STATE OF NEW HAMPSHIRE

CHESHIRE, SS. **SUPERIOR COURT**

CITY OF KEENE

v.

JAMES CLEAVELAND;
GARRET EAN;
KATE AGER;
IAN BERNARD A/K/A IAN FREEMAN;
GRAHAM COLSON; AND
PETE EYRE, *PRO SE*

Docket No. 213-2013-CV-00098

MEMORANDUM OF LAW

NOW COMES the City of Keene and files this Memorandum of Law, and says:

INTRODUCTION

As this Court is well aware, the City's Parking Enforcement Officers (PEOs) have been subjected to a pattern of harassment and intimidation that has persisted for over three years. Defendants' collective actions – as described at four days of evidentiary hearings and on appeal – intrude upon significant governmental interests, irrespective of the expressive message that Defendants may intend to convey.

While the Defendants' precise conduct varies from day to day, the cumulative effect on the PEOs, and the City's governmental interests, is undeniable. Heated encounters can and do occur. The public gets involved. Physical altercations have happened. The PEOs have been chased, circled, confined, and assaulted. Pedestrian traffic on the City's streets gets interrupted. Civil discourse breaks down. And a number of other negative consequences follow that impact the climate and peace in downtown Keene. Therefore, the City has repeatedly asked the Court to issue a narrowly-tailored injunction, and renews that request herein.

Defendants, nevertheless, maintain that the First Amendment precludes any injunction that would limit or proscribe their conduct, regardless of the degree. That argument is plainly incorrect. Conduct that impairs the City's significant governmental interests – such as (1) protecting the safety of its employees, (2) preserving public safety and order on its streets and sidewalks, (3) promoting the free flow of traffic and availability of parking in those same areas, and (4) enforcing its municipal ordinances, among others (together, the "Governmental Interests") – can, and should, be limited by a content-neutral, narrowly tailored injunction. Accordingly, the City asks this Court to balance these interests and tailor an injunctive solution in keeping with those proposed below.

REQUESTED RELIEF

The City requests that the Court tailor an injunction that provides a reasonable zone of separation between the PEOs and Defendants. This relief can be shaped in a manner that protects the City's Governmental Interests, while burdening no more speech than necessary and preserving adequate alternate channels for Defendants' communications and conduct. Two solutions, among many possible approaches, are suggested:

Solution One: ***Defendants must remain 10-feet away upon request.***

> Upon oral request of a PEO engaged in his or her official duties, Defendants Ian Freeman and Garrett Ian (and anyone acting in concert with them) must step back, and remain, at least 10-feet away from such PEO.
>
> This requirement would apply whenever a PEO is engaged in his or her official duties patrolling the City of Keene, and a PEO specifically requests Defendants to remain at such distance. Once the request is made, it would remain in effect for the duration of the PEO's work day.
>
> As an exception to the above requirement, Defendants may approach within 5 feet of a PEO while the PEO is on a sidewalk in Keene for the limited purpose of navigating past the PEO. Defendants, however, may not use this exception to encircle, confine, or otherwise impede the movement of the PEO, and must immediately continue past the PEO until a separation of 10 feet is resumed.

A violation of this order will not occur absent a knowing and purposeful invasion of the 10-foot separation after request of a PEO. Defendants may otherwise continue to engage in filling expired meters, video recording, and speaking to the PEOs, provided that they do so in conformance with the above described requirements.

Solution Two: ***Defendants must remain 10-feet away when in fixed areas.***

Within 15-feet of a parking meter, metered parking space, or crosswalk, Defendants may not knowingly approach within 10-feet of a PEO while he or she is engaged in performing his or her official duties patrolling the City of Keene.

As an exception to the above requirement, Defendants may approach within 5 feet of a PEO while the PEO is on a sidewalk in Keene for the limited purpose of navigating past the PEO. Defendants, however, may not use this exception to encircle, confine, or otherwise impede the movement of the PEO, and must immediately continue past the PEO until a separation of 10 feet is resumed.

A violation of this order will not occur absent a knowing and purposeful invasion of the 10-foot separation. Defendants may otherwise continue to engage in filling expired meters, video recording, and speaking to the PEOs, provided that they do so in conformance with the above described requirements.

