



City of Keene
New Hampshire

KEENE CITY COUNCIL
Council Chambers, Keene City Hall
November 3, 2016
7:00 PM

Roll Call
Pledge of Allegiance

MINUTES FROM PRECEDING MEETING

- October 20, 2016

A. HEARINGS / PRESENTATIONS / PROCLAMATIONS

1. Castle Street Discontinuance - City Engineer and Keene Housing Authority

B. ELECTIONS / NOMINATIONS / APPOINTMENTS / CONFIRMATIONS

1. Confirmation - Partner City Committee

C. COMMUNICATIONS

D. REPORTS - COUNCIL COMMITTEES

1. Effort to Show Support for Police Personnel - Public Works Department
2. Periodic Report – Zoning Board of Adjustment
3. Periodic Report - Trustees of Trust Funds
4. Solid Waste Facility Energy Options Report - Public Works Department
5. Change Order #1 for Woodland Cemetery Wetland Restoration Project Construction Oversight Contract with GZA GeoEnvironmental Inc. - Planning Department
6. Ladder Truck 2 Purchase Contract - Fire Department

E. REPORTS - CITY OFFICERS AND DEPARTMENTS

1. CITY MANAGER COMMENTS

F. REPORTS - BOARDS AND COMMISSIONS

G. REPORTS - MORE TIME

1. Safety Concern – Intersection of West Street and Bradford Road
2. Request for No Parking – South Side of Spring Street
3. Request for Two Hour Parking Limit – 50 Washington Street
4. Driveway Code Review – Planning Department
5. Roxbury Street Crosswalk – Public Works Department

H. ORDINANCES FOR FIRST READING

I. ORDINANCES FOR SECOND READING

1. Relating to the Establishment of the Main Street Historic Overlay District
Ordinance O-2016-13
Ordinance O-2016-14-A
Ordinance O-2016-15

J. RESOLUTIONS

1. Council Policy – Political Advertising on City Property and Rights-of-Way
Resolution R-2016-31
2. Relating to the Early Replacement of Ladder Truck 2 - Fire Department
Resolution R-2016-32

Non Public Session
Adjournment

A regular meeting of the Keene City Council was held Thursday, October 20, 2016. The Honorable Mayor Kendall W. Lane called the meeting to order at 7:00 PM. Roll called: Carl B. Jacobs, Robert J. O'Connor, Terry M. Clark, Jay V. Kahn, Randy L. Filiault, Robert B. Sutherland, George S. Hansel, Gary P. Lamoureux, Stephen L. Hooper, Bettina A. Chadbourne, Philip M. Jones and David C. Richards were present. Councilors Janis O. Manwaring, Thomas F. Powers and Mitchell H. Greenwald were absent. Councilor Jones led the Pledge of Allegiance. A motion by Councilor Jones to accept the minutes from the October 6, 2016 meeting was duly seconded. The motion passed with a unanimous vote in favor.

PUBLIC HEARING – RELATING TO THE ESTABLISHMENT OF THE MAIN STREET HISTORIC OVERLAY DISTRICT ORDINANCES O-2016-13, O-2016-14-A AND O-2016-15

Mayor Lane opened the public hearing and invited Planner Tara Kessler.

Ms. Kessler stated the Ordinances before the Council this evening proposes to establish a Historic District in the area of Main Street between NH Route 101 and the roundabout at Winchester and Marlboro Street. It would also include parcels on Proctor and King Court.

She stated this District would be separate and different from Keene's existing Downtown Historic District, which has been in place since 2004. She referred to the map at the front of the room which displays the proposed boundaries, which encompasses 31 acres and includes 52 parcels. Most of the land in this area is used for residential purposes; however, there are some commercial uses such as an inn, a few small retail businesses, offices, and a nursing facility. Keene State College owns 13 of the 50 buildings in this area. Also included are the Historical Society of Cheshire County and Wyman Tavern.

Ms. Kessler stated since the late 1990s, a number of historic inventories have been completed of this area, which have determined this area is eligible for listing in the National Historic Register, and have underscored its historic significance. Some of the buildings have lined the gateway to Keene's downtown for over 200 years, and five buildings are listed on the National Register of Historic Places.

In recognition of the important historic architecture and pattern of development in this area, the City's Heritage Commission sought and received permission from City Council to research the formation of this district. In 2014, a subcommittee was formed that per state law included members of both the Heritage and Historic District Commissions. The committee met monthly and held open houses to share information on their research and engage the public in the development of a draft ordinance. All meetings were open to the public.

Ms. Kessler went on to say after listening to concerns about the restrictions a historic district might impose on property owners, the committee significantly reduced the number of activities that would potentially be regulated from 21 to eight. They selected activities that would have the most significant impact on the architectural and historic integrity of structures and on the streetscape.

These eight activities included:

- Construction of new primary structures, as well as construction of new accessory structures or additions that exceed 250 square feet or 5% of the gross floor area, whichever would be greater.
- Alteration to rooflines including roof features.
- Alteration, addition, or removal of window and/or doorway openings.
- Painting of previously unpainted masonry.
- Relocation or demolition of buildings.

Any activities not listed and any activities not visible from the public way would be exempt from the regulations.

At the public workshop in August, the Joint Committee voted to amend this ordinance to increase the square footage for new additions and accessory structures from 250 square feet to 450 square feet, and to remove the word alteration from activities related to window and doorway openings.

Ms. Kessler stated if this district were to be adopted, it would not affect the uses that are allowed or the dimensional standards required by the current zoning districts, which include high density, low density and office. Rather the proposed district would increase the standards for parcels located within the proposed district with the goal of preserving the historic character of the neighborhood.

A historic district provides a regulatory review process for certain changes to exterior architectural or site features. In Keene, the Historic District Commission would conduct this review process and would approve projects based on their compliance with the district's regulations and standards. A property owner would not be able to obtain a building permit for performing these activities until they received approval from the Commission.

The Joint Committee voted that the proposed Ordinances are consistent with the City's Comprehensive Master Plan. The Plan currently states that the south end of Main Street boasts an abundance of historic homes and buildings that should be protected to preserve the character of this neighborhood. It also states that a local historic district should be created in this area.

There are three ordinances before the Council this evening:

O-2016-13 would amend the text of the Zoning Ordinance to recognize the proposed district;

O-2016-15 proposes a map change that would establish boundaries of the proposed district; and

O-2016-14 proposes amendments to Chapter 18 of the City Code which relates to Building Regulations. This section outlines the types of activities that would be regulated by the proposed district and includes information about its process/procedures.

If these Ordinances were to be adopted, the Historic District Commission would have the authority to establish more detailed standards/regulations for this proposed district.

Mayor Lane then opened the public hearing and asked that comments be limited to three minutes per speaker. He indicated comments could also be sent in to the Clerk's office before next Tuesday.

Ms. Anita Weldon of 191 Main Street, Keene was the first speaker. Ms. Weldon read the following for the record – She indicated she serves on the Historic District Commission and Chair of the Sub-Committee which drafted this ordinance.

The area for the proposed historic district on Main Street, Keene has been identified in the master plan by both local and State representatives as an important and critical place to preserve and protect. It encompasses the area of the first settlement of Keene and contains buildings from the mid 1700's through the period when Keene thrived with industry. The character defining elements of this architecture capture and represent this span of time and the influences of these times. When these elements are removed or the buildings are demolished, those keys to our collective history and culture are lost forever. Therefore, it is imperative that they be protected.

The subcommittee first researched other towns and cities in the state that have historic districts in residential areas. Many had comprehensive regulations affecting up to 21 different property elements. Throughout the drafting process, all subcommittee meetings and minutes were available to the public and we took statements from property owners and residents. All the concerns voiced were taken into consideration. As a result, we pared down the areas that would be subject to review to eight activities. These were the very bare minimum that would provide protection for this very important neighborhood and far fewer than any historic district in the state

That draft ordinance which presented at the public workshop held by the Joint Committee of the Planning Board and PLD Committees on August 8 received amendment which was proposed and approved by the Joint Committee which eliminated two significant features of the proposed ordinance:

*alteration of window openings
alteration of door openings*

Allowing this change could seriously denigrate the integrity of an historic structure. As a result, the ordinance has been weakened to the point that it has very little value. It no longer reflects the work and intention of the subcommittee; no longer provides enough protection for these historic structures; and is not worthy of the City of Keene.

In closing, I am asking for a withdrawal of the amended ordinance not because I no longer feel this area is important. But because its very importance requires more comprehensive protection. I stress that the preservation of this most prominent area of Keene should remain a very important goal of the city. A historic district ordinance does not prevent change. It provides a mechanism to have some control over change. It provides assurances to residents concerned about out-of-scale or incompatible development. It increases awareness of local history and our common heritage as a community. Historic district zoning has a beneficial effect on property values, business investment and increased tourism which is an economic booster to any community.

Ms. Carmela Hinderaker of 409 Main Street felt this ordinance does not accomplish what it is intended for. Ms. Hinderaker questioned how 50 parcels would impact the stabilize property values as has been stated when 25% of these properties are owned by Keene State College and are exempt from this ordinance. She indicated she and other abutters have requested to see the current Historic District Commission established in the City in 2004 which they are still to see and no information for same is available on the city website. She asked that the city look at the existing district before expanding it. She stated it has been indicated that supporters of this proposal talked about how an historic district support property values, however, according to Advisory Council on Historic Preservation this is only true in nationally designated historic districts where taxes were offset by state and federal taxes and these are less restrictive.

Ms. Hinderaker stated all property except for Keene State are opposed to this ordinance. She stated many have expressed opposition at public meetings and referred to the numerous signs that line Main Street in opposition to this proposal. She felt this ordinance tramples on a person's property rights. Ms. Hinderaker referred to a report by Jonathan Mabury of Tucson talks about involving the community in the formulation of such a district and felt this advisory group did a poor job in involving the abutters. It has been only recently that homeowners and small business owners were notified of meetings.

In conclusion, Ms. Hinderaker stated she is not in support of this ordinance but this does not mean she is not concerned about protecting the historic value of her home. She referred to a letter written by Louise Zerba and expressed her disappointment in same.

Mayor Lane stated there was reference made to the signs on Main Street which talk about the Heritage District which he indicated was different under the statute; what is being discussed today is the Historic District.

Ms. Julianna Bergeron of 410 Main Street began by saying that she has great respect for history, she is a supporter of the Wyman Tavern, past member of the Historical Society, donor to the Historical Society's Capital Campaign and regrets having to speak against this campaign. She felt in the future it would be prudent for City Committees to start building consensus from those who are affected before changes are made. She felt this is a great proposal only for those who don't live in this district. She felt historic districts should be put in place only in areas that are actually historic in nature.

Ms. Bergeron stated when most of the property owners in this district purchased their homes, new windows, vinyl siding etc. were installed and felt it was too late to make this area a Historic District except perhaps to the Wyman Tavern. She felt their homes will be devalued by this overlay and then again by the proposal being put forth for Marlboro Street; an area already devalued because of Keene State College. She added Keene State would also be exempt from this ordinance but they had the audacity to build an Alumni Center which fueled this issue.

Ms. Bergeron stated many who live in this district do the best they can with the homes they live in to honor the history of this area. In conclusion, noted the regulations at the present time being so watered down the Historic Commission is asking that it be withdrawn. She asked that this item be voted against and focus on issues this community could solve as a whole.

Mr. Bob Lyle of 383 Main Street stated just to get the number accurate in this district – 12 buildings are owned by Keene State College, three are owned by the Cheshire County Historic Society, ten are used only as rental properties, eight are commercial, 18 are single or multi-family units. He felt the focus is on these 18 units which pay the same amount in property taxes. However, if this ordinance was to go through, they would be forced to go through an entirely different process for things like obtaining a building permit.

Mr. Lyle stated he has been involved in this process for two years and attended many meetings and stated he does not want to go through another two years of meetings. He indicated he would like to see the Council vote down this ordinance as the City has excellent zoning rules and regulations and the neighborhood as it stands today is very well maintained.

Mr. John Therriault of 76 Bradford addressed Council and stated he was against this expansion of the Historic District. He indicated the reason this ordinance is being proposed is because it is called for in the Master Plan which he noted was signed in 2009. Mr. Therriault called the Council's attention to Page 131 of the Master Plan which calls for the Plan to be reviewed annually. To adequately address issues in the community it should be updated every five to seven years. Mr. Therriault felt it was time to start revising this Plan. Page 54 also outlines a desire only by the Historic District Commission to expand this district with no mention of the rest of the community being behind it. Mr. Therriault asked that this item be postponed until the Master Plan is updated.

Ms. Liz Sayre of 290 Main Street began by thanking Ms. Kessler for the excellent work on this issue and keeping the abutters involved in this process. Ms. Sayre stated she bought her home because of the architectural integrity. She felt the eight elements mentioned by Ms. Kessler could be part of code enforcement and you don't need a separate district to uphold these. She felt having a group who also has the right to add different things to this ordinance, then becomes personal taste and choice and does not seem democratic at all. She stated she was against an elite group being empowered to make decisions for others with no financial consequences to themselves is not appropriate.

Ms. Joslin Kimball Frank of West Street stated as follows : *I'm a member of the Downtown Historic District Commission, and served as a member of the Ordinance sub-committee which drafted the Ordinance which is the topic of Public input this evening.*

I'm a strong supporter of establishing a second historic district on lower Main Street. I was an active member of the Heritage Commission when the first downtown historic district was drawn up and approved by the City Council. I live in that district and feel confident that my property will continue to be protected even after I am no longer its owner.

I feel strongly that it is to the city's advantage to recognize and protect the historic structures that line our Main Street by establishing a second historic district.

In spite of that we are asking the City Council to withdraw the draft ordinance under consideration. There are two reasons for this:

- 1. The majority of Main Street residents are opposed to having their neighborhood become an historic district. They have told us that they don't want regulations, even though we have concessions (only eight regulations no mandatory expenses).*

2. *The amendment voted on by the Joint Committee on August 8, 2016 would allow changes in two of the eight regulations (dimensions of windows and doors) which would seriously denigrate the integrity of the building. This amendment has weakened the ordinance to the point that it has very little value.*

While the Main Street residents were not in favor of their neighborhood becoming an historic district, they voiced other concerns. There were not without our purview, but we agreed that we would take their concerns to the City Council.

In recommending that the ordinance be withdrawn, we are suggesting that the City Council address the complaints from the Main Street residents and other local citizens by proposed measures that will both address these complaints and potentially, enhance the historic nature of lower Main Street, specifically,

To slow the speed of vehicles travelling on Main Street

- *Installation of speed tables*
- *Attractive, visible traffic signs indicating maximum speed*
- *In conjunction with these traffic signs, lighted signs that indicate the actual speed of a vehicle*

To ease pedestrian in crossing Main Street

- *Erect a green median down the center of lower Main Street giving pedestrians a pause between traffic moving from two directions*
- *Cross walks spaced at reasonable intervals – preferably with blinking lights indicating when a pedestrian is in the crosswalk.*

To highlight the historic nature and the natural beauty of Main Street

- *Have a beautiful painted billboard welcoming travelers to our historic Main Street. A sign that will ask them to drive slowly and invite them to enjoy the variety of historic buildings that align this gateway to our city.*

Thank you for your consideration.

Mr. Bill Beauregard stated he and his wife own property in this proposed district. Mr. Beauregard stated when the original Historic District was proposed in the central core (Central Business zone) there was concern about the repurposing and redevelopment of buildings in this zone. He noted this is a zone which consists of liberal uses and there was concern about a national chain destroying the core of the city. The tax payers of Keene own downtown Keene, it is city asset. The proposed district however, different, it is located in the low density zone, which has the most stringent rules for setbacks and uses and by primary right only single family homes are permitted. To expand the Historic District to this area is onerous to the few people who own homes in this area. He reminded the Council the largest acreage of land is owned by Keene State who is exempt from this ordinance. He indicated residents don't want any part of it and urged the Council to defeat this ordinance.

Ms. Marilee Rouillard of 358 Main Street stated she is thrilled to hear from today's speakers everything she has wanted to address. She stated one of the things she hadn't mentioned in the past is her visit to Cooperstown New York in 2013 a town which looks in total disrepair. This is a historic town totally regulated. When she talked to residents she learned the many rules and regulations is what has prevented property owners from wanting to invest in their town. Ms. Rouillard stated she fears the same could happen in Keene as well. She stated this is a very special neighborhood and they should be allowed to improve and take care of what they own themselves.

Ms. Conan Salada of 132 Kennedy Drive asked what the next process for this ordinance would be. Mayor Lane stated at the end of this session, the matter will be referred to the PLD Committee for their recommendation and it will then be referred back to the City Council.

Mr. Salada stated he is opposed to this ordinance; it is a violation of property rights and felt it was one more layer of bureaucracy the City doesn't need.

With no further comments, the Mayor closed the public hearing. The Mayor stated the public could send in written comments to the Clerk's office until Tuesday, October 25.

A true record, attest:



Deputy City Clerk

PRESENTATION – BENCHMARKING OF PROPERTY TAXES WITH OTHER NEW HAMPSHIRE COMMUNITIES

The Mayor invited Steve Thornton, Finance Director to make a presentation relative to benchmarking property taxes with other New Hampshire communities. Mr. Thornton explained the methodology used to provide the overview which was based upon Property Taxes, Median Family Income, Average Weekly Wage, Median Home Sale Price, and Median Rents. Mr. Thornton reviewed each category utilized in his analysis and compared statistics for Keene with various New Hampshire communities.

PRESENTATION – CITY OF KEENE REVALUATION UPDATE

The Mayor invited City Assessor, Daniel Langille to make a presentation relative to City of Keene revaluation project update. The City Assessor introduced Ken Rogers of KRT Appraisal and Steven Traub of Property Evaluation Advisors. The City Assessor indicated that the goal of the presentation was to update you on the reviewing the process that took place this past year regarding the revaluation of properties with entire city. The City Assessor explained that both principals of companies hired to provide the appraisal services will be explaining the processes used.

