece of land with grass that gets mowed.

Chair Greenwald continued that they have talked about concerns for abutters' safety. He would put forth a thought—if the Committee decides to recommend retaining the parcel, the abutting property owners could put up a fence. He is not saying that would keep people out or whether it is a great idea, but it would be a way to assure safety. He does not want the City to get hooked into putting up cameras and trying to monitor it. All over the city, there are little pieces of land like this that are in the same situation, and they cannot ask the City to take on this responsibility. If the Committee decides to recommend selling the property to the abutters, they should consider that there have been no negotiations. The abutters do not know a sale price or terms and conditions. They might not want to purchase it when they find out those details. He is just throwing out thoughts that have come to him over the past month. If the City Council decides to retain the property, they could always change their mind in a year or so and look to sell, if it is not working. He personally is not advocating for retaining or selling this property, and he is not driving this discussion, just facilitating it.

Chair Greenwald asked for public comment, beginning with people who sent in communications.

Councilor Bobby Williams stated that he is here to ask that they retain this property. He continued that it surprised him to learn this is not a park, because it functions as one, and has for a long time. He thinks it is illustrative of the way things happen on the east side of Keene that this parcel was allowed to become "not a park" and just become the way it is. He thinks they can fix this. He submitted a vision of a possible redesign, with the intention of showing some ways to address the safety issues. The neighbors' safety concerns are valid. Fencing is one of the first things that could happen, and it does not necessarily have to be paid for by the City. Clearing out the vegetation, especially the invasive plants that block the view from the east side, would improve the lines of vision. Additionally, cutting down a portion of the berm would make it easier to see from the road. Putting a path from Church St. to Norway Ave. that goes through the park would drive foot traffic through the park, and as they say, the more eyes on the street, the safer a location is. Finally, he would love to find an activity that would bring people into and activate the space, like community gardening. If people were there doing positive things for the

community, other people who engage in not-so-positive activities might move on. He understands that some people are already moving on to a private property on Church St. where several people have been doing the things they had been doing at 100 Church St. It shows that the City can push people out of 100 Church St., but they will wind up somewhere, so they should be thinking of a holistic solution. They can make 100 Church St. a gem for the community. Yes, there are other parks within a quarter mile, but this is the densest part of the City. There are no rail trails in Ward 2, so anytime you bike from Ward 2 into downtown, you end up biking past this. He thinks of it as a gateway to Ward 2, which is why it is important to him, even though it is just barely into Ward 1. It could be a valuable spot. He has spent time there, and it is a beautiful spot, and he would hate to lose it for the City.

Paul Rodenhauser of 24 Pearl St. stated that he thinks the City has made it clear that they want to sell the park. He continued that he thinks the plan that has been talked about and formulated should be implemented on all these other designated parks within the city. The letter he submitted was lengthy, so he will not repeat himself.

Robin Kost of 51 Railroad St. stated that the new Master Plan designates the importance of keeping green spaces. She continued that this is the last small green space in the neighborhood. She will reiterate that the neighborhood has many elderly and disabled people. The park is already paved. The redesign is minimal. It is 5,000 square feet. Many people, including her landscape architect husband, have looked at different ways to update what exists that would have minimal cost and be easy to maintain. There are walkways, and seating areas that could be moved around. The park serves a purpose for the people in the neighborhood, such as herself, who are handicapped and use walking aids. Russell Park is too far, and the Church St. park has two benches and that is all, whereas 100 Church St. has trees, flowers, and proximity to 800 people within two blocks who cannot utilize the other parks. She thanks the Council and Committee for the time and effort they have put into this, and for respecting people's voices. This is something citizens are trying to keep. If the City sells it to the abutters, no one knows what they will do, as it will belong to them and they can develop it if they want to. Citizens would lose the space. She thanks the Committee for their interest and their patience and reminds them that with only a few weeks to put things together, the neighborhood created a lot of interest and support. The citizens need to be heard. Yes, the other parks exist. She lives right off of Railroad Square and does not consider it a park. It is a thoroughfare. The Master Plan says to keep the green spaces.

Ken Kost of 51 Railroad St. stated that he thanks the Committee for giving everyone more time to work on this. He continued that he also thanks the Public Works Director, who underscored a point he made earlier that in good urban design, a pocket park should be 300 to 400 feet away from population centers. This is in the right place. For the October 2 City Council meeting, he and others submitted a brief plan with 22 signatures committing to be stewards of the site. Most of those people are from east Keene. They submitted a more developed plan to the last City Council meeting with another 25 signatures from people who want to keep the space public. That is a lot of people, and they did not go door to know or have a signing campaign, they just talked to people. They got people to be interested in this at the East Keene Neighborhood meetings. If they need more signatures, he is sure they could get more, given that even with the limited time they had, they demonstrated that people would like to keep it open. The plan that they submitted

now is a broader partnership between the east Keene residents and the City. They outline how residents will care for the park, including periodic pickup, which the abutting neighbors are fantastic with; walking by, driving by, and observing what is going on at various times of day; and encouraging low intensity uses. They are not talking about redesign, just talking about low intensity uses that could happen there, such as meet-ups, yoga, or tai chi. It would be especially great for people with mobility issues. It needs to be safe for the neighbors, which is how this whole thing started. The plan that they submitted asks the City Manager to investigate additional fencing, whether done by the owner or the City, motion lights, motion-activated cameras, and any signs that the City can post. The Keene Ordinance "Regulatory Authority on Unimproved Land," Chapter 58, article 4, section 58-68 says the City can put up certain signs, like no alcohol, no camping, and things like that, even though it is unimproved space. They included a sample signage request. If the City Council decides to retain the park, they will submit that to them.

Mr. Kost continued that in the letter, they also ask the City to look at transferring the parcel to the Parks & Recreation Department. His understanding is that they have the equipment to mow it and are already mowing it. If the Department controls the space, the biggest benefit is they can place signs saying the park is closed from dusk to dawn, to help control use. If the City decides to retain the parcel based on all of this, he and the letter-signers would like to get together with the City, the people who live next to the park, and the broader east Keene community. He thinks that if they work together, they can come up with something that works for all that provides safety, makes the park available to everyone, and does all the things that they all would like to do, and everyone would be happy. He hopes they have a chance to make that happen.

Scott Olmstead of 54 Meetinghouse Rd. stated that he is a commercial tenant at 103 Roxbury St. on the second floor with windows that overlook Norway Ave. and windows that overlook the green space. He continued that he witnesses what is going on in the green space daily, including at 4:30 PM this afternoon. Every day, they see public urination, public defecation in the alley or at the dumpster right next to the green space. He knows it is probably up to the owner of the real estate to take care of that, because it is private property, but he hopes that if the City decides to retain the land and convert it to a park or whatever they turn it into, that they put public restrooms somewhere there or nearby. That would solve a lot of the problem. He sees other activities in the daylight hours but does not go there at night. He has a tremendous amount of sympathy for people who are homeless and donates to help homeless people. If the City retains the land, he asks that they put a public restroom there, even if it is a porta-potty, or something on the 92 Church St. side, so people can have a safe toilet to use and running water.

Jody Newell of 32 Leverett St. stated that the process is important to how this plays out. She continued that conversations were happening between the owners, the tenants, and City staff for quite a while, it seems, before the community was brought into the conversation. They have seen that since the community has been alerted to the possibility that this parcel would be sold, so many people have stepped up and want to help. Her question is about the property value. In 2024, it was assessed at $59,800. For 2025, it is assessed at $6,000. She is curious to know what the discrepancy was, what the difference was between 2024 and 2025 and how that plays into being willing to buy the property and what can happen with the property afterwards.

