

City of Keene
New Hampshire

MUNICIPAL SERVICES, FACILITIES & INFRASTRUCTURE COMMITTEE
SPECIAL MEETING MINUTES

Wednesday, November 25, 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 (arrived at 6:52 PM)

Staff Present:

Elizabeth A. Ferland, City Manager
 Amanda Palmeira, City Attorney
 Bryan Ruoff, City Engineer
 Don Lussier, Public Works Director
 George Downing, Downtown Infrastructure
 Project Ombudsman
 Andy Bohannon, Deputy City Manager

Members Not Present:

All Present

Jay V. Kahn, Mayor

Chair Greenwald called the meeting to order at 6:00 PM and explained the procedures of the meeting. Roll call was conducted. Chair Greenwald stated that if there is no objection, they will start with the fourth agenda item.

**4) Request for an Access Easement Across City-Owned Land in the Town of Swanzey -
Public Works Director**

Public Works Director Don Lussier stated that this is a request from Eversource to authorize the City Manager to grant an easement across City-owned property. He continued that the driveway to the Wastewater Treatment Plant (WWTP), sometimes referred to in the popular press as “Airport Rd.,” is an active commercial driveway. Eversource Utilities has a transmission line from the Emerald St. substation down into Swanzey and points south. They access it as needed for maintenance at two locations. One is shown on Google maps as a road but is not a road. A gravel path into the woods is there because that is where the City’s force main runs. For most of the length of Airport Road it follows the roadway, but this is the point where it comes in from the cross-country section and enters the roadway right-of-way. Eversource uses the same gravel access to reach the transmission line. The second location Eversource accesses is closer to the WWTP. The field directly to the west of the City’s solar array is where Eversource goes through. A path runs through the woods and comes out onto Eversource’s right-of-way.

Mr. Lussier continued that Eversource is asking for a permanent easement to be able to use Airport Road and these existing access points to maintain their system. It will not affect traffic on Airport Road and will not affect the WWTP’s ability to conduct operations. Staff believes this permanent easement would have no impact on the City and recommends that the City Council

grant it. Joe Hoebeke from Eversource is the Regional Municipal Representative, the City's coordinator who helps with issues, and is here tonight to answer questions.

Chair Greenwald asked if the Committee had any questions. He continued that it sounds clear to him. He asked if members of the public had any questions. Hearing none, he asked for a motion.

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

On a vote of 4 to 0, the Municipal Services, Facilities and Infrastructure Committee recommends that the City Manager be authorized to do all things necessary to negotiate and execute and record a deed for a permanent access easement benefiting Public Service Company of New Hampshire, (d.b.a Eversource Energy), across City-owned land in the Town of Swansey.

1) Mike Pappas – Petition – Magnolia Way Residents – Request for Discontinuance and Removal of Sidewalk on Northerly Side of Magnolia Way

Chair Greenwald asked to hear from Petitioner Mike Pappas.

Mike Pappas stated that he represents the landowners on Magnolia Way. He continued that since they started the project, the houses they put in have fit all the requirements. The ones on the north side of the street have a sidewalk that was put in before they purchased the property, which does not seem to fit in. The sidewalk does not allow proper driveways, and people are parking on the sidewalk, with standard-sized cars and Toyota trucks. They are halfway on the sidewalk. It does not allow people a decent yard. The other side does not have sidewalk. The next street up, Bergeron Ave., also does not have sidewalks. He knows a roundabout is coming to the intersection of Matthews Road. This would be a sidewalk leading to a very congested roundabout. Everyone on the street has agreed to the concept of removing the sidewalk. He is here to ask if the City Council can do something about that.

Chair Greenwald asked if the Committee had questions for Mr. Pappas. Hearing none, he asked to hear from Public Works.

Mr. Lussier stated that he met with the City Attorney yesterday afternoon, who correctly pointed out that the process in the Code requires the City Engineer to issue a written recommendation to the City Council on questions of waivers, and he apologizes; he forgot that was the requirement. He continued that the City Engineer has prepared a written recommendation he will talk to the Committee about tonight. He (Mr. Lussier) put written copies on the Committee's desks. The City Clerk will add it to the agenda packet for next week's Council meeting.

Bryan Ruoff, City Engineer, stated that to analyze the waiver request, it is most germane to discuss the background involved in this development. He continued that the Magnolia Way subdivision was approved by the Keene Planning Board in 2006. As part of the project, the acting City Council at the time approved the acceptance of public infrastructure proposed as part of that project, including the road, sidewalk, drainage, water, and sewer. Construction began that year but was not completed. It was accepted for public maintenance prior to the expiration of the Council's 36-month project completion deadline. In 2011, the developer repitioned the City

Council for reapproval of the layout of the public infrastructure, which was once again granted. Again, some of the construction occurred but was not completed prior to the 36-month completion deadline. Again, in July 2023, City Council voted for a third time to approve the layout of Magnolia Way and the associated public infrastructure and accepted that as part of the proposed project. Since that time, a new development team has made steady progress on the project, addressing the unresolved, uncompleted work so the City can fully accept the roadway and associated infrastructure. The water and sewer infrastructure to date have been accepted by the City for public maintenance. The remaining work was deferred until the final home was built in order to minimize premature wear and tear to the roadway.

Mr. Ruoff continued that for these three iterations of City Council approval, the plans for Magnolia Way have not changed since the original proposal. Subdivision plans show a 15-foot front setback line, which is still acceptable in the Low Density District. The utility plan shows individual house footprints between 20 and 40 feet back from the right-of-way. It appears, based on staff's inspection, that the development has been constructed to plan, to date. The applicable standards that are requested to be waived are the Article 23.3.7.A. of the Land Development Code (LDC), which states, "*Sidewalks shall be required on at least one side of any proposed street in any residential zoning district.*" Prior to the adoption of the LDC, the Code of Ordinances had identical language; this is not a new requirement. In addition, the City's 2015 Complete Street design guidelines that were adopted identify Magnolia Way as a neighborhood street. Neighborhood streets typically call for a five-foot minimum sidewalk on at least one side of the street. In response to the Petitioner's justification for the removal of the sidewalk, which is that it is rarely used by the current residents, it is important for the City Council to understand that it is City infrastructure that is for the life of the public way. If the next set of homeowners in this area decide to petition to *add* a sidewalk, that cost would then be borne by the City and the taxpayers.

Mr. Ruoff continued that regarding the parking requirements, and encroaching in the existing parking areas, for the road access permits that were received for all these lots, the condition was that all vehicles need to be parked in the driveway to meet City Code. Thus, that is not an applicable justification, either, for the removal of the sidewalk. Based on those conditions and staff review, the waiver conflicts with the City Council's adoption of Complete Streets guidelines and would create an undesirable precedent for granting waivers based on project-to-project preferences of current homeowners. For these reasons, Public Works recommends the MSFI Committee recommend denying the request for this waiver for the sidewalk in question.

Chair Greenwald stated that for the record, he has no financial interest in this property, no listings from his real estate office, and no relationship with the property owners. He continued that he thus does not have a conflict.

Chair Greenwald asked Mr. Lussier if that sidewalk needs to be five feet wide. Mr. Lussier replied that a five-foot wide sidewalk is a requirement. He continued that prior to the adoption of the LDC, it was specifically listed in Chapter 70 of the Code of Ordinances. With the LDC, more of those requirements were transferred into the Public Works Standards rather than into law, but he would remind everyone that Public Works is required to plow all City sidewalks, and their

plows are five feet wide. Making a sidewalk less than five feet wide would make it impossible for Public Works to plow, and they will not shovel it.

Chair Greenwald stated that there is sidewalk on the north side, not on the south side. Mr. Lussier replied that is correct. He continued that as it was originally approved, the sidewalk goes from Winchester St. to the far side of the cul-de-sac. Chair Greenwald stated that he looked at it today, and it is a big sidewalk for a small front lawn, but they have to weigh the City Code against that.