The purpose of these solutions is the same; both would provide a reasonable and readily identifiable separation between the PEOs and Defendants. That separation would help ensure the PEOs can perform their jobs and feel reasonably secure in their personal safety, while eliminating the extremely close personal interactions that have, in the past, lead to physical or heated altercations, disturb the public, and otherwise impair the City's Governmental Interests.

As analyzed more fully below, these proposed injunctive solutions are constitutional. They are content-neutral, narrowly tailored solutions that serve to protect significant governmental interests, while burdening no more speech than necessary. They accomplish these objectives by providing clear instruction regarding when and where the limitations would apply, and who they would apply to. In doing so, both approaches would impose a minimal separation that preserves the Defendants' ability to converse, move-freely, video record, and fill expired meters. While there may be some incidental impacts on Defendants'

ability to engage in "Robin Hooding," such impacts are allowed under the First Amendment.

ANALYSIS

I. Defendants' conduct may be regulated by a narrowly tailored injunction, and the Court has the equitable power to fashion a remedy based on the unique facts and circumstances of this case.

Defendants contend that no limitation on their speech or conduct is permissible.[1] That argument is simply wrong. The Supreme Court has long recognized that a narrowly tailored injunction can be fashioned when significant governmental interests are at stake. See Madsen v. Women's Health Ctr., Inc., 512 U.S. 753, 776 (1994). Most recently, the Supreme Court reaffirmed that an injunction is the best remedy when, as here, the relief "focuses on the precise individuals and the precise conduct causing a particular problem." McCullen v. Coakley, 134 S. Ct. 2518, 2538 (2014). "Moreover, given the equitable nature of injunctive relief, courts can tailor a remedy to ensure that it restricts no more speech than necessary." Id.

Similarly, under NH law, this Court has the equitable power to balance the City's interests with the Defendants' expressive rights. The NH Supreme Court confirmed this in the appeal in this case, clarifying that the Court has "considerable discretion in determining whether equity should intervene" to aid the City, and "[i]t is within the trial court's sound discretion to grant an injunction after consideration of the facts and established principles of equity." See City of Keene v. Cleaveland, 118 A.3d 253, 262 (N.H. 2015) (internal citations omitted).

[1] Taken to an extreme, under Defendants' argument, they could approach within an eye lash length of the City's PEO so long as they did not physically touch the PEOs. As this example demonstrates, there is, of course, some reasonable limit on their conduct, and a criminal act should not have to occur before protective measures, such as a reasonable injunction, can issue.

The pertinent question before the Court, therefore, is not whether an injunction can issue, but rather, how best to tailor the scope of injunctive relief. An injunction that is content neutral and "burden[s] no more speech than necessary to serve a significant government interest" is constitutional. See Schenck v. Pro-Choice Network Of W. New York, 519 U.S. 357, 371 (1997).

i. The City's requested relief is content-neutral

Defendants have previously suggested that the City's efforts to obtain injunctive relief must fail because the City seeks to enjoin the Defendants individually. In other words, Defendants believe they are being targeted, and further believe that such targeting is, in and of itself, evidence that the injunctive relief is intended to silence their specific message. However, that argument is misplaced. "[T]he contention that a statute or injunction "is 'viewpoint based' simply because its enactment was motivated by the conduct of the partisans on one side of a debate is without support." Hill v. Colorado, 530 U.S. 703, 724 (2000).

The City's request for injunctive relief is not intended to stop the Defendants from filling parking meters. Instead, the City seeks to protect the specific Governmental Interests articulated above, and in particular, ensure the safety of its employees, without regard to the Defendants' intended message. A content-neutral injunction, such as the two solutions proposed by the City, can accomplish this goal, and "does not become content based simply because it may disproportionately affect speech on certain topics." McCullen, 134 S. Ct. at 2531. "On the contrary, '[a] regulation that serves purposes unrelated to the content of expression is deemed neutral, even if it has an incidental effect on some speakers or messages but not others.'" Id.

As Justice Souter previously explained in his concurring opinion to Hill v. Colorado:

> There is always a correlation with subject and viewpoint when the law regulates conduct that has become the signature of one side of a controversy. But that does not mean that every regulation of such distinctive behavior is content based as First Amendment doctrine employs that term. The correct rule, rather, is captured in the formulation that a restriction is content based only if it is imposed because of the content of the speech, and not because of offensive behavior identified with its delivery.