Chair Greenwald stated that he does not have an answer for how they came up with $59,000 for that, but his experience in real estate tells him that that is not likely. He continued that if it were to be sold, it would be a negotiation, but the question tonight is whether the City Council wants to consider selling it.

City Manager Elizabeth Ferland stated that this question about the value has been asked a couple of times. She continued that Councilor Haas spoke to the City Assessor about this. The parcel was valued as a buildable parcel, which is why it had a higher value. It has been exempt from taxes for a long time, so it is not something that would have raised a red flag for them until this conversation started to happen. When it did, they corrected it, as an unbuildable lot.

Chair Greenwald stated that there is no assumption that if it is sold, there is any number specific that it is going to be.

Ms. Newell stated that she has a follow-up question. She asked, if the abutter were to purchase the property, if it would be possible to get a Variance to create one larger lot, and then it would be buildable from that point out. The City Manager replied potentially, but she does not know. She continued that she does not know what they plan to do with the lot. If they did do that, the City would tax it as a buildable lot.

Chair Greenwald stated that there is no guarantee or assumption what the use, if sold, would be. He continued that that is clear. As long as it is allowed by Zoning, even by Variance, anything could happen. They could make it a water park, a parking lot, or a corn field.

Sarah Allen of 164 Roxbury St. stated that 10 plus years ago, her father lived in that little yellow house next to the pocket park, and for a short time, she lived there with him. She continued that he maintained the park for a while. His name was Jeffrey Allen, and he was known by many people in the community. He used to grow beautiful, tall sunflowers there, and there were always flowers in his owl statues there. After he passed away seven years ago, a group of people did a fundraiser and maintained the park for a good amount of time afterward, planting flowers and keeping the bushes nice, growing things that her father used to grow. She recently found out the City might be getting rid of the space, and that brought this back to her attention. That space holds a place in her heart. If she had the chance, she would actively, daily participate in maintaining the space. She would help build a fence and grow flowers again, if the City decides to keep the space. She understands and agrees that there are issues there, as she, too, sees the substance abuse happening in the park. She visited it from time to time, because it was her dad's park, climbing the tree there and thinking about him. She goes to take pictures of the owl statues that have been there since he passed and sees the smashed beer cans. She would love to change that. If it were legally turned into a park, with the rules and regulations that go with that, she likes the idea of fences and community gardening. If there were potentially a small fence or pathway, and a sign to prohibit substance use or a sign saying it was a community garden, that could help push the negative behaviors out. She would be an active part of it. If there were signs posted, it might make the space more family friendly. It would mean a lot to many people, and to her, personally. She hopes it can stay.

Chair Greenwald thanked Ms. Allen and stated that if the space is retained, they will look for her. He continued that they have her contact information. He asked if anyone else wished to speak. The Committee will make a decision tonight, because the abutters and the public need an answer, and the Council needs to move on to other things, because they have put a lot of time into this.

Councilor Favolise stated that even though this conversation over the months has felt a bit charged at times, and he felt like they were on different sides, he thinks there is an agreement that everyone wants this space to be safe and to be an asset. What that looks like or the path they take to get there might be a little different, but he feels agreement in the room tonight that the status quo here will not work, and something needs to be done. To that end, several communications the Council received in the past, and some speakers tonight have talked about how the people rallying to save this park and develop stewardship plans understand the concerns of the residents and the commercial tenants and are willing to work with those who have concerns. He wonders if the plans and petitions have been crafted with any input from the abutters, whether that is representatives or residential or commercial tenants. He does not know who from the public would want to answer, but his question is how the petitions the Committee has in front of them got there, and whether those conversations between the two groups have taken place already. He is not clear on that.

Chair Greenwald replied that he thinks the petitions just came to the Council. He continued that he does not fully understand Councilor Favolise's question. He asked him to clarify. Councilor Favolise stated that he hears that in the future, there is a willingness to talk with people who have concerns and work with the groups who have concerns, who were originally interested in purchasing this property. He continued that he wonders if the group that has those concerns, and the group that is submitting the petitions around management and stewardship of this, have gotten together outside of this Council space. Chair Greenwald replied that he does not know, but again, the focus is on whether the Committee wants to recommend selling the property or not, not on what happens if they do not sell. Councilor Favolise replied that he thinks the answer to his question would help inform his decision.

Michele Chalice of 25 Beech St. stated that to Councilor Favolise's question, yes, there were two meetings held on site, one on a Saturday and one on a weekday evening, attended by members of the community as well as various other people. She continued that in this short period of time, no, there has not been an appropriate design process with adequate community involvement. However, what the Committee is seeing has not been developed in isolation.

Councilor Workman stated that she wants to thank the public for their ongoing patience with the Committee while they flesh out these discussions even more. She continued that in the beginning she favored the immediate sale of this property for many of the reasons Mr. Lussier outlined in the presentation. However, with more time, hearing from the public and reviewing the new Master Plan, which she helped develop, a couple of themes come to the forefront of her mind. The Master Plan's tenets include the creation of more third spaces and community nodes, and she thinks this spot is a perfect example of that. She does not see an immediate need to sell the property. It does not solve the homelessness problem. This is becoming indicative of a lager homelessness issue they have throughout the city. They could be reactive and just sell it, wanting to get rid of it and wipe their hands of this problem, but it would not really solve the problem.

That is what she is concerned about. Just like with the decision about the airport road, she knows this matter went to the FOP Committee, but it was not until it came to the MSFI Committee that it really picked up traction from the community and the discussion started. A fellow Councilor refers to the MSFI Committee as "the people's committee," which is relevant when you see issues like this where it bounces from one committee to another. She thinks they owe it to the community, because there has been an outpouring of support and interest in designating this as a park, and a lot of confusion, not realizing it was not already a park. She urges her fellow Committee members to give this a little more time and see what the community can do. She thinks they should give everyone a chance to make something beautiful out of this.

Councilor Tobin stated that she wants to highlight that Mr. Lussier mentioned the CIP, which is a ten-year plan. She continued that just to be clear, if this were to be made a park, it would be added somewhere into the development process over the next ten years. It will not happen next month. This came to the Council as a safety concern for the residents, and she has not really heard anything that will address that soon. She understands that people have an attachment to this piece of land, and she thinks it looks beautiful. She thinks that right now, with it owned by the City and managed by Public Works, they are not able to keep those residents safe. One of the first things she brought up in one of the initial conversations is that this is surrounded by people who live in low-income housing and senior housing, and having certain behaviors there is particularly problematic because those are vulnerable people. Many of the plans are wonderful and she would love to see that energy focused on the property across the street. She hears the idea of the neighbors putting up a fence. She has gone there several times. Most often, the people she runs into are the people who live right next door. They are the ones really using and owning the space. One time, they saw her there and questioned her, wanting to see what she was up to, which she appreciated, as they are really monitoring the space. They are watching the space, picking up trash daily. She went to one of the meetings, and did not see any of those people there, but she knows the people who live there are focused on safety. They know their neighbors, greeting people by name. If the City were to retain this space and develop any plans, it would need to be converted to a park. It could not be managed by Public Works. She does not want to see it go to the bottom of the list, making these neighbors wait another eight or so years.