Councilor Tobin stated that this is a fairly new development. She continued that she heard staff say that this was part of the plan. She is a little confused as to how there could not be room for a car in the driveways if this was always the plan. Presumably, the driveway would have been made long enough to fit vehicles. Mr. Lussier replied that all these homes have garages, and can meet their on-site parking requirements because of that. He continued that City Code says, in a different section, that any single-family home must have at least one on-site parking space per unit. That parking space must be either behind the front setback line, which is 15 feet in the Low Density Zone, or behind the building line of the actual structure. The driveways all go up to the face of the garage, so they cannot go around the side of the building, so it is that 15-foot setback. Because they have the parking space in the garage, they can have a driveway that is shorter than 18 feet. Councilor Tobin replied that that means they can put their cars in the garage.

Councilor Tobin asked Mr. Lussier to clarify what is happening with the lower Winchester St. construction. She continued that she thought sidewalks would be going in in that area. Mr. Lussier replied that right now, as Mr. Pappas pointed out, there are no sidewalks on Winchester St. in the vicinity of Magnolia Way. He continued that with the federally funded project that is being designed and developed right now, there will be sidewalks on that western side, the same side as Magnolia Way. The project design shows the new sidewalks connecting to the Magnolia Way sidewalks.

Chair Greenwald asked for public questions or comments.

Mr. Pappas stated that he has a question about what happens in the middle of winter when the City plows the sidewalks. He asked if the homeowners' cars need to be moved, if they are taking up sidewalk space. Mr. Lussier replied that it is a violation already to park on top of a sidewalk. He continued that he looked at the plans, although he has not gone out to measure the actual footprints of the homes. The building setback line is 15 feet, which is certainly smaller than his truck. All the plans show the building footprints are between 20 and 44 feet. He is not sure what the actual distance is between the sidewalks and the garages are, as constructed, but presumably, yes, they cannot park on the sidewalks.

Mr. Pappas replied that that is where he is asking for some sort of relief here. He continued that if the nose of a car is parked right up against a garage, a plow cannot go down the sidewalk. They were allowed to build these houses here. These homeowners purchased these houses with the complete understanding that they could park a car in front of their garage. Now, in the middle of a winter snowstorm, if they are parked in front of their house, perpendicular to their house with their vehicle's nose to the door, those sidewalks will not be able to be plowed by the City

plows. Something has slipped through the cracks somewhere, because this will not be functional. Two more houses, 1 and 3 Magnolia Way, have been built, and their driveways and garages are even worse than the existing ones. At 5 Magnolia Way, a Toyota truck is four feet into the sidewalk, with its nose to the garage door. The City is limiting these homeowners to having one car. There is no place to park a car on the street. These are homes, not apartments. People have families, and they have two or more cars. He is wondering how that requirement here cannot be viewed as a problem.

Chair Greenwald asked the City Attorney to clarify, because this issue has never come to the City Council before. He continued that this went through the Planning Board's site plan review. He asked why this is a City Council issue, instead of an issue for the Planning Board or the Zoning Board of Adjustment. City Attorney Amanda Palmeira replied that as the Public Works Director described, the Planning Board just checks that the minimum requirements are met, and with the garages, they are. Thus, the Planning Board will not be thinking about what will happen if the homeowners want more than one car, because that is not the Planning Board's concern. As for why this is before the City Council, it is because the requirements for sidewalks, in Article 23 of the LDC, has a process for a waiver from that, which is the City Council's purview. She was looking to see if the LDC gives the Committee, say, four criteria to consider, and it does not. The LDC does not give the City Council a process; it just says the waiver request is for the City Council to decide. The only guideline the LDC gives is, "*In no case shall financial hardship be used to justify a waiver.*"

Councilor Tobin stated that her thinking is, the sidewalk was put there as part of a plan, and the buildings were built afterwards. She continued that presumably, they would have known the length of the driveway before the building was put there. She struggles to see how this is suddenly something that is happening. Chair Greenwald replied yes, the sidewalk was there first. He continued that he thinks what Councilor Tobin is saying is that the house could have been set further back. Councilor Tobin replied yes, the house could have been put back further, or there could have been fewer houses, but this is the way it was designed.

Mr. Pappas stated that the house met the requirements. He continued that it is the largest house that could be put on these lots. These are 1,500 square foot houses; it is not like they put a 4,000 square foot house in and pushed the envelope. These are not big houses. They maximized the size of house they could put on these lots, to make them saleable. Again, the next street up does not have it. These are small streets, on the outskirts of the City, and to maximize the square footage, to have single-family homes, they did not go outside that. They built where they were allowed to. The road is getting paved, and the driveways are all built and paved according to Code, but they cannot park in them. That is why here is here. Something got overlooked.

Councilor Workman stated that she agrees with many of Councilor Tobin's points. She continued that this was not a new, surprise requirement. It has been a requirement since the property has existed, since the development was being planned. She hears that trucks cannot park in the driveway, but regular vehicles can fit. She asked if that is correct. Mr. Pappas replied that the truck in question is very small, a Toyota. Councilor Workman replied that nonetheless, the owners have a choice. They had the choice to buy that property and a choice about what kind of vehicle to own, and there are garages. She struggles to see how the Committee could recommend

approving this. She understands where Mr. Pappas is coming from, but the City has a plan, and they have Ordinances for a long-term plan. There is no guarantee that the current property owners will be there in 20 or 30 years.

Councilor Filiault stated that he agrees with everything being said. He continued that this matter should not have landed in the City Council's lap, but it has. Obviously, this is far from a perfect design, but he is certainly not in favor of ripping up sidewalks. He sympathizes and thinks Mr. Pappas has a legitimate complaint, but as others have said, it should have been resolved way before even the sidewalks were laid. Someone had to have seen this plan, including the developer. Measurements are measurements. If snow removal is the biggest issue, then Public Works and the landowners will have to figure it out.

The City Manager stated that in many of the residential neighborhoods, people are doing the exact same thing, and when snow comes, they move their cars. She continued that people cannot leave their cars on the sidewalk, because Public Works cannot plow around them.

Mr. Pappas stated that these are single-family homes, not apartments. He continued that they are three-bedroom homes, given one parking space, in a residential neighborhood that is nearly on the City's border, not downtown. They are not asking for something that has not been done. He is at a loss, not being able to park more than one car.

Dave Raabe of 7 Magnolia Way stated that he owns a small Toyota pickup truck, but he is fortunate to "not have the sidewalk in his driveway." He continued that he owns three vehicles. He does not have a choice in putting one anywhere else other than one in the driveway and two in the garage. It is very tight. He wishes the planning was done ahead of time, but that is not the situation now. The two new houses currently being built, that are closest to Rt. 10 or Winchester St., have very short driveways. He does not know if anyone has gone out and measured, but he doubts you could fit a regular car between the garage door and the sidewalk. He knows those two houses are in an even tighter situation than others on the street. He understands the rules and understands that planning is supposed to work ahead of time. Having worked in construction, he knows things do not always work out as you hoped. He agrees with Mr. Pappas. He lives on the street and understands where he is coming from.

Chair Greenwald stated that the other issue weighing on him is the precedent and the procedure. He continued that perhaps they need to look into the City's requirement for sidewalks. When they start changing the rules, that creates issues. He agrees that this sidewalk is "pretty goofy"—it is very large for the use. But if the Code says it must be a minimum of five feet, that is what it is, or it should not be there. He is weighing it all. Mr. Pappas stated a good case.

Councilor Tobin stated that something else she is thinking about with the LDC is that they have flexibility. They allow flexibility for developers to choose how they want to develop. It is a choice to use the maximum buildable space, and when you build on space, you are choosing to not make that part of the driveway or yard. It is a choice, and that flexibility is allowed because different people have different needs.

Mr. Pappas stated that the other side of the development has three times as much room as the side where the sidewalk was approved to be on. He continued that the sidewalk is approved on the shortest side of the street. For numbers 2, 4, 6, 8, and even 10, a sidewalk would be feasible. The sidewalk does not fit where it is on the northern side of the street. Again, one street up, it was never put in. They were allowed to put these houses in and maximize the space. The existing sidewalk is from 18 or 19 years ago. Then, they put these houses in, with something they did not see up front. They have the chance to make a change. The sidewalk just does not fit. He thinks it will cause big problems.