Hill, 530 U.S. at 737 (internal citations omitted).

Here, the City, in seeking injunctive relief, has followed the best guidance of the Supreme Court as recently reaffirmed in McCullen v. Coakley. The City asks the Court to regulate the conduct of specific individuals based on a specific pattern of conduct without regard to the intended message, but rather to protect significant governmental interests. This is an intentionally content-neutral approach. See McCullen, 134 S. Ct. at 2531, 2538 (2014) (identifying the "virtues of target injunctions as alternatives to broad, prophylactic measures," and confirming that "'congestion,' 'interference with ingress or egress,' and 'the need to protect ... security' as content-neutral concerns").

ii. The City's Governmental Interests are significant.

The balancing required in this case requires a consideration of the City's Governmental Interests versus the impact an injunction might have on Defendants' channels for communication. While the City's interests have been specifically identified above, they can be summarized as collectively relating to the preservation of public safety and order on the City's streets and, in particular, with respect to the safety of its employees. These interests are indisputably significant and worthy of protection. This point is so well established under existing precedent that broader discussion is not warranted. See Madsen, 512 U.S. at 768 ("The State also has a strong interest in ensuring the public safety and order, in promoting the free flow of traffic on public streets and sidewalks, and in protecting the property rights of all its citizens"); Schenck, 519 U.S. at 376 (recognizing governmental

interest in "public safety and order, promoting the free flow of traffic on streets and sidewalks, protecting property rights, and protecting a woman's freedom to seek pregnancy-related services" in combination as "certainly significant enough to justify an appropriately tailored injunction"); see also City of Keene, 118 A.3d at 263 (recognizing City has articulated significant governmental interests, and holding that "[i]n light of the City's allegations that the challenged conduct threatens the safety of the PEOs, pedestrians, and the motoring public, and given the testimony of the PEOs at the hearing, we hold that the trial court erred when it failed to consider the particular factual circumstances of the case and whether an injunction should issue based upon the governmental and policy interests asserted by the City").

iii. The City's requested relief burdens no more speech than necessary and leaves open adequate alternate channels for communication.

The injunctive solutions proposed by the City have been suggested in the above form in order to specifically ensure that either approach will burden no more speech than necessary and leave open adequate channels for communication. The proposed solutions accomplish that goal, in part, by ensuring that the Defendants can navigate around the City of Keene, can continue filling expired meters, can remain at a conversational distance, and will know when and where the separation requirement applies.

Further, the proposed injunctions are in balance with the specific actions that Defendants have identified as important to them, which include:

1. Filling expired meters before cars were ticketed to protest against the City's parking enforcement function as well was a means to protect motorists from getting tickets.

2. Verbal communication with PEOs on various subjects, including defendants' political theories and their connection to parking enforcement.

3. Videotaping Parking Enforcement Officers as they perform their duties as a means of assuring government accountability.

4. Placing a Robin Hood card on the windshield of cars which had been spared from parking tickets in order to communicate a political message and secondarily to raise funds.

The City of Keene v. Cleaveland, 2013 WL 8691664 at *5 (N.H.Super., 2013).

Under either injunction proposed by the City, the Defendants would retain a significant ability to engage in such conduct and promote such messages, they would simply have to do so from a reasonable remove upon request by a PEO or when within a certain distance of fixed geographical locations.

In summary, the burden imposed upon Defendants by the City's proposed injunction is minimal. This is further evidenced by Defendant, Ian Freeman's own testimony that he can engage in his desired means of communication 10 to 15 feet away from the PEOs. See Evidentiary Hearing Transcript at 480:15-18 ("the most effective way" to engage in such conduct "is to walk maybe about 15 feet or so in front of the enforcer – maybe ten feet, whatever is comfortable – and identify expired meters, put a nickel or a dime in the meter to prevent the ticket from being written."). If, as Defendant Freeman has stated, Defendants' conduct can most effectively occur 10 to 15 feet away from the PEOs, then there is no reasonable scenario under which either requested injunction would materially limit Defendants' channels of communication.

Defendants, nevertheless, argued at the October 2, 2015 evidentiary hearing that an injunction would, under certain scenarios, require them to change their course, and might make their ability to follow the PEOs more difficult. Such minimal and incidental impact is permissible. Hill, 530 U.S. at (2000) ("[W]hen a content-neutral regulation does not entirely foreclose any means of communication, it may satisfy the tailoring requirement even though it is not the least restrictive or least intrusive means of serving the statutory goal.").