City Assessor provided background about the revaluation project. He indicated that the revaluation project was funded through the capital improvement project in 2014 and is required

to be performed at least once every five years under New Hampshire RSA 75:8-a. City Assessor continued that the revaluation process is broken into three categories which include residential, commercial and utility properties. The City sent out requests for proposals as required in the City's procurement process and chose to contract with three firms to complete the work. He continued that the City of Keene was last revaluated in 2011 and emphasized that this process is important to manage inequities of properties that occur over time as the real estate market continues to change. The City Assessor explained that consumer choices and economic factors all play part in the changes in the real estate market. It is the job of the Assessment department to account for the changes in market conditions by analyzing and reporting what the market has done as of a certain date and this case it is April 1, 2016. The Assessment department is also responsible to supervise and oversee the project in addition with working with the New Hampshire Department of Revenue who also is responsible for overseeing all municipal revaluation projects to assure that all contracts and services provided follow criteria established in the state statute and the project is completed and certified by qualified individuals. The City Assessor introduced Ken Rogers of KRT Appraisal. Ken Rogers explained that KRT Appraisals was hired to evaluate 6,638 residential parcels of property including single family homes, condominiums, two and three unit apartments, vacant land and manufactured housing. He continued indicating that they used the City's existing parcel data instead of going out and collecting data because the Assessor's department has maintained parcel data information and the quality was good. KRT validated sales by identifying all residential properties that sold between April 1, 2014 and March 31, 2016. KRT worked with the Assessors to verify sales at "arm's length" using MLS and site visits by the Assessors. KRT reviewed sales in the field to gain a clear understanding the location and quality of what properties sold. KRT reviewed neighborhood delineation. Mr. Rogers indicated that sales were grouped into similar "market areas" or neighborhoods. Neighborhoods were consolidated from about 30 down to about 10 and that neighborhoods tested through sales analysis. KRT preformed field reviews of 100% of all residential properties in the field and consistently applied appraisal methodology used on the sales to the entire population of properties. Once completed notices were mailed notice of values Sept 9, 2016 to all property owners and scheduled appointments for meetings. KRT held informal meetings and met with 187 property owners (2.8%) wishing to discuss their new assessment. KRT and Assessment department staff reviewed property owner's concerns and made value adjustments when warranted and notified property owners of results of their meeting. Mr. Rogers compared new values to old values. He continued to review statistics and explain a few definitions of ratio study which shows the relationship between the sale price and the assessed value; Median which is the midpoint of a data set and coefficient of dispersion (COD): A descriptive statistic that measures the tightness of fit of the sales ratios around the median. He indicated that all residential properties fell within the necessary ratios and COD's.

Dan Langille introduced Steven Traub, Principle of Property Value Advisors. Mr. Traub opened with commenting that unlike residential property analysis that appraisals of commercial properties take into account the income potential of a property. Mr. Traub indicated that they valued 807 commercial parcels with the following breakdown:

Apartment Buildings > 4 Units:	174
Improved Commercial:	444
Improved Industrial:	88

Vacant Parcels:

101

Mr. Traub also indicated that assessments for commercial properties are less than 100% unlike residential properties. Dan Langille continued that any taxpayer who disagrees with assessment may file an abatement application with the City after the final tax bill and before March 1, 2017. City's decision can further be appealed to BTLA/ Superior Court if taxpayer still disagrees with the value.

NOMINATIONS – PARTNER CITY COMMITTEE

The following nominations were received from the Mayor: Frank Richter appointed to serve as an alternate member on the Partner City Committee with a term to expire December 31, 2019, and Lily Hart appointed to serve as an alternate member on the Partner City Committee with a term to expire December 31, 2019. The nominations were tabled until the next regular meeting.

COMMUNICATION – JEANANNE FARRAR – REGARDING THE ESTABLISHMENT OF THE MAIN STREET HISTORIC DISTRICT

A communication was received from Jeananne Farrar expressing her concern regarding the establishment of the Main Street Historic District. The communication was filed as informational.

COMMUNICATION – SABRINA AND CHRIS LEE – SAFETY CONCERN – INTERSECTION OF WEST STREET AND BRADFORD ROAD

A communication was received from Sabrina and Chris Lee expressing their concern regarding the safety concern at the intersection of West Street and Bradford Road. The communication was referred by the Chair to the Municipal Services, Facilities and Infrastructure Committee.

COMMUNICATION – TONY MARCOTTE/WASHINGTON PARK AT KEENE, LLC – REQUEST FOR NO PARKING – SOUTH SIDE OF SPRING STREET

A communication was received from Tony Marcotte on behalf of Washington Park at Keene, LLC requesting for no parking on the south side of Spring Street. The communication was referred by the Chair to the Municipal Services, Facilities and Infrastructure Committee.

COMMUNICATION – ATTORNEY MARY LOUISE CAFFREY/BRADLEY & FAULKNER, PC – REQUEST FOR TWO HOUR PARKING LIMIT – 50 WASHINGTON STREET

A communication was received from Attorney Mary Louise Caffrey of Bradley & Faulkner PC, requesting for two hour parking limit in front of 50 Washington Street. The communication was referred by the Chair to the Municipal Services, Facilities and Infrastructure Committee.

PLD REPORT – UPDATE ON THE STATE OF RECYCLING IN THE CITY OF KEENE

An informational report was received from the Planning Licenses and Development Committee recommending the update on the state of recycling in the City of Keene be accepted as informational. The report was filed into the record as informational.

FOP REPORT – ACCEPTANCE OF LAW ENFORCEMENT OPIOID ABUSE REDUCTION INITIATIVE GRANT – POLICE DEPARTMENT

Finance, Organization and Personnel Committee report read, recommending the City Manager be authorized to do all things necessary to accept the 2017 New Hampshire Department of Safety Law Enforcement Opioid Reduction Initiative Grant award in the amount of \$18,128. A motion by Councilor Jacobs was duly seconded. The motion passed with a unanimous vote in favor.

FOP REPORT – ACCEPTANCE OF NH HIGHWAY SAFETY AGENCY GRANT – E-TICKET EQUIPMENT GRANT – POLICE DEPARTMENT

Finance, Organization and Personnel Committee report read, recommending the City Manager be authorized to do all things necessary to accept the 2017 New Hampshire Department of Safety Agency to fund the E-Ticket Equipment Grant. A motion by Councilor Jacobs was duly seconded. The motion passed with a unanimous vote in favor.

FOP REPORT – ACCEPTANCE OF FORFEITURE FUNDS – CASE# UG02BS14UG003 – POLICE DEPARTMENT

Finance, Organization and Personnel Committee report read, recommending the City Manager be authorized to do all things necessary to accept forfeiture funds in the amount of \$13,395.08 awarded to the Keene Police Department from the United States Department of Justice, Homeland Security. A motion by Councilor Jacobs was duly seconded. The motion passed with a unanimous vote in favor.

FOP REPORT – ACCEPTANCE OF FORFEITURE FUNDS – CASE# MEP-M-16-A44-P831692 – POLICE DEPARTMENT

Finance, Organization and Personnel Committee report read, recommending the City Manager be authorized to do all things necessary to accept forfeiture funds in the amount of \$441.58 awarded to the Keene Police Department from the United States Department of Justice, Drug Enforcement Agency. A motion by Councilor Jacobs was duly seconded. The motion passed with a unanimous vote in favor.

FOP REPORT – ACCEPTANCE OF 2016 HOMELAND SECURITY HAZMAT GRANT – FIRE DEPARTMENT

Finance, Organization and Personnel Committee report read, recommending the City Manager be authorized to do all things necessary to accept a grant in the amount of \$24,364.40 from the 2016 State of New Hampshire Homeland Security Program (SHSP) Hazmat Grant. A motion by Councilor Jacobs was duly seconded. The motion passed with a unanimous vote in favor.

FOP REPORT – ACCEPTANCE OF SPONSORSHIP FUNDS – YOUTH BASKETBALL
SPONSORSHIP – PARKS, RECREATION AND CEMETERIES DEPARTMENT

Finance, Organization and Personnel Committee report read, recommending the City Manager be authorized to do all things necessary to accept a sponsorship of \$3,000.00 from Yankee Lanes and that the money is used to purchase youth basketball jerseys. A motion by Councilor Jacobs was duly seconded. The motion passed with a unanimous vote in favor.

FOP REPORT – SOLE SOURCE PROVIDER – AMER ELECTRIC – POLICE
DEPARTMENT

Finance, Organization and Personnel Committee report read, recommending the City Manager be authorized to do all things necessary to designate Amer Electric of Keene, NH as a “sole-source” provider for all work to be performed at the Keene Police Department which requires a licensed electrician. A motion by Councilor Jacobs was duly seconded. The motion passed with a unanimous vote in favor.

FOP REPORT – AIRPORT ROAD CULVERT REHABILITATION – CONSTRUCTION
CHANGE ORDER - PUBLIC WORKS DEPARTMENT

Finance, Organization and Personnel Committee report read, recommending the City Manager be authorized to do all things necessary to negotiate and execute a construction change order with Ted Berry Company for an amount not to exceed \$21,159.53 for the Airport Road Culvert Rehabilitation Project. A motion by Councilor Jacobs was duly seconded. The motion passed with a unanimous vote in favor.

CITY MANAGER COMMENTS

The City Manager announced the Next Chapter Capital Campaign Committee, fundraising for the Library Renovation Project, will be hosting the public unveiling of a model of the project on Saturday, October 22, 2016 from 10:00-1:00 PM at the Library. This open house will provide community members with the opportunity to view the architectural model and learn more about the KPL Renovation and Expansion Project. He also reminded everyone that the booksale will be going on in the lower level while the model will be presented on the 2nd floor. The City Manager gratitude was given to the Keene Police Department from the Granite State Children’s Alliance and the Monadnock Region Child Advocacy Center for allowing the department to participate in the Keene Police Department’s Beards for Bucks Fundraiser. The support of the KPD is invaluable to the success of the program. The City Manager congratulated Nancy Vincent on being named the Librarian of the Year. He went on with the Waste Water Treatment Plant received the New England Water Environment Association’s Energy Management Achievement award for 2016. The award was established to recognize a New England facility with a program and demonstrate progress toward a downward trend in the amount of energy used per unity of water treated. Keene was championed by NH Department of Environmental services based on the actual energy reductions seen over the past few years. The City Manager continued with to manage the water supplies during the drought, staff has increased the use of well water. In early September we collected routine samples to test for lead and copper and

learned the corrosion control systems at the wells had not been operating as expected on the days we collected the lead and copper samples, and as a result, for the first time since 1994 we exceed the federal action level for copper – the lead concentration did not increase and the water remained safe to drink, although some of the customers may have noticed a metallic taste. We collected a second set of samples at the end of September and saw a significant reduction in copper concentration. Letters are being sent out to the residents in the lead copper sampling program, informing them of the results and staff will provide an informational memo for the City Councilor's mailboxes. We expect to give the council an update on both the impact of the drought on the water supply and the lead/copper program in early November.

MORE TIME

More time was granted for the following issues within committee: Speeding on Jordan Road - Request for Speed Humps; Councilor Jones – Effort to Show Support for Police Personnel; and Advocacy Letter Request – NH Community Solar – Cities for Climate Protection.

COMMUNICATION – JACK FRANKS/AVANRU DEVELOPMENT GROUP LTD - ORDINANCE O-2016-19: RELATING TO HIGH DENSITY-1 DISTRICT – PERMITTED STREETS

A communication was received from Jack Franks, Avanru Development Group LTD, along with an application to amend the Zoning Ordinance – High Density 1. In addition, Ordinance O-2016-19: Relating to High Density -1 District – Permitted Streets. Ordinance O-2016-19 was read for the first time. The memorandum and accompanying application, along with Ordinance O-2016-19 was referred to the Joint Planning Board and Planning, Licenses and Development Committee.

PLD REPORT & RESOLUTION R-2016-31: POLITICAL ADVERTISING ON CITY PROPERTY AND RIGHTS-OF-WAY

Planning, Licenses and Development Committee report read recommending the approval of Resolution R-2016-31. After a brief discussion, the Mayor sent the item back to the Planning, Licenses and Development Committee for further review and recommendation.

MEMORANDUM – FIRE DEPARTMENT AND RESOLUTION R-2016-32: RELATING TO AN APPROPRIATION FOR PURCHASE OF A LADDER TRUCK

A memorandum was received from the Fire Chief along with Resolution R-2016-32: Relating to an Appropriation for Purchase of a Ladder Truck. Resolution R-2016-32 was read for the first time. The memorandum and Resolution were referred to the Finance, Organization and Personnel Committee.

RESOLUTION R-2016-33: IN APPRECIATION OF MELVIN THOMAS PATTY UPON HIS RETIREMENT

10/20/2016

Resolution R-2016-33 was read by title only. A motion by Councilor Jacobs for adoption of the Resolution was duly seconded. The motion passed with a unanimous vote in favor. Resolution R-2016-33 declared adopted.

RESOLUTION R-2016-34: IN APPRECIATION OF SATUM SIEK UPON HER RETIREMENT

Resolution R-2016-4 was read by title only. A motion by Councilor Jacobs for adoption of the Resolution was duly seconded. The motion passed with a unanimous vote in favor. Resolution R-2016-34 declared adopted.

NON-PUBLIC SESSION

At 8:51 PM, a motion by Councilor Jones to go into non-public session for the purposes of discussion of land matters under RSA 91-A:3 II(d) was duly seconded. On a roll call vote, 12 Councilors were present and voted in favor. Discussion was limited to the subject matter. The session concluded at 8:55 PM. A motion by Councilor Jones to keep the minutes in non-public session was duly seconded. On a roll call vote, 12 Councilors were present and voting in favor.

ADJOURNMENT

At 8:55 PM, there being no further business, the Mayor adjourned the meeting.

A true record, attest:



Deputy City Clerk



City of Keene, N.H.
Transmittal Form

October 17, 2016

TO: Keene City Council

FROM: Kendall W. Lane, Mayor

ITEM: B.1.

SUBJECT: Confirmation - Partner City Committee

COUNCIL ACTION:

In City Council October 20, 2016.

Tabled until the next regular meeting.

RECOMMENDATION:

I hereby nominate the following individuals to serve on the following Board or Commission.

PARTNER CITY COMMITTEE

Frank Richter, alternate slot 14
Keene, NH

Term expires December 31, 2019

Lily Hart, alternate, slot 12
Keene, NH

Term expires December 31, 2019

BACKGROUND:

Frank Richter is a city employee who has been a past supporter of the Partner City Committee by participating in the soccer exchanges between Keene and Einbeck.

Lily Hart is a prior member who has recently moved back to Keene. Her membership is being reinstated.



City of Keene, N.H.
Transmittal Form

October 26, 2016

TO: Mayor and Keene City Council

FROM: Municipal Services, Facilities, and Infrastructure Committee

ITEM: D.1.

SUBJECT: Effort to Show Support for Police Personnel - Public Works Department

RECOMMENDATION:

On a vote of 5 – 0, the Municipal Services, Facilities, and Infrastructure Committee recommend the authorization to paint a blue line on Marlboro St. from Optical Ave. to Main St. and to have this added to the contract for next year's striping to be completed at that time.

BACKGROUND:

Councilor Jones stated the Municipal Services, Facilities, and Infrastructure Committee put this issue on more time at their previous meeting. He continued his recommendation would be to have the Keene City Council authorize the City staff to paint a blue line in between the no passing yellow lines along the length of Marlboro St. from Eastern Ave. to Main St. This would serve to signify our community's support and respect for all of the services provided and the job done by local Police personnel. He continued all Police staff, which includes internal support staff and parking personnel, drive on Marlboro St. every day before and after each shift, and the blue line would serve as a reminder that they always have the community's support. He continued that modern day police personnel are working at an all-time high stress level. The blue stripe would be a continuous reminder of the community appreciation for all they do.

Councilor Jones showed the photo that he gave to the committee last time. He continued there was a concern raised during the initial discussion as to what if other people start asking for other colored lines to show respect for other organizations or groups, like the Red Cross or veterans? He continued this is no different than anything else that comes before the City Council. Various people ask the MSFI Committee for their action on a particular request. They have to have faith in the City Council's decisions. He does not think this will be an issue. Although the City Council may get requests for other lines the City Council can address each request as it comes. Councilor Jones noted he has received many communications about this and 99% have been positive.

There are now 70+ communities in Ohio that have painted a blue line, and many in NJ and other states. This effort of support was started by a third grade class in Oklahoma.

Chair Manwaring asked to hear from the Public Works Department. City Engineer Don Lussier stated a couple weeks back when they were discussing this, the committee asked staff to do some research. He continued that one question was where else has this been done and how has it been received. Staff identified 32 towns in NJ that have done this. Of the 32 towns, one elected not to move forward with the proposal due to the potential for controversy, but the others moved forward. Staff made an attempt to contact eight towns, selected at random. Lyndhurst and North Arlington had very positive responses. Folks there indicated that the blue line was well received by the community. City staff was unable to find anyone in the other six municipalities (including Oakland, Paramus, and Wayne) who was willing to talk with them or answer questions about the program, since

they could not verify Keene staff's identities.

He continued that the committee's other question was how other municipalities authorized this work. They learned that it was all done through a staff directive from the legislative body, either at the local or county level. In some places, like Bergen County, the administration directed that the towns could do this within county roads. He could not find any instances of formal legislation or ordinances.