Chair Greenwald stated that something Mr. Pappas has not said, which might help him, is that this is a development that was proposed long ago and languished. He continued that Mr. Pappas's group, or whoever was behind it all, was brave enough to come forward to build. The road was there, and the sidewalk was there, and they had to put the houses there. They had to deal with what they walked into, and ultimately will look good regardless of how this vote goes. They are nice-looking houses in a nice development, creating housing, which is important.

Chair Greenwald stated that he thinks the Committee has heard all the issues. Now they have to make a decision. What is tough about the MSFI Committee is that the Finance, Organization and Personnel Committee looks at whether to spend the money or not, and the Planning Board looks at the laws, whereas the MSFI Committee has to deal with the reality of situations that did not go as planned.

Mr. Pappas replied that the sidewalk would have been nice on the other side of the street. Chair Greenwald replied that it would have been great if the street, sidewalk, and houses were all planned at the same time, but now they have to deal with the situation.

Mayor Kahn stated that he hesitates to jump in, but he will suggest the possibility of making a deal. He continued that if the sidewalk is on the wrong side of the street and the property owner is prepared to handle both the removal and replacement of the requirement, that is an option he does not think the Committee has before them, but it is an option for them to consider. He would not want to see the full Council consider this before the Committee had considered that option.

Chair Greenwald asked if the request before the Committee includes the removal. Mr. Pappas replied no. Chair Greenwald asked who, then, would be doing the removal. Mr. Pappas replied that he would have to go back to the drawing board, but at least that would be an option to consider, instead of his request just being denied. Chair Greenwald replied that he does not think the City would remove the sidewalk. Mr. Pappas replied no, he and others would remove the sidewalk, but then the reconstruction of the sidewalk on the other side of the street would be on him and others as well, is the Mayor's argument of making a deal.

Chair Greenwald stated that this is a new idea to consider. He asked for thoughts.

The Mayor stated that something to consider is whether easements would be required to put the sidewalk on the other side.

The City Attorney stated that the request that is before the Committee is a waiver of the requirement, so if they are talking about still requiring a sidewalk, just moving it, the Committee would not be granting the waiver. They would still be requiring a sidewalk, regardless of where it ends up.

Mr. Lussier stated that procedurally, the final step in all this, once the development is completed and all the public infrastructure is accepted, is that he is required to certify to the City Council that all of the construction has been completed in accordance with Article 23. He continued that the Article does not say the sidewalk has to be on the north side. If they wanted to build it on the south side, he could still certify that it was built according to the requirements of Article 23. Obviously, Mr. Pappas would really have to look into this, but his only caution would be that there is drainage infrastructure on the south side, low-impact design type, that would probably complicate construction of sidewalks within the public right-of-way as it was laid out by the City Council.

Chair Greenwald asked if this is leaning towards being placed on more time, or accepted as informational. Mr. Lussier replied that if the Committee's direction is to recommend having a sidewalk, which can be on either side, that would not require placing the item on more time. It would require the developer coming up with a plan, through the Public Works Department, to install it on the south side. The City Attorney stated that regarding the request before the Committee, she recommends they either grant or deny it, given that the LDC gives the City Council the responsibility of making that decision.

Councilor Filiault asked if they could just have this handled administratively, with a report back to Council. The City Attorney replied that the question before the Committee is narrow. She continued that for a waiver of the legal requirement, the LDC requires the City Council to decide. If the Committee wants to waive the requirement for the Petitioner, they need to grant the waiver. If the Committee does not want to waive the requirement for sidewalks, they need to deny the waiver. That is not something staff can do administratively, nor is it something the Committee could accept as informational. The Committee needs to either grant or deny the request for a waiver from the LDC's sidewalk requirements.

Councilor Filiault stated that they are not changing the sidewalk requirement, just considering saying it could go on the other side of the road. He continued that they are not saying to change or waive anything, so that could be handled administratively. Chair Greenwald replied that the City Attorney is saying the Committee needs to deal with the petition that is before them. Councilor Filiault asked if they could accept the petition as informational and have the request handled administratively.

The City Attorney replied that there is nothing to be handled administratively. She continued that Mr. Lussier will work with Mr. Pappas about completing the layout and how that is accomplished, but the specific request in front of the Committee is about whether the Committee/Council wants to require sidewalks on Magnolia Way or not. Staff cannot regulate, grant, or deny that. It is up to the Committee/Council. Again, if the Committee is looking for a solution where the sidewalk still exists, just changed to the other side of the street, that is fine

and they can do that. That would equate to the Committee recommending not to grant this waiver. Meaning, the sidewalk requirement is still in place.

Councilor Filiault replied that the request in front of the Committee is “deny on the northerly side of Magnolia Way,” not just deny. He continued that the motion could be, “removal of sidewalk on the northerly side of Magnolia Way.” That is the way it is worded, in what is in front of the Committee.

Councilor Workman asked if it would be possible for the Petitioner to just withdraw the request right now, and the matter can come back to the Committee once there is a new plan. The City Attorney replied that she thinks that it is permitted, procedurally. She continued that people who submit something to the City Council should have the right to withdraw it without having an action taken on it. The Committee’s motion would be to allow the withdrawal, and the Council would have to vote to carry out that recommendation.

Mr. Pappas replied that if he is allowed to withdraw his petition, that would be fine, and then they could come back.

The City Manager stated that to clarify, this will not come back to the MSFI Committee. She continued that if the sidewalk is removed and relocated, it will be approved through the regular administrative process. Councilor Workman replied that with that caveat, she would clarify that the City would not incur any expense related to that.

Councilor Workman asked, for the record, if Mr. Pappas with withdrawing his request. Mr. Pappas replied yes.

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

On a vote of 4 to 0, the Municipal Services, Facilities and Infrastructure Committee recommends accepting the withdrawal from the Petitioner.

2) Relating to the Load Limit Postings of the Beaver Street and Spring Street Bridges – City Engineer

Chair Greenwald asked to hear from City staff.

City Engineer Bryan Ruoff stated that at the September MSFI Committee meeting, they spoke about this project and the findings of the structural assessment. He continued that there was still some work that needed to be done to see if the restrictions had to be applied to emergency vehicles, school buses, and City vehicles. The City’s consultant engineer, Hoyle and Tanner, performed that assessment of City-owned and -maintained vehicles, and they get no relief. The ambulance can pass the bridge, but what is recommended is a 10-ton load limit on these two bridges, Beaver Street over Beaver Brook and Spring Street over Beaver Brook. In light of that, effective December 1, Public Works is implementing a posted weight limit on the two bridges for 10 tons maximum, including vehicle and load weights. The weight limit restrictions are based on the NH Department of Transportation (NHDOT) Bridge Inspection results and an

independent structural evaluation completed by the consultant engineer. This is happening because these two bridges are over 100 years old. They are required for replacement and are beyond their serviceable life. They will be built into the CIP. What staff is looking to do, and coordinating with NHDOT about, is potentially swapping with the Maple Ave. bridge and putting the Beaver St. Bridge in place of it in that scheduled slot for that NHDOT Red Listed Bridge Funding. It means that no vehicles over 10 tons in weight can travel over the bridge. Signs will be installed at each bridge approach in either direction. Larger commercial vehicles, logging trucks, City emergency vehicles, heavy equipment, buses, and oil and propane delivery vehicles, will need to seek an alternate route. Staff have already coordinated with emergency response, and they are re-routing based on these recommendations. Most passenger vehicles will remain unaffected.

Chair Greenwald asked if he is saying that oil trucks and garbage trucks would be over the limit. Mr. Ruoff replied that is correct. Chair Greenwald asked if they have been informed. Mr. Ruoff replied yes.