II. The City's proposed injunctive solutions would not create unconstitutional floating buffers because the zone of separation would either arise by request of a PEO or in relation to fixed portions of the City's streetscape.

The controlling precedents that have emerged from the United States Supreme Court over the past three decades confirm that the City's requested relief is constitutional. Under either of the City's proposed approaches, the Defendants would know precisely when and where the zone of separation would arise. Further, the proposed relief would enable the Defendants to engage in substantially similar expressive speech and conduct, but from a safe remove. Thus, as the following cases demonstrate, the City's proposed approaches satisfy the First Amendment.

i. Madsen v. Women's Health Ctr., Inc., 512 U.S. 753 (1994)

The Supreme Court's first significant analysis of injunctive relief and buffer zones occurred in Madsen v. Women's Health Ctr., Inc., 512 U.S. 753 (1994). In Madsen, a Florida state court enjoined protestors from engaging in a range of conduct near abortion clinics and the residences of people associated with such clinics. The injunctive relief imposed by the Court had several different permutations, however, pertinent to this case, the Florida Court enjoined protestors from "'congregating, picketing, patrolling, demonstrating or entering' any portion of the public right-of-way near within 36-feet of the property line of a clinic," and also enjoined protestors from physically approaching a person seeking services from a clinic, within 300 feet of the clinic, "unless such person indicates a desire to communicate." Id., at 767, 774. The Supreme Court upheld the fixed 36-foot buffer but invalidated the 300-foot prohibition on approaching clinic patrons. Id., at 776.

The Supreme Court reasoned with regard to the 36-foot buffer that such limitation was a reasonable solution to ensure access to and from the clinic and that the protestors could still be seen and heard from that distance. See Madsen, 512 U.S. at 770 ("On balance, we hold that the 36–foot buffer zone around the clinic entrances and driveway burdens no

more speech than necessary to accomplish the governmental interest at stake."). However, the Supreme Court invalidated the 300-foot prohibition on approaching individuals because it was a blanket prohibition "on all uninvited approaches." Id., at 774. In other words, that portion was unconstitutional because it could apply to any person at any time within 300-feet absent independent evidence of some proscribable speech or conduct.

On remand, the Florida state court amended this portion of the injunction as follows:

> Outside of the 36 foot buffer zone, respondents and those acting in concert with them may physically approach persons seeking the services of the clinic to engage in non-threatening communications and to distribute literature. However, at all times and on all days, should any individual decline such communication, otherwise known as "sidewalk counseling," that person shall have the absolute right to leave or walk away and the respondents shall not encircle, surround, impede the progress of, harass, threaten or physically or verbally abuse those individuals who chose not to communicate with them.

Johnson v. Women's Health Center, Inc., 714 So. 2D 580, 584 (1998).

On appeal, this amended version was affirmed because it made clear that it applied to "persons seeking services of the clinic," in the "vicinity of the clinic" and enjoined "assault and other conduct of a criminal and/or tortious nature." Id. Thus, it was sufficiently tailored to leave open alternate channels of communication.

Applying the holdings of Madsen and the subsequent appeal in Johnson, in this case, makes clear that the City's proposed injunctions are constitutional. First, as Madsen and Johnson confirm, reasonable separations and buffers are constitutional (i.e., a 36 foot buffer) where the parties enjoined know where they will apply. Second, protestors do not have a right to encircle, impede, surround, harass or threaten individual(s) when/if such individual(s) have declined to communicate. Otherwise, such conduct begins to take on a criminal and tortious nature.

Here, the proposed injunctions account for these factors. In the City's first proposed solution, the Defendants would only need to remove themselves by 10-feet upon request,

much like the prohibition upheld on appeal in Johnson. Or, if the Court were to adopt the City's second solution – i.e., the 10 foot buffer within 15 feet of crosswalks, meters, and metered spaces – the Defendants would know precisely where the buffer would apply in regard to fixed areas on the ground. Further, the distance requirement is reasonable to ensure that the PEOs can do their job without undue impediment from Defendants.

ii. Schenck v. Pro-Choice Network Of W. New York, 519 U.S. 357 (1997).