Mr. Lussier continued that the committee also asked about cost. With the City's line striping contractors, typical prices are about 20 to 50 cents per linear foot. For a relatively small project, 20 to 30 cents is likely. It would be about \$1,200 if a contractor did this. Given the realities of the contractor procedures and the calendar, it would not be possible to get a contractor in to do this this season. He assumes that the next question is whether the City can do this in house. He continued that Public Works has a small, walk-behind machine they use for small sections, like crosswalks, or small repairs on roads. The problem with those machines is that any type of pothole, crack, or deviation in the pavement is amplified. He is hesitant to say that would be a good way to accomplish the task, because he does not know what the quality of the finished product would be. The cost for materials is about \$16 per gallon. To do the entire length Councilor Jones proposes would be about \$240. He is hesitant to recommend something that extensive, knowing the line would be a little crooked. This machine was used about 15 years ago to do a full stripe down the road and the results were not fantastic and the final project ended up on the cover of the Sentinel. They do not want that to happen again. A smaller section, from about Baker St. to Optical Ave., would be about five gallons of paint with a cost of \$80.

Councilor Jones stated that this is not a time-sensitive issue; it does not need to be done this construction season. He continued that it would be okay to amend it to a smaller section. It would still be an area personnel pass before and after every shift. He is familiar with the communities that Mr. Lussier mentioned and they all have partisan government and are fighting over who gets to make the motion first. Keene is more sensible without partisan politics, and they take a closer look at things, which is great. His question is, do they already have white paint they use for crosswalks, that they can just add blue tint to to lower the cost? Mr. Lussier replied that he would not recommend trying to tint other colors. He continued that the paint comes premixed for pavement marking purposes. It is available locally. Blue is mostly used for marking accessible parking spaces, so it is readily available in about a week.

Chair Manwaring asked for public comment. Hearing none, she asked for comment from the Committee.

Councilor Filiault stated that he fully supports Councilor Jones's proposal. He continued that there will always be a few naysayers. The City Engineer had an interesting point. He has confidence in the Public Works Department and thinks this can be done in house. However, maybe a trial run from Baker St. to Optical Ave. would be good. Maybe they could do small sections at a time.

Councilor Lamoureux stated that he agrees with Councilor Filiault. He continued that he agrees with doing a trial of a smaller section. He thinks they can do it in house. There is a lot of pride in City employees and he would be honored to have them do this work.

Councilor O'Connor asked, if there is a test strip and the line does not come out properly, how hard is it to fix? Second, would the company give them a reduced rate for this work? He likes the idea of having computerized equipment do it properly. Mr. Lussier replied that they would paint over the blue with black to make it blend in with the road. If they could postpone this until the annual line painting it would be pretty simple to amend the contract to add this, when the equipment would already be on site.

Councilor Hooper asked if the towns and cities that have done this have picked a small section to symbolically paint, and if that is the general protocol that Councilor Jones has seen. Councilor Jones replied that most communities are doing it down the entire Main St. He continued that that is not feasible for Keene because they have a median. Councilor Hooper asked if whole towns are painted. Councilor Jones replied no, typically just

the length of Main St. He continued that one town received a letter from a local judge asking them to not paint the line on the block in front of the Court House, which was on Main St.

Councilor Lamoureux stated that he wants to retract one of his comments - he is hearing pretty clear from Public Works Department that they are not thinking they should do this in house. He continued that if there is no time sensitivity he thinks having the contractor include this in the spring is a good idea.

Councilor Lamoureux made a motion for the Municipal Services, Facilities, and Infrastructure Committee to recommend the authorization to paint a blue line on Marlboro St. from Baker St. to Optical Ave. and to have this added to the contract for next year's striping to be completed at that time. The motion was seconded by Councilor Filiault.

Chair Manwaring asked if any members of the public had questions. She asked if committee members had questions or comments. Hearing none, she stated that if they are waiting until next year she would rather have the whole of Marlboro St. painted. Councilor O'Connor agreed.

Councilor Lamoureux made a motion to amend his motion to: Move that the Municipal Services, Facilities, and Infrastructure Committee recommend to the City Council the authorization to paint a blue line on Marlboro St. from Optical Ave. to Main St. and to have this added to the contract for next year's striping to be completed at that time. Councilor Filiault seconded the motion to amend.

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

On a vote of 5 – 0, the Municipal Services, Facilities, and Infrastructure Committee recommend the authorization to paint a blue line on Marlboro St. from Optical Ave. to Main St. and to have this added to the contract for next year's striping to be completed at that time.



City of Keene, N.H.
Transmittal Form

October 26, 2016

TO: Mayor and Keene City Council

FROM: Planning, Licenses and Development Committee

ITEM: D.2.

SUBJECT: Periodic Report – Zoning Board of Adjustment

RECOMMENDATION:

On a vote of 5-0, the Planning, Licenses and Development Committee recommends the periodic report from the Zoning Board of Adjustment be accepted as informational.

BACKGROUND:

John Rogers, Acting Health Director introduced Louise Zerba, Zoning Board of Adjustment Chairperson. Chair Zerba read the following into the record:

The Zoning Board of Adjustment's principal role, according to state statute, is to review applications for zoning variances, special exceptions, equitable waivers of dimensional requirements and hearing appeals from the decisions made by administrative officials.

The Job of the ZBA is to Interpret, not to create, rewrite, implement or enforce the ordinance. ZBA is a quasi-judicial body whose responsibility is to determine whether relief from the ordinance should be granted during a public meeting conducted in accordance with RSA 91-A. Membership consists of 5 members, chosen by the mayor with confirmation by City Council. Members who are Keene residents are appointed to a three-year term and may sit for a consecutive second three-year term. Because all applicants are entitled to be heard by a panel of 5 sitting members, the mayor can appoint up to 5 alternate members to replace a sitting member who is unable to participate in any given application.

A minimum of 3 yes votes is required to approve an application. An applicant may, at his or her discretion, choose to postpone a hearing if 5 members are not present.

A member may declare that he or she has a conflict of interest. After stating the reason, the Board, at its discretion, can declare that the recusal is appropriate or determine that there is no conflict. A member should recuse him or herself if he/she expects to gain or lose upon disposition of the case, is related to the applicant, has advised or assisted the applicant in any way, has directly or indirectly given an opinion or formed an opinion in the matter, is employed by or employs any party in the case thus if a member has a direct personal or financial interest in the outcome.

If a sitting member asks to be recused, or if a board member feels that a conflict may exist with another member, the board will take a position upon which, if approved, an alternate will be seated to replace the recused member.

The ZBA has the authority to act in four separate and distinct categories and can be found in the City of Keene handbook, Powers and Duties of the ZBA, Chapter 2, beginning on page II-2.

1. Appeal from an Administrative Decision: Again, the board does not have the authority to enforce the ordinance. It does have the authority to hear and decide administrative appeals if it is alleged that there was an error in any order, requirement, decision or determination made by an administrative official in the enforcement of any ordinance. In exercising those powers it may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination.

2. Approval of Special Exception: The board may make special exceptions to the terms of the ordinance in appropriate cases and subject to appropriate conditions and safeguards. All special exceptions shall be made in harmony with the general purpose and intent of the zoning ordinance and shall be in accordance with the general or specific rules contained in the ordinance. The granting of a special exception does not alter the zoning ordinance but applies only to the particular project under consideration.

3. Granting a Variance: The Zoning Board can grant a variance from the terms of the zoning ordinance if 1. The variance will not be contrary to the public interest (show there will be no harm to the public interest if granted), 2. The spirit of the ordinance is observed, 3. Substantial justice is done, (the guiding rule is that any loss to the individual that is not outweighed by a gain to the general public is an injustice) 4. The values of surrounding properties are not diminished and 5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. (When some characteristic of the particular land in question is different from others can unnecessary hardship be claimed).

4. Equitable waivers of dimensional requirements: When a property or a structure on the property is discovered to be in violation of a physical layout or dimensional requirement imposed by a zoning ordinance, the burden of proof rests on the property owner who is seeking relief from the requirement. The board, in granting the waiver, must make its ruling based on a number of findings which are located in Division 5, Sec. 102-141 in the City of Keene Code.

Under Article 3 of the Keene Code, Nonconforming Buildings, Structures and Uses, in Section 102-207, the ZBA may in appropriate circumstances permit a nonconforming use to be changed to another nonconforming use provided that certain criteria are met or that a nonconforming use may be expanded and enlarged provided such enlargement does not violate any of the basic zone dimensional requirements set forth under Section 102-210.

To perform its duties, the ZBA collects evidence from written material and testimony presented, finds what are the facts based on evidence with the burden of proof on the applicant and applies the legal tests from the statute to the facts.

It conducts the proceedings in accordance with the Right to Know Law, requires opportunity for the applicant, with notice to abutters, to be heard at a public hearing and to speak on his or her own behalf or through counsel or an agent if he or she chooses, requires decision making by board members who are impartial, and, based upon the evidence presented, requires a written decision indicating approval, approval with conditions or denial and appropriate explanations.

At the conclusion of Chair Zerba's report Chair Richards asked for Committee questions.

Councilor Sutherland asked Chair Zerba to re-read the comments on conflict-of-interest specifically those not related to financial interest. Chair Zerba re-read the comments requested by Councilor Sutherland. He then commented he has been curious because the Mayor appointed everyone on the Zoning Board of Adjustment, with approval of City Council, and appointed everybody on the Planning Board; the Mayor has a project going through the works with changes that require approval from both the Zoning Board of Adjustment and the

Planning Board, and he appointed all those people. Councilor Sutherland continued he is just curious as to whether or not this is a conflict-of-interest. He added the Mayor has administrative power to appoint friends and acquaintances. Councilor Jones commented he believes all of the guidelines are in accordance with state statute and we could not change them; every town has the same guidelines.

There being no further Committee comments or questions, Chair Richards asked for public comments.

Mr. Rogers reported Chair Zerba's term is up in December; he expressed gratitude to Chair Zerba for her many years of service. Chair Richards concurred noting it is hard work; he also thanked Chair Zerba for educating the Committee and doing her job so well.

There being no questions or comments from the Committee or public, Chair Richards asked for a motion.

Councilor Hansel made the following motion which was seconded by Councilor Jones.

On a vote of 5-0, the Planning, Licenses and Development Committee recommends the periodic report from the Zoning Board of Adjustment be accepted as informational.



City of Keene, N.H.
Transmittal Form

October 27, 2016

TO: Mayor and Keene City Council

FROM: Finance, Organization and Personnel Committee

ITEM: D.3.

SUBJECT: Periodic Report - Trustees of Trust Funds

RECOMMENDATION:

On 4-0 vote, the Finance, Organization and Personnel Committee recommend the periodic report on behalf of the Trustees of Trust Funds be accepted as informational.

BACKGROUND:

Ms. Martha Curtis on behalf of the Trustees of the Trust Funds read the following into the record:

For over 100 years, community minded citizens of Keene have established trusts for various charitable purposes to benefit the residents of our city. These include charitable funds, library funds, park funds, cemetery funds, and scholarships. The more than 40 trusts are each separate entities and the funds are not co-mingled between the trusts. Each trust has its own trust document and intent.

The Trustees act as the custodians of the funds and act as fiduciaries to ensure that the intent of the trust is being honored and to review the investment, receipt and disbursements of funds under the trusts.

There are five trustees who meet monthly to review any requests for funds from the trusts. The trustees must be residents of Keene and serve a term of 3 years with a 6 year limit. Our role is to ensure the request adheres to the wishes of the fund's grantor in both intent as well as the amount that can be disbursed (income only or income and principal). The requests are voted upon and withdrawals approved in writing for each request. Funds are transferred from the investments to the city for disbursement. The meetings and minutes are open to the public.

In addition to reviewing requests, we oversee the investment of the trust funds. We have an investment policy that is reviewed annually and governs the investment decisions. As these are long term funds we are able to invest these funds with a longer term strategy to maximize income as well as safety. Our investment strategy is a mix of stocks and bonds and using the "prudent investor" strategy. We use the services of Cambridge Trust Company to manage the funds according to the investment policy. They provide monthly statements and work closely with the finance staff of the City to disburse funds to the City as approved by the trustees.

Our newest trust is for the library renovation and this fund has its own separate investment policy as the timeline is very different from the other trusts.

In addition to the trust funds, the Trustees are also responsible for approval of the capital reserve funds disbursement. These funds are separate from the Trust funds. These funds are raised through taxes and

managed for longer term projects such as equipment replacement, infrastructure, sewer infrastructure etc. The intent for these funds is more short term than the trust funds. In addition, as these are tax funded accounts, safety is of utmost importance. We utilize Cambridge Trust Funds to manage these accounts as well. As the primary goals for these funds are liquidity and safety, these funds are invested in bank certificates of deposits. Multiple banks are used to keep the certificates within the FDIC insured limits to protect the funds.

Capital fund disbursements are approved by the trustees by vote and signed for in the same manner as the trust funds.

Mr. Curtis expressed her appreciation for the assistance of the Finance staff, which does most of the “heavy lifting.” As there were no questions from the committee or the public, the Chair requested a motion.

Councilor Clark made the following motion which was seconded by Councilor Powers.

On 4-0 vote, the Finance, Organization and Personnel Committee recommend the periodic report on behalf of the Trustees of Trust Funds be accepted as informational.



City of Keene, N.H.
Transmittal Form

October 27, 2016

TO: Mayor and Keene City Council

FROM: Finance, Organization and Personnel Committee

ITEM: D.4.

SUBJECT: Solid Waste Facility Energy Options Report - Public Works Department

RECOMMENDATION:

On 3-1 vote, the Finance, Organization and Personnel Committee recommend that the City Manager be authorized to do all things necessary to pursue the preferred energy option as outlined in the Solid Waste Division Energy Options Report and, as applicable, utilize grant funds available from the EPA Climate Showcase Communities Grant to fund a portion of the cost associated with a selected energy option, which is option #3 – biofuel.

BACKGROUND:

Solid Waste Manager, Duncan Watson stated he was before the Committee not with one specific option but for some guidance for items outlined in the Energy Options Report. Mr. Watson explained in 1994 the landfill gas energy system was installed at the landfill powered by seven wells. When the landfill closed another ten wells were added. Mr. Duncan continued the City is getting to a point where this system cannot be relied upon as a consistent energy source. At the present time there is a diesel generator used from time to time to keep up with the demand. This becomes an expensive source and also an increased pollutant.

Last spring when the CIP was reviewed, there was discussion regarding extending three phase power from Blackbrook North to the Recycling Center. This which has an estimate of nearly \$600,000. Staff also looked at certain other options. The City hired the services of Sanborn Head Associates to conduct an energy audit. Here are three of the options they have outlined:

Option 1- Extending three phase power lines to the Solid Waste Facility. This will be at an estimated cost of \$532,000 for line extension, and \$70,000 per year utility cost and the estimated 10 year cost would be \$1,232,000. This would provide high level of reliability.

Option 2- Solar array with battery backup. It would have a 250kw array connected to an inverter and a 1 megawatt lithium ion battery. The new mode of solar power is battery storage and distribution and this is something that would progress overtime. Estimated cost would be \$1, 500,000 buildings and would likely qualify for an EPA grant which would reduce the cost to about a million dollars. \$10,000 would be the annual maintenance.

Option 3 - Installing a biofuel generator; post-consumer waste collection (vegetable oil). There is a facility in Haverill which can produce upwards of 16 million gallons of this fuel. There are other such facilities in close proximity to the City. With this option the City could also look at converting some of its existing #2 fired

facilities. Burning bio fuels has a 75% carbon reduction and is 20 cents less than #2 fuel. Taking into account the EPA grant the net price would amount to about \$175,000.

Chair Greenwald stated he was under the impression if the three phase power was run it would facilitate some industrial sites along the way. Mr. Watson stated there could be some developable sites adjacent, but because of the hillside terrain, and difficult road access development would be unlikely. Chair Greenwald asked about the site on Route 12 where logging is taking place. Mr. Watson stated this site is owned by Dick Davis, and this site is located in Surry and a tremendous amount of roadwork needs to be done on Route 12 and a fairly significant discussion needs to happen with DOT. The Chair stated he has heard advertisements on TV where companies will install solar for very low cost and recalled a company which was working with MEDC on such an issue. Mr. Watson stated the landfill does not have grid connection possibilities for something like this to work where the sale of the power off the grid would for pay for the system.

Chair Greenwald asked about the consideration being given to digging into the methane field to re-energize it. Mr. Watson stated the landfill is capped and it could be reopened which could be at a tremendous cost. This was done in 2009 and there was some improvement seen and it was always known the landfill will stop percolating and stop providing a pragmatic energy source.

Councilor Jacobs noted there is a maintenance cost shown for the other two options except for bio fuel and asked what that cost would be. Mr. Watson stated it would be a small maintenance cost, but nothing too significant. The Councilor stated there is mention of wind and asked whether this was being looked at as well. Mr. Watson stated there were two wind meters installed at the landfill, but what was realized is that the average wind speed was below 7 mph and at that time this was the wind power needed to operate this technology. However, the technology has improved and the system is too expensive to be considered.

Councilor Clark stated he had talked to the representatives from Einbeck who talked about the success they have had with the solar option and what sort of road blocks they experienced. They indicated it wasn't the technology, but more the mindset. The Councilor asked whether solar isn't more productive and less expensive in the long term. Mr. Watson agreed solar makes a lot of sense in many cases. For a very large energy user like the Wastewater Treatment Plant solar would be great. There are a few things that are necessary for solar to be successful - a large land area, utility connection which does not exist at the landfill and there is a very expensive battery that is required to store this solar.

There are going to be more solar options coming up in the near future, but it would be for different applications. The Councilor noted one of the goals of the Master Plan is reducing the carbon footprint and asked whether or not solar would not be the most frugal thing to do for the future. Further, the Councilor asked if it is installed whether there would not be sites that would want to connect to it. Mr. Watson agreed solar has improved over the years and it is becoming a valuable option, but when you balance the business aspect with the environmental aspect, from the options presented, the City would get a good return on the carbon reduction on the bio fuel option. The Councilor asked whether solar would not attract newer businesses to the community. Mr. Watson agreed, but noted he did not feel solar was best location for the solid waste facility and it is the most expensive.

