

City of Keene
New Hampshire

PLANNING, LICENSES AND DEVELOPMENT COMMITTEE
MEETING MINUTES

Wednesday, January 25, 2017

7:00 PM

Council Chambers A

Members Present:

Philip M. Jones, Vice-Chair
George S. Hansel
Robert B. Sutherland
Bettina Chadbourne

Staff Present:

Rhett Lamb, ACM/Planning Director
John Rogers, Acting Health & Code Director
Kurt Blomquist, Director Public Works
Tom Mullins, City Attorney
Beth Fox, ACM/Human Resource Director

Members Not Present:

David C. Richards, Chair

Other Councilors Present

Terry Clark
Carl Jacobs

Acting Chair Jones called the meeting to order at 7:00 PM.

2) United Church of Christ - Request for Lodging House License

Acting Chair Jones noted there were more inspections to be completed and staff has asked for this item to be put on more time. John Rogers, Acting Health Director agreed with Acting Chair Jones and reported inspections for Fire, Health and Code would be conducted tomorrow. Mr. Rogers also reported their current license is valid until February 18, 2017. Acting Chair Jones referred to a previous condition regarding management by Hundred Nights Shelter. Mr. Rogers indicated the same conditions would probably be in the motion when it comes back to Committee.

There being no public comments or Committee questions Acting Chair Jones asked for a motion.

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

On a vote of 4-0, the Planning, Licenses and Development Committee recommends that the request for a lodging house license from United Church of Christ be placed on more time to allow necessary inspections to occur.

3) Timoleon Chakalos - One Hundred Nights - Request for Lodging House License

Mindy Cambiar, Director of One Hundred Nights advised there are no changes from other years and inspections have been completed. Mr. Rogers verified the inspections by Health and Fire were completed with only minor issues noted which are being addressed. Mr. Rogers said he sees no problems with the issuance of the license. Mr. Rogers also confirmed a Variance was granted several years ago to allow them to operate as a lodging house in this Zone.

Acting Chair Jones asked for questions from the Committee.

Councilor Sutherland noted they now offer more than one hundred nights and asked if the license allows them to operate 365 days a year and 366 days of a leap year. Acting Chair Jones replied it is his understanding all licenses are issued for a year and they chose to do it for one hundred nights.

There being no public comments or additional Committee questions Acting Chair Jones asked for a motion.

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

On a vote of 4-0, the Planning, Licenses and Development Committee recommends that a lodging house license be issued to Timoleon Chakalos to engage in the operation of a lodging house at 15 Lamson Street subject to the following conditions: no more than 26 persons may reside on the premises at any one time; compliance with all applicable sections of the City Code; compliance with any requirements or recommendations of City staff. Said license will expire on the 3rd day of February, 2018 and may be revoked by the City Council in accordance with Section 46-590 "Suspension or Revocation".

1) Monadnock Travel Council - Request to Use City Property - Ice & Snow Festival

Jim Narkiewicz, of 3 Ashbrook Road addressed the request and confirmed there are no changes from other years. Mr. Narkiewicz reported this will be the 15th Annual Ice and Snow Festival which will be held on Saturday, February 4, 2017.

Kurt Blomquist, Public Works Director reported a protocol meeting was held last week; there are no changes from previous years that staff are aware of. Mr. Blomquist reported funds are available as this event is in the Community Events budget. The applicant is aware they would be responsible for any additional costs. Mr. Blomquist verified the applicant will have to work with the Fire Department to obtain a Burn Permit for that day for the fire pit.

There being no public comments or Committee questions Acting Chair Jones asked for a motion.

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

On a vote of 4-0, the Planning, Licenses and Development Committee recommends that the Monadnock Travel Council be granted permission to use City property on Central Square and Railroad Square, including outside burning of a fire in an enclosed fire pit on Railroad Square and closure of Railroad Street from Main Street to the exit of the Wells Street Parking structure for the 2017 Ice and Snow Festival on Saturday, February 4, 2017 from 10:00 AM to 4:00 PM. Said permission is granted subject to the customary licensing requirements of the City Council; obtainment of any necessary licenses or permits; and compliance with any recommendations of City staff.

4) Mayor Lane - Amendment to the Rules of Order – Communications

Rhett Lamb, ACM/Planning Director noted he would be representing the Mayor and City Manager on this issue. He continued the proposed amendment puts into writing the current practice. The practice is based on the timing between the receipt of communications by City Council on a Thursday night, and the return of recommendations to the next City Council Committee meeting the following week. Noting that for complex issues it generally takes more than one cycle for recommendations to be prepared, Mr. Lamb pointed out in the past staff has asked for the issue to be placed on more time. Since going to the Novus agenda the amount of time staff has is even less. If a communication comes to Council on Thursday night staff must prepare a recommendation and submit to the Novus agenda by Friday, at 1:30 PM in order to be processed.