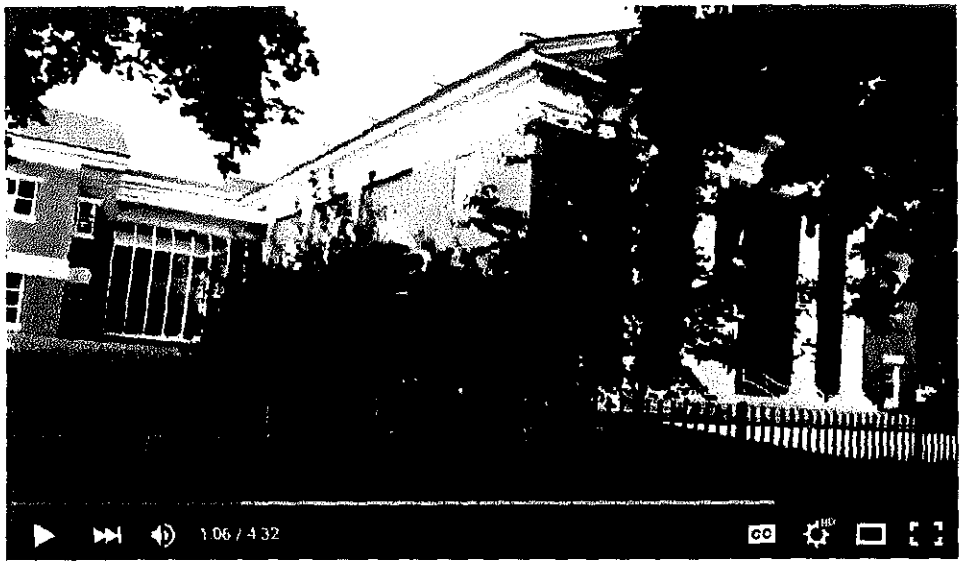
Three years after Madsen, the Supreme Court addressed an injunction in Schenck v. Pro-Choice Network Of W. New York that imposed (a) a fixed 15-foot buffer around the entrance to an abortion clinic, (b) a floating 15-foot buffer around people seeking access to the clinic, and (c) a "cease and desist" component that required protestors to retreat 15-feet from a person seeking access to a clinic once the person indicates a desire not to be counseled. The Supreme Court affirmed the 15-foot fixed buffer, and the 15-foot "cease and desist" component, but invalidated the floating 15-foot buffer.

As in Madsen, the Supreme Court reasoned that the fixed buffer zones were "necessary to ensure that people and vehicles trying to enter or exit the clinic property or clinic parking lots can do so." Schenck, 519 U.S. at 380. Similarly, the "cease-and-desist" portion was upheld because the protestors retained adequate alternate channels for communication; i.e., they could convey their message from 15-feet back. Id., at 383-84. The "floating buffer," however, was invalided for specific reasons not applicable in this case. Specifically, the Supreme Court was concerned that the floating buffer, while not unconstitutional per se, would make it too difficult for the protestors to understand how to comply with that portion of the injunction. Id., at 376.

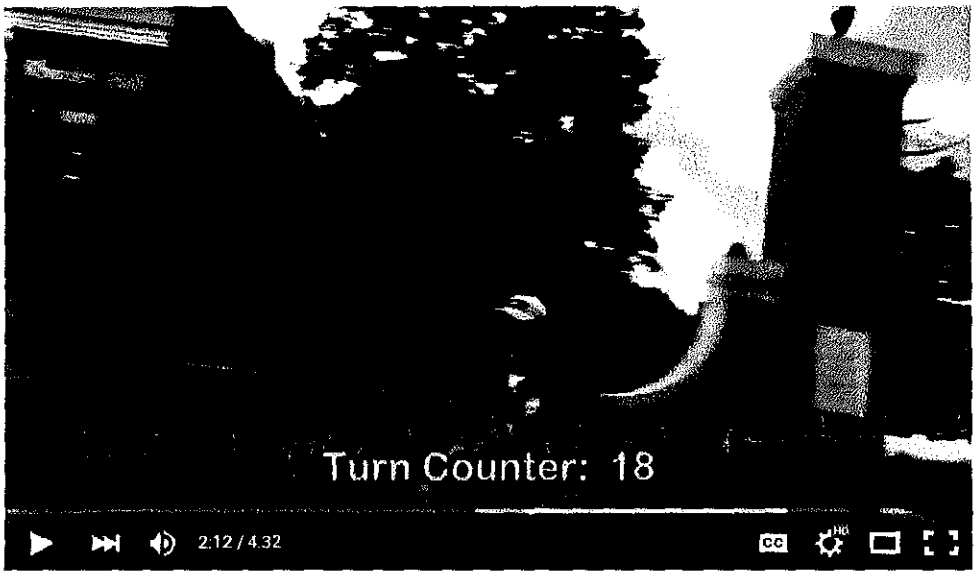
Under the terms of the floating buffer in Schenck, protestors could easily run into problems because the injunction, unlike here, could apply to anyone entering a clinic, and could result in multiple floating buffers surrounding multiple people at one time. Id., at