Chair Greenwald asked what Mr. Watson was looking for from the Committee. Mr. Watson stated he is looking for staff to be given the authority to look at the preferred option based on the report provided. He stated he wants the committee to look at the pluses and minuses of the different options. He noted the current grant expires at the end of December, but the EPA is willing to extend it as long as the City has a project in mind.

Chair Greenwald stated because this is a very expensive project he would like to hear more about the biofuel option which seems to be the most reasonable option.

Councilor Powers asked what a reasonable lifespan would be for biofuel. Mr. Watson stated this is an ASTM rated fuel and can be used in any diesel generators. It is currently being used in City fleet. There are not many

issues to it that can't be worked out and has no problem with the confidence in this type of fuel. The problems they run into are issues with suppliers and the technical side can be frustrating. Keene State is using biofuel and are very happy with the product. Councilor Powers clarified three phase power is not a practical option. Mr. Watson agreed. The Councilor stated the equipment being used at the transfer station is not likely to change its technology or capacity and we have a function that won't go away.

Councilor Jacobs clarified the solar ten year cost 1.1 million after the grant and the biofuel ten year cost is \$325,000; the EPA grant is \$500,000 which requires a \$250,000 cost match. Mr. Watson added for the biofuel project (because this will not be a \$750,000 project) the grant will be about \$350,000 with the City's investment being about \$175,000.

Mr. Watson stated staff has been looking at various vendors in close proximity which carry the same ASTM fuel. Councilor Clark asked what happens after ten years. Mr. Watson stated the City will have to enter into a contract with a vendor and added he wasn't sure if they will be able to enter into a ten year contract in the first instance. The Councilor asked how long the solar system would last. Mr. Watson stated the vendor gave him a 15 year life on the battery which is the most expensive.

Councilor Powers asked how this project was going to be funded. Mr. Watson stated this would be a conversation staff will need to have with the Council; there is an amount of money identified in the CIP for FY20 and 21 to fund such a project but the need has now been accelerated hence the reason the biofuel option is attractive at this time. Councilor Powers felt staff should be given some kind of definitive answer. Chair Greenwald asked whether a consultant would be necessary to look at the biofuel option. Mr. Watson felt staff has the expertise to determine what is necessary but felt an electrical engineer would need to be hired to design the switch gears but this will be built into the project cost.

City Attorney Mullins stated what Mr. Watson is suggesting doesn't lock the City into anything at this point. What Mr. Watson is looking for at the present time is to let EPA know the City is willing to move forward if the EPA is ready to so do, but even at that time the City is not locked into anything.

The Chairman asked whether the Finance Director would like to add anything. Mr. Thornton stated in last year's CIP there is a project in FY20/21 to be funded through a bond issue but it is now being moved up in the timeline but this is something which was expected would happen.

Councilor Clark felt the decision is simple – do we want to keep buying fuel from someone else or invest in something where the fuel is free and investing in some infrastructure. He felt even though solar was expensive it might be the most beneficial option for many years to come. The Councilor felt this is a discussion the City should pursue with EPA. He raised the issue he raised previously about Einbeck using solar power. Mr. Watson stated the EPA is likely to consider solar with a storage option but the one million is the net after applying the grant. He noted the City is making strides with energy efficiency and they used the LED lights being proposed for Marlboro Street as an example. He added he does not think solar is a bad idea but from a practical standpoint biofuel is better. Councilor Clark stated here again we are still purchasing energy but for a lesser cost and he felt the City needs to start making a commitment to purchase less energy from someplace else.

Councilor Powers stated he agrees with Councilor Clark that a solar initiative needs to be pursued, but this is not the location as it is not a practical location. It should be a location closer to the grid.

Councilor Jacobs felt the City could be looking at generating its own bio fuel with the raw materials the community already has.

Chair Greenwald stated he can't support spending one million dollars on a technology that is changing so fast. If solar can't be connected to the grid it is of no use.

Councilor Clark stated the decisions we make today sets the pace for many years to come.

Councilor Powers made the motion which was seconded by Councilor

On 3-1 vote, the Finance, Organization and Personnel Committee recommend that the City Manager be authorized to do all things necessary to pursue the preferred energy option as outlined in the Solid Waste Division Energy Options Report and, as applicable, utilize grant funds available from the EPA Climate Showcase Communities Grant to fund a portion of the cost associated with a selected energy option, which is option #3 – biofuel.

Councilor Clark voted in opposition.



City of Keene, N.H.
Transmittal Form

October 27, 2016

TO: Mayor and Keene City Council

FROM: Finance, Organization and Personnel Committee

ITEM: D.5.

SUBJECT: Change Order #1 for Woodland Cemetery Wetland Restoration Project Construction Oversight Contract with GZA GeoEnvironmental Inc. - Planning Department

RECOMMENDATION:

On 4-0 vote, the Finance, Organization and Personnel Committee recommend that the City Manager be authorized to do all things necessary to negotiate and execute Change Order #1 with GZA GeoEnvironmental Inc. for an amount not to exceed \$4,650 for construction oversight services for the Woodland Cemetery Wetland Restoration Project, bringing the total contract cost to \$37,650 from \$33,000.

BACKGROUND:

Planning Director, Rhett Lamb stated he was sitting in for Planner, Tara Kessler. Mr. Lamb stated this change order is necessary to move this project along. He indicated this is a grant funded project. These are funds made available at the State level through the Wetlands Permit mitigation process. The City applied for these funds to fill and mitigate a wetland area at the Woodland Cemetery. The project was designed by GZA and was also administered by GZA. Through a bid process the project was awarded to D&M Civil which began work in August 2016. Even though evaluation of the site was conducted during the work, the contractor located two things they did not expect.

The first was a petroleum storage tank not a buried underground tank but an above ground with no residue. This required the State agencies to be notified which cost GZA some unexpected costs. The second item was the testing GZA had to do on this product before it was transferred to the Cheshire County Fish and Game site on Route 12. The product revealed a minor exceedance of petroleum impacted soil from old asphalt.

Councilor Jacobs asked whether the total cost is still within the grant amount. Mr. Lamb stated the cost is still within the grant amount, in fact the project came in less than \$38,000 and this money will be held in reserve for plantings.

Councilor Jacobs made the following motion which was seconded by Councilor Clark.

On 4-0 vote, the Finance, Organization and Personnel Committee recommend that the City Manager be authorized to do all things necessary to negotiate and execute Change Order #1 with GZA GeoEnvironmental Inc. for an amount not to exceed \$4,650 for construction oversight services for the Woodland Cemetery Wetland Restoration Project, bringing the total contract cost to \$37,650 from \$33,000.



City of Keene, N.H.
Transmittal Form

October 27, 2016

TO: Mayor and Keene City Council

FROM: Finance, Organization and Personnel Committee

ITEM: D.6.

SUBJECT: Ladder Truck 2 Purchase Contract - Fire Department

RECOMMENDATION:

On 4-0 vote, the Finance, Organization and Personnel Committee recommend that the City Manager be authorized to execute a contract for the purchase of Ladder 2 from Pierce Fire Apparatus for \$900,000.

BACKGROUND:

Chief Howard stated this items is in reference to the Finance Committee recommending to the Council to authorize the City Manager to execute for Ladder 2 in the amount of \$900,000.

Councilor Powers made the following motion which was seconded by Councilor Clark.

On 4-0 vote, the Finance, Organization and Personnel Committee recommend that the City Manager be authorized to execute a contract for the purchase of Ladder 2 from Pierce Fire Apparatus for \$900,000.



City of Keene, N.H.
Transmittal Form

October 26, 2016

TO: Mayor and Keene City Council

FROM: Municipal Services, Facilities, and Infrastructure Committee

ITEM: G.1.

SUBJECT: Safety Concern – Intersection of West Street and Bradford Road

RECOMMENDATION:

On a vote of 5-0, the Municipal Services, Facilities, and Infrastructure Committee placed this issue of a safety concern at West and Bradford Road on more time for two cycles.

BACKGROUND:

Sabrina Lee, of 693 West St. stated she determined that over the past 20 years the fence has been struck by a fast-moving vehicle between 15 and 20 times, and it has already happened once during the past six months that she has been living there. She continued that once when she was walking to get the mail, there was a car that came and, had there been ice there, she would not be here today to talk about it. If an accident happens multiple times in the same place it seems that they can predict with pretty good certainty that it will happen again and it is only a matter of time until someone gets hurt. She has seen a lot of texting and driving in this area.

Ms. Lee continued that there are two issues: first, the Bradford Rd. sign is concealed by bushes and people do not see it until the last moment, and second, people are speeding and turning when it is too late. Her greatest concern is her home office where her son does his homework is the closest part of the house to the fence, and if someone hit the fence hard enough they would end up inside of her house. In her letter she requests two possible remedies, a stop sign where Bradford Rd. meets West St. or decreasing the speed limit. She also thought that a speed bump might be a good solution. That would reduce drivers' speeds when approaching and reduce the likelihood of hitting the fence.

Chair Manwaring asked staff to speak. Mr. Lussier stated that there have been a few of these traffic calming measure requests in recent weeks. He continued that he will again ask for the committee to give staff time to collect data and come back with better recommendations. What he can address right off the bat is: according to NH state law, the lowest speed limit that the City can post is 25 mph. Right now it is 30 mph. He guesses that reducing it to 25 mph would not get to the heart of the concern. They will collect speed data to see if the problem is driver compliance with the speed limit or if there is some other problem. Beyond that, he will need more time to study the situation. Ms. Lee mentioned the brush obscuring the sign, and that is something the Highway Department can address quickly. Ms. Lee replied that she thinks the sign might have to be moved, since it is far back and there might be a tree obscuring it. She appreciates them addressing it. Mr. Lussier replied that they will look at whether it is trimming or moving the sign; they can do that without waiting for City Council approval.

Councilor Filiault stated that two weeks ago they had a very similar request from people from Jordan Rd. He asked if staff will look at both of these requests together. Mr. Lussier replied that the City Manager has tasked

them with coming up with a more formal process for evaluating traffic calming measures so everyone has the same avenue to pursue. He continued that he suspects they will come back and address each of these requests individually. They have collected data about and are now considering options for Jordan Rd., but have not yet started the process for West St. and Bradford Rd. He would like to ask for two cycles for Bradford Rd.

Ms. Lee stated that they repaved the road and it is gorgeous, but it causes people to drive faster. Mr. Lussier replied yes, the person from Jordan Rd. asked that the road not be repaved so traffic did not speed up. Ms. Lee stated that now that the roundabout is [at the intersection of Route 9 and Base Hill Rd.] and working well, there seems to be increased traffic. Mr. Lussier replied that the instruments they use to collect speed data also do traffic counts, and yes, other people have had the same question she did, about whether there would be increased traffic on West St. They did a baseline count for West St. and now that the roundabout is complete it will be interesting to collect more data and see.

Councilor Lamoureux stated that he thinks the stop sign would be the best solution. He asked if it is legal to put one there. Mr. Lussier replied yes, if the City Council adds it to the City Code. He continued that the Public Works Director says, it also has to comply with the Manual of Uniform Traffic Control Devices (MUTCD) warrants. They would have to demonstrate that there is sufficient need for a stop sign.

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

On a vote of 5-0, the Municipal Services, Facilities, and Infrastructure Committee placed this issue of a safety concern at West and Bradford Road on more time for two cycles.



City of Keene, N.H.
Transmittal Form

October 26, 2016

TO: Mayor and Keene City Council

FROM: Municipal Services, Facilities, and Infrastructure Committee

ITEM: G.2.

SUBJECT: Request for No Parking – South Side of Spring Street

RECOMMENDATION:

On a vote of 5-0, the Municipal Services, Facilities, and Infrastructure Committee recommends the request for no parking on the south side of Spring St. be placed on more time for at least two cycles.

BACKGROUND:

Tony Marcotte stated he works for Washington Park at Keene, LLC, of 90 Derry Road in Hudson, NH. He continued that as part of the review process for their site plan for adding the 135 apartments and renovations of the school, the Keene Fire Department asked them to request that there be no parking on the south side of Spring St. because it narrows down as you go east. If there are cars parked on both sides it is difficult for the fire vehicles to go through there and two cars cannot pass each other. It is currently signed from where the former middle school is, all the way for the length of the Washington Park property and then as you go down the hill there are no restrictions. There is a parking sign across the street, he thinks related to the driveway for the small parking lot. The condition of approval by the Planning Board was for Washington Park at Keene to ask the City Council to consider no parking on the south side of Spring St. It was not a condition that they approve it, just that the request be made.

Chair Manwaring asked to hear from staff. Planning Director/Asst. City Manager Rhett Lamb stated that everyone is excited about this project, and confirmed that Mr. Marcotte had correctly described the Planning Board condition. He continued that arguably this is an existing condition, but with the potential for additional parking taking place on Spring St. and in the surrounding neighborhood, the Planning Board thought it was important to bring this to the City Council's attention. If there are cars parked there, there will be times when it would be hard to get emergency vehicles through. Mr. Lamb met with Police Chief Costa, Police Captain Russo, and Fire Chief Howard. There is general agreement that no parking on the south side is the right thing to do; however, there has not been time to put together a recommendation for the committee. It is necessary so they define the area where parking will be permitted and to place the signage. They want to make sure the neighborhood is aware of the change because people do use this side of the street for parking as a matter of convenience, for visitors, parties, or events. He does not think people who live on the street use it for parking, but they want to do a parking utilization study. He asks that the committee place this on more time so they can come back with a more specific recommendation.

Councilor Filiault asked if abutters along Spring St. who would be losing parking have been notified. Mr. Lamb replied no. They may be aware that these changes will have an effect and want to work through the City Clerk's Office to alert people to these changes.

Chair Manwaring asked if any members of the public had questions.

Bill Beauregard asked, for clarity's sake, if the request is to ban parking on the entire south side of Spring St. Chair Manwaring replied yes.

Chair Manwaring asked if the committee thinks it is okay to put it on more time. Councilor Filiault asked for how many cycles. Mr. Lamb replied two.

Councilor O'Connor made the following motion, which was seconded by Councilor Filiault.

On a vote of 5-0, the Municipal Services, Facilities, and Infrastructure Committee recommends the request for no parking on the south side of Spring St. be placed on more time for at least two cycles.



City of Keene, N.H.
Transmittal Form

October 26, 2016

TO: Mayor and Keene City Council

FROM: Municipal Services, Facilities, and Infrastructure Committee

ITEM: G.3.

SUBJECT: Request for Two Hour Parking Limit – 50 Washington Street

RECOMMENDATION:

On a vote of 5-0, the Municipal Services, Facilities, and Infrastructure Committee recommends the communication regarding parking concerns at 50 Washington Street be placed on more time for two cycles.

BACKGROUND:

Attorney Mary Louise Caffrey, of 11 Algonquin Drive, introduced her partner Sam Bradley. Attorney Bradley and his father bought the property in 1960 and he has been working there ever since. She joined the firm in 2008. There are now seven full time attorneys and 10 staff members. They have parking in the back for staff but not for clients. When she joined the firm there was metered parking spaces along the street in front and then when the fire department was built the meters were taken out and never replaced. There is no restriction on the parking limit. During the past year they have had people parking there all day. There are only two spaces. A covered convertible was parked there for several days. They have a busy office with four conference rooms sometimes all busy at the same time, with at least 10 people coming and going per day in addition to that. It is difficult for clients, especially elderly clients who cannot walk far. She noted that her original request for two hour parking was vague in the letter and she would like to amend her request to have parking meters instead. People would pay attention to those more. Two hours would be fine. Most people are in and out quickly, and if there are clients who will need a long time they tell them to park elsewhere.

Sam Bradley stated that he came to back up Attorney Caffrey and he agrees with everything she said. He continued that parking meters for just those two spaces right in front of the office would be a major help for the firm. They have very busy clientele coming in and out all the time, and to have two people taking those two spaces all day is difficult. Once there was even a man living in his car and parked there all day.

Chair Manwaring asked for staff comment. Ginger Hill, Parking Services Manager, stated the area is long term parking. She continued that there is nothing Parking Enforcement can do to enforce specific situations. They have tried talking to that gentleman who was parked there all day, and it worked for maybe a few days. Then, he went right back to it. The department is prepared, if the committee recommends, the installation of two two-hour meters. They have them in house so there is no cost.

Chair Manwaring asked if committee members had questions or comments. Hearing none, she recognized the City Manager. City Manager Med Kopczynski stated that there have also been concerns raised by the Keene Unitarian Universalist Church about parking issues. He wants the Parking Enforcement and the Public Works Departments to look at this, in conjunction with the request from Mr. Marcotte, and the church. He thinks the Parking Manager has expressed concern that people are living out of their vehicles and how to address that.

There are few things to do. In order to restore the meters they would have to amend the ordinance to create the mechanism to allow for that.

Attorney Bradley asked if the law firm should submit a proposed amendment. The City Manager replied no. He continued that staff will come back with a more of a parking discussion in four weeks. Attorney Caffrey asked if there is something else they should do then. The City Manager replied that it would be helpful for her to attend that meeting. They are trying to be proactive with parking. He is glad to know there is a demand for parking and more people coming to Keene.

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

On a vote of 5-0, the Municipal Services, Facilities, and Infrastructure Committee recommends the communication regarding parking concerns at 50 Washington Street be placed on more time for two cycles.



External Communication

Transmittal Form

October 26, 2016

TO: Mayor and Keene City Council

FROM: Municipal Services, Facilities and Infrastructure Committee

ITEM: G.4.

SUBJECT: Driveway Code Review – Planning Department

RECOMMENDATION:

On a vote of 5 – 0, the Municipal Services, Facilities and Infrastructure Committee recommends the discussion on driveway code reviews be placed on more time for one cycle.