Councilor Filiault stated that Councilor Workman is correct, they have always considered the MSFI Committee the committee of citizens. He continued that it is the committee where people are heard. That is why this issue is here. The FOP Committee's focus is different, based on dollars and cents, whereas the MSFI Committee deals with emotions a little more. What to do with 100 Church St. is front page news in the Keene Sentinel. This means the community is in good shape, if this is what they are talking about, considering what is going on in other communities. Many other communities would love to have this be their headline. First, he would point out that this conversation is a win-win. Both sides of the aisle want the same thing, a better outcome for this little piece of grass. This is not adversarial, with one side beating up the other side, this is just a case of people thinking they can do it a little better than the other people can, which is not a bad thing. Originally, he strongly favored selling the parcel, based on the issues that have been happening there, but that was before everyone had come together and put their heads together. Both sides say they can make this work and improve the situation. Until it went to the FOP Committee, they had not even been discussing this property. Most of the Keene population did not even know it was there. He is now changing his decision. He thinks they

should allow the citizens an opportunity to improve this grassy area. It is not a park, it is a small green space the City owns, that maybe could be improved. He is leaning towards voting for the City to retain it for now. They would give the neighbors and east side residents a chance to put something together. They have, in a short amount of time. It is not completely solid, just little thoughts here and there, but he knows that it takes time. It would be nearly impossible for citizens to come together and develop a totally concrete plan in 30 or 45 days, because even the Council cannot always do that. Tonight, he will vote to retain the property for the time being, not necessarily permanently, and see if the neighbors can come up with viable solutions. The MSFI Committee could always look at it again in a few months if it is not working out.

Chair Greenwald stated that he has a procedural question for the City Attorney. He asked if the Committee would need to make a motion to recommend retaining the property, given that the City already owns it. He continued that he could see a motion to recommend executing the sale, but they like to have a positive motion coming out of Committee. City Attorney Amanda Palmeira replied that if staff's recommended motion was for the Committee to recommend authorizing the City Manager to sell the property, Chair Greenwald is looking for what they would positively recommend as the alternative. They could recommend instructing the City Manager to retain 100 Church St. for the time being.

Councilor Filiault stated that it is okay for the Committees to make recommendations on the fly, in their own words. He continued that they could say they do not recommend authorizing the City Manager to sell 100 Church St.

Councilor Tobin stated that they have spent a lot of time discussing housing and becoming a community that is focused on housing, and here they had a landlord who reached out to the Committee and said they were having an issue. She continued that she does not think they can become a housing- or developer-friendly community if they are not willing to support the property owners when they do develop. Chair Greenwald replied that he does not disagree, but he would note that if there was a situation with one of his properties and he was concerned about an activity or an individual, he would put up a fence or some means of dealing with it. He would not go to the City.

The following motion by Chair Greenwald was duly seconded by Vice Chair Filiault.

The Municipal Services, Facilities and Infrastructure Committee recommends the City Manager be authorized to all things necessary to negotiate and execute the sale of 100 Church St., Parcel 574-015.

Chair Greenwald stated that he recommends a negative vote, and he will explain such to the Council on Thursday. He asked for comment from the Committee or public.

Sarah Allen asked if she would be legally allowed to put a fence around the parcel or put up a sign. She asked if someone is allowed to personally do that, or if there is a committee she could seek permission from, if she or someone else wanted to take it upon themselves to try and make it a safer space. Chair Greenwald replied that he does not think she could put up a fence or signs on public land, but she could probably plant sunflowers if she would like. Ms. Allen replied that

people have placed items there in honor of her dad. She asked if she could put up a sign on the tree, not something official. Chair Greenwald replied that the MSFI Committee cannot advise on that.

Ken Kost stated that he could not hear the motion. Chair Greenwald replied that the motion staff recommended to the Committee was to authorize the City Manager to "execute a sale." He continued that he thinks the Committee will not vote in favor of that.

Mr. Kost stated that he has a question about the CIP that Councilor Tobin mentioned. He continued that if there is interest in turning this into an official park managed by the Parks and Recreation Department, maybe it does not need a lot of money put into it, because it does not need to be developed more, just maintained. He asked if that would mean it would go to the end of the 10-year CIP list.

Chair Greenwald replied that it is not a rotating list, and it does not necessarily need to be a $25,000+ project that waits for a period of time. He continued that the City Manager can meet with a group or individuals to work out something in the interim, and the interim can be a rather permanent solution. The City Manager replied that she heard Councilor Filiault say they would be keeping it for an interim period of time to see what happens. She continued that if that were the case, they would not be planning any substantial changes to the property and expending funds that they might then not benefit from, if later the Council decided to sell it. If the Council then comes back and tells her they would like to see it as a park, they would start the Ordinance process to change it over to a park, and then they would start the engagement with the community. She has seen groups come together in the past and raise funds for something they wanted to see happen, before it could make its turn in the CIP process.

The motion to recommend authorizing the City Manager to negotiate and execute a sale failed with a vote of 0 to 5.

Chair Greenwald stated that the failed motion means that the MSFI Committee recommends to the City Council that the City keep the piece of property. He commented that he thinks this is great public involvement in an issue and it makes him glad to be chairing the MSFI Committee.

2) <u>Relating to Rules for the Operation of Bicycles - Ordinance O-2025-33</u>

Chair Greenwald stated that before they look at bicycle rules, he wants to share that there is a New York Times article that commends Keene's roundabouts, with a mention of Mr. Lussier, who was the City Engineer at the time. He continued that he commends Mr. Lussier and the City. Mr. Lussier replied that the article is about the City's innovation in adopting roundabouts as a response to climate change, and recognizing the safety, environmental, and air quality benefits. He continued that the article highlights how the City was at the cutting edge in early 2000 with pushing the idea of roundabouts forward, even over the objection of the NH Department of Transportation (NHDOT).

Mr. Lussier stated that this is about setting the stage for the use of bicycles in the downtown, once the bike lanes are constructed. He continued that largely this will be an Ordinance without a

lot of effect until those bike lanes exist. However, the Council wanted to get these rules in place so people understood them, and they could begin the process of public education. Deputy City Manager Rebecca Landry has been thinking and talking with staff about how to do that education and outreach component. He can definitely see more videos from Asah Cramer in the future. That said, the business of tonight is the rules for the use of bicycles on the bike lane. The last time he spoke to the MSFI Committee about this, he presented a draft Ordinance he thought addressed the gaps between what the Bicycle and Pedestrian Path Advisory Committee (BPPAC) had expressed as their desire and what was already codified by State law. As he explained, as a legal best practice, it is not the best idea to have City Ordinances that overlap with or contradict what is already in State law. They did not write this Ordinance as a comprehensive set of rules, because they did not want it to repeat rules that are already in State law. During the previous discussion, a question came up about whether they can include a rule saying that e-bike riders can ride on the bike lanes downtown, but they are not allowed to use the electrical function and would have to pedal the e-bike in the downtown. The Committee tasked the City Attorney with figuring out the answer to that question, and if the answer was that the City had the authority to make that rule, presenting it as an A version. That is what is in the Committee's agenda packet tonight, an A version that would add a provision that says, "*When operating an electric bicycle within the Downtown Core Zoning District, electric bicycles may not engage the electric motor*."

Chair Greenwald asked if that would include scooters, and whether they need to be named as such. Mr. Lussier replied that in the agenda packet, in the A version/red line version, subparagraph B says, "*In addition, the following rules shall apply to the operation of bicycles, unicycles, tricycles, scooters, roller skates, skateboards, or similar devices, including electrically propelled or assisted versions of such devices*." He thinks that because it is a subset of B., it is already included as all of the above. He would defer to the City Attorney to confirm her opinion.

The City Attorney stated that she wants to clarify scooters. She continued that e-bikes have pedals and pedal assist, which is what the Committee originally asked her to look into, and she is happy to talk about her research for that. However, the scooters she pictures do not have pedals. She asked if Chair Greenwald is asking whether the "do not use your motor" rule applies to scooters. Chair Greenwald replied yes. The City Attorney replied that they can apply the rule to scooters. She continued that e-bikes are more specifically regulated by the State, and the reason she asked for some time to look into this was because of that, and to make sure the Council was able to regulate it more specifically. Scooters, they can go to town on. There is a prohibition on scooters, skateboards, and things like that. In addition to e-bikes, if they want to go more specific on scooters, they can. She has not ridden a scooter and does not quite understand, logistically, what the Committee is picturing, for what that means.