Mr. Lamb reported the amendment puts in place the language of the current practice and does allow for action without this recommendation. He cited the Ice and Snow Festival as an example as this is a repetitive license the Council grants. Mr. Lamb continued these are the recommendations made through the Mayor's office and reflects the practice of staff as they exist today.

Referring to the Ice and Snow Festival example, Acting Chair Jones noted this came to Council last Thursday night; with this amendment it would not show up on our agenda tonight but would go another two week cycle. Mr. Lamb replied it could clearly show up on the agenda and you could take action; you just would not have the staff recommendation ready until the following cycle. Mr. Lamb continued you would place it on more time. Acting Chair Jones commented this is kind of what they are doing already. Mr. Lamb agreed noting this is why he has said it is pretty much consistent with current practice.

Acting Chair Jones asked for questions from the Committee.

Councilor Sutherland commented he feels like this is a case of switching the process; in the case where staff does not have time to do something they are at least able to hear testimony and guide staff. Staff would then advise more time is needed and the Committee would then put it on more time. The Mayor is asking the Committee put things on more time first, and expedite if we have the ability. This does two things; 1) it delays the process automatically and 2) does not allow this Committee to review and understand testimony before advising staff. Mr. Lamb noted his

understanding is it does allow you to hear from the petitioner in the first cycle, but what the language is saying is that the staff recommendation will not be ready until the following cycle.

Acting Chair Jones noted his concern is you are still having the first meeting with the petitioner invited, the meeting is noticed for the public, and now they will have to come back a second time anyway. Acting Chair Jones suggested eliminating the first round. Mr. Lamb suggested the Committee may want the flexibility of the first round when you have issues such as repetitive licenses.

Councilor Hansel said basically what this is doing is taking away the need for us to put something on more time. Mr. Lamb commented you would still have to put it on more time. Councilor Hansel continued this is taking away the expectation for staff to have a recommendation at the first meeting, after being accepted by Council. Mr. Lamb concurred.

Attorney Mullins noted once this is codified as a rule, if the Committee wanted to act on the issue it would need to suspend the rules to act on it, at the first meeting. Acting Chair Jones then asked if the issue was agendaized why could the Committee not act on it. Attorney Mullins repeated the Committee could act on it; you would have to suspend that rule which requires a two-thirds vote. Acting Chair Jones then asked how you distinguish the difference. Attorney Mullins replied there would be no staff report associated with it and staff would not have made a recommendation to act on it that night.

After additional comments regarding an issue automatically being placed on more time Councilor Sutherland noted his concern with this being politicized. He feels this is trying to circumvent the ability of this Committee to first hear and then make recommendations to staff, unless they suspend the rules. Councilor Sutherland asked what is broken that needs to be fixed. Attorney Mullins addressed Councilor Sutherland's first point by noting there is nothing in this that prevents the Committee from hearing anybody. What it does say is that staff may not have a recommendation at that point. All this is saying is that you would not yet be making a recommendation to the full City Council, unless you suspend the rules. Addressing the second question, Attorney Mullins indicated nothing is broken; he sees this as a process question and reiterated the changes created with the Novus agenda system.

Acting Chair Jones commented he thinks it is wrong to tell Council they would have to suspend the rules. Attorney Mullins replied they are not telling the Council anything; this is a Mayor driven initiative, this is a rule of the City Council, and it is up to the City Council whether or not they adopt this rule. Staff is just suggesting to you there is a procedural issue relative to getting things on the agenda. Acting Chair Jones commented they do understand staff has very limited time, but he does not know if he can see this change.

Kurt Blomquist, Public Works Director commented he writes many of the memorandums that come before Council Committees. He continued even before the Novus agenda system when staff did it handwritten there were some issues we could walk through. Mr. Blomquist noted some issues can be very difficult to walk through and the other issue you are dealing with is expectations. By changing your rules you are setting the expectation that the issue may not be dealt with at the first meeting. He pointed out he does not know if the Committee will want to