Councilor Filiault stated that his only concern would be Fire response. He continued that for any fire incident or medical call on the east side of the bridge, the response would be to go to Roxbury St. and cut across. He asked if this has been discussed with the Fire Department. Mr. Ruoff replied yes, they have had a couple of meetings with them. He continued that there are some adjustments that will need to be made as part of the Downtown Infrastructure Project, to make sure they still have the quickest means of access once that construction starts. They had the initial conversation. Dispatch is aware of that load rating. They will coordinate continuously as they go on with the downtown project.

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

On a vote of 4 to 0, the Municipal Services, Facilities and Infrastructure Committee recommends accepting the report as informational.

3) Relating to the 2025 Construction Season Summary and 2026 Construction Season Preview of Upcoming Projects - City Engineer

Mr. Ruoff stated that he will briefly go over the major construction projects. He continued that there have been many questions about Island St. He will not necessarily read all the projects listed in the agenda packet, but he will give a summary and updates on the projects that have been completed so far this year. The contractor demobilized this week on Island St. They have completed the scope of work except for the sidewalks and final paving, which will be done next construction year. The sidewalks, to make it through the winter and be safe for plowing and pedestrians, are temporarily paved. They will be replaced with concrete next year. The road does not have quite the pitch he was looking for, so they will shim to get a good pitch with how flat it is along the horizontal profile, next year around May, followed by final loam seed restoration. People's driveways will be finalized for Island St.

Mr. Ruoff continued that he is happy to say the Marlboro St. project has been awarded. They received additional money from NHDOT. The plan to do trail work this year likely will not

happen. They will hit the ground running on April 1. Projects coming up next year or that have recently been bid include the Transportation Heritage Trail Phase I. They received authorization from NHDOT to award the project, which will start this winter, which is exciting. Similarly, the George St. Bridge Replacement project was just bid. They are weeks away from receiving NHDOT approval, and they likely will start that project in the spring or possibly even the winter. The Downtown Infrastructure Project is out to bid, with a bid opening set for December 18. The Public Works Director will provide an update on that project. They had a good turnout for the pre-bid meeting, so they are very optimistic about receiving good and competitive bids for that. The Key Rd. Drainage Replacement project received competitive bids last week, and they will be awarding that project for construction this winter. He is happy to answer any questions. He will provide a more detailed update in the spring, but these are some highlights.

Chair Greenwald asked for more information about the pre-bid meeting for the Downtown Infrastructure Project. Mr. Ruoff replied that it was held remotely so they could get as many potential bidders as possible. He continued that he believes there were 12 or 13 people logged into the call for that. Stantec went over the scope of work, and the Department of Environmental Services (DES) went over the Federal funding requirements. It was about an hour-long meeting. They have received about six to eight questions from prospective bidders on the project that really demonstrate they are digging into the weeds of the project details. With that, they are optimistic that they will get competitive pricing for the project. Chair Greenwald asked if all the little miscellaneous filings, permits, hearings, and whatnot are done. Mr. Ruoff replied yes, and staff received notice today that there were no comments received during the environmental review period. They were excited to know they cleared that hurdle. DES graciously allowed them to go to bid before having that formal approval. Despite everyone making a big deal about the delay, they ended up only losing two days. The plan was to go to bid that Monday and they went out that Thursday morning instead. They are having an extended bid period anyway, so it was built into the bid schedule from the start. Chair Greenwald replied that that is worth saying twice. He continued that the Council, City Manager, and staff took some heat on that.

Councilor Filiault stated that Council had more than one call from constituents saying Island St. is too narrow. He asked if it is correct that they are standard, 11-foot lanes. Mr. Ruoff replied yes, it is a narrower construction for traffic calming and slower speeds in that area. Councilor Filiault replied that it sounds like it was by design, which is what he told the callers.

Chair Greenwald stated that Island St. is a preview of the rebuilding of Main St., because that was all new underground infrastructure. Mr. Ruoff replied that he likes to call it “mini downtown.”

Councilor Tobin asked for a reminder of when Beaver St. and Spring St. reconstruction will happen. Mr. Ruoff replied that they are being put into the CIP. He continued that the definitive years are not scheduled yet. Beaver St. is more critical, so the idea is to swap that out in the Federally funded project for Maple Ave., and then put Maple Ave. back into the programming. Currently, that is scheduled for NHDOT for FY 29, he believes.

Councilor Workman asked if there is any plan to put any striping, painting, or markers on the roadway of Island St. soon. She continued that she has noticed cars are driving in the middle and

drivers seem afraid of those big granite curbs, especially as you get up to the intersection at West St. People seem to forget there are three lanes there, not two. Mr. Ruoff replied that in the interest of public safety, that is the one thing staff will have the contractor do before he is totally demobilized for the winter. He continued that they will make sure to get some line striping and crosswalk striping in. He knows they lost a lot of that, so they will make sure to get it back.

At 6:52 PM, Chair Greenwald noted for the record that Councilor Favolise has joined the meeting.

Chair Greenwald asked if the Committee or members of the public had questions or comments about construction projects.

Brandy Wells stated that she owns a business in downtown Keene, and calling Island St. a “mini downtown” is very concerning, because it was just one bridge, and she is not sure how long that project took, but her husband works for Corning and it has been a nightmare just to get in and out of his workplace. She continued that she wants to understand what contracts have already gone out with the project, if it has not been bid on. She asked what the association is with GPI to this project.

Mr. Ruoff replied that there were definitely traffic issues with Island St. He continued that he thinks by the end of the project, they had worked them out, and they coordinated daily with Corning, which is above and beyond for both the contractor and the project manager. He does agree, and the City owes Corning an apology; there were inconveniences at times, for sure. No contracts have been awarded to date for the Downtown Infrastructure Project, other than the design. In accordance with Federal funding requirements, staff put out a Request for Qualifications and received three for engineering services during construction. From that process, GPI was selected. They are holding off to award that contract until they are sure they have bids that they can award the construction phase of the project, so they do not have someone under contract for a project that potentially is not going forward. That is obviously a worst-case scenario that they do not want, but it very typical for what they do for all major projects.

Chair Greenwald stated that he agrees with what Ms. Wells said. He continued that he tried to get in for a dentist appointment in the same building, and what happened was unacceptable and cannot happen on Main St. You could not get into that parking lot. Mr. Ruoff replied that he agrees.

Ms. Wells stated that her other questions are how staff are supporting downtown businesses through this, and how realistic it is for staff to put a bid out for December but plan on breaking ground in 2026. Mr. Ruoff replied that regarding the first question, the Downtown Infrastructure Project is its own item in tonight’s agenda, and the project’s Ombudsman can speak to that. He continued that GPI is inspecting not only the technical aspects of the work, but making sure they are coordinating between the project contractor, project ombudsman, and local businesses, to make sure they are not missing anything. They made it clear in the pre-bid meeting that during this project, they need to coordinate as a group, and make sure they are looking out for all things. For example, if a business is closed on a certain day, that is the day the team wants to connect their water service so they do not lose water unnecessarily on a day they are open for business.

Those are the types of things the team is looking to stay on top of and have already summarized in support of the project. They need everyone on board paying attention to those things, to support local businesses downtown.

Mr. Ruoff stated that regarding the second question, he generally does not like to bid in November and December, as he feels contractors are generally either scrambling to finish their work in the current construction season, or shutting down and going on vacation. However, in this instance with this size project, they have to bid in December. They will need the four months between the bid opening and the start of construction operations in the field to be able to work through all the schedules, all the submittals, and all the things involved with the project, to make sure the contractor is incorporating what the City wants.

Mr. Lussier stated that he would add that one question they already got from a contractor was whether the City will pay for materials delivered to the project but not yet installed. That provision is not uncommon in contracts, allowing the contractor to purchase materials earlier in the project, and once the City has control over the materials, the City will pay for a portion of the cost. He continued that for example, the contractor can buy all the pipe and concrete structures in advance. That mitigates the contractor's inflation risk. Instead of the contractor worrying about whether prices will go up next year for the pipe, he can buy it all now, and deliver and secure it at a City location. That is the advantage of earlier bidding.