BACKGROUND:

Mr. Lamb stated that this item was brought to their attention by the Mayor, who wrote a letter as a follow up to a driveway permit exception that was denied by the Planning Board and, on appeal, granted by the City Council. He continued that they realized there was room for improvement in the Code itself. Staff gave a series of options to the committee at the last meeting. The committee asked the following questions: should they provide abutter notifications of exceptions? Is there any effect on property values if a second driveway is added? Should the temporary driveway permit be considered?

Mr. Lamb continued that the background information is that they are only talking in this situation about exceptions to the Driveway Code. Mostly the Code works through the issuance of permits from the City Engineer's office. It is only when exceptions are requested, such as for the width or a second driveway, or an applicant is wanting something different than what is provided for in the Code, that it comes to the Planning Board. There have been 11 of these requests since 2011. Six or seven dealt with requests for second driveways. In every case except the request for Baker St. last spring, the requests were granted.

Mr. Lamb continued the reason cities and communities nationwide regulate driveways, in general, is to protect the investment in infrastructure of roads, sidewalks, etc. Municipalities look at safety issues regarding the location of driveways, whether there is a safe stopping distance and whether you can see vehicles exiting. In addition, driveways affect streets and their capacity as well as their effect on run-off and drainage.

Mr. Lamb continued that the other element in this is about the quality and preservation of neighborhoods and how additional driveways and parking affects property values and the quality of neighborhoods. Staff gave the committee three options last time, which are in the memorandum. Option one should apply to options two and three and should not be by itself.

Option one is to require abutter notification in the granting of an exception and in the review of an appeal. They would do that through the existing process of the Planning Board. The Planning Board is very good already at abutter notification. They would require the applicant to submit a list of abutters. It would not be a long list, only those immediately contiguous to or across the street from the site. Then staff would issue the notice and

abutters would be made aware of the public meeting/hearing. They would be allowed to speak when the Planning Board reviews the case. The same would apply for the appeals process, with notification through either the Planning Department or the City Clerk's Office. Option three would have the City Engineer issue the exceptions. Adding the abutter notification to that process is slightly different. They would establish a time period of review, make the abutter aware, and allow them to contribute to the administrative evaluation of the permit either in person or by mail. Regarding the question of the effect on values, he contacted Daniel Langille, from the Department of Assessment, who was not able to attend the meeting tonight, but wrote a thorough email (in the agenda packet) with information they can use to evaluate that question. It would be difficult to tell, in general, what the effect of an additional driveway is because assessment is very individual. It would be a case by case. Generally speaking, an additional driveway is likely to add very little to the property value. There would have to be something really unique about the property that could only be used efficiently or effectively with that second driveway. Probably it would be a small change in value, if there were a change in value at all.

Mr. Lamb continued that third, there is the question of temporary driveways. The question first came up when the committee asked if a permit could be issued only for the time that the owner is there and then expire when those residents move out. Maybe new owners would only need one parking space. Staff thinks that would be quite difficult to enforce. They are not always aware of who is living at a property and it would take extra work. Also, it would be seen as a permanent land right and he is not sure how they would ask an owner to remove a driveway. His worst case scenario would be for someone to buy a property thinking they had two driveways and then have the permit expire, and then need staff to enforce removing it. However, they often get requests for logging or construction activities or something like a 30-day corn maze, where people are using a curb cut, and they ask for a permit for a temporary driveway. That is not allowed under current ordinance, so staff applies the family dwelling standards to logging, which does not really make sense. They think it would be good to add the ability to give temporary permits for temporary activities such as logging.

Mr. Lamb stated that the first option is the addition of abutter notification. Option two would leave the Code as is, but add standards for the appeals process at the City Council level. It is quasi-judicial process, with rules of procedure for how the City Council would take in evidence with respect to the appeal, and the standards that apply. It is more like the Zoning Board of Adjustment or Planning Board in the application of the collection of evidence and information and how the body evaluates it and makes its decision. What they discovered in the last exercise is that the Planning Board is used to doing this all the time, but the City Council has less experience using the standards. This would add the standard to the appeal process for the City Council to use in its process of evaluating an appeal.

Option three would be a more significant change, but one that more closely follows the statutory basis of RSA 231:15. They are suggesting allowing the City Engineer to issue all driveway permits, including exceptions. Exceptions would not go to the Planning Board, but appeals would. There is not necessarily a deadline for acting on code changes; Mr. Lamb does not want to put pressure on the Council, but these are important changes to discuss.

Councilor Lamoureux stated that after reading and listening to this, he is more in favor of options one and three. He continued that three would be favorable because there would be consistency among the petitioners and the person giving the information back, and the Planning Board is designed to do this. The City Council is not used to this role. That Baker St. request was the first they had seen, and the City Councilors could change every two years. For the City's sake and the liability issues he thinks option three would work best.

Councilor O'Connor stated that last year they had a problem with a logging operation on Hurricane Rd. He asked if allowing the temporary driveway/curb cut would give the City the ability to restrict hours of operation. Mr. Lamb replied that he might defer to the Public Works Department. He continued that he has not experienced that. Some of these roads are listed with weight limitations for certain times of year. Logging vehicles are heavy. They look at the time of year and the ability for the road to handle the weight. Director of Public Works, Mr. Blomquist stated that he is not aware of restrictions, which is not to say they could not have

them. He continued that he would recommend tying it to something like the noise ordinance. They are looking at these temporary uses. They would say, being able to receive this temporary use permission is conditional on compliance with some of the other codes they have in existence.

Chair Manwaring stated that watching the family meets all the conditions, the City Council gave permission to have the second driveway, knowing the person had to follow the code. She continued that the driveway is pretty permanent. She is thinking about the idea of temporary permits. If it was temporary and he sold the house, the new owner would have to dig the whole thing up and it would not be easy. Mr. Blomquist replied yes, he would stay away from the temporary permit concept. He continued that it is a permanent land right. Dealing with temporary uses such as corn mazes and logging is something staff has been trying to do for years and this would give them a good tool.

Chair Manwaring asked if they could further clarify the difference between quasi-judicial and legislative. Mr. Lamb replied that in quasi-judicial process they are operating under a juror standard in how they carry out the collection of evidence and testimony. It is at the public hearing or other publicly-noticed meeting at which the Planning Board members are there to collect information as a group, for a site plan review. If a Planning Board member is evaluating a project and a neighbor of the project bumps into him at the grocery store and wants to talk about it, the Planning Board member is supposed to say "I can't talk to you about that" and ask the person to come to meeting, so everyone can hear about it at the same time under the same circumstances. There are other elements of it, also, about how they conduct the meetings. In a legislative setting the City Councilors are not bound by that. They gather information in whatever fashion they can, to get more fully informed about the judgments or decisions they need to make. Mr. Blomquist added that there are also the site visits. Mr. Lamb replied that the Planning Board does site visits as a group, and minutes are kept, or a Planning Board member can go look at it on their own, but they are not supposed to interact or take testimony that the other members are not there for.

Councilor Filiault stated that he agrees that it would be temporary situation with a permanent nightmare. He continued that he would go with option one and two as long as it meets all legal requirements. He wants to see constituents have a chance to come before their elected officials, as long as it meets legal requirements. If it is good with the City Attorney it is good with him. If a citizen has a problem he likes them having the chance to come to an elected body rather than non-elected staff.

Councilor O'Connor stated that there is no rush to get this done and he thinks they should discuss it further. He continued that there is language in the options he wants to read over further. He hopes they do not choose any options tonight. He is suggesting more time. Chair Manwaring asked for how many cycles. Councilor O'Connor replied one.

Chair Manwaring asked if any members of the public had questions.

Mayor Kendall Lane stated that option three is the only one that makes any sense. He continued that if the City Council starts doing quasi-judicial processes they will have to establish standards for doing those, and the decisions will have to be based on the standards, and applied to every case. Personal opinions will be of no value. For applicants to come before elected officials, the officials are bound strictly by the standards. It is a very difficult process for a legislative body to handle. He hopes they seriously consider if they want to put themselves in that position. Finally, the requirement to notify abutters should be obligatory. It should not even be a question. Under option three, the process rightfully starts with staff, the City Engineer. The one that was done before started with the Planning Board and it should have started with the City Engineer long before it got there. The current process is problematic and does not work well. They need to really consider the process right from the beginning.

Chair Manwaring asked if there is anything they tentatively agree on. She asked if everyone agrees with requiring abutter notification. MSFI Committee members agreed.

Councilor Filiault made a motion for the Municipal Services, Facilities, and Infrastructure Committee to place the topic of Driveway Code Review on more time for one cycle. The motion was seconded by Councilor Lamoureux.

Chair Manwaring asked if there is anything they want more information about. Councilor Lamoureux stated that he appreciates the Mayor's comments, but he still thinks they should make sure they understand the legalities from the City Attorney, and see if option two or three is a better way. The City Council inherently wants to help people. That is a reason to go with option three.

Councilor Filiault replied that that is why they are placing this on more time - so they can find out the legal issues. They all have questions. Two weeks would be plenty of time.

Assistant City Manager stated that option three clearly laid out the appeal path for someone who was dissatisfied with the Planning Board decision, but option two does not indicate an appeal path. Is that because there is not one? Mr. Blomquist replied that there is not necessarily an appeal process from a legislative body's decision. Ms. Fox replied that they might want to look at what further actions a person can take if he is not happy with the decision of the body. People should be able to exercise their rights if they feel they are aggrieved. Mr. Blomquist replied that it sounds like the MSFI Committee could use guidance on the appeals process, and maybe in discussing what the quasi-judicial process means and what restrictions it comes with.

The City Manager stated that he wants them to keep in mind that with either option, essentially they are looking for the City Engineer to render a technical decision, based on safety, distances, and so on and so forth. He continued that if the person aggrieved does not agree with the technical decision it goes to a body for a decision on what is a technical decision. When thinking about pathways, they should in mind the basic principle, the value of potentially overturning a technical decision. Chair Manwaring started that she agrees. She likes the idea of seeing the City Engineer first. That would be less intimidating for someone than going to the Planning Board.

Chair Manwaring asked if committee members or members of the public had questions or comments.

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

On a vote of 5 – 0, the Municipal Services, Facilities and Infrastructure Committee recommends the discussion on driveway code reviews be placed on more time for one cycle.



City of Keene, N.H.
Transmittal Form

October 26, 2016

TO: Mayor and Keene City Council

FROM: Municipal Services, Facilities, and Infrastructure Committee

ITEM: G.5.

SUBJECT: Roxbury Street Crosswalk – Public Works Department

RECOMMENDATION:

On a vote of 5-0 the Municipal Services, Facilities, and Infrastructure Committee placed the discussion regarding crosswalks on Roxbury Street on more time for three cycles.

BACKGROUND:

Mr. Lussier stated that four weeks ago residents of Central Square Terrace approached the City with a petition for a raised crosswalk to replace the existing one that goes between their residence and the Twenty One Bar & Grill. He continued that staff asked for the request to be on more time so they could study it. He went to the site and met a couple of the residents and they continued the conversation more informally. What he observed right away is that there are real concerns with sight distance. When someone stands at that location and looks for traffic coming at them, the lines are often obstructed by vehicles using the loading zone. He confirmed what he heard as testimony in the meeting. He tried stepping up to the curb as if to cross, to see what drivers would do. Of the five times he did that, four of the drivers failed to stop. It indicates to him that at least anecdotally there is a concern with driver compliance.

Mr. Lussier oriented the committee to the graphic on the easel, pointing out locations of buildings and crosswalks. He continued that he and his staff looked at four different options to address the concern of vehicles being able to see pedestrians and pedestrian safety in general. Option one was to improve the situation where the existing crosswalk is with clearer signage, markings, and sight lines, but leave the crosswalk where it is. Option two straightens out the alignment a bit, so the crosswalk is perpendicular and not skewed, and improves the crossing with an accessible ramp. Option three would be an improved location on the eastern side of the former YMCA, the sidewalk that runs through the Roxbury Plaza service parking area that would align with a new crosswalk directly opposite it. Option three was quickly dismissed. Reviewing the history of this location, there used to be a crosswalk there. It was eliminated due to concerns. A pedestrian was struck there because of limited sight distances. Option three is off the table. Option four is to upgrade the existing crosswalk that is right at the exit of the City's parking garage.

Mr. Lussier continued that option one keeps the location of the crosswalk in its existing location, but improves it with better pavement markings, and better signage telling drivers where to yield (at least 25 feet away from the crosswalk). The biggest change would be to eliminate two parking spaces on the south side of the street and half of the designated loading zone. It would require moving the bus stop to the eastern end of the block. That would allow better visibility. He showed a photo that he took when he was standing where a pedestrian would stand waiting to cross. He continued that there is a delivery van making a delivery, legally, but he could only see to about the truck's rear bumper. If he had stepped out off the curb there would be no way for a reasonable

driver to see him and react in time before they hit him; that is the crux of the concern at this location. To correct that, option one would keep vehicles out of that area where they need to be able to see. It is a simple option and corrects the main concern, but he has lingering concerns. The existing crosswalk brings a pedestrian into the drive aisle of the Hannah Grimes parking lot. Also, it is a skewed crosswalk, which makes it problematic for pedestrians to see in one direction or another, and it increases the amount of time that pedestrians are in the crosswalk. Particularly for people with mobility impairments that is a concern.

Mr. Lussier continued that option two would improve the situation. It keeps the crosswalk in the existing location. It would remove a portion of the loading zone and remove two parking spaces on the south side, include better pavement markings and signage, but correct the alignment issue. It is possible. They checked the elevation of the sidewalk, street, and entrance into the bar and grille, and they can make it happen. His concern is that over time, the depth of curb shrinks. Right now it is down to four inches. Their standard is seven inches. Curbs direct water and prevent people from parking on the sidewalk. Cars could get onto the sidewalk with a four-inch curb, but not so easily with a seven-inch one. If they rebuilt the street with seven-inch curbs they would have to build a different style of curb ramp here to meet ADA guidelines and make another step that would bump into the right of way right-of-way of the bar and grille, thus, he is not a fan of option two either. He met with some residents of Central Square Terrace and showed them these options. They preferred option two.

Mr. Lussier continued that option four would improve the existing crosswalk by the City parking garage's exit driveway. He showed where a ramp is, which does not meet ADA requirements because it does not have the tactile warning strips/bumps, but it is accessible. It takes pedestrians across to a curb, which does not meet accessibility guidelines. They would fix that. The ramp is scheduled to be upgraded as part of the MoCo Arts project. The City would also fix the other curb ramp. It is currently oriented straight out into the road, because of a tree. They would recommend removing the tree. They could replace it with a different one, but there is a planter box in the way for a ramp. That is a negative for option four. They are still talking about the same pavement markings and signage. He likes option four the best because it does not have the drawbacks of options one and two. It provides a more logical traffic flow. When talking with the residents last week, he found a lot of pedestrian traffic using the crosswalk today, mostly going from downtown to southeastern Keene somewhere. It was not so much of an issue of folks from Central Square Terrace going to the Hannah Grimes Center. This traffic pattern eliminates one of the two mid-block crossings, but it does seem to provide a direct link between the downtown users, the residents in this neighborhood, and the parking garage and future users of the MoCo Arts facility.

Mr. Lussier continued that with all of these options he recommends they bring this to the Finance Committee with a recommendation to find funds for this. It would be about \$12,000 to \$15,000 for the signage, pavement markings, and curb work. He recommends pedestrian-activated signals, similar to the ones at the West St. crossing by the Grange. Those signals are very effective at correcting driver behavior. They can put up signs but "sign fatigue" is what happens when people stop seeing the signs when they go by them every day. The pedestrian-activated signs change, so people notice them more. Maybe a driver goes through five times without the sign flashing because there is no pedestrian, and then the sixth time, it flashes and the driver notices it.

The City Manager stated that he is glad that the City Engineer talked about the MoCo Arts Center, because a lot of the reasoning for multiple crosswalks and their locations was due to the former YMCA, which had no parking. He continued that MoCo Arts will have parking, but it will also have pedestrian traffic. He is glad Mr. Lussier included that he took into consideration the location for the MoCo Arts in his presentation. Mr. Lussier replied that option four is a good option regardless of what is happening in the neighborhood. He continued that there is pedestrian traffic going through the alley crossing the road and also folks from downtown going to southeast Keene. He thinks it is a good option in any case. Also, fewer mid-block crossings are better in almost every case, especially when driver behavior is a problem. Drivers often do not comply when there is a crosswalk every 200 feet.

Councilor Filiault stated that over the years with the YMCA in a different location they got used to the lack of

foot traffic. He continued that MoCo Arts will be creating more pedestrian traffic than they have seen in years, especially young pedestrian traffic. Therefore, he highly favors option four with a flashing light, which does capture drivers' attention more than signs do. He understands that people who live there will have to walk a little more to get to the crosswalk but he still thinks this option makes the most sense. Mr. Lussier replied MoCo Arts will include on-site parking and there will be a lot more pedestrian traffic, especially during performances.

Councilor Lamoureux stated that Mr. Lussier answered some of his questions about how many people would be crossing from the Central Square Terrace area. He continued that he thinks people heading downtown would be safer going to the lighted intersection. When he worked at City Hall he did not use that crosswalk (in front of Central Square Terrace); he went to the one in the middle with a better sight line not impacted by parking. Option four does that. Mr. Lussier replied yes, he should have added, with option four there is no change to parking or the loading zone. Already the conditions exist to clean up the sight distances; parking was eliminated near that crosswalk when a crosswalk was removed in 2005. As for how many Central Square Terrace residents would be inconvenienced, he will let them speak for themselves. Councilor Lamoureux stated emergency vehicles which are responding to calls from Central Square Terrace park in a portion of the loading zone that other options would remove and this impacts the line of sight. Mr. Lussier replied that Chief Howard will park an ambulance right in front of the door; he is not going to worry about whether there is a striped space or not.