Chair Greenwald replied that he would rather see Section 2 say "*said devices*" or something like that. He continued that he has an electric scooter and can use it the old-fashioned way, by foot, or hit the battery and get up to 20 mph. The City Attorney replied that she would like direction on how to phrase it, but she would point out that there is a mile per hour limit already. Chair Greenwald replied yes, but he thinks an electric device in a bike lane is a problem. Section 2 calls out electric bicycles, and he thinks it could say, "*Said devices mentioned above*." The City Attorney replied that he can correct her if she is wrong, but if a scooter's motor cannot be used in

the bike lane, you would have to walk it, so they are effectively prohibiting them from being used.

Mr. Lussier stated that before there were electric scooters, scooters were just two wheels and a platform. You would use a kicking motion. He continued that he thinks what Chair Greenwald is saying is that you could kick push your scooter but not use the electric motor. The City Attorney replied that in that case, yes, they could do that. Mr. Lussier stated that he thinks "*said devices"* makes sense for the wording. Then, it is just a reference back to the list of devices under article B. "*Bicycles, unicycles, tricycles, scooters, roller skates, skateboards, and similar devices*."

Councilor Favolise stated that he had asked the City Attorney the same question about scooters, so he concurs with that. He continued that what he is concerned about is not so much the speed, but something Councilor Filiault has talked about at length. When he parked on Main St. and got out of his car, he looked up and did not hear, but saw, an electric scooter coming, which should not have been on the sidewalk in the first place. If he had looked up a moment later, there could have been a collision. Thus, he concurs with that.

Councilor Favolise continued that today he received an email, and he thinks the other Committee members did as well, from people affiliated with BPPAC and who spend more time on a regular basis interacting with bicycles and devices like that than he does, wanting to make sure that the language here clearly does not prohibit an e-bike, for example, from being on the road within the Downtown Core District. Mr. Lussier replied that he would refer them to the language under subparagraph B: "*The following rules shall apply to the operation of […] on bike lanes and multi-use paths within the city of Keene*." Thus, it is intended to apply to the bike lanes they will build downtown, but also, multi-use paths.

Councilor Favolise stated that he is picturing Main St. right now, and the green shaded thing with the bicycle on it, and the conversation has been around what to call the "bike lanes." His question is whether they are sure, for the purpose of the Ordinance, that it refers only to the sidewalk grade. Mr. Lussier asked him to ask the question again. Councilor Favolise asked, when they says "bike lanes," if they are sure that excludes roadway bike lanes. Mr. Lussier replied no, it would not preclude designated bike lanes adjacent to the roadway. For example, Washington St. has a bike lane. On Park Ave. to Summit Rd., there is an on-street bike lane, striped as a bike lane but not grade separated.

Councilor Filiault stated that it bothers him to hear the City Engineer and City Attorney are not on the same page. He continued that he does not like "winging things" when they are not 100% together here. However, it does not matter to him at this point, because as he has stated in the past, he will not agree to any Ordinance that allows anything with a motor on the sidewalk bike lane downtown, regardless of whether the motor is gas or electric, and that includes e-bikes, e-scooters, and e-skateboards. They would be creating a problem they do not have right now. He does not like creating Ordinances that are completely unenforceable. The speed part is unenforceable, even if they say, "*Do not engage your electric motor*." Who would monitor that? The whole Ordinance is unenforceable, even if it looks good on paper. The most problematic part is allowing anything with a motor downtown, mere feet away from pedestrians who will be

crossing that lane onto what will be designated as the walking part of the sidewalk. He will not endorse this.

Councilor Tobin stated that she agrees that a lot of this will be challenging to enforce. She continued that that is true of many Ordinances, which are violated on a regular basis. They set them out as guidelines so that if there is a problem and someone reports a complaint, there is something the City can do. They can reference the Ordinance that was violated. They do not have the capability or resources to monitor every corner of the street. However, she thinks this Ordinance makes a lot of good points and covers the basics. Over time, it may evolve.

Councilor Workman stated that she was just reviewing an email a constituent sent the Committee, and it sounds like all the concerns the email raised were addressed in this conversation except for one. Only B.1. mentions "*Downtown Core Zoning District*." For B.5., do they also want to specify "*Downtown Core Zoning District*," for stops "*except at a bike rack provided for such a purpose*"? Because they are only intending to put bike racks in specific areas downtown, not all over the city right now. They might want to add that wording.

Chair Greenwald asked if they are drifting toward a C version of the Ordinance, or if this is still B. The City Attorney replied that they have an A, so this would be a B. Chair Greenwald replied that to make this a B version, it would pick up Councilor Workman's suggestion that section 5 indicate the Downtown Core, and his suggestion on 2, about "*above mentioned devices.*" The City Attorney replied that she has an alternative suggestion for wording for B.2. – "*Any device with an electric motor may not engage the electric motor within the Downtown Core Zoning District.*" Chair Greenwald replied that that sounds good.

Councilor Filiault asked if the B version has to go back to the City Council to be read for the first time. The City Attorney replied that since they have stayed within the scope of what these rules proposed and the language edits tonight are not shifting any of that, she thinks they are good.

Chair Greenwald asked for public comment.

Robin Kost of 51 Railroad St. stated that for informational purposes as they think about bike lanes, there is a growing number of elderly and disabled people in the city who use electric scooters and electric wheelchairs. She continued that they go between 4 and 10 mph. They currently use the sidewalk. She asks the Committee to keep the ADA in mind, and keep in mind that if they are sharing the road, there is a consideration of respect for people who are handicapped using motorized wheelchairs and scooters.

Chair Greenwald asked the City Attorney if they need to add a Section 6 for this. The City Attorney replied that because these rules will apply to the devices they have identified, and she does not think it is contemplated that the bike lanes are intended for travel by pedestrians or wheelchair users, regulating them is probably not necessary. Mr. Lussier stated that he would add that the City Code provisions that prohibit the use of bicycles or scooters on Downtown sidewalks already have an exception for mobility devices. People using wheelchairs or scooters as mobility devices are allowed to use the sidewalks throughout the downtown, and that is not being proposed to be changed by the Ordinance. Councilor Filiault stated that to be clear, no

matter what Ordinance comes out, medical devices and electronically assisted mobility devices would be exempt.

Lynn Sterling of Jordan Rd. stated that her husband Jim retired and started regular biking for health, fun, and exploring. She continued that now she is retired, too, and ready to join those bike rides. She can use an electric bike, and now they can ride together. She brought her electric bike tonight to show the Committee. She showed where it turns on by battery. She continued that it has different speeds, ranging from "0," which is just pedaling, to 4, but when she rides, she uses 0, 1, and 2. She and her husband ride up towards Gilsum along the highway, and bring their e-bikes to Maine and ride there. It has been wonderful. Finally, after all the meetings, the City Council said yes to bike lanes for the downtown project. It is just like Europe has. She has heard people on the radio, in Council meetings, and in the Keene Sentinel, calling her "*an electric bike owner and rider*," a "*speed demon*," a "*silent danger to everyone*," someone who is "*zooming along Main St. and knocking over walkers*" and "*colliding with cars*," and "*an accident waiting to happen.*" She can speak for e-bike riders and regular bicycle riders when she says she does not want this to happen. They are not reckless like media outlets say they are. Cars can go 55 mph down Main St. and they weigh thousands of pounds, but they do not, because drivers have common sense. As a person born and raised in Keene, she knows this, and she knows to follow the rules. She does not want to crash or fall. Main St. is a special place for all of us to move safely together. They need to try bike lanes. It is not an original idea; Keene is not coming up with the concept. Electric bicycles need to be part of it.

