

**City of Keene**  
*New Hampshire*

**MUNICIPAL SERVICES, FACILITIES, AND INFRASTRUCTURE COMMITTEE**  
**MEETING MINUTES**

**Tuesday, November 10, 2015**

**6:00 pm**

**City Hall, 2<sup>nd</sup> Floor, Council  
Chambers**

**Members Present:**

James P. Duffy, Chair  
Philip M. Jones, Vice Chair  
Janis O. Manwaring  
Robert J. O'Connor

**Members Absent:**

Sheryl A. Redfern

**Staff Present:**

Assistant City Manager/IT Director  
Rebecca Landry  
City Attorney Thomas Mullins  
Police Chief Brian Costa  
Public Works Director Kürt Blomquist  
Planning Director Rhett Lamb  
Planner Tara Germond

**Others Present:**

Councilor Thomas Powers  
Councilor Randy Filiault

Chair Duffy called the meeting to order at 6:00 PM and explained the procedures of the meeting.

**1. RESOLUTION R-2015-40 – Relating to Complete Streets**

Public Works Director Kürt Blomquist and Planner Tara Germond introduced themselves. Mr. Blomquist reported that the MSFI Committee has gone through the Complete Streets resolution twice and it was available to the public for input. He continued that they reviewed the design guidelines, which they will adopt per the street utilities standards. They published in the Keene Sentinel that the design standards have been produced and are being adopted, and that will go into effect upon their adoption. Ms. Germond added that they incorporated the edits and comments that were received at previous meetings on the resolution, in its final form as it was presented to the City Council.

Chair Duffy replied that the committee is pleased to see the word “inclusive” in the resolution. He asked if committee members or members of the public had questions or comments. Hearing none, he asked for a motion.

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

On a vote of 4 to 0, the Municipal Services, Facilities, and Infrastructure Committee recommends the adoption of Resolution R-2015-40.

Mr. Blomquist thanked the committee, the Planning Department, Ms. Germond, Ms. Brunner at the Southwest Regional Planning Commission, and everyone who has been a part of this. He continued that with the adoption of this resolution a component of the Comprehensive Master Plan is being implemented.

## **2. ORDINANCE – O-2015-12 – Relating to Noise**

The City Attorney stated that a presentation was made with respect to making changes to the noise ordinance. He continued that his office and other City staff members incorporated the suggestion for creating two zones in the Ordinance, which is open for discussion this evening. Based upon the last discussion they used the Central Business and Central Business Limited zones, to try and maintain some nightlife in the downtown area. The substantial change to the ordinance is the creation of Zone A (11:00 PM, Central Business and Central Business Limited) and Zone B (10:00 PM, all other areas in the City of Keene). The only other change is in subsection 4 of 66-125: the language said “either permitted by law and for which a license or permit therefore has been granted.” That was not an appropriate conjunction and it should have said “or” instead of “and.” There are activities that may be lawful and permitted for other reasons and others that may be permitted by a license but those two are not necessarily connected, so they changed it to “or.”

Police Chief Brian Costa stated that he concurs with everything the City Attorney said. He continued that the Keene Police Department (KPD) is open to any amendments that may be offered as well. One impetus for considering going back to 10:00 PM in residential neighborhoods was the disorderly behavior that had been occurring mostly in the off-campus neighborhoods for the past 5 to 10 years. The Chief noted that last week, Captain Stewart had pulled statistical information, which he wants to share tonight. Since the beginning of this academic year at Keene State College the Department has consistently heard anecdotally from KSC personnel, KPD personnel, and some residents, that things seem, feel, and are better this year in the neighborhoods. They pulled statistics regarding alcohol calls for service, liquor law violations, and noise complaints, from August 27, 2015 to October 28, 2015. They compared those statistics for like calls for service that occurred last year during the same time frame. They chose to focus on alcohol issues, unlawful possession, open containers, and noise complaints, because those are inherently present when speaking about disorderly behavior, which has been the focus of much conversation in many departments of the City and the college.

Chief Costa continued that they found that noise complaints are down 16%. There is a 40% increase in self-initiated noise complaint investigations. This means that KPD officers, 16% more of the time, when they observe a violation, have taken action on it. More significantly, there is a 67% decrease in liquor law violations from 2014 to 2015. This is significant. It is related to the noise complaint issue. Relationships between the city and college are excellent. Nobody is relying on the three month statistics to say they fixed it; that is not the intention of bringing this information forward. The intent is to show that all of the conversations have not been just talk. They have results to show. He agrees with the noise ordinance as presented by the City Attorney and is open to suggestions.

Councilor Jones stated that he was at the City/College Special Commission meeting yesterday, and there was a student member in attendance who was saying that some KSC students are complaining that they cannot find the parties anymore. He continued that this must mean they are doing something right.