Councilor Lamoureux stated that when you drive on Roxbury St. there are a lot of people that gather by the entryway. He sees them mingling near the sidewalk. He continued that many drivers might not know that someone there is trying to cross at the crosswalk. That is another reason he likes option four.

Mr. Lussier replied that he brings up a good point. He continued that as part of the review they analyzed drivers' speeds. They had just gotten a traffic study for the residential development project, which took speed measurements further down the road. Engineers like to talk about the speed that 85% of the traffic is going at or slower than; that is considered what a reasonable driver might be doing. With this study that was 29.9 mph. They took more measurements closer to the intersection and it was 26 mph, because drivers go slower approaching the signal-controlled intersection. What they learned is that speed itself is not necessarily the concern; it is really a sight distance issue. Accident data shows that in 2013 a pedestrian was struck at the location and had broken bones. The pedestrian, in the police report, said he could not see because there was a car parked on the south side of the road. To him, that echoed the analysis.

Yvonne Gilbertson, of Central Square Terrace, stated that she was under the impression when she and residents met with Mr. Lussier, that to put the crosswalk all the way over by the parking garage exit would cause problems. They already have problems with that exit. Bicyclists go flying in there. A car hit a bicyclist but it was the bicyclist's fault. Some residents wanted to see the current crosswalk stay where it is now but just get moved forward and include a dip to make it accessible for people in wheelchairs. They also want the flashing, pedestrian-activated signs right there. They can move the handicapped parking space over and they will have visibility on that side where the ambulances will go. She does not care about the tree. They can remove the tree. What she has described is what she thought would happen. Chair Manwaring asked if she means option two. Mr. Lussier replied yes, she is referring to option two. Ms. Gilbertson replied that that is what residents were hoping to have.

Chair Manwaring asked, regarding option two's reduced loading zone, how would they prevent people from using the full area like they have been doing for a long time? Mr. Lussier replied that they would propose removing half of the loading zone, although they have not vetted this with the businesses. He would like to get their opinions. They would still have some area designated for unloading. The bus would have an unstriped place to park. In the near-term, he can do pavement markings, and maybe longer term they can do curbs. It is really an enforcement issue. When people are parked there they need to enforce it.

Councilor Lamoureux stated that he was involved with parking for a long time. He continued that there will be a concern with removing parking on Roxbury St. People want more parking. The merchants will be very upset.

He thinks it is still a safety issue even if they remove two spaces. There is a sightline issue to be addressed. He is also concerned that if they remove about half the loading zone the large trucks will not fit and they will park on the side of the road like they used to, which will cause more of a problem. That loading zone is used constantly by merchants as well as residents. His opinion is that the middle sidewalk is the best option, knowing the future of the area.

Councilor Lamoureux stated that this goes back to his earlier question – where do people actually go when they cross the street? Ms. Gilbertston replied that they go various ways. Councilor Lamoureux replied that if they are going down Main St., it would be the same distance; they just would be crossing at a different location. Ms. Gilbertston replied that where the crosswalk is now is where it has been there for so many years. People with disabilities cannot walk that far, and that is why the crosswalk is right in front. That crosswalk is in constant use. Let MoCo Arts, when they are there, decide where to add sidewalks. Right now it will cause a lot of problems if they put the crosswalk at the parking garage exit.

Councilor Lamoureux asked if MoCo Art's project will include a new sidewalk. Mr. Lussier replied that it includes repairing and replacing the sidewalk in front of their property. He continued that they will change the driveway and curb line and correct the existing sidewalk, but it is not moving much, maybe a foot from its current location. Councilor Lamoureux asked if the sidewalk will go from Roxbury St. into the parking structure behind City Hall. Mr. Lussier replied that there is a walkway today along the western side of the alley. The project itself will have walkways that go from the public sidewalk into the building. Also, a sidewalk will go from the new school to a newly built set of stairs that will lead up to the parking deck. There is an existing set of stairs that has been barricaded for years. That will be removed and new stairs will be built, with a sidewalk that connects to the front door. It is not a formal sidewalk encouraging folks to walk through there. He continued that Councilor Lamoureux mentioned even removing two spaces would still leave sight issues. Two spaces being removed would meet the MUTCD's bare minimum requirements for sight lines.

The City Manager stated that based on comments discussing option two versus four, the basic hesitancy he hears on option four is related to the connection to the driveway area. Can they put it west of the driveway area by removing the tree? Mr. Lussier replied that it is possible but he does not know how it would line up with the driveway entrance. The City Manager suggested angling it.

Ms. Gilbertston stated that they should just add lights to the one there now. She continued that Mr. Lussier said that that they could build indented sidewalks for wheelchairs, but it would inconvenience the bar and grill for a while. The sidewalk is wide enough and people could still use it. Mr. Lussier replied yes, it is possible to build an accessible crosswalk and have it go to the bar and grill's door. He continued that there would be some impacts to pedestrians using the sidewalk for just a few days, but they could do that. His concern is longer term when the road gets rebuilt with the correct curb height - they would have to do something a little more extensive to build a new step in the right-of-way to allow access to the building. Ms. Gilbertston replied that people will still try to cross right in front, because they are so used to that. They would have a hard time going such a long distance just to cross the street. Mr. Lussier replied that it is about the same distance as going to the other crosswalk to go to Main St. They would have to go about 150 feet out of their normal way.

Councilor Filiault stated that if it were not for MoCo Arts he would be in favor of option two, but they have to look down the road to this major development. He continued that he understands that people will have to walk out of their way a bit, but with this major development, there is not much choice. He asked, no matter what they approve here, will Mr. Lussier's recommendation go to the Finance Committee? Mr. Lussier replied that there is not funding in the operating budget for this. He continued that they will be recommending the pedestrian-activated crossing lights and they can be expensive.

Councilor Filiault asked the City Manager if he wants a motion from the MSFI Committee recommending one of the options to include, as part of it, a recommendation that it go to the Finance Committee.

The City Manager replied that they had a request from citizens to do something with the crossing. He continued that they had the City Engineer take a look and give his professional opinion on the options and which is best. What they are hearing is the citizens are requesting one spot, but staff is looking at another spot for other reasons. This committee is acting on the request and the recommendation of the City Engineer, who is letting them know that the next step is to find the money to do the work no matter which option is chosen. The major work is the lighting system, whether they choose option two or four, since option three is bad. Mr. Lussier replied that option three is bad and option one is only marginally better. He continued that he suggests that the motion, if the committee chooses to make one, be to authorize the City Manager to do all things necessary to implement option "X" and that it be forwarded to the Finance Committee to designate finances for the project.

Chair Manwaring stated that she is concerned about option four because there is the driveway right there. He said he did not like the others because of the driveway. Mr. Lussier replied that what his concern is with option one is it is putting pedestrians into the driveway of the adjacent parking lot. Here, folks coming out of the existing parking lot would be crossing pedestrian traffic. That would be the same whether they keep it where it is or slide it a little to the west like the City Manager suggested. Whether the crossing is from Central Square Terrace or the new development, that traffic crossing would still exist. Folks coming from the parking garage would be moving at much slower speeds. He understands Ms. Gilbertson's and the residents' concerns and does not want to diminish them, but the risk for someone coming through the alleyway versus the roadway itself is a little bit easier to manage. Ms. Gilbertson replied that right now there is a wall there and you cannot see past it unless you go in the street. Mr. Lussier replied that that will be removed as part of the new development. There will be a more open fence, like wrought iron. That problem will be going away as part of the development. The sight distance when you are coming out here, looking for a pedestrian walking down the sidewalk from the direction, that will still be a problem because of the building. But people driving out of the garage should be going at a slower speed and should be able to stop rapidly if there is a pedestrian.

Councilor O'Connor suggested placing this on more time for another cycle. He continued that if they move it to the west, with option four, it sounds like the City Manager needs to talk with some residents there and maybe do more studying of measurements. He, too, likes the idea of moving it to the west. Mr. Lussier stated that if the committee recommends option four they can ask staff to create a more detailed design of that and report back, including a report of which of the locations would work better. He does not think they need to delay the process.

Councilor Hooper stated that he is leaning towards option four with further study of the City Manager's suggestion of putting the crosswalk further west. He continued that he is looking at the big picture and safety for everyone. He understands that the request was regarding the crosswalk right in front of Central Square Terrace. Even if they had to go a little further up the street to get to the crosswalk they would be having improved pedestrian-activated signals, which would improve safety for residents. Everyone would be safer, and also, it would include a more practical spot for MoCo Arts. He thinks everyone will be safer and that is what they want – safety of everyone who will be using the area, including MoCo Arts folks.

Mr. Lussier stated that regarding the timing, realistically, they could not do this construction this season. They would suggest spring 2017. They would have time to work this through and deliberate more as needed.

Ms. McCauley of Central Square Terrace, stated that she wonders, if you move the crosswalk (by the parking garage driveway) to the other side of the driveway, would that make any difference? Mr. Lussier replied that that is what the City Manager was asking. He continued that staff did not look at that as an option. They will have to do more thinking on that and figure out how it relates to what else is there. It would address the concerns about vehicles coming out of the driveway and putting the residents in front of that traffic. More broadly, the traffic most likely generated by new development would still be crossing that driveway at that location. So it is not completely eliminating the concern, but it is addressing it somewhat for the Central Square Terrace residents. Ms. McCauley stated that when driving, she has to completely stop and inch out, because drivers cannot see and people are just inching through. She continued that if the crosswalk is on the other side it might be easier

for drivers to see people coming.

Ms. McCauley continued that regarding the loading zone, people come to just visit. Someone parks there at 6 AM and stays until 11 AM or noon, treating it as a parking space. Is there a way to mark it more clearly so people do not park there? Mr. Lussier replied that it is currently marked as a loading zone with 15 minute parking only. He continued that it sounds like what she is talking about is more about someone not following the rules. Ms. McCauley replied that they call the Police to have the parking folks come, but usually they do not. Mr. Lussier replied that it is legal for people to be parked there, so the problems that pedestrians have crossing there exists even with the 15-minute restriction. Ms. McCauley stated that about a week ago an ambulance came for a resident in the building and had to park across the street at the Hannah Grimes parking lot because there was no space in front of the building.

The City Manager stated that they have taken note of the parking issue. He continued that there is a zeroing in on option two or four and option four needs more research. It will not get done this season anyway. He does not think they need to have an iron clad decision tonight. They can give the City Engineer more time to do more work. He, too, has more questions to talk with him about. Chair Manwaring suggested giving staff three cycles.

Councilor Clark stated that many times when they are designing new projects they forget about the Complete Streets policy. He continued that the Complete Streets policy says cars are not “king” anymore. They have to take other modes of transportation into consideration. There is a policy that tends to limit crosswalks, for example. That was probably good before Complete Streets came along. Rather than modifying traffic behavior, they tend to try to modify pedestrian behavior. If they are really going to follow the Complete Streets policy, they should look at traffic calming measures and give more strength to pedestrians’ rights of way. They should have at least equal rights of way. They should back up and think about that. These options are not taking Complete Streets into account. They are about pedestrian behavior.

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

On a vote of 5-0 the Municipal Services, Facilities, and Infrastructure Committee placed the discussion regarding crosswalks on Roxbury Street on more time for three cycles.



City of Keene, N.H.
Transmittal Form

October 26, 2016

TO: Mayor and Keene City Council

FROM: Planning, Licenses and Development Committee

ITEM: I.1.

SUBJECT: Relating to the Establishment of the Main Street Historic Overlay District

RECOMMENDATION:

On a vote of 5-0, the Planning, Licenses and Development Committee recommends to the City Council the denial of the passage of Ordinances O-2016-13, O-2016-14-A, and O-2016-15.

ATTACHMENTS:

Description

Ordinance O-2016-13

Ordinance O-2016-14-A

Ordinance O-2016-15

BACKGROUND:

Chair Richards noted a letter was written by the Historic District Commission to have this request withdrawn. He continued as this has gone through the whole City process we should not be doing that; we should vote on the ordinances themselves. Attorney Mullins recommended doing that the process is followed through. Attorney Mullins noted there is no specific process within the Zoning Amendment process to allow withdrawal of the request. He suggested this is something you may want to add to the amendment process. Attorney Mullins noted the other problem is the City Council's rules require an up or down vote on ordinances that are presented to it. He also explained this would require a suspension to City Council rules. Chair Richards also pointed out this part of the discussion is not open to public comment because a public hearing has been held, which is part of the standard operating procedure. Attorney Mullins concurred.

Chair Richards asked for Committee thoughts.

Councilor Hansel commented we have heard a lot about this proposed Overlay District including the fact that the homeowners there are unanimously opposed to it. He noted he feels preserving the historic nature of our downtown is important, but he is conflicted over this being a regulated Overlay District. Councilor Hansel suggested some of the points/initiatives are good things to look at with the Land Use Code update that is in process. Councilor Hansel noted one of the goals of the update is to simplify the Code across the board. He also commented his personal comments on this are that he sees the Overlay District as being redundant in our efforts, and it was not well received. He agrees it should be sent to City Council for an up or down vote; he also feels comfortable making a vote on it.

Councilor Jones said he feels we should honor the request from the Historic District Commission to deny this ordinance. He agreed with Councilor Hansel there are other things we can do. Continuing Councilor Jones

noted at the Joint Committee meeting he asked if there were other ways to deal with this. Councilor Jones reported the Planning Department will be coming back to the Joint Committee with suggestions on how to achieve the goals here. Councilor Jones feels the ordinance should not be passed.

Councilor Sutherland commented we do have a free market here; if any group would like to pool their funds and acquire any of the properties and preserve them to their desire, they do have the ability to do that. Councilor Sutherland's biggest concern is that any more regulation on those homeowners will increase the costs of maintaining their homes. He continued as it is we have the highest tax rate in this area of New Hampshire; any dollar that is an increased burden on that property owner is going to cause them to save that dollar and maybe not make improvements or do the upkeep. Councilor Sutherland indicated this could cause the property owners to turn their residences into multi-units which is something the City also does not want to see happen.

Councilor Chadbourne acknowledged the work and effort over many years by the Commission, staff, and lots of other individuals. Noting things change, Councilor Chadbourne suggested maybe what we wanted three years ago does not fit our mission now or how we accomplish that mission. She reiterated comments regarding the residents there not wanting an unfunded mandate. Councilor Chadbourne also thinks the area can be preserved through other means and she is confident staff will come through.

Chair Richards asked if any other Councilor's in the room wished to make comments. As there were no other comments Chair Richards asked Councilor Jones to explain how the motion would work as it is a little different than usual. Councilor Jones explained there are two ways to do this 1) we can make the motion in the positive for approval of the ordinances and then vote them down, or 2) or we can go directly to a motion to deny the passage of the ordinances. Chair Richards clarified this would be a reverse motion not endorse the ordinances to which Councilor Jones agreed. Attorney Mullins added it could be done in one motion as long as each one of the ordinances is referenced.

There being no questions from the Committee Chair Richards asked for a motion.

Councilor Jones made the following motion which was seconded by Councilor Chadbourne.

On a vote of 5-0, the Planning, Licenses and Development Committee recommends to City Council the denial of the passage of O-2016-13, O-2016-14-A, and O-2016-15.



CITY OF KEENE

O-2016-13

Sixteen

In the Year of Our Lord Two Thousand and
 RELATING TO THE MAIN STREET HISTORIC OVERLAY DISTRICT
 AN ORDINANCE

Be it ordained by the City Council of the City of Keene, as follows:

That Chapter 102 Article XI of the Code of Ordinances, City of Keene, New Hampshire is hereby amended to incorporate the Main Street Historic Overlay District. Said amendments appear as underlined text, which represents text to be added to the existing Code, and text that is stricken out, which represents text to be removed from the existing Code. The amended Article reads as follows:

ARTICLE XI. ~~DOWNTOWN~~-HISTORIC OVERLAY DISTRICTS

Sec. 102-1381. Purpose/intent.

The purpose of the ~~downtown~~-historic overlay districts is to recognize, preserve, enhance and perpetuate buildings, structures, and sites within the city having historic, architectural, cultural or design significance. This purpose will be safeguarded by:

- (1) Preserving the heritage of the city by providing for the protection of buildings, structures, and sites representing elements of its history;
- (2) Enhancing the visual character of the city by encouraging and regulating the compatibility of new construction and alterations to existing buildings, structures, and sites within the historic district to reflect the city's distinctive architectural identity, unique character, and prevailing scale;
- (3) Fostering public appreciation of and civic pride in the beauty of the city and the accomplishments of its past;
- (4) Strengthening the economy of the city by protecting and enhancing the attractiveness of the community to residents, tourists and visitors;
- (5) Stabilizing and improving property values within the city; and
- (6) Promoting the use of historic districts for the education, prosperity, and general welfare of the community.

Sec. 102-1382. ~~Downtown~~-Historic districts-overlay district maps.

There are two historic districts in the City of Keene – the Downtown Historic District and the Main Street Historic District. Incorporated as part of this article, the downtown historic overlay district, as described in a map entitled, "Downtown Historic Overlay District Amendment" dated September 1, 2009, and the Main Street Historic Overlay District, as described in a map entitled, "Main Street Historic Overlay District" dated March 17, 2016, ~~is~~are hereby adopted as an overlay to the official zoning map of the City of Keene.

Sec. 102-1383. General regulations.

The minimum standards of the underlying zoning district(s) shall apply in the ~~downtown~~ historic overlay districts. All uses permitted in the underlying zoning district(s) are permitted in the ~~downtown~~ historic ~~district~~ overlay districts.

Kendall W. Lane, Mayor

ORDINANCE



CITY OF KEENE

O-2016-14-A

Sixteen

In the Year of Our Lord Two Thousand and
AN ORDINANCE RELATING TO THE MAIN STREET HISTORIC OVERLAY DISTRICT
AN ORDINANCE

Be it ordained by the City Council of the City of Keene, as follows:

That Chapter 18 Article V of the Code of Ordinances, City of Keene, New Hampshire is hereby amended to incorporate the Main Street Historic Overlay District. Said amendments appear as underlined text, which represents text to be added to the existing Code, and text that is stricken out, which represents text to be removed from the existing Code. The amended Article reads as follows:

ARTICLE V. - HISTORIC DISTRICTS

DIVISION 1. - ESTABLISHMENT OF HISTORIC DISTRICT

Sec. 18-350. - Purpose.