Chair Greenwald asked if there was anything further from the Committee or public. He continued that the Downtown Infrastructure Project is further on the agenda.

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 accepting the 2025 Construction Summary and 2026 Construction Preview as informational.

5) Draft "Protection of Streets" Ordinance - Public Works Director

Mr. Lussier stated that he is here to report back on something they discussed a while ago that has been on his agenda to get done, the Protection of Streets Ordinance. He continued that Public Works staff have been talking about this idea for a while. Many communities in NH have already implemented similar Ordinances, and municipalities copy each other's best ideas. Concord, Manchester, Dover, Portsmouth have Ordinances with verbatim language and the same structure, which has been legally vetted and proven. The idea is to protect the City's investments in its pavement and roadway infrastructure. Sometimes, the City has just finished cutting pavement, when someone digs a trench across it to put in a new sewer line or fix a gas pipe. The intention of the Ordinance is to reduce those incidents. A Committee member had asked if this would allow a property owner who unexpectedly had a sewer main fail to still be able to fix their sewer main. The answer is yes. The City will not tell someone they cannot fix their sewer or water line, or tell a vacant property owner that they cannot build a new home because the City just paved the street. They will not tell the utility company they cannot fix a leaking gas main. The Ordinance says, if you have one of those emergency situations or unavoidable excavation in the street, the City will charge the normal excavation fees, and an additional Pavement Life Reduction fee.

Depending on how soon after the work has been completed, it could be two or three times the amount of the normal fee. That money goes into the City's coffers. The following year, Public Works would include in the operating budget a request for a supplemental that would approximately equal whatever they collected the previous year, and it would allow the City to do additional maintenance on those patches, such as crack sealing or milling and overlaying. The goal is to keep the road in good condition despite that damage.

Mr. Lussier continued that regarding the cost, the agenda packet has a table he created to compare the existing fees with other municipalities' fees. Today, Public Works charges a flat \$75 fee for excavation permits. That fee was last adjusted in 2017, structured to pay for two hours of the Engineering Technician's time, including his time to receive, process, and approve the application, then go out and do the necessary inspections. He also goes out a year later to inspect the patch to make sure it has held up. Public Works does not charge fees beyond that. The \$500 security deposit is refundable to the contractor, assuming the contractor's patch holds up, or that he fixes it if it does not hold up. He questions whether the average homeowner who hires a contractor to fix their sewer or water line actually knows about that refundable security deposit and whether the contractor refunds it to them. By contrast, Concord, Dover, and Manchester charge significantly more than Keene. Initial application fees range from \$200 to \$255. They also charge a Street Damage Fee ranging between \$7 and \$5 per square foot in those communities. Everyone pays that, whether it is a newly paved street or not. For newly paved streets, those municipalities also charge an additional fee to compensate the municipality for the fact that the new pavement has been deteriorated and will not last as long as it otherwise would have. That fee is between two and three times the normal amount, depending on how long the pavement has been paved. Adding all of that up, the same work that costs \$75 in City of Keene would cost \$1,500 in Concord, and nearly \$2,000 in Dover. Public Works proposes bringing Keene's charges more in line with Keene's peers. He is looking to raise the permit fee to \$100, which reflects the incremental increases in labor costs for two hours of the Engineering Technician's time, and to add the Street Damage fee of \$5 per square foot of any pavement disturbed. Length of the trench times width of the trench across the pavement or sidewalk multiplied by \$5 would be added to the cost of the permit. For permits issued on newly paved streets, within two years of paving, they would charge three times the damage fee, as an added cost. For streets between two and five years, they would charge twice the damage fee, as an added cost. The example the table shows assumes a trench 12' long by 5' wide, with work within two years of paving, which would come to \$1,425. It is still a little below Keene's peers' fees, but more in line. Again, that money collected would become available to do additional maintenance work in subsequent years.

Mr. Lussier continued that something else he wrote into the draft Ordinance per the Committee's request is a two-year waiver. Homeowners having work done on roads shown in the CIP to be paved within the next two years would be exempt from paying the additional fees and the Street Damage fee. Thus, it gives a modest incentive for the homeowner to do the work. If they know their water line has been leaking, or their water pressure is not good and they know their pipe is probably tuberculated, for example, they will have a small incentive to get that work done in advance of the paving work that will happen. On the flip side, if they chose not to do the work in advance, they would pay a premium if they did it later.

Mr. Lussier stated that this is a draft Ordinance and has not been presented for a first reading. Public Works' recommendation is to either direct staff to present the Ordinance to the City Council or to tell him if they do not want this Ordinance.

Chair Greenwald stated that he has a communication from a Park Ave. resident, Richard Watkins, which he is not sure the other Committee members have seen. He continued that Mr. Watkins is not pleased with the concept and has some questions. He asked if Mr. Lussier has seen this. Mr. Lussier replied no. Chair Greenwald replied that he will give it to him. He continued that he will not read the whole thing aloud, but part of it says, "*...I use the term 'penalize' because it is our understanding via our contractor that the contractor does the digging and repairs and the costs are passed on to the homeowner.*" He is sure Mr. Watkins would like his communication to be read and considered. He himself is struggling with this proposed Ordinance. He continued that he understands that Public Works wants to recover costs, but when the homeowner is dealing with a major expense such as a new water or sewer dig, and then the City adds more fees because they are breaking the road, he has concerns. He will pass Mr. Watkins' communication over to the City Manager to respond to, because he assured Mr. Watkins that either she or the Public Works Director would.

Councilor Favolise stated that when this idea first came up, he was fine with moving it forward and looking at a draft Ordinance. He continued that he did not like it then but wanted to move the process forward. Now, almost a year later, he still does not like it, for much the same reason that Chair Greenwald said and that he himself has said in the past. He understands that other municipalities are doing this, but that does not mean Keene has to. It is not the "carrot" part of this that concerns him, which is the part that gives homeowners incentive to do planned work or utility maintenance ahead of a scheduled paving. His concern is for the homeowners, or tenants getting the cost passed on to them, faced with an emergency plumbing situation. He does not like the idea of homeowners needing to do these expensive, emergency projects and then having to pay the City more money, too. He understands that in a vacuum, and from the City's side, that this makes sense. The City paves the roads, wants them to remain paved, and wants to get a good return on their investments. On the other side are the homeowners or tenants who would be faced with the costs of this. He thinks this proposed Ordinance has moved through the process enough and he will vote against moving it forward tonight.

Mr. Lussier stated that he completely understands Councilor Favolise's concerns. He continued that his counter argument is that these sorts of water and sewer problems are rarely completely unexpected. Typically, when they see water or sewer lines getting replaced, the service has been in the ground since about the 1950s or 1960s, and the homeowners have had to get repeated cleanings or have had other indications that the service line was failing, before it completely fails. The hope, with this Ordinance, is that those property owners who know they have these problems brewing will deal with them more proactively, instead of waiting for emergencies.

Councilor Filiault stated that Councilor Favolise and Mr. Lussier both make good points. He continued that he knows there is a lot of gray area, but he wonders, if a homeowner truly did not see the emergency coming and, say, has backfill in the house because the sewer line collapsed, if there would be a way for these fees to be waived. He asked if there could be some mechanism for a homeowner to come to Public Works and explain that they did not see the situation coming,

and ask for a waiver. Mr. Lussier replied that respectfully, he would say no, because Public Works does not have records of routine maintenance on these pipes. He continued that homeowners are not obligated to get a permit for something like Roto Rooter coming out to cut roots or clean their blocked up sewer pipe. The honest homeowners would pay the fee, and other homeowners would realize that if they said, "We had no way of knowing," they would not have to pay the fee. Thus, he does not think that would be a workable approach.

Councilor Workman asked how big of a problem this is. She asked how many of these excavations were a problem in 2024, for example. Mr. Lussier replied that it is not as big of a problem as he initially thought when they first started looking at it. He continued that the perception is that every time the City paves a road, they turn around and someone is cutting on it. In actuality, they looked at it, and it was a little over an average of one per year.