act on something the first meeting; in the past there have been occasions when he has recommended no action and the Committee chose to act. Continuing Mr. Blomquist said here you still have the option to go. What is happening here is it is helping to codify what is occurring, it is helping to set the expectations – things will come in and you will hear from the petitioners and then it will go on more time and be addressed at the next meeting. Mr. Blomquist agreed the Novus system has shortened the time window. Mr. Blomquist commented he does not feel the system is broken; he added you are stating the expectation and right now there is no statement of expectation. Acting Chair Jones agreed with Mr. Blomquist's comments regarding past actions and commented he does not see where that system is broken. Mr. Blomquist commented on one level of disappointment/expectation for the petitioner when they think something will be acted upon and then it is not. Mr. Blomquist continued coming through the door right now they will have an expectation of speaking to someone, letting you know what they are interested in, and then it will go on more time; there is no question about what is going to happen. Acting Chair Jones agreed adding but, they are still coming two times. After additional discussion regarding suspension of the rules Attorney Mullins clarified this is only going to deal with those issues that do require things like protocol meetings or further discussion. Attorney Mullins added this may have been driven by the removal of trees in front of Central Square with the impetus to move forward; and during the process staff discovered it was not just the removal of trees, it was placement of a crane, scaffolding over the sidewalk, and traffic rerouting. He continued what staff is trying to codify with this is expectations. People come with an expectation that they will walk out of here with a result, on the other hand it may have serious consequences to the City and staff has not had the opportunity to properly advise the Committee. Attorney Mullins explained part of the role of staff is to advise the Committee.

Acting Chair Jones asked what the public would be told if we change this language. Attorney Mullins suggested if it is not a regular license or something you see all the time the expectation is that the City Clerk's office would advise the petitioner the issue would be placed on more time. They would also advise the petitioner they are able to come and speak but there will be no action on that night. He reiterated the Committee could also suspend the rules. Acting Chair Jones commented we are somewhat dissuading the people from coming now. Attorney Mullins commented this is a protocol to be worked out. Acting Chair Jones commented he agrees staff does need more time, but he would rather just see it put off two cycles rather than putting it on and letting the Committee decide whether they want to act on it. Acting Chair Jones said he thinks that is more confusing to the public. Attorney Mullins commented some of these things are political and it is very difficult for staff, in that context, to navigate those political waters and be able to provide you with the expert recommendations that you are looking for. One of the goals is to take it out of that political process and to allow the process to run without fault.

Beth Fox, ACM/Human Resource Director commented she would like to think this process would most likely result in people coming in with an issue and having an initial opportunity to articulate that issue in a public setting. This also gives you an opportunity to pose questions or ideas that might help staff as they investigate the issue. Ms. Fox continued although coming back twice might seem like an extra burden to some, she can see some value created by that for both the City Council and the staff; in the end for the result for the person who has the issue under concern. Acting Chair Jones commented he thinks what the Committee is saying is that we have always been accommodating, and we have always put it on more time when staff asked

for it. He continued we do not want to be handcuffed either in saying that we cannot act on it. Ms. Fox commented she appreciates that, but because it is not part of our formalized process people can come with an expectation. The proposed amendments would set the stage so the public does not end up frustrated by the process.

Councilor Chadbourne said this seems less flexible for the Council and rather than change the rules could it not be that we communicate to the petitioner from the onset that their issue may require some time, and that they may have to come back. In this context they would know up front rather than changing the Rules of Order. Mr. Blomquist said we have to look at the process, he noted what happens when a communication is received and pointed out there is nothing right now that tells her what to do. Noting she is aware communications come through the Clerk's office, Councilor Chadbourne explained she is suggesting the Clerk's office take on the role of communicating the process with the petitioner. She also noted her agreement with Acting Chair Jones that this sort of handcuffs the Council. Mr. Blomquist commented he cannot speak for the City Clerk and she would need to be asked if she felt this was her role and whether she has the ability to make that call on the variety of issues that come through the door. Mr. Blomquist continued for him this goes back to expectations- people want to know what is going to happen and if they will get an answer the night they come.

Councilor Hansel commented it would be difficult for the City Clerk to assume what the Committee might feel about an issue. He added if he were in her position he would be uncomfortable making that call. Councilor Hansel also understands the want of a rule. Continuing he noted Ms. Fox brought up a good point about the petitioner filling in the details in the first meeting with a short letter which is extremely important; this is where staff gets direction from the Committee. Councilor Hansel commented he does not want to lose that. Mr. Lamb noted Councilor Hansel's comments fit nicely into what he was going to suggest in that the second part of the language allows you more flexibility. He continued by reading from the recommendation: except that City Staff may recommend immediate action on communications that will not require review prior to City Staff recommendation. Mr. Lamb explained you may get to that first meeting and the details have been filled out by the letter and testimony then decide you can approve this. In that circumstance you do not need to suspend the rules in order to comply with the standard. Acting Chair Jones asked how you would differential that. Noting this is a good question, Mr. Lamb suggested this effectively is what is happening today.