The purpose of this article is to amend the ordinances of the City of Keene to create ~~a downtown~~ historic districts in accordance with RSA 674:46; to create an historic district commission pursuant to RSA 673:1; and to provide the rules, regulations and procedures applicable to the historic districts consistent with RSA 674:46-a.

Sec. 18-351. - Application.

The requirements of this article shall apply in addition to the requirements of the zoning ordinance, other applicable city ordinances, and state law.

Sec. 18-352. - Boundaries.

There are two historic districts in the City of Keene – the Downtown Historic District and the Main Street Historic District. Incorporated as part of this article, are the downtown historic overlay district map and the Main Street historic overlay district map as described in section ~~102-4360~~1382 of the zoning ordinance.

Sec. 18-353. - Permitted uses.

Uses permitted in the underlying zoning districts are permitted in the historic districts.

Sec. 18-354. - Definitions.

The following words, terms, and phrases shall govern the article:

Alteration, as applied to a building or structure, means a change or rearrangement in the structural parts, or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

Architectural feature shall mean the architectural style, design, detail, and general arrangement of outer surfaces of a building or structure that represent a time or region and that, if altered or removed, would affect the character of the external appearance of the building or structure. Examples of "architectural features" include but are not limited to the kind and texture of building materials and the type of and style of windows, doors, lights, cornices, roofs, porticos, and other fixtures appurtenant to such features.

Building shall mean any structure or part thereof used or intended for supporting or sheltering any use or occupancy.

Certificate of appropriateness (COA) shall mean a written authorization by the Historic District Commission to the owners of a building, structure or site within the historic district, allowing the owner to conduct any of the regulated activities set forth in section 18-360 of this article.

Contributing resource shall mean any building, structure, or site which contributes to the overall historic and architectural significance of the historic district and was present during the period of historic significance but which possesses some diminishment of significance due to alterations, disturbances, or other changes to the building, structure, or site. Said diminishment of significance to the district is not so substantial as to prevent the building, structure or site from possessing historic and architectural integrity reflecting the character of that time or being capable of yielding important information about the historically significant period. Qualities of the building, structure, or site which contribute to the overall historic and architectural significance of the historic district include but are not limited to setback, massing, height, materials, architectural features, and/or fenestration.

Economic hardship shall mean quantifiable or verifiable expenditures or fiscal loss that is unreasonable for the property owner to bear under the circumstances.

Erect means to construct, reconstruct, excavate, fill, drain, or conduct physical operations of any kind in preparation for or in pursuance of construction or reconstruction, or to move a building or structure upon a lot.

Facade shall mean the front of a building or any of its sides facing a public way or public place.

Improvement shall mean upgrading or elevating the quality or condition of a building, structure, or site.

Incompatible resource shall mean a building, structure or site with no historic or architectural integrity and with setback, massing, height, materials, and/or fenestration that detract from the character of the historic district.

Noncontributing resource shall mean any building, structure, or site which does not contribute to the overall historic or architectural significance of the historic district due to alterations, disturbances, or other changes to said building, structure, or site, and therefore no longer possesses historic or architectural integrity, or was not present during the period of historic significance, or is incapable of yielding important information about that period. The building, structure, or site may have qualities which do not detract from the overall character of the historic district including but not limited to setback, massing, height, and materials.

Ordinary maintenance and repair shall mean work done to prevent deterioration, decay or damage to a building, structure, or site, or any part thereof, by restoring the building, structure, or site as nearly as practicable to its condition prior to such deterioration, decay, or damage.

Person shall mean any natural person, firm, partnership, association, corporation, company, organization, or other legal entity.

Primary resource shall mean any building, structure, or site which contributes to the overall historic and architectural significance of the historic district and was present during the period of historic significance and possesses historic and architectural integrity with little or no diminishment in value reflecting the character of that time or is capable of yielding important information about the historically significant period. Qualities of the building, structure, or site which contribute to the overall historic and architectural significance of the historic district include but are not limited to setback, massing, height, materials, architectural features and/or fenestration.

Structural instability/safety hardship shall mean that the building or structure is structurally unsound, or deteriorated such that demolition is required for public health or safety as determined by the code enforcement officer.

Surrounding shall mean the prevailing character as represented by primary and contributing resources within the historic district.

Sec. 18-355. - Reserved.

DIVISION 2. - HISTORIC DISTRICT COMMISSION

Note - The provisions governing the establishment of the Historic District Commission and its purposes and powers and duties are set forth in Chapter 2, Administration, Article V, Boards and Commission, Division 18, Historic District Commission.

Secs. 18-356—18-358. - Reserved.

DIVISION 3. - HISTORIC DISTRICT REVIEW

Sec. 18-359. - Scope of review.

It shall be unlawful for any person to perform any of the activities set forth in section 18-360 within the historic districts without first obtaining a certificate of appropriateness in the manner prescribed in this article, the historic district regulations, and state law. The Historic District Commission may adopt rules and procedures for the review and approval by administrative official of applications for a certificate of appropriateness for minor projects as defined in the historic district regulations, provided, however, that no application may be denied without formal action by the Historic District Commission.

Sec. 18-360. - Activities requiring certificates of appropriateness.

The activities that require certificates of appropriateness vary between the City of Keene's two historic districts. The following activities shall require a certificate of appropriateness whether or not such activity requires the issuance of a permit. These activities are organized by historic district.

(1) Downtown Historic District

- a. Erection, construction, alteration, relocation, or demolition of a building or structure;
- b. Erection, construction, alteration or relocation of any architectural feature of a building or structure that is visible from a public way or other public place;
- c. Installation of new paving (excluding maintenance of existing paved areas);

- d. Removal of a tree(s) in excess of 15 inches in diameter at a height of four feet above grade, except where removal of such tree(s) is necessary for safety reasons as determined by a professional arborist or other qualified professional;
- e. Removal of stone wall(s), granite post(s), iron fence(s) or any portion thereof;
- f. Addition or alteration of existing exterior siding (e.g. vinyl, aluminum, stucco, wood, glass, etc.) of a building or structure;
- g. Painting in part or whole of a brick, stone, masonry, or concrete building or structure;
- h. Chemical or physical treatment to the exterior of a building, (including paint removal) such as sandblasting or abrasive cleaning;
- i. Installation of a bulk container, a waste storage container, a container pad, and/or screening of a container if visible from a public way; and
- j. Installation of a satellite dish and/or telecommunications facilities on an existing building, structure or site if visible from a public way.

(2) Main Street Historic District

- a. Construction of a new primary structure;
- b. Construction of a new accessory structure that exceeds 2450 square feet in gross floor area or exceeds 5% of the gross floor area of the existing primary structure, whichever is greater;
- c. Additions to an existing primary structure that exceed 2450 square feet in gross floor area or exceed 5% of the gross floor area of the existing primary structure, whichever is greater;
- d. Alteration to rooflines, including roof features, on buildings or structures designated as a Contributing Resource;
- e. ~~Alteration;~~ a Addition or removal of window openings on buildings or structures designated as a Contributing Resource;
- f. ~~Alteration;~~ a Addition or removal of doorways or entrances on buildings or structures designated as a Contributing Resource;
- g. Painting of previously unpainted brick, stone masonry or concrete on buildings or structures designated as a Contributing or Non-Contributing Resource; and
- h. Relocation, demolition, or partial demolition of buildings or structures designated as a Contributing Resource.

Sec. 18-361. - ~~Exception to certificate requirement.~~ Activities that do not require a Certificate of Appropriateness

The following activities shall not require a certificate of appropriateness from the historic district commission: These activities are organized by historic district.

(1) Downtown Historic District

- a. Any work or alteration to an existing building, structure or site that is not visible from a public street, way, park or other public place;
- b. Ordinary maintenance and repair of any building structure or site;
- c. Ordinary maintenance and repair of any architectural feature which does not involve a change in the design, dimensions, or materials of the feature or involve removal thereof;
- d. Painting or repainting of a wood surface and/or an already painted brick, stone, masonry, or concrete building or structure;
- e. Alteration or replacement of any existing roof covering or surface, provided that said alteration or replacement is with the same material, ~~the same~~ patterns and colors of the existing roof covering or surface and provided the roof plane remains the same; and
- f. Installation or replacement of storm doors and storm windows provided that the original architectural features are not altered, removed or demolished.

(2) Main Street Historic District

- a. Any work or alteration to an existing building, structure or site that is not visible from a public street, way, park or other public place.
- b. Any activity not included on the list of activities in Section 18-360 (2) of this Ordinance.

Sec. 18-362. - Review criteria.

The purposes of this article and the following criteria shall be used in making a determination on an application for a certificate of appropriateness, and in promulgating regulations to govern a regulated activity. These criteria are organized by historic district.

(1) Downtown Historic District

- a. The historical, architectural, or cultural value of the building, structure or site, and its relationship and contribution to the setting as evidenced by the ranking of the building, structure, or site in the resource ranking list; ~~as evidenced by the ranking of the building, structure or site in the resource ranking list.~~
- b. The compatibility of the proposed design, arrangement, texture, materials, and architectural features with the existing building(s) or structure(s) at the site and its setting, or if new construction, compatibility with buildings or structures immediately adjacent to the site;
- c. The scale and general size of building(s) or structure(s) in relationship to existing building(s) and structure(s) at the site and immediately adjacent thereto, including consideration of such factors as the overall height, and width of the building(s) or structure(s), street frontage, number of stories, roof type, facade openings, and architectural features; and
- d. The land upon which the building(s) or structure(s) are situated, including off-street parking, screening, landscaping, fencing, vehicle driveways, on-site walkways, sidewalks, lighting, and other factors which might affect the visual character of the building or structure.

(2) Main Street Historic District

- a. The historical, architectural, or cultural value of the building or structure, and its relationship and contribution to the setting as evidenced by the ranking of the building or structure in the resource ranking list;
- b. The compatibility of the proposed design, arrangement, and architectural features with the existing building(s) or structure(s) at the site, or if new construction, compatibility with buildings or structures adjacent to the site; and
- c. If new construction, the scale and general size of building(s) or structure(s) in relationship to existing building(s) and structure(s) at the site and adjacent thereto, including consideration of such factors as the overall height, and width of the building(s) or structure(s), street frontage, number of stories, roofline, facade openings, and architectural features.

Sec. 18-363. - Review of demolition or relocation of buildings and structures.

In determining whether to issue a certificate of appropriateness to demolish all or part of a building or structure, the historic district commission shall use the following criteria:

- (1) For buildings and structures designated as a primary resource or contributing resource, the applicant shall submit concept plans for the re-use of the site after demolition including elevations of any new construction and shall demonstrate Economic hardship or structural instability/safety hardship.

Demolition requests based on structural instability/safety hardship must include a technical report prepared by an architect or professional engineer registered in the State of New Hampshire which demonstrates that the building or structure presents a risk to public health, safety and welfare.

- (2) For buildings and structures designated as a noncontributing resource or incompatible resource, the applicant must submit concept plans for the re-use of the site after demolition including elevations of any new construction and demonstrate that the concept plans for the site will be compatible with the historic, architectural, and cultural values of buildings and structures immediately adjacent to the site.
- (3) Appeals relative to the designation of a building, structure or site on the resource ranking list, or relative to a historic district commission action on an application to demolish a building shall be as set forth in section 18-366.

DIVISION 4. - APPLICATION AND ADMINISTRATION

Sec. 18-364. - Application procedures.

The following application and review procedures shall be followed by the applicant and the historic district commission.

- (1) The applicant for a certificate of appropriateness shall make written application to the historic district commission through the planning department. The applicant shall provide:
 - a. A completed application form signed by the owner or owner's representative;
 - b. A narrative description of the activity requiring a certificate of appropriateness;
 - c. Graphic materials of sufficient clarity and detail that the commission will have a clear understanding of what the applicant intends to do;
 - d. A complete list of abutters;
 - e. Payment of an application fee established by city council, as may be amended from time to time; and
 - f. Any site plans, building plans, building elevations, perspective sketches, photographs, and/or building materials samples as the historic district commission may reasonably require.
- (2) The historic district commission shall conduct a public hearing on the application and issue a certificate of appropriateness, conditional certificate of appropriateness, or disapproval of a certificate of appropriateness within 45 days of the receipt of an application deemed complete by the commission unless the applicant agrees in writing to a longer time period.
- (3) Written notice of the time and place of the public hearing shall be given to each abutting property owner by First Class mail.
- (4) Written notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the city and shall be posted in at least two public places.
- (5) In the case of a minor project as defined in the historic district commission regulations, a public hearing shall not be required.

Sec. 18-365. - Findings.

At the conclusion of its review, the historic district commission shall issue one of the following:

- (1) Certificate of appropriateness/conditional certificate of appropriateness.
 - a. If, in the opinion of a majority of the commission members present and voting, the applicant's proposal meets the purposes of this article and satisfies the historic district

regulations, then the historic district commission shall issue a certificate of appropriateness signed by the chairperson of the historic district commission or his/her delegate, together with any changes, conditions and/or stipulations necessary to secure the public health, safety and general welfare.

- b. After the issuance of this certificate, the code enforcement department may issue any building, demolition or other permit for the approved project subject to approval of any other necessary board.

(2) Notice of disapproval of certificate of appropriateness.

- a. If, in the opinion of the majority of the commission members present and voting, the applicant's proposal does not meet the purposes of this article and does not satisfy the historic district regulations, then the historic district commission shall issue a notice of disapproval in writing together with the reasons for such decision signed by the chairperson of the historic district commission or his/her designee.
- b. The issuance of a notice of disapproval shall prohibit the code enforcement department from issuing a building permit, demolition permit or other permit.
- c. If the applicant's proposal is denied, the applicant is encouraged to make modifications to the proposed plan that meet the purposes of this article and satisfy the historic district regulations and shall have the right to resubmit the application at any time after so doing.

Sec. 18-366. - Appeals.

- (a) Any persons aggrieved by a decision of the historic district commission shall have the right to appeal that decision to the zoning board of adjustment in accordance with RSA 677:2 et seq. A motion for rehearing must be filed within 30 days after the decision is rendered and must specify every possible ground upon which it is claimed that the decision is unlawful or unreasonable. The 30 days shall be counted in calendar days and shall start on the day of the decision.
- (b) The zoning board of adjustment shall either grant or deny the motion for rehearing, or suspend the order or decision complained of pending further consideration. If the zoning board of adjustment grants the motion for rehearing, it shall conduct the rehearing in accordance with its rules of procedure, as may be amended from time to time, and RSA 677:2 et seq.
- (c) Any persons aggrieved by a decision of the zoning board of adjustment relative to a motion for rehearing may appeal, by petition, to the Cheshire County Superior Court in accordance with RSA 677:4 within 30 days after the date upon which the zoning board of adjustment rendered its decision. The petition shall set forth that such decision of the zoning board of adjustment is unlawful or unreasonable, in whole or part, and shall specify the grounds upon which the decision is claimed to be unlawful or unreasonable.
- (d) Pursuant to RSA 677:5, any hearing by the Cheshire County Superior Court upon appeal shall be given priority on the court calendar.

Sec. 18-367. - Enforcement.

The historic district commission is responsible, for administering the ordinance and regulations within the historic districts. The provisions of the historic district ordinance shall be enforced through traditional zoning enforcement mechanisms as set forth in section 102-6 of the zoning ordinance and RSA 676.



CITY OF KEENE

O-2016-15

Sixteen

In the Year of Our Lord Two Thousand and
 Relating to Establishment of Zoning Overlay District – Main Street Historic District

AN ORDINANCE

Be it ordained by the City Council of the City of Keene, as follows:

That Chapter 102, the Zoning Ordinance of the City of Keene, New Hampshire, as amended, be and hereby further amended by amending the Zoning Map of the City of Keene, as adopted by the Keene City Council on December 15, 1977, as part of Chapter 102 entitled, "ZONING", of the said Ordinances, to include the Main Street Historic Overlay District, which would include the following parcels:

028020140000	226 MAIN ST.
028020150000	238-260 MAIN ST.
028020150100	246 MAIN ST.
028020160000	26 PROCTOR CT.
028020170000	28 PROCTOR CT.
028020180000	46 PROCTOR CT.
028020190000	47 PROCTOR CT.
028020200000	33 PROCTOR CT.
028020210000	27 PROCTOR CT.
028020220000	25 PROCTOR CT.
028020230000	266 MAIN ST.
028020240000	272 MAIN ST.
028020340000	222 MAIN ST.
028020350000	232 MAIN ST.
029010080000	338 MAIN ST.
029010090000	346 MAIN ST.
029020160000	284 MAIN ST.
029020170000	290 MAIN ST.
029020180000	298 MAIN ST.
029020190000	324 MAIN ST.
034020090000	400 MAIN ST.
034020100000	410 MAIN ST.
034020110000	420 MAIN ST.
034020120000	428 MAIN ST.
034020140000	440 MAIN ST.
034030010000	358 MAIN ST.
034030090000	390 MAIN ST.
034030100000	380 MAIN ST.
034030110000	370 MAIN ST.
054010010000	283 MAIN ST.
054020010046	281 MAIN ST.

054020010048	305 MAIN ST.
054030010008	229 MAIN ST.
54030010016	239 MAIN ST.
054030010017	251 MAIN ST.
055010010000	431 MAIN ST.
055010020000	425 MAIN ST.
055010030000	419 MAIN ST.
055010040000	409 MAIN ST.
055020070000	399 MAIN ST.
055020080000	389 MAIN ST.
055020090000	383 MAIN ST.
055020100000	375 MAIN ST.
055020110000	365 MAIN ST.
055020120000	361 MAIN ST.
055030010000	349 MAIN ST.
055030020000	339 MAIN ST.
055030030000	331 MAIN ST.
079010090000	441 MAIN ST.
079010100000	11 KING CT.
079010110000	15 KING CT.