Councilor Filiault stated that it sounds like they are trying to fix a problem that does not exist. He continued that he understands where Mr. Lussier is coming from. The perception was that they had a problem. He thinks they could increase the permit fee a little bit to help with the costs, but since they do not seem to have a big problem, he does not think they should be penalizing a homeowner whose sewer system fails. He is trying to meet in the middle. Especially today with the rising cost of everything, this is the last thing a homeowner needs. He tends to trust homeowners. In many cases, maybe the homeowners did kind of see the problem coming, but money is tight for everyone right now. No one wants to go spend \$15,000 to replace their sewer line. He wants to give the homeowner the benefit of the doubt. Maybe they could increase the permit fee a bit, but he would not be in favor of the Ordinance as written.

Mr. Lussier stated that he was surprised when he saw there were not many of these incidents. He continued that he still thought it was worthwhile to bring the Ordinance forward, not so much for the Pavement Life Reduction fee, but for the Street Damage fee. Now, the City charges the contractor a refundable security deposit on the patch, \$500. He has long suspected that the homeowners rarely see that money back. The check goes back to the contractor, and it is up to the individual contractor as to whether that gets refunded to the property owner. He suspects many contractors charge it on the front end to the property owner, and keep it on the back end. The Pavement Damage fee would be a new revenue source that would allow Public Works to do more maintenance work on these patches over time. That would be applicable to every permit, which is about 50 per year, not just the one or two a year that are cutting newly paved pavement.

Chair Greenwald asked if it is correct that for a sewer or sprinkler line replacement, pavement gets cut, a hole is dug, pipe is replaced, and the property owner pays for the repaving. Mr. Lussier replied yes. Chair Greenwald asked if this is for if it fails. Mr. Lussier replied that a typical patch is about 12' long and 5' wide, so the damage fee would be about \$300, based on what he wrote here into the Ordinance. He continued that that \$300 would be available to do things like sealing the edges of the patch a couple years later to make sure water is not infiltrating and damaging the roadway. If that patch settles over time, it would allow Public Works to mill and overlay it so it rides properly in the future.

Councilor Tobin stated that it sounds like the issue for Mr. Lussier is he thinks the security deposit might not be making it back to the homeowner. She asked why that is a deposit, and not

a fee. Mr. Lussier replied that that is just the way it is currently structured in the system. He continued that the excavation permit is issued to the contractor that is doing the work, not the homeowner. Public Works charges the security deposit to make sure the patch is paved properly and holds up. A year after the patch is completed, the inspector goes out and checks it, and if it is within tolerance, within 3/8-inch flush with the adjacent surface, the City issues a check to the contractor that took out that permit and returns the money. If the patch is not within tolerance, Public Works either calls the contractor and makes them fix it, or the contractor forfeits that money and Public Works does the work. Generally, the contractor fixes it.

Councilor Tobin stated that it would be difficult, in general, to explain this to people. She continued that she thinks people will feel they are being charged extra. If there are only a few incidents where people cut into new pavement, she wonders if there is a way to incentivize doing work early, without a punishment. Mr. Lussier replied that the only incentive they could offer right now would be a free excavation permit, which is \$75. Chair Greenwald replied that they would also avoid the penalty. Mr. Lussier replied that there is no penalty today.

Councilor Favolise stated that regarding the question of whether the contractors are keeping the security deposits the City returns to them, he does not think that is a basis on which the Committee should be considering this Ordinance. He continued that he thinks Councilor Filiault offered a potential solution here, which he would like Mr. Lussier's input on. He asked if Mr. Lussier would consider it a small victory if the permit fee went from \$75 to \$100 in line with the cost of labor. Mr. Lussier replied that he thinks that would be wise and in keeping with the City Council's policy. He continued that their fee structures are supposed to account for the cost of providing the service, and since the fee has not been adjusted for seven years, it is definitely time to do that.

Chair Greenwald asked if Mr. Lussier can just handle that, or if the Committee needs to make a motion. Mr. Lussier replied that they do not need to make a motion.

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

On a vote of 5 to 0, the Municipal Services, Facilities and Infrastructure Committee recommends accepting the draft "Protection of Streets" Ordinance as informational.

6) Downtown Infrastructure Project Update - Public Works Director

Mr. Lussier stated that the project went out to bid on November 6, and bids are due on December 18, which happens to be a City Council night. He continued that his hope is that the City Manager's comments that night will feature some excellent news. As Mr. Ruoff mentioned, the pre-bid meeting was well attended. Staff have reached out directly to several firms in the area that they know do this sort of work and would be qualified to do the project. The Engineering Division reached out to firms the City has worked with in the past, and three firms in Massachusetts that a City resident who works for an engineering firm told them about. Altogether, staff have contacted 15 construction firms directly to encourage them to take a look at this project. The electronic bidding website notifies Public Works about who has accessed and downloaded the plans, and he has not looked recently to see how many firms have done that, but

as of the date of the pre-bid meeting, quite a few firms had downloaded the plans. So, they know the word is getting out, including to the specialty subcontractors, such as electricians and arborists.

Mr. Lussier stated that in the last week, the team has spent a lot of time thinking about and talking about how to accommodate events downtown during construction. He continued that around this time of year, the City Clerk sends notices to all the event coordinators who get licenses from the City each year for things like Pumpkin Fest, the Music Festival, and the Food Festival. The correspondence lets the event coordinators know it is time to renew their application for the current year, and the relevant information. This year, that information will include three example footprints they can use as a starting point for their planning purposes, without Central Square and the active construction area. The large event footprint they can take as a starting point would include the Commercial St. parking lot and Main St. from Railroad down to Emerald St., and the medium event footprint would eliminate the Commercial St. parking lot but would still block off the southern end of Main St. and include Railroad Square. The small event footprint would not include any (large) road closures but would allow the event on the sidewalk on both sides of Main St. along with Railroad Square. Those are intended to be starting points. Each event will be unique and will go through the normal protocol process where the event coordinator comes in and they talk through all of these different issues, such as security, bathrooms, tents, cooking, and so on and so forth. The protocol process will be tailored for each event's needs.

Mr. Lussier stated that something that staff has talked about internally is what to do if there are additional costs for an event this year, such as an event requiring more time from Public Works to lay out protective barricades around the Commercial St. parking lot. He does not know the mechanism for how this will be administered with the Council, but his personal recommendation is that if there are additional costs for City staff that are over and above what it would have normally cost them to run that event in years prior, due to the construction project, he feels like the City should absorb that cost. How that gets administered with the City is something to figure out, but he thinks it would be fair to the event sponsors. The Downtown Infrastructure Project should not cause the event coordinators' costs to increase.

Mr. Lussier continued that the Hannah Grimes Center holds an event coordinators' meeting every year around this time. It will be December 12, and he and Mr. Downing will attend. He attended last year, which was before Mr. Downing was hired, and spoke to the event coordinators. At that time, construction was planned for 2025, which obviously changed. He will answer any questions the event coordinators have about how the downtown project will affect their events in the coming season.

Mr. Lussier stated that Dave MacNamara, the Project Manager from Stantec, is here tonight and would like the opportunity to address the Committee regarding some questions that have come up about Stantec's role in the project.

Councilor Filiault stated that before Mr. MacNamara speaks, he has a couple of things. He continued that first, it looks like interest rates will be down a full percent, so he asks Mr. Lussier to remind the contractors of that. Second, Mr. Lussier mentioned that events will have to go

through the normal protocol process, and he would like to look at that, because he thinks they should work on that a bit. Normal protocol can take a while, which is just how government works. He would like to streamline the protocol for events during the Downtown Infrastructure Project. He is not saying they should waive everything and just tell people go for it, but he would like to find a way, through City staff, to expedite or streamline whatever the normal protocol is. Things are going to happen. Someone might come up at the last second, and because of what is happening in one location, only be able to have a small event in another location, and he does not want them to be kept on the hook for a long time. Maybe they could have a committee formed for expedited events that do not require a lot. He does not have the exact answer to this; he is just throwing ideas out. Regarding the City absorbing extra costs, he would like them to look at that, too, and maybe even discount the costs through the downtown project. Instead of just being a little more easygoing, he would like to see the City be a little more extended during the whole project, being a nice City government, going above and beyond to really help the downtown merchants through these two years.