377-378. For example, if a person was leaving the clinic and another entering, the protestor following at 15-feet could find him or herself accidentally in violation when the two patrons' paths crossed. For this reason – i.e., compliance concerns – "[t]he Court concluded that this lack of certainty about how to comply with the injunction created a substantial risk that more speech would be burdened than the injunction prohibited." Sabelko v. City of Phoenix, 120 F.3d 161, 164-65 (9th Cir. 1997) (summarizing Schenck). The Court further reasoned that "[b]ecause other means might exist which would protect governmental interests *and* provide certainty regarding compliance . . . the floating buffer zones burdened more speech than was necessary." Id.

In contrast, here, the proposed injunctions do not pose the same problems because, under either of the City's solutions, the buffer would apply only to the City's two PEOs. Further, the injunctions would apply in the limited area of downtown Keene where the PEOs patrol, or under the City's second proposed solution, only within a fixed 15-foot distance of parking meters, metered spaces and crosswalks. Additionally, both of the City's proposed injunctions include scienter requirements, whereby, only purposeful invasions of the buffer would constitute a violation. The injunctions further include a carve-out exception providing a reasonable means for Defendants to navigate past the PEOs on City sidewalks. Thus, for example, if Defendants were seated at a street corner café, or conversing with friends on a City block, and an unintentional invasion of the 10-foot buffer were to occur, it would not constitute a violation of the injunction. However, actions that constitute a knowing and intentional invasion of a PEO's space, or attempts to encircle or confine the PEOs, such as depicted below, would be prohibited:



Excerpt of Exhibit 1 at 1:06 min., October 2, 2015 Evidentiary Hearing (Depicting PEO Desruisseaux attempting to ward off Defendant Freeman)



Excerpt of Exhibit 1 at 2:12 min., October 2, 2015 Evidentiary Hearing (Depicting PEO Desruisseaux's eighteenth attempt – in an approximately two minute period of time – to move past Defendant Freeman)

iv. Hill v. Colorado, 530 U.S. 703 (2000).

The holding in Hill v. Colorado further supports a ruling that the City's proposed injunctions are constitutional. In Hill, the State of Colorado enacted a statute that made it unlawful within 100 feet of any abortion clinic in the state, "to 'knowingly approach' within eight feet of another person, without that person's consent, 'for the purpose of passing a leaflet or handbill to, displaying a sign to, or engaging in oral protest, education, or counseling with such other person ....'" and in so doing the statute made "it more difficult to give unwanted advice, particularly in the form of a handbill or leaflet, to persons entering or leaving medical facilities." Hill v. Colorado, 530 U.S. 703, 707-08 (2000) (emphasis supplied). While this buffer could float around individuals, it was, nevertheless, upheld as constitutional.

At first reading, this result can seem at odds with the holding in Schenck, however, the Court carefully explained the distinction, stating:

> Unlike the 15–foot zone in *Schenck,* this 8–foot zone allows the speaker to communicate at a "normal conversational distance." Additionally, the statute allows the speaker to remain in one place, and other individuals can pass within eight feet of the protester without causing the protester to violate the statute. Finally, here there is a "knowing" requirement that protects speakers "who thought they were keeping pace with the targeted individual" at the proscribed distance from inadvertently violating the statute.

Hill, 530 U.S. at 726-27 (internal citations omitted).