Jim Sterling of 197 Jordan Rd. stated that he is happy to hear that they will have bike lanes that will allow e-bikes, just not with their electric motor turned on. He continued that he was actually going to suggest that. He listens to talk radio and comes to meetings, and some people have so much apprehension about e-bikes. He rides a regular bike all the time, and he is trying to figure out where people are seeing these "speed demon" riders. Sometimes he sees someone go really fast, but outside downtown, not inside here. That is just like cars, which sometimes go a little faster. That same person is not necessarily going to go 20 mph on their scooter in the downtown bike lane, just like cars do not speed there. It is the same principle. He once heard on local talk radio a woman was having a hard time understanding bike lanes, and she was afraid that when she got out of her car and stepped onto the curb, she might get run over. He understands that anxiety, but he tried to picture that. It is not like she would be popping out of the bushes into the middle of a bike lane. Just like when approaching a street, you look and then step forward. That is all. That same woman has no problem walking across the street through two lanes of traffic of 2,000-lb. cars going 25 to 35 mph. That same person has no problem backing out from a parking spot into oncoming traffic or going on the bypass driving 50 mph with large cars coming by within eight feet with only a yellow line in between. It dawned on him that it is because she, and people in general, are used to those things. There are many things we all do that come with risks, but we are acclimated to them. We watch our children play various sports, for example. He thinks people's anxieties about bike lanes are exaggerated, because they have not seen them. Once they see bike lanes, they will become acclimated. He and his wife went on a river cruise in Europe, and every stop with e-bike tours were always booked up, by people in their 40s through 80s. In every town they went through, big and small, they rode the bike lanes, which included e-bikes with their motors on, and there were no problems. These river cruises are run by billion-dollar companies that do risk assessments, and if e-bikes and bike lanes had the serious problems

he hears people in Keene worrying about, the river cruise companies would not do them. He thinks that once the bike lanes in Keene get going, people will have something to look at and they will become acclimated. They do not want to lose the ability for e-bikes to come downtown. It is the fastest growing transportation method for people in their 40s and older, and those people have money to spend. Using a bike rack to park a bike is better than using a parking space. He knows Councilor Filiault fought hard for parking spaces. Regarding that mythical, $14-million parking garage Keene will never really build someday, which would hold 400 cars, he did the math and realized one parking space costs $30,000. A nice commercial bike rack that holds five bikes is $500. That is 300 bike parking spaces for the price of one space in a parking garage. They want more people to use bikes, and for people to not be utilizing all the parking, and for fewer cars to come. He does not think they want to block out the growing number of people who want to come downtown on e-bikes and spend money.

Councilor Williams stated that he wanted to follow up on what someone said about mobility devices. He continued that in many cases, that is what these are. For example, he knows an elderly woman who rides an e-bike that is also a tricycle. It probably would not count as a "scooter," but she uses it to get around because it is easier than pedaling a bicycle. He does not think they should require her to ride in the street. She already does, and it scares him. It is not safe to ride in the street. As an e-bike rider, he does it regularly, and on Main St., it is not great. If there were bike lanes with a 10 mph speed limit, he would ride the 10 mph speed limit on the bike lanes. If there is no motorization, though, he will be back out on the street, because his bike is heavy to pedal. Another concern he has is that this is unenforceable. Someone looking cannot tell if a motor is engaged or not. When he pedals, the motor is automatically engaged unless he switches it to "0." He usually keeps it at "1," and likes having the throttle there in case he needs to accelerate quickly to get out of danger. One of the safest things about e-bikes is that you can get out of the way of a car quickly. E-bikes are a great option for teenagers, as cars today are very expensive. For two years, his son commuted to high school from the east side on an e-bike. That was great, except he never rode on Main St., and had a couple of terrifying times on West St. There is not great infrastructure here. Some of the bike riders they would be forcing out onto the street are 16 years old or 80 years old. Investing in new infrastructure to make bicycle transportation safer in Keene, to suddenly say that the whole category of e-bikes and other electric devices must be used in the street, means losing all of the safety benefits right there. E-bikes are the fastest growing mode of transportation, green transportation, and it is an affordable option for many people. The City should encourage it, not discourage it.

Councilor Favolise stated that he was listening to the City of Keene In Focus podcast, and this enforcement question came up, and it has been raised by the Committee repeatedly. He continued that the City Manager talked about a KPD position that is seasonal in the summer for downtown foot patrols. That will not solve all the problems that could ever come up downtown, but he wonders if she could share more information about that for additional context around what even partial enforcement could look like.

The City Manager replied that they have been fortunate that for the past several years, someone who no longer works for the City full time comes back to work every summer and either walks or bikes downtown and on the multi-use trails. She continued that it has been a huge benefit for the City. She does not expect he will be taking radar, but he will be looking for people who are

acting badly and helping to enforce the Ordinance when he can. It is true that this will be challenging. They might not know when someone's motor is engaged, or if someone is going over 10 mph, but they will know if someone is acting badly, and the Ordinance gives them a tool to use when that is the case.

Chair Greenwald stated that a non-electric bicycle can go more than 10 mph. He continued that if someone is acting badly, he thinks he heard it is a violation. He asked what happens then. The City Attorney replied that if his question is how much the fine for the violation is, she does not know off the top of her head; that is a KPD question. Chair Greenwald asked if that should be in the Ordinance. The City Attorney replied that the fines are controlled by RSA. She continued that when they label something as a violation or misdemeanor, RSA 650 and the whole Criminal Code says what happens for those types of violations and crimes. Chair Greenwald asked if they should turn this Ordinance into a B version when the City Attorney gets the answer to section 6 of what the violations or whatnot would be. The City Attorney replied that to clarify, she does not know that the City can control what the fine would be. She continued that that is set by statute. She can come back and tell them what it is in the statute, but it is not something she recommends they put into the City Code. Chair Greenwald replied yes, if she could give them that information on Thursday, that would be important.

Chair Greenwald asked if there was any further comment from the Committee or public. He continued that they are speaking about what is now O-2025-33-A. The City Attorney replied that it will become O-2025-33-B. Chair Greenwald asked if everyone is clear on what the changes are.

The following motion by Councilor Workman was duly seconded by Councilor Tobin.

On a vote of 4 to 1, the Municipal Services, Facilities and Infrastructure Committee recommends the adoption of Ordinance O-2025-33-B. Councilor Filiault was opposed.

The City Attorney stated that she thanks the Committee for giving staff the time to look into this. She continued that she knows no one likes placing items on more time, but she had asked for that. She and the Public Works Director work hard to get questions answered for the Committee when they come up at meetings or anticipate what information they might need, so she thanks the Committee for their patience. Chair Greenwald thanked the City Attorney and reminded the Committee that if anyone thinks of a question ahead of the meeting, they can let staff know then, which would probably be more helpful.

3) Downtown Infrastructure Project Update - Public Works Director

Mr. Lussier stated that the first thing he wants to mention, regarding the Downtown Infrastructure Project, is that a while back, he had sent letters to all the property owners that have parcels abutting this project. He continued that the letter invited the property owners to get in touch with the Public Works Department to coordinate certain things that could happen on their property that are not public expenses and thus are not work that the City will do, but that the City could help facilitate and hopefully make a more uniform, seamless integration. Specifically, they mentioned accessibility improvements if a building's current entrance does not meet the ADA.