Mr. Lussier replied that licensing those events is a City Clerk function and he does not want to speak out of turn in terms of how they do their process. He asked if the City Manager wants to say anything.

The City Manager replied that she cannot speak for the City Clerk, but she can say that the attempt to identify locations for events during each phase of the project is an attempt to make this process easier. She continued that they have gone through quite a bit of up-front work to look at which events could go where and how that could be flexible. That is a good step in the right direction. She also agrees with the Public Works Director's comment, holding them harmless. If an event has cost an event coordinator X amount of dollars in the past, it should be the same again this year, if the additional cost is because of the downtown project. She thinks that is fair. Regarding flexibility, she does not know what the right mechanism is, but she would like to find a way to build some additional flexibility into the process in terms of timing. Oftentimes, coming back and forth with City Council is what takes a while. During COVID times when they added additional emergency authority, she was able to deal with things very quickly and flex in many different ways. They need to look at that a little more, to see what the City Council might be able to grant to staff, to handle things a little quicker.

Chair Greenwald replied that he thinks he speaks for the Committee when he says they will hold special meetings to accommodate decisions. He continued that while they are on the topic of events, he thinks Ms. Wells would like to speak, and then they will get into the construction conversation.

Ms. Wells stated that she submitted an application for a Renaissance Faire event and is waiting to hear how things are going to proceed. It is very concerning that there is not even a bid for the project, and she is already being told that they are not even sure if they will do events during the time of construction. She is glad they are open to conversation about expediting it, but she has been waiting to hear for months whether she will even be allowed to host this event.

He continued that what Public Works has been telling people all along is that they will still be able to have events during construction, but the location of the event might be different than it

has been in previous years. He has been saying since last year, they will have events downtown turning construction. Maybe this has not been communicated well, but like he said, they have been working with the City Clerk's Office to develop these different example footprints that people can use for planning purposes. It might just be that the City Clerk's Office is still working on what the footprints were going to.

Chair Greenwald asked if anyone else had anything regarding events. He continued that all the mini events will be coming forth as Mark Rebillard and his group come through. He asked if it is correct that the protocol is that it goes to the City Clerk's Office. Mr. Lussier replied yes.

Chair Greenwald asked Mr. Lussier to proceed with the construction conversation. Mr. Lussier invited Dave MacNamara to address the Committee.

Dave MacNamara of Stantec stated that he wanted to be here to address the permitting snafu from a month ago and answer any lingering questions. He continued that he wants to assure everyone that things are moving forward. As Mr. Lussier and Mr. Ruoff noted, the bid is on track. They worked through it with DES. At the beginning of the process last spring, they were working with DES and had submitted a bunch of paperwork in response to DES's request for information. They went back in and saw that DES had closed the portal Stantec had used to communicate with DES about the permit application process. At the time, he thought that it was good and meant that DES was doing its final review and that everything was moving along. The technical piece was still underway, so they were continuing to work with other groups in DES on the technical details. After a few weeks or a month, he should have figured out that something was off, because DES had not given Stantec the final declaration that the review was closed out. It just lingered. They caught up with it as it got closer to the bid, talking to someone else in DES about another piece of the process, and found out that the portal should not have been closed. He is not trying to say that DES made the mistake. Stantec made the mistake. He himself should have recognized it at the time. DES opened the portal back up, and he looked in, and saw that DES had a couple of questions. Stantec quickly got the answers back to DES, and that is when they came into that public comment piece that came out of that. Once Stantec had given DES everything they needed, about a month ago, a 30-day public comment period was needed to close this formally out. At that point, they worked with the City, with DES, got all the players together, and worked through it in quick fashion. DES let them go forward with the bid. The stipulation was that they could not open bids until the public comment period was closed, and any questions that came in were satisfactorily answered. They have all the sign-offs from DES now. The bid opening date is December 18, and hopefully it has not impacted that. In summary, he dropped the ball. It was something that potentially could have cost them more time than it did, but everyone worked together when it did come to light, and they were able to keep things on track. He is here to take any comments or answer any questions.

Councilor Favolise stated that he appreciates Mr. MacNamara being here to address it and being candid about where the ball was dropped. He continued that the reason he voted to delay this for a year was specifically so that everyone involved, including downtown business owners, downtown residents, City staff, and the City Council, could make sure they were getting everything lined up and had all their ducks in a row, and that they were not going to let things that did not need to slip through the cracks to slip through the cracks. He asked if he will wake

up a week from now to some new Keene Sentinel article that says there is some other problem, some other T not crossed or I not dotted, or if Mr. MacNamara is confident now that they are in a phase where they are moving forward, not stopping or moving backward. Mr. MacNamara replied that they are confident that they are going forward. He continued that he is not expecting any more surprises.

Councilor Filiault stated that Stantec has other projects going on in NH. He asked how they are seeing bids come back, based on initial thought process. Mr. MacNamara replied that it has been mixed. He continued that one recently came in right where they were, whereas some others came in a little high. The engineering community has started to adjust to some of those prices, in terms of the estimates and recognizing that prices have been increasing for the last few years.

Councilor Filiault asked Mr. MacNamara to be sure to point out that interest rates are down. Mr. MacNamara agreed, and continued that there seems to be a lot of interest in the City's project. Stantec has spread the word to contractors they have worked with, particularly ones that would be suitable for a project of this magnitude. They are optimistic. When contractors know they are bidding against other qualified contractors, that helps keep the bids reasonable.

Chair Greenwald stated that after his concerns about having an acceptable bid, his next biggest concern, which he keeps asking, is about the plan to build this in two construction seasons. He asked if Stantec is confident that construction will go from Central Square to Gilbo Ave. from March to November. Mr. MacNamara replied yes. He continued that looking at it as three phases limited the contractors, confining them to one major construction crew at a time. By loosening those restrictions, Stantec anticipates maybe having a crew working in Central Square while another crew works on the northern part of Main St. There is enough room to manage traffic within Central Square with that crew and then manage traffic on Main St. It would have been one crew doing all of Central Square in a year, but now, allowing another crew adds half of Main St. to that. It will be a lot of work and be more disruptive, but it will be quicker. That is the tradeoff.

The City Manager stated that she has to add that as is the case with many projects, including one they talked about this evening, they might get to the end of the project and find there are some things that need to be wrapped up in the next season. She continued that for example, the Island St. project, which was a much smaller project, has them coming back for final paving and final concrete sidewalks in the spring. It is great that Stantec is confident the work can be done in two seasons. She would just say that they should expect to possibly have some wrap-up of final items in the following season.

Chair Greenwald asked if there were any other questions. He asked if there are any other decisions that need to come out of the Council or Committee, such as related to trees, sidewalks, trash cans, or something else. Mr. Lussier replied no. He continued that to add to what Mr. MacNamara said, obviously, no one was happy that this oversight occurred. Once it was identified, Stantec, DES, and the Engineering Division really rallied and pulled out all the stops to make the problem go away very quickly. Once the City and Stantec had the conference call with DES, DES sent the team comments at the end of that week. Stantec quickly responded to all of the comments the following Monday, and by that Wednesday, they had authorization to advertise. No one likes that they got into that situation, but he thought it was a good example of

how having a good working relationship with the engineer, the owner, and the regulatory bodies meant they could quickly resolve it.