As this analysis makes clear, the pertinent question when analyzing a buffer zone is not whether it "floats" around a person but whether it can reasonably be complied with, and does it leave open adequate alternate channels for communication. Here, the City's proposed injunctions satisfy these requirements. While the proposed injunctions would create a buffer around two specific City employees, this separation would only arise either upon request of a PEO or in relation to specific fixed areas of Keene, and the Court could tailor other alternatives. See Hill, 530 U.S. at 729-30 ("A bright-line prophylactic rule may

be the best way to provide protection, and, at the same time, by offering clear guidance and avoiding subjectivity, to protect speech itself"). Therefore, under either of the City's proposed approaches, there is no reasonable concern with compliance, and the distance requested is minimal, leaving ample room for communication. See Hill, 530 U.S. at 735-36 (Souter, J., concurring) ("Unless regulation limited to the details of a speaker's delivery results in removing a subject or viewpoint from effective discourse (or otherwise fails to advance a significant public interest in a way narrowly fitted to that objective), a reasonable restriction intended to affect only the time, place, or manner of speaking is perfectly valid"). Much like the statute in Hill, the City's proposed solutions request a setback that allows for conversation, and has a "knowing" requirement that eliminates any legitimate concern regarding accidental violations.

iv. McCullen v. Coakley, 134 S. Ct. 2518 (2014).

The constitutional reasonableness of the City's requests is further evidenced by the recent holding in McCullen v. Coakley, which again recognized buffer zones as permissible, provided that there is a narrow tailoring.

In McCullen, the Supreme Court analyzed a Massachusetts law that made "it a crime to knowingly stand on a 'public way or sidewalk' within 35 feet of an entrance or driveway to any place, other than a hospital, where abortions are performed." McCullen, 134 S. Ct. at 2525. The Supreme Court invalidated this restriction, holding that it was a blanket prohibition that took an "extreme step of closing a substantial portion of a traditional public forum to all speakers" and "has done so without seriously addressing the problem through alternatives that leave the forum open for its time-honored purposes." Id., at 2541.

While this holding invalidated a buffer zone, it did so because the statute was too broad, and unlike the City's proposed approaches, not narrowly tailored to address the

governmental interests at issue. To this point, the Supreme Court further explained that an injunction, such as the City seeks here, is a preferable and more constitutional approach. McCullen, 134 S. Ct. at 2538 ("In short, injunctive relief focuses on the precise individuals and the precise conduct causing a particular problem. The Act, by contrast, categorically excludes non-exempt individuals from the buffer zones, unnecessarily sweeping in innocent individuals and their speech.").

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Read together, Madsen, Schenck, Hill and McCullen, demonstrate that the Supreme Court's concern in First Amendment cases is not whether a buffer floats around a person, per se, but rather ensuring that the statute or injunction is narrowly tailored, and burdens no more speech than necessary. Part of that analysis is whether the enjoined party can reasonably understand and comply with the injunction. Here, all of those factors are satisfied by the City's requested injunctions, or could be addressed further by whatever remedy this Court may tailor.

CONCLUSION

The facts and circumstances of this case cry out for an equitable balancing by the Court. The City and the PEOs' interests are deserving of protection. While legislative approaches might alleviate some aspects of the problems addressed in this case, such broad measures are likely to have a greater chilling effect on expressive speech and conduct than the narrowly tailored solutions proposed by the City, or that might be crafted by the Court. Despite Defendants' vociferous cries of alleged oppression, this case is not about stifling the content of their speech, but rather protecting the Governmental Interests articulated above in a balanced, equitable, and constitutional manner. To conclude otherwise, would ignore (1) the facts and circumstances of this case, (2) long-standing U.S. Supreme Court precedent, and (3) the specific guidance articulated by the New Hampshire Supreme Court

at oral argument and in its pervious decision in this case. Injunctive relief can and should enter for the City.

Respectfully submitted,

CITY OF KEENE

GALLAGHER, CALLAHAN & GARTRELL, P.C.

Date: 10/27/15

By: _____

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CERTIFICATE OF SERVICE

I, Robert J. Dietel, Esquire, hereby certify that a copy of the forgoing has been sent to Thomas Mullins, Esquire; Jon Meyer, Esquire, Counsel for Ian Bernard f/k/a Ian Freeman, Garret Ean, Kate Ager, James Cleaveland, and Graham Colson; and Peter Eyre, *Pro Se*.

Date: 10/27/15

By: _____

Robert J. Dietel