The City could help facilitate that improvement. The City cannot do work on private property, and thus could not build a ramp on private property, but if they say, for example, "*if you can bring the sidewalk elevation up two inches, then I can make this ramp work and meet the ADA*," the City is happy to try and accommodate those sorts of improvements and coordinate that with the property owners. The second item was regarding storm drainage connections for roof drains. The City plans to add a stub for roof drains for any property that has frontage on the project. In the letter, he said, "*We will bring the stub for future roof drain replumbing, if you are going to replumb your building, to the building face. If it works out better to have it at this corner of the building versus that corner of the building, let us know so we can put it in the right spot so it facilitates your connection to it*." The third item was with respect to water and sewer connections. For all the City's big infrastructure projects like this, they do not want to leave old service connections in the ground, knowing they will fail in the next three to five years, and then have the property owner have to dig up City sidewalks. Even though it is a property owner's responsibility to replace the sewer service line from the main to the building face and the water service connection from the valve to the building, the City will do up to the building as part of the project. Further south along the project where the buildings are set back, they will replace up to the property line as part of this project. Thus, it will save people the effort of having to dig up City infrastructure later on. In the letter, they said, "*If you want to go to the next step, and take that service line through your foundation and right up to the meter so you know the entire service line is uniform and there are no connections, we are happy to coordinate that. We will have a plumber under contract as part of this project. They will give you a quote to do the work inside your building. If you approve that work, we will tell the plumber to do it*." The City would pay the plumber and then get reimbursed by the property owner.

Mr. Lussier continued that those sorts of coordination's are ones Public Works is happy to do. To date, no property owners have responded to that letter and indicated that they want to coordinate. Thus, he wants to put that back out there, and remind people that the opportunity is still available, though it is closing rapidly. If there is anything the City can help facilitate on someone's property, he asks that they please get in touch with him or the Public Works staff.

Councilor Filiault stated that in downtown Keene, the buildings were built in various eras and those pipes coming out of the buildings were probably laid out in different eras. He continued that he assumes the pipes vary in size and material. He asked if they will find out what size pipes they need to make an adapter for. It will probably not be one size fits all. Mr. Lussier replied that he is correct, different materials need different adapters. He continued that City records show the pipes' sizes, and staff have been in all the basements' buildings, so they know, for example, whether it is a six- or eight-inch sewer line. He will not rule out the possibility that they will find out somewhere underground it went from a six-inch line to a four-inch connection at the main, say. They will have surprises during construction. That said, the heart of Councilor Filiault's question is about making the new infrastructure connect to the old infrastructure. Luckily, the fittings they use for that anticipate a range of sizes. They will have numerous different fittings available and in stock. The contractor is responsible for having all the different parts, pieces, fittings, and adapters to make that connection when it happens.

Mr. Lussier stated that next, he wants to talk about arborists. This question has come up repeatedly during the design process. He continued that it has almost been presented as a concern

that the design did not involve the work of qualified arborists when talking about the downtown trees. He wants to set the record straight. Before preliminary design, Stantec had, as part of their scope of work, to have an arborist – they used Bartlett Tree Consultants – come in and do a comprehensive tree inventory and assessment. The Committee saw the results of that assessment in the preliminary design work product where the trees were color-coded with pink, yellow, and green. The colors indicated the trees' health. The City used that information to inform which trees to try to work around and accommodate to stay in place and which trees they were less worried about having to stay in place. Trees that were in poor health and likely would need to be replaced anyway, they did not put a lot of effort into saving. Trees deemed as "high value trees," which were many of the trees on Central Square, they tried very diligently to not touch those. There are some design quirks, like if you look at the plan and ask, "*Why is that landscaped island there?*", the answer is probably because they were trying to save a high value tree. That was done by a qualified arborist. Once the preliminary design was done and they knew which trees to preserve, which ones they were planning to replace and which species they were talking about, where they were planting them, and where they were using the "silva cell" tree wells, those plans were reviewed again by Bartlett Tree. They also met with the forestry people from Keene State College (KSC) who take care of all the trees on campus and let them look over the City's plans and give their comments. They did have some comments that were incorporated into the final design. That recommendation came from the Mayor, who had contacts at the college. That was very helpful. He wants to be clear that arborists have been involved with the plan's design from the very beginning, from deciding what is healthy downtown today to deciding what species to plant with this project and how to make sure they are healthy when planted.

Mr. Lussier stated that next, he has some not so good news, regarding the NH Department of Environmental Services (NHDES) review. He continued that the City has Clean Water State Revolving Fund (SRF) funding for the sewer and storm water components of the project, and they also have Drinking Water SRF funding for the potable water portion of the project. The potable water is the more significant piece of it. They have about $2 million of funding from the State to help offset the cost of the drinking water. It came to the team's attention recently that the NHDES's technical review, as part of their process, will end up delaying the project's advertisement date. They had planned on advertising at the end of October and were getting ready to do that. About a month ago, the NHDES project manager asked what the status of the technical review was, and Stantec replied that the technical review was submitted to NHDES in January, and they (Stantec) responded to the NHDES's request for more information in March, and in April, the NHDES's online portal indicated that the technical review was closed. They told NHDES, "*You tell us. We thought we satisfied that requirement.*" The NHDES project manager said she would check and went to talk to the technical reviewers. The explanation they got from NHDES staff was that the technical review was inadvertently terminated in April. They had somehow come to believe that the project was being rescoped, so they suspended their review of the water and sewer and drainage components of the project. He has not received a satisfactory answer to why NHDES thought that. If he had to guess, he would guess that it was because NHDES heard from Stantec that the project was not being advertised for construction in 2025, because the City Council had decided to postpone it for a year. He thinks the NHDES assumed the delay was because the design was being relooked at or was being rescoped and they just decided to stop until they received a new, updated design. He does not know if his assumption is true and he hopes to find out a little bit more. But for whatever reason, the NHDES

suspended their review in April, and the team thought that the review disappearing from the list, being closed out, meant that it was done. Really, apparently, it meant that NHDES had just stopped looking at it. The NHDES is now expediting the conclusion of the review, based on the plans that the team already submitted, and the team is going ahead with all the notification requirements that they have. He talked with NHDES staff today when he got that information and asked if the City can go ahead with the advertisement and just not award the contract, pending the NHDES's final process. The NHDES said no, the City cannot advertise the construction until they have a final determination from NHDES staff, signed by the Commissioner, that says this project has met all the environmental requirements. That means there will be a delay in the advertisement. Right now, he cannot say how long that delay will be. It will be at least four weeks, and probably more, but he does not know. This news is not what he was hoping to tell the Committee tonight, but unfortunately, this is where they are at.

Chair Greenwald stated that he presumes Mr. Lussier will say this was not something Stantec should have been on top of. Mr. Lussier replied no, he was a little upset this afternoon when he got this news, and that was the first question he asked Stantec – how did they miss this? He continued that he then got the explanation, and Stantec showed where they had submitted the materials to the regulatory agency in January and provided more information per the Request for More Information in March, and then in April, got this information that it was closed out on the online portal. Maybe Stantec could have checked to make sure that that closure meant everything was all set, but he thinks they made a reasonable assumption that since they had responded to NHDES's request and did not get any further requests, and the review showed as closed, that they were done with the process.

Councilor Favolise stated that he does not have any sense of what the typical NHDES review logistics are like. He asked if it was just a matter of Stantec going into the portal, looking and thinking everything was good. He asked if there was no communication from NHDES saying that they were good. That would have sent up a red flag for him. Mr. Lussier replied that like he said, he has not received a satisfactory answer to how this fell through the cracks. This is just what he has pieced together so far.