Mr. Lussier continued that regarding the question earlier tonight about what the team is doing to support businesses during the project, Mr. Downing's role as the Ombudsman is a big part of that, but he is not the only part. Mainly, the team is trying to communicate with businesses as much as possible, by sending frequent email notifications about what is happening, what the changes are, and what they can expect in the coming weeks. As discussed in previous meetings, they are working with business owners if coordination needs to happen for things like ADA accessibility or utility improvements on their site. Those are things the City can do. The City cannot do things like directly advertise for a certain business; that would not be an appropriate use of public money. But as much as the City can help businesses with information and let them know what to expect, and what is happening in the coming days, weeks, and months, that is what they are committed to. They have also been adamant all along that customers will be able to get to businesses, although they might have to park further away, and walk over a dusty, gravel mess to get there. Mr. Downing will report on his work. In the coming months, they will hear about things like the "Coffee and Hard Hats" events they will have once the contractor is under contract and they are getting closer to construction.

The City Manager stated that in addition, the City has a very creative team of two people, Rebecca Landry and Asah Cramer, who do social media, and other videos and reels which have recently been focused on preparing for this project. She continued that they have been creating videos showing how many minutes it takes to walk from parking lots to downtown businesses. They are focusing on this because people will find it easier to park in those lots and walk to the businesses. Ms. Landry and Ms. Cramer are getting creative about other ways to communicate that downtown is open for business, and when issues come up and perception issues come up, finding ways to address those. Social media does not reach everyone, but it is helpful, so they will see more of that as they go forward.

Mr. Lussier invited the Project Ombudsman to talk about his activities from the past month.

Mr. Downing stated that he has been communicating frequently with Ms. Landry and Ms. Cramer. He continued that they have come to him and asked what people's misperceptions are, and have really jumped on that to get ahead of some of those. They also talk about other ways to communicate that downtown is still open. That will be the biggest challenge facing them, from a communications perspective. Mark Rebillard and his group are approaching that from a different direction, encouraging people to come downtown, just to remind people that downtown is still here, functional, and vibrant while all this is going on.

Mr. Downing continued that following last month's MSFI Committee meeting, he talked with several Committee members offline and realigned his priorities. He set himself a goal to get to every business front in the project footprint, in person, before this meeting. That might have been a little ambitious, but he did pretty much achieve that goal. He was unable to get into approximately 10 businesses, mostly therapists, who are generally only in their offices when they are with clients, and he does not want to interrupt them. He thus had to use email or the phone for about a dozen businesses, and he heard back from most of them. Except for one business he

has no way of contacting, he has met or exchanged information with everyone downtown. Per the Committee members' guidance, he moved quicker than he had been moving previously, which means he has not necessarily met with every business owner. He spoke with whoever was available when he was there, so there is follow-up work to do, but at least now, everyone has at least received his business card or has seen him in their business.

Mr. Downing continued that the major concerns he has been hearing are similar to what others have been hearing. Some people are still questioning whether the project will happen, stemming from the way it was delayed for a year, and the Sentinel headlines about the bidding process. The bidding process happened pretty much on time, and there is contractor interest in the project, but maybe some people still have wishful thinking that it will not happen. The question he is asked the most is when the project is starting, and they want detailed phasing information, which will not be available until there is a construction team. As soon as he has that information, he will start distributing it to people, focused on when their particular business will be impacted. People also ask him about parking. People are concerned that their clients or customers will not be able to park. Again, once there are more detailed phasing plans, they will be able to tell people exactly where they can park. He is talking with Ms. Cramer and Ms. Landry about how they can most effectively communicate that. Other concerns are related to traffic flow. Some have concerns that all of downtown will be shut down to traffic for the whole duration, which has never been considered for this project. As he understands it, most construction plans at this time have full traffic flow, with just lanes closed off. That has been encouraging to people, although they are concerned. He has enjoyed meeting everyone. That is why he was interested in this position in the first place. Most people seem somewhere in between concerned and focused on what is next, how to get through this, how to help each other, how the City will help them. That is what they are navigating now.

Mr. Downing continued that next will be the follow-up visits. Some people had questions he will need to talk with Public Works or other City departments about, and then he will bring the answers back to people or connect them directly to staff, depending. He will meet with owners he was not able to connect with the first time through. He has some of those scheduled in the next couple weeks after Thanksgiving break. He will also have to go back to some businesses and collect more information the construction teams will need, such as busiest hours or season or days of the week, delivery schedules, and the type of information that Mr. Lussier and Mr. Ruoff were talking about having to coordinate closely to make sure downtown functions throughout this process. He did not spend as much time as he had earlier, getting every little bit of detail, because he wanted to get through to everyone, so he will be going back and gathering that on a timeframe more suitable to the people he is meeting with. Then, he will work on documenting everything he has done. He has to build the database that includes all this information so that people can find it. For example, when it is time to construct the first block on Main St., they need to be able to know who is on that block, when their deliveries are, what the busy times are, and how to coordinate with them. Also, he needs to do the paperwork he talked about last month, such as the FAQ and the binders for businesses, as he put all of that off for a month. He will start putting that stuff together. He is happy to answer more questions and he welcomes feedback.

Councilor Favolise stated that he appreciates the work Mr. Downing is doing. He continued that he saw Mr. Downing out there today. He hears that they have the social media push and the

email list. He asked if he has a sense of whether the downtown business owners and employees have signed up for that or are tuned in with that. He wonders whether social media and emails are reaching the people who will be most impacted by this project. Mr. Downing replied that as he goes around to downtown businesses, one of the things he has been doing is letting people know how to connect with it. Many already have. When he first came into this position, there were five different contact lists from various sources, mostly from the opt-in lists that already exist. One of the pages in the binder that will go out to everyone downtown will be a connections page, with his information and instructions on how to sign up for that and how to get the downtown information. There are 18–20 categories you can sign up for, and he makes sure to highlight the one that focuses on the downtown information. Not everyone knew it was there. Some people are not interested in another email, but he at least makes sure they know it is there and how to reach it.

Councilor Tobin stated that she has a question about residents and how well it has been going for Mr. Downing to connect with downtown residents. Mr. Downing replied it is virtually impossible. He continued that most downtown residents live in the upstairs spaces, which are locked. He cannot get in. He did end up in two residential spaces above downtown businesses because they are in the same access as the upstairs businesses, and the residents looked like they were going to call the Police on him. He had to pull out his City ID. He thinks he needs to get ahold of the downtown property managers and talk with them about how to communicate with their residents. He will meet with Mr. Lussier after Thanksgiving to ask how to go about doing that. It is a different animal entirely. Businesses are mostly welcoming to people walking in their front doors, but residences are not. His initial approach will be to reach out to property managers downtown and work through them. As the project gets closer, they will have to rely on posting information on the front door spaces of all the apartments, to let them know when their specific area will be impacted. It is a good question, which he has been trying to figure out how to deal with.

Mr. Lussier stated that he thinks Mr. Downing's idea of going through the property managers is a good one. He continued that once they have a little more information to share with tenants, they can do an "Every Door Direct Mail." They have used that for this project before. It allows the City to send an informational card to every mail recipient within a postal route. There is a cost to that, of course, but it would put the information in the hands of each tenant within the project area. He would like to do something like that, saying, "the project is moving forward, please come to this website address in order to learn more."

Councilor Tobin stated that something she wants to make sure is addressed at some point is considering what people do for work and how they might be affected by, say, noise. She continued that on certain days, it will be very difficult for people who work in offices or work from home, and she wants to make sure they are clear about setting the expectation and letting people know the timeframe for when they can expect a certain noise level in their area.

Mr. Downing replied that that has come up with some of the businesses. He continued that depending on what type of business they do, there are different concerns. Retailers' concerns are whether people will be able to get to their businesses. The many spas and hair salons all rely on water, so they need to know when their water will be off. Food service has both concerns and

some have talked about the noise levels. Much of it comes down to the specific phasing, the specific schedule of when the construction team will be close to those locations. When he has that information, he will share it with people.

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 accepting the Downtown Infrastructure Project Update as informational.

7) Adjournment

There being no further business, Chair Greenwald adjourned the meeting at 8:07 PM.

Respectfully submitted by,
Britta Reida, Minute Taker

Edits submitted by,
Kathleen Richards, Deputy City Clerk