Kendall W. Lane, Mayor



City of Keene, N.H.
Transmittal Form

October 26, 2016

TO: Mayor and Keene City Council

FROM: Planning, Licenses and Development Committee

ITEM: J.1.

SUBJECT: Council Policy – Political Advertising on City Property and Rights-of-Way

RECOMMENDATION:

On a vote of 3-1, the Planning, Licenses and Development Committee recommends to the City Council not to adopt Resolution R-2016-31.

ATTACHMENTS:

Description

Resolution R-2016-31

BACKGROUND:

Attorney Mullins noted he was here for the City Clerk as she had a conflict in her schedule. Attorney Mullins said he wanted to remind everyone, especially the public of where this came from. He noted there were one or more complaints to the City Clerk's office regarding political signs at polling places and City property. Attorney Mullins noted the actions taken by the Clerk and the conflicts between the Attorney General's Office and the Secretary of State's Office about what the underlying statutes require. Attorney Mullins reiterated testimony provided at the previous meeting regarding the Attorney General's Office. He reported the City Clerk's office was inclined to bring this back before the City Council and to have a Resolution with respect to putting signs up on the property which was presented to you. A question arose as to whether or not the public had enough input on this issue. Attorney Mullins also reported being contacted by the ACLU. Attorney Mullins noted this is an issue still working its way through our country; he cited the underlying Reed versus the Town of Gilbert, Arizona case. Continuing his comments Attorney Mullins noted the underlying problem with this particular resolution is if it makes a distinction based upon content of the sign, technically under the Reed versus the Town of Gilbert case, it is not constitutional. The fundamental question now is whether the statutes underlying this particular resolution, underlie the placement of political signs anywhere is constitutional. Noting the election laws speak more to the placement of electioneering materials at polling places on Election Day, which is what the City Clerk is mostly concerned about, our recommendation at this time is that you vote this down until such time as all the other questions can be answered. Attorney Mullins noted he suspects there will be more discussion at the state level after the elections. Chair Richards also commented on the fact the position changes every two years which can bring a change in opinion.

Chair Richards asked for Committee questions from the Committee. There being no questions or comments from the Committee Chair Richards asked for questions or comments from the public.

John F. DiBernardo, of Cobb Street noted he has seen a lot of campaigns come and go. He has seen a lot of signs come and go; he has also put out signs himself. As he travels through Keene and the outlying towns,

seeing hundreds of signs he genuinely thinks what a country compared to others. Mr. DiBernardo continued he thinks this is wonderful, we are Americans and we are invested in things wholeheartedly or we do not do them at all. We want to express our opinions and publically declare what we think where those opinions can be seen by the public on City property. Mr. DiBernardo indicated he and every other resident of Keene owns this property, and the City government administers it. Although the placement of signs every couple of years can be seen by some as a terrible thing, to Mr. DiBernardo it is a perfect example of how we have taken to heart the system we have. For this reason Mr. DiBernardo hopes the Committee votes not to support this ordinance; he sees this as an infringement on free speech.

John Therriault, of 76 Bradford Road commented he is here today as both a citizen of Keene and the Chairman of the Republican Committee. Mr. Therriault noted he has two points, one being putting up signs is political speech. Mr. Therriault noted comments by the City Attorney and Mr. DiBernardo regarding the Constitution and free speech; he quoted from Article XXII of the New Hampshire Constitution. Mr. Therriault continued the City Council would be challenged in court should it infringe on free speech in Keene. Mr. Therriault noted his second point, which is New Hampshire having the first in the nation primary every four years. He commented on the amount of exposure and economic benefit this brings to New Hampshire. If New Hampshire starts being negative or hinders political speech it makes our job to preserve that first in the nation primary harder. Mr. Therriault continued he thinks this is a bad idea because it hinders freedom of speech and it would hurt us in defending our first in the nation primary status. Mr. Therriault urged the Committee to vote down this resolution.

Kurt Blomquist, Public Works Director explained the City is responsible for safety within our public ways. He explained within the resolution there was a listing of spaces within the public ways that is currently regulated and signs are removed from. He cited examples such as the medians on Winchester Street and the middle of the roundabouts as they technically were designed not to have people go out into them (safety issue). Mr. Blomquist explained situations that are a safety concern are evaluated. Mr. Blomquist again referred to the list of spaces in the resolution noting we do not want people to go out into these spaces because they are putting themselves and the motoring public at risk. Mr. Blomquist added until directed otherwise he would continue to monitor these areas with safety concerns so people are not put at risk. Mr. Blomquist recommends the monitoring of these safety areas continues.

Councilor Sutherland asked Mr. Therriault if he ran for City Council in the last election; Mr. Therriault replied in the affirmative. He then asked if Mr. Therriault knew all the people who voted for him; Mr. Therriault replied in the negative. Mr. Therriault also responded acknowledging he did have signs and did place them in the areas addressed by Mr. Blomquist. Mr. Therriault also noted having signs at the polling locations in addition to people holding signs there as well. In response to additional questions Mr. Therriault responded to he agreed the signs did increase his name recognition even though he did not win.

There being no further public comment Chair Richards asked for additional comments from the Committee.

Councilor Chadbourne commented as she was looking the material over she noted through State Statute something already existed for polling stations. Noting she wants to be clear in her understanding Councilor Chadbourne said it sounds like there is a limited area where signs can be held and only on Election Day. Attorney Mullins commented it is a narrower discussion than just that. To answer Councilor Chadbourne's specific question Attorney Mullins said on Election Day at polling locations State Statute does have restrictions regarding what is otherwise known as electioneering. He also noted there is a 10-foot wide corridor that must be maintained from the parking area and the Moderator has the right to determine where people can be. Referring to earlier discussion Attorney Mullins commented he does not want this Committee or the City Council or the public at-large to think that he is suggesting that what was suggested that there are no limits on the First Amendment issues either under state or federal law; that is very clear. It is not an absolute right and the courts have made that pretty clear. The problem with this particular resolution and to the Public Works Director's comments, it is also very clear as to the City rights with respect to public health, safety, and welfare. The problem with this resolution and the statutes that pin it are the result of this particular area called political

advertising; and this is now problematic under the Supreme Court's interpretation of the First Amendment. Even with voting to not proceed with approving this resolution you are not changing some of the underlying responsibilities municipalities have in protecting public health, safety, and welfare which includes the right to remove signs from roundabouts and other unsafe places. Attorney Mullins also added none of these changes anything with respect to electioneering at the polling places on Election Day.

Chair Richards asked for additional Committee comments.

Councilor Hansel clarified we do not need any further resolutions to remove signs for the public safety element of this; as it is already in place. Attorney Mullins replied in the affirmative, adding under the existing statute that is correct. Councilor Hansel thanked the public for coming to speak noting their opinions and the points they made were well taken. After additional comments Councilor Hansel said he supports not recommending this resolution be adopted.

Attorney Mullins commented this is a classic example of a municipality being placed between a rock and a hard place. We have to be responsible to the state agencies that supervise us including the Attorney General's Office. This whole thing resulted from a conversation with the Attorney General's Office. Attorney Mullins commented at this point he is more comfortable letting those agencies fight this battle.

Councilor Sutherland asked other than the change at the Attorney General's Office what was the problem that we could not deal with before. After additional comments he also suggested we do not need an additional ordinance when everything seemed to be working before. Attorney Mullins addressed what changed by noting there was a statute and the first sentence is subject to interpretation. The interpretation is whether or not any municipality in the State of New Hampshire is the owner of property with respect to the obligation to either permit or deny the use of political signs. Previously the interpretation of that was that owner did not apply to the municipality. Attorney Mullins noted he took exception to this and explained why; he added this took place back in 2008 and reiterated testimony previously given regarding the change in the Attorney General's Office.

Councilor Chadbourne commented she is glad this issue came back around and is sorry she missed it first time around. She also commented the public felt they were left out of the loop and that she is happy some showed up this evening to address it. After additional comments Councilor Chadbourne noted she is also in favor of voting this resolution down.

Councilor made the following motion which was seconded by Councilor Hansel.

On a vote of 3-1, the Planning, Licenses and Development Committee recommends to the City Council not to adopt Resolution R-2016-31.

Councilor Sutherland asked if it was still possible this could still get passed at City Council. Chair Richard replied in the affirmative.



CITY OF KEENE

R-2016-31

In the Year of Our Lord Two Thousand andSixteen.....

A RESOLUTIONCOUNCIL POLICY: RELATING TO POLITICAL ADVERTISING ON CITY
PROPERTY, PUBLIC RIGHTS-OF-WAY AND POLLING LOCATIONS.....

Resolved by the City Council of the City of Keene, as follows:

WHEREAS: The establishment of policies relating to the City's land, rights-of way, and buildings provides greater awareness of the policy and ensures consistency; and

WHEREAS: RSA 31:41-c authorizes municipalities to make bylaws regulating the distribution of campaign materials or electioneering or any activity which affects the safety, welfare and rights of voters at any election; and

WHEREAS: RSA 664:17 prohibits the placement or affixing of political advertising on public property or highway rights of way without the owner's consent, which advertising includes, but is not limited to political campaign signs, and which authorizes the removal of non-permitted political advertising by the City; and

WHEREAS: RSA 659:43 prohibits the posting of any campaign material at a polling place on Election Day; and

WHEREAS: The City desires to prohibit the placement or affixing of political advertising in the locations specified herein, but desires to permit the placement or affixing of such advertising on all other City rights-of- way to the extent that such placement or affixing does not interfere with maintenance of the location, obstruct the safe visibility of, or safe passage of, bicyclists, pedestrians, or motor vehicles, or otherwise impair public safety.

NOW THEREFORE BE IT RESOLVED: That political advertising is prohibited on the Main Street, Marlboro Street, Winchester Street Roundabout and splitter islands, Court Street, Maple Avenue, and East Surry Road Roundabout and splitter islands, Court Street, Allen Court and the hospital entrance Roundabout and splitter islands, Island Street, Pearl Street, and Winchester Street intersection and splitter island, Ashbrook Road median, Base Hill Road and NH Route 12 intersection medians, Winchester Street median, Maple Avenue median in front of the Middle School, Washington Street and Old Concord Road intersection, Main Street right of way (east and west side) and median north from the Main Street, Marlboro Street, and Winchester Street Roundabout to Central Square, the Central Square Common and splitter islands, and on medians or islands within the Commercial Street, Elm Street, Gilbo East and Gilbo West Parking lots or within any City park, City cemetery, or at any City facility and its adjacent rights of way other than polling locations on Election Day .

BE IT FURTHER RESOLVED: That all political advertising shall be hand-held at all polling places on Election Day except for the area within the public right-of-way, where political signs are permitted to be placed.

Kendall W. Lane, Mayor



City of Keene, N.H.
Transmittal Form

October 27, 2016

TO: Mayor and Keene City Council

FROM: Finance, Organization and Personnel Committee

ITEM: J.2.

SUBJECT: Relating to the Early Replacement of Ladder Truck 2 - Fire Department

RECOMMENDATION:

On 4-0 vote, the Finance, Organization and Personnel Committee recommends adoption of Resolution R-2016-32.

ATTACHMENTS:

Description

Resolution R-2016-32

BACKGROUND:

Fire Chief, Mark Howard and Deputy Fire Chief, Jeff Chickering addressed the Committee next. Chief Howard stated this item is for the early replacement of ladder 2 in an amount of \$900,000. He stated these funds will come partially out of the fire equipment capital reserve (\$498,196) and from the unallocated fund balance (\$401,804).

Chief Howard stated Ladder 2 was manufactured by Emergency One in September 2000 and was placed in service by the City of Keene in February 2001. The unit is a 75-foot Aerial, with a 2000 GPM pump and carries 500 gallons of water. The unit is the first due fire unit assigned to Station 2 in West Keene. Over the last five years from July 1, 2011- June 30, 2016 the unit has responded to 3,244 responses. Annually on average the unit responded to 649 incident responses. This response unit provides West Keene with a dual purpose aerial ladder and fire engine ability for all of our high hazard occupancies including four Keene Schools, Black Brook Industrial Park, Cedar Crest Facility, Langdon Place and seven large residential complexes and many other homes.

The unit is scheduled currently for replacement in the FY18 CIP budget. During the last CIP there was discussion as to whether they should “flip” the purchase of Engine 1 with Ladder 2 but ultimately they decided to stay with the schedule and Engine 1 was purchased. The current mileage on Ladder 2 is 87,986 and 7,173 engine hours. Ladder 2 has been out of service since September 6, 2016 and will remain out of service due the cost of repairs, current overall condition and assessments provided by equipment repair facilities over the last three weeks.

On September 6, 2016, Ladder 2 went to Fleet Services for a State Inspection. It failed the State Inspection due to cracks in the right frame rail and was immediately taken out of service under the recommendation of Jim Mountford, the Fleet Services Manager.

On September 9, 2016, Ladder 2 went to Twin State Truck Service in West Chesterfield to verify the failed inspection and to render a second professional opinion on what caused the cracks. Twin State confirmed there were three cracks in the right frame rail up to 24-inches long due to “rust-jacking” between the frame rails and sent documentation from the State Inspection form that indicated the vehicle failed inspection due to cracks in the frame.

On September 12, 2016, Greenwood Emergency Vehicles (Local E-One Dealership) was sent pictures of the cracked frame and indicated in a phone conversation that the “Lifetime Warranty” on the frame is only for manufacturer’s defects and not for rust. Greenwood sent a quote of \$61,010 to replace the cracked frame with a Galvanized frame. The company also reported that the lead time was 8-10 weeks to get the frame rails and then the work would be scheduled when frame rails were received which was estimated at six weeks once it could be scheduled.

On September 20, 2016 Lakes Region Fire Apparatus, Inc. from Tamworth, NH came to look at Ladder 2 at our central station. Lakes Region stated that the truck will not pass a state inspection without replacing the frame rails which could run \$50,000 - \$60,000. They also indicated that it was their opinion that even with the replaced frame rails, with the present condition of the truck, the truck would only be worth \$40,000 - \$50,000 in trade-on value. Lakes Region indicated that they were not interested in performing the work required to fix Ladder 2.

On September 20, 2016 Valley Fire Equipment from Bradford, NH came to look at Ladder 2. They indicated that the truck will not pass NH State inspection and they felt it would not be cost effective to replace the frame.

On September 27, 2016 Minuteman Fire & Rescue Apparatus, Inc. from Walpole, MA met with us about fixing and possibly replacing Ladder 2. Minuteman indicated that the cracks appeared to be caused by rust being built up between the two frame rails causing the frame to split “rust jacking.” They also indicated that it would cost \$60,000 - \$80,000 to replace the frame rails and recommended a complete aerial test before and after the work is completed. Under the CIP Apparatus Capital Reserve Account, Ladder 2 is due to be replaced in July 2017. There is an estimated \$498,000 in the fire department CIP Apparatus Capital Reserve Account. Currently with the cracked frame, the trade-in value is the price of scrap which is estimated at \$4,000- \$6,000. If the frame was fixed, due to the age, engine hours and mileage on the apparatus the trade-in value is the same as it was a year ago at \$40,000.

The Chief stated they have been told when apparatus reaches 15 years and has mileage exceeding 93,000 miles the trade in value drops remarkably. Other financing options have been looked at for this purchase. They included only a partial pre-payment and also lease options. After reviewing those options the recommendation is to make the purchase as requested, as it is the most cost effective method. The purchase of the apparatus will be through Houston- Galveston Area Council (H-GAC). We have used the H-GAC purchasing program successfully for the purchases of Ambulance 1 and Engine 1, this program provides the most competitive pricing we have been able to obtain.

Chair Greenwald felt staff has done due diligence and have looked at all options. He noted \$4-6,000 was not a lot of money for a vehicle such as this. Chief Howard stated this is what a dealer would give the City, but if the truck was scrapped part by part and if someone had a need for it you could get more for it. He did not know if Fleet Services wanted to go through this process or not.

Councilor Clark stated he has seen the care staff puts into these vehicles and expressed surprise the vehicle had rusted. Chief Howard stated all experts who looked at this vehicle said it was the liquid salt used on roadways today as opposed to the conventional salt which causes this kind of rusting. The liquid salt is hard to get off. He noted the time when trucks were used for 30 plus years does not exist anymore.

Councilor Clark asked for the status of Ladder 1. Chief Howard stated it is scheduled for FY20 and will remain

on that same timeframe. The Chairman asked about rust on this vehicle. Chief Howard stated because Ladder 1 does not have the pump, it is just the aerial ladder; it doesn't have the mileage or engine hours. The Chairman stated he was pleased funding was coming out of unallocated fund balance and capital reserve and that we were not adding to our debt. Mr. Thornton stated by financing it in this manner, the fund balance could still be preserved between 7% - 10%.

Councilor Powers reiterated this is why we have a fund balance for emergencies such as this.

Councilor Clarke made the following motion which was seconded by Councilor Powers.

On 4-0 vote, the Finance, Organization and Personnel Committee recommends adoption of Resolution R-2016-32.



CITY OF KEENE

R-2016-32

In the Year of Our Lord Two Thousand and ...Sixteen.....

A RESOLUTIONRelated to an appropriation for purchase of a ladder truck.....

Resolved by the City Council of the City of Keene, as follows:

That the sum of nine hundred thousand dollars (\$900,000) is hereby appropriated in the 2016-2017 fiscal year for the purpose of providing funding for the purchase of a ladder truck.

Said appropriation to be funded by the Fire Equipment Capital Reserve (\$498,196) and General Fund unassigned fund balance (\$401,804).

Kendall W. Lane, Mayor