Chair Greenwald replied that it is better to find this out now than four weeks from now. He asked if they are still within the timeline of bidding appropriately. Mr. Lussier replied that typically, they do not put projects out to bid until January, February, or March, so they are still well in advance of that. He continued that they had hoped to have the contract awarded by the end of the year and to use that January–March timeframe to sort out the fine details, construction schedules, and those sorts of things. This will shrink the amount of time they have for that.

Councilor Filiault stated that they all know the risks of making assumptions. He continued that he is not blaming anyone in the City, but he thinks the last two times they have heard something big from Stantec, it has not been good news. He hopes Stantec, or whoever else, starts going back and looking at every dotted "I" and every crossed "T," to make sure they are dotted and crossed. This is unacceptable. He is not blaming Mr. Lussier or the City, but this is unacceptable to have this happen at the 11th hour. He hopes this does not delay the bidding process enough that it delays the project another construction season. Mr. Lussier replied that he does not think they are there yet.

Mr. Lussier stated that on a different topic, he emailed the Council a few weeks ago about staff's plan to use an alternative barricade system for the Pumpkin Festival street closure. He continued that this did not happen. The trucks were in place as barricades at Pumpkin Fest as usual. He had learned about these barricades from the vendor in August, and they looked interesting. He thought they would be a good compromise between the cost prohibitive installed bollards they had talked about earlier in the design process, where some business owners desired to have something a little more aesthetically pleasing than giant trucks and jersey barriers in front of their businesses. Staff looked at something very elegant but also very expensive. He could not in good conscience recommend that as a prudent use of City funds. This alternative was steel structures on wheels, designed so that when hit by a vehicle, they tip over and lift the vehicle off the ground. You can see videos of them online. Public Works rented some to test them out on Washington St. and Roxbury St. and see whether they would be easy for staff to deploy and see if the KPD was comfortable with them. Based on their findings and evaluation, they would come to Council with a recommendation to move forward with that as an alternative system. After he arranged the rental, the company finally gave him the quote for what it would cost for a full system to replace the City's existing system of jersey barriers and trucks with these mobile barricades. He read the number three times in disbelief: $1,048,000 for a full system. That blew him away. After he caught his breath, he called the City Manager and said it did not make sense to go through with the rental and show the community something they might love, only to say they cannot afford it. That is why they decided at the 11th hour to cancel that rental and they were not there at Pumpkin Fest. He was shocked to learn they were more expensive than what he thought was the most expensive barricade system.

Mr. Lussier stated that finally, some good news. Railroad Square and the bike lane as you come off Main St. to the west side, between Margaritas and the transportation center, is proposed to have catenary lights. Catenary lights are decorative, overhead lighting that will look amazing. However, the City does not own the buildings to the south side of the project limits, so the plan was to support the catenary lighting with poles. He spoke with both adjacent property owners, and both are amenable to having the City attach those wires to the buildings. Both property owners are interested in having those attached, and what they get out of it is a cleaner installation, without poles adjacent to the buildings. It will be a very nice feature once it is done. Further on tonight's agenda is an item that would authorize the City Manager to enter into agreements for that.

Mr. Lussier continued that further, quick notes on the downtown project are that the selection committee, the team that interviewed consultants who will oversee the construction next year, has gone through the qualifications-based selection process. Tomorrow, the City Engineer will present the FOP Committee with a recommendation to award that contract. That consultant will be under contract in advance of having the contract form, so they will be on board from the beginning. Finally, the status of the solar pavilion project. They got a grant to build the solar shade structure. It will hold the solar power and provide shade for things like the farmer's market and food truck festivals, and parking when it is not in use. Again, they went through a qualifications-based selection process, which is a requirement when using federal funds. They selected the most qualified vendor, and they are in the process of negotiating a scope and fee with that consultant right now. That contract will most likely be coming to the FOP Committee

the first cycle in February. It anticipates design through next year with construction in 2027. It is moving forward.

Mr. Lussier asked George Downing to give an update from the office of the Ombudsman.

Mr. Downing stated that he has been holding walk-in hours in the Colonial Theater lobby twice a week for the past two months. He continued that the original agreement for that was to run through the end of October and then he, Mr. Lussier, and the director of the Colonial would revisit it. There has been low interest. He gets two or three people, generally. He does not think it is a profitable use of his time. As an hourly employee, he wants to be conscious of using his time helpfully for the City. It is probably not a good use of Colonial staff's time, either, to let him in and set him up. Thus, he will be there tomorrow morning, Monday afternoon, and next Thursday morning, then stop that phase for the winter. In the spring, he will revisit whether he should have walk-in hours somewhere downtown as they get closer to digging ground and interest strengthens. He thinks his time is probably better used moving around door to door, introducing himself and meeting people face to face.

Mr. Downing continued that what he is seeing for concerns right now are less "*Are we really doing this?*" – he thinks there is finally a level of acceptance that the project will happen - and more of "*What will the detailed schedule look like?*" As they just heard, he cannot answer that question yet. He can only give the same information that Mr. Lussier just gave. They know roughly when they will be able to put it out to bid. Once they have the contractor lined up, they can start to give detailed phasing information. That is what the business owners are looking for right now; they want to know when their section of the street will be shut down, and when their water will be shut off, which probably will not be known until much closer to that happening. Other than that, there is still a misperception among a significant number of downtown business owners that there will be no parking at all downtown for the duration of the project. That has never been contemplated. With the compacted schedule, they are talking about two blocks at a time, and it will be known well in advance which blocks will be shut down when. They are grappling with how to help people understand that there still will be the majority of parking available through the duration of the project. People will still be able to come downtown and park downtown. The videos Asah Cramer is putting out, showing how long it gets to take from point A to point B, are helpful. The Commercial St. lot is seriously underused; there is always parking there. Regarding the traffic flow during the project, there is a similar misconception - people think there will just be no cars allowed. The contact documents say, basically, that there will always be at least one lane in both directions, with a couple of exceptions when a whole section of the street has to be done. He is working to get that information out face to face, and he has been talking with the Communications Department in the City about how to let more people know that that is happening. He gives a big thank you to Ms. Cramer, Ms. Landry, and their department. He is getting a lot of positive feedback downtown about the video snippets they have been putting out, such as about parking, trees, and Central Square now versus what it will look like after the project. That has been very helpful, because he thinks many people were still picturing one of the three or four alternatives the Council looked at.

Mr. Downing continued that they will update the FAQ page on the website, which has not been updated in about 18 months. A rough draft went to Mr. Lussier and Ms. Landry. They both

reviewed it, and he is working on the final changes on that. It should be up soon. They are also working on a downtown business binder, which he will be walking around downtown and handing out to every downtown business. It will have contact information, shots of what the actual project will look like when it is finished, and detailed phasing information. Initially when it goes out, obviously it will just have "Phase I and Phase II," because they do not have the detailed phasing yet, but he will bring around updates as the project changes and as more details come out. He hopes they will also have some information from the revitalized downtown group on some business initiatives. The City cannot promote those directly, but since it is a three-ring binder, he can bring that information around for the merchants who are working on that.

Mr. Downing stated that one of the challenges he is facing is the upcoming schedule. He continued that it is taking a lot longer to get through downtown than he expected, on the door-to-door phase, because nearly everyone he encounters at their business wants to talk for 30 to 45 minutes. They have a lot of questions for him, and he needs information from them, so it takes time. When someone reaches out to say that he has not gone to see them yet, he has usually gotten to them within the next day. Anyone who wants to get in touch with him can contact him directly; there is no need to go through the Council or other staff to get to him. If he has not gotten to someone downtown yet, it is just because it has been a time-consuming process. He will need to make changes. He has mostly been doing this during daytime business hours, but especially for restaurants and some salons, those hours are not convenient for them, so he will make himself available at least one evening a week to get to those people he has been missing.