Councilor Sutherland returned to the suggestion regarding the role of the City Clerk and a boilerplate that explains the process. He commented the expectations can be set by having the petitioners the process, and the time and the obstacles to that process which is aside from this issue. If staff needs more time maybe the Committee could take a look at advancing the deadline for submittal. Councilor Sutherland does not like the idea of having to suspend rules as this can be a political game too. He also commented he does not like this sort of backwards switching of the rules; he would much rather it be do what we can to best accommodate expediency. Councilor Chadbourne noted her agreement with Councilor Sutherland and explained she was in no way implying the Clerk's office should determine which issues would require more time. She agrees with the creation of a boilerplate that could be used to explain things. Continuing Councilor Chadbourne commented they are balancing the needs of staff with the needs of the petitioners and she does not see this as making things more efficient.

Acting Chair Jones asked for public comments.

Councilor Carl Jacobs referred to the recommendation noting he is troubled by it. Continuing he said it seems like the problem is staff needs time to make reports to the Committees on whatever is submitted. Although putting the issue on more time requires a second meeting Councilor Jacobs indicated this may not really be the point here. He noted the unwritten process utilized now where staff asks for more time if the issue is complicated. Agreeing we all understand staff sometimes needs more time Councilor Jacobs commented that automatically delaying the request is troublesome to him. Councilor Jacobs suggested he could better understand the need to change the submittal date than automatically going to another cycle.

Councilor Terry Clark commented he understands staff frustration with not having enough time adding sometimes Councilor's have to make decisions in less than 24 hours. Councilor Clark asked if this will cause more confusion to the public. Mr. Lamb replied we are really silent on this issue today; there is no rule or standard just a practice. He does not feel this adds to the confusion suggesting it adds clarity by putting something on paper. Mr. Lamb also commented whether people appreciate it or not is another question. Mr. Lamb continued he thinks the expectation question is the issue and there are two sides to that. One is the public's expectation which once a rule is adopted it will be available to them and they will have clarity. The other is the Committee's expectation of City staff where you expect a recommendation during that first cycle when the reality is that is just not going to happen; with the addition of Novus it is impossible for us to do that except for recurring/repetitive licenses. Mr. Lamb concluded by noting this sets up expectations for both ends on what they can provide for you and what the public would expect once they make their submittal.

Acting Chair Jones commented what you people are saying is different than the Mayor's recommended motion; the motion sounds like everything will go on more time for one cycle. Attorney Mullins explained there are two issues here 1) initial communications, something not seen before would trigger this, and then 2) if staff even without having the opportunity to review the submittal came to your Committee meeting, listened to this and then said no you can act without suspending the rules. Attorney Mullins noted the expectation problem is what is trying to be addressed. The submittal comes in from the public and the public is sort of expecting this will be acted upon at the next meeting. Acting Chair Jones commented he can almost agree with it the way the Mayor wrote it, but he thinks what he is hearing is different. Councilor Chadbourne commented she feels the issue can be resolved from the boilerplate so they are made aware of the possibility there may be no action taken. She feels it is important to have clarity and be user friendly. Councilor Chadbourne noted she feels what we are doing works, except maybe not always for staff.

Discussion continued in the same vein with Councilors expressing their concerns with this amendment. Acting Chair Jones also noted he wished the City Clerk was here for this discussion. After additional comments Attorney Mullins pointed out the Committee could place this issue on more time. He also noted another way for this to be setup is for the communication, once it comes into the City Council, to be delayed one cycle. Mr. Lamb also indicated the language could be worked on to make it more palatable. Councilor Sutherland recommended

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considering alternatives rather than changing the rules. Councilor Chadbourne reiterated her comments in no way were suggesting the Clerk or her employees should give an opinion; she was suggesting a boilerplate that was passed out as part of the process. She also noted the importance of streamlining things and not dragging them out if they do not have to. Councilor Chadbourne prefers people be able to get things done in one cycle, and not have to come back a second/third time.

There being no further public comments or additional Committee questions Acting Chair Jones asked for a motion.

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

On a vote of 4-0, the Planning, Licenses and Development Committee recommends this issue be placed on more time.

5) Adjournment - There being no further business before the Committee Acting Chair Jones adjourned the meeting at 7:58 PM.

Respectfully submitted by,
Mary Lou Sheats Hall
January 26, 2017

Additional Edits by,
Terri M. Hood, Assistant City Clerk