Chair Greenwald asked about how many hours per week Mr. Downing is going door to door. Mr. Downing replied that he is hired for 20 to 25 hours a week, and he also needs to put in some desk time for, like he said, the binder content and the FAQ update. He is also trying to build a database with all of the information they are collecting from the businesses. He is probably going door to door about 10 to 15 hours a week, and the other hours are spent at his desk. He is trying to balance them. He needs to spend more time on the street before it gets cold and snowy, so he might be downtown more frequently over the next couple of weeks.

Chair Greenwald stated that he will eventually have to deal with the cold and snow, but he thinks that sitting in the Colonial is a waste of time. Mr. Downing replied that he thought that would be helpful and people would want a chance to come find him, but that has not turned out to be the case, so he will not keep going with that.

Chair Greenwald stated that he has not yet heard any of his tenants say that Mr. Downing has come into their business to talk, so maybe Mr. Downing has been on other blocks. He hopes to hear from any downtown merchants present tonight.

Councilor Workman stated that she does not want to tell Mr. Downing how to do his job, but she has some suggestions. She continued that she knows many business owners are eager to meet him, and she has been hearing that he is still rather elusive or that they have not had the chance to meet him yet. She knows that once he walks into someone's business, people are glad to have his attention and want that one on one conversation, but maybe he could frame those first meetings as just a quick meet and greet and then schedule a longer meeting to answer questions or invite people to his open office hours, so he can at least get the introduction part down and all

the business owners can put a face to the name. That would help Councilors be able to ease people's anxieties.

Councilor Tobin asked if Mr. Downing's open office hours were posted somewhere, like on the website. She continued that she knows he mentioned them before, but she could not remember what the hours were. Mr. Downing replied that the Administrative Assistant in the Public Works Department sent that out over the e-blast system to everyone who had asked for information either from Public Works or specifically about the downtown project, and it was mentioned on one of the radio broadcasts.

Councilor Tobin stated that it might be a little early to be asking this question, but it is something she has been thinking about. Many times, restaurants have deliveries scheduled on certain days at certain times, and a lot of those schedules might need to be set up early. She wants to make sure that is part of the conversation somewhere, as they start construction. Mr. Downing replied yes, the information he collects from businesses that he visits includes the primary contact, who may or may not be the business owner, the owner's name and contact information, hours of operation, when the busiest hours are, when deliveries happen, and where the deliveries come. Most come on Main St., but some businesses have back or side entrances. That is all the information he brings back to the office and puts into a database and makes searchable. The hope is that they will know, for example, which establishment always gets a delivery on Tuesday afternoon, so they will make sure Tuesday afternoon is not the day they are pulling up the water pipe and making a new connection and preventing access to the front door that day. They are already trying to collect that information, so they have it in advance.

Councilor Favolise stated that conversations are happening around what the future festivals will look like through the construction season. He asked if the Ombudsman has been joining protocol meetings for that or working with staff on that. He thinks that any opportunity to be immersed in some of these downtown conversations, even if it is not directly about liaising around construction schedules with business owners, is probably a positive and a way to get in front of some different people.

Mr. Lussier replied that he has not asked Mr. Downing to attend the protocol meetings with event sponsors, but they have shown him the graphics for different alternative event footprints for next year so he can discuss those with property owners if it comes up. He continued that he does not want to put Mr. Downing in a position where he is negotiating with event sponsors for what the event footprint should look like, but he wants him to be aware of what the guidelines will be. Mr. Downing replied that he thinks that applies in larger terms, too, not just for the event pictures. He continued that there are many behind-the-scenes meetings about various downtown things as they go into this project, which Public Works and the City Clerk's Office have to navigate. It is probably not a profitable use of his time to sit in on all those meetings, and they really do not want to blur that line. He is not a City employee in those terms. He is not a decider. He is not here to defend the project; he is here to explain the project to people. So, while he is not sitting in on those meetings, Mr. Lussier and City Engineer Bryan Ruoff keep him up to date on any decisions or information that come from those meetings that he might need to share with people downtown.

Chair Greenwald asked for public comments or questions.

Roberta Mastrogiovanni stated that she owns Corner News. She continued that her general manager met with Mr. Downing and they have gotten a little bit of information. Tonight, she was surprised to hear what Mr. Lussier was saying about the connections and how the deadline is approaching. She did not know about that. She thinks she received an email from his office, but she was hoping to meet with his office at some point. She thinks there was an initial attempt to meet with her, but it never came about. She encourages Mr. Lussier's office and Mr. Downing to follow through with all the communications that are necessary, because she thinks it is odd that not one property owner responded to the connection issue. She is definitely interested in talking with them about that, and they look forward to talking more with Mr. Downing.

The following motion by Vice Chair Filiault was duly seconded by Councilor Workman.

On a vote of 5 to 0, the Municipal Services, Facilities and Infrastructure Committee recommends accepting the report on the Downtown Infrastructure Project as informational.

4) **Execution of an Agreement to Attach City Lighting to Private Property - Public Works Director**

Mr. Lussier stated that this agenda item is to authorize the City Manager to negotiate and execute license agreements, but license agreements where the City is the licensee, and the adjacent property owners are the licensors. He continued that the adjacent property owners are giving the City permission to attach City infrastructure to their buildings. It would be a revokable license, so if those property owners ever decide they do not want the wire there anymore, the City would have to honor that and remove it from their property. The license would spell out a period of time the City has to plan and put in a pole to support the wires and whatnot. It is important to note that the City is not asking the property owners to pay for the electricity or pay for the maintenance and upkeep of these lighting systems. It is City property, City responsibility. They are just attaching it to the property owners' buildings to be a more aesthetic installation.

Chair Greenwald stated that he thought the catenary lights were for Church St. and Lamson St. He continued that he did not know they were in front of other buildings. Mr. Lussier replied that the project right now only includes them on Railroad Square and the bike lane between the transportation center and Margaritas, that first 100 feet or so.

Chair Greenwald asked, if it attaches to the building, if they will be setting up a pole to hook on the other side. Mr. Lussier replied that over the bike lane, they will just be using the transportation center on the other side, which the City owns. It will bounce from Margaritas to the transportation center, kind of zig zag. Chair Greenwald asked if he means this is not over their dining area. Mr. Lussier replied no, it is over the rail trail. He continued that on the other side, next to Local Burger, it is in Railroad Square. There are poles in Railroad Square, and instead of having a pole right up against the building, they would go from the pole in the center of Railroad Square or in the vegetated islands into the building, and vice versa.

Chair Greenwald asked if the owner of the building, not Local Burger, is giving consent for this. Mr. Lussier replied yes, that is right. He continued that they contacted the local manager, who put them in touch with the property owner, and the property owner responded and said he is amenable to it.

Chair Greenwald asked if there were any further questions or comments. Hearing none, he asked for a motion.

The following motion by Councilor Tobin was duly seconded by Vice Chair Filiault.

On a vote of 5 to 0, the Municipal Services, Facilities and Infrastructure Committee recommends the City Manager be authorized to do all things necessary to negotiate and execute revocable license agreements with the owners of Parcel 575-012, Margaritas, and Parcel 575-057, Local Burger, for the attachment of City-owned and maintained lighting systems to privately owned buildings.

5) Adjournment

There being no further business, Chair Greenwald adjourned the meeting at 8:15 PM.

Respectfully submitted by,
Britta Reida, Minute Taker

Edits submitted by,
Terri Hood, City Clerk