Councilor Jones continued that at a previous meeting, he asked if the noise ordinance is a tool that the KPD can use. Now they have made changes to it. Is it still a tool they can use? Chief Costa replied that it is an essential tool. He continued that bringing the time back to 10:00 PM cannot hurt and can only help. However, it is not wise to think that any single ordinance or law is going to fix this problem. It is cultural. They are seeing progress and he and others believe that they are on the right track.

Councilor Jones asked if they get too specific in naming the types of noises. Does it mean they are ruling out other noises? He continued that for example, someone in the meat delivery business used to leave a truck with compressor running all night. He asked if that type of noise would be covered, even though it is not mentioned in the ordinance. Chief Costa replied that that type of noise in a residential neighborhood might not be considered reasonable. He continued that often times the officer would not issue a ticket right away, though – they attempt mediation. They cannot list every possible noise that might be considered a violation. Councilor Jones asked if that situation he gave as an example would be covered by the ordinance. Chief Costa replied yes, he thinks it would be.

The City Attorney stated that this is a good reminder about how the Ordinances is structured. He continued that the general noise prohibition, section 66-123, applies 24 hours a day, 7 days a week, everywhere in the city. That provision gets triggered if it is a noise that may annoy or disturb. The KPD has the enforcement authority with respect to that general prohibition. The specific prohibitions are intended to carve out specific noises that might happen between 10:00 PM or 11:00 PM and 6:00 PM or 7:00 AM. The intent is to clearly define some things you cannot do with regards to operating your business or otherwise. Then there are exemptions. For example, snow clearing operations are necessary in the winter, sometimes at 2:00 AM. The general noise prohibition is not dependent upon time and location. It is about whether a noise is annoying and disturbing.

Councilor Manwaring asked why, in section 66-124, some noise is prohibited between 11:00 PM (or 10:00 PM) and 6:00 AM, while other noise is prohibited between 11:00 PM (or 10:00 PM) and 7:00 AM. The City Attorney replied that what is prohibited until 6:00 AM are noises created by loading, unloading, handling boxes and crates, dumpsters, etc., and these noises are mainly created by businesses that are opening early in the morning and needing to get ready for the business day, such as restaurants serving breakfast. He continued that the other prohibition (until 7:00 AM) is broader but is more about activities involving construction equipment.

Chair Duffy thanked Chief Costa for the update. He continued that it is great to see the KPD's efforts and KSC's efforts. During the September 9 MSFI Committee meeting, Chief Costa reported that the KPD issued 92 summonses in 2012, 56 in 2013, 53 in 2014, and were on track to issue approximately the same amount in 2015 as in 2014. He asked if the numbers now seem to be lower. Chief Costa replied that he does not have the numbers in front of him right now, so

he will agree with Chair Duffy that those were the numbers he gave. He continued that so far this year, the KPD has issued about 27 summonses, so yes, it seems like a little less than last year. He thinks that is in line with the behavior they are seeing. The reason the KPD does motor vehicle enforcement is not to issue tickets, it is to change unwanted driving behavior. They are looking at the same type of goal with the off-campus neighborhood problem. They are not trying to make the most arrests or issue the most tickets; they are trying to change behaviors. They are seeing that change in behavior. So the numbers (of summonses) might not be in line with what they have seen in past years.

Chair Duffy stated that Chief Costa previously said that the peak times when there are a lot of noise complaints are when KSC opens for the school year, and during graduation weekend. Chief Costa replied that is correct. Chair Duffy asked if, like the City Attorney stated, an officer can address the issue of excessive noise at any time of day, on the officer's own initiative. Chief Costa replied yes.

Chair Duffy asked if committee members had questions or comments. He asked if any members of the public had questions or comments.

Councilor Filiault stated that the reason why he asked to move the time back to 10:00 PM is because this is not rocket science – moving the time back to where it was will not solve all of the problems, but he heard Police Officers and residents asking if it was possible. He continued that he was listening to public safety officers and the public who elected us. If Police Officers are allowed to make arrests at parties between 10:00 and 11:00 PM, it keeps the residential neighborhoods quiet, and gives the Ordinance more teeth. He is just asking for the time to go back to 10:00 like it was before; he is not asking for major changes. He thinks the public is in favor of this change, and stated he doesn't think you will go out to a residential neighborhood and find anybody that has elected us would be against this.

Councilor Powers stated that a few people in ward five talked about the noise ordinance with him over the last couple of months. He continued that he is not sure if changing the time to 10:00 PM will create a conflict, given the activities at Alumni Field. The City Council might be talking about it again for another particular zone. Not many activities go beyond 10:00 PM, and there is a lot of officer discretion, but folks have questions.

Chair Duffy replied that Mr. Blomquist had previously brought up the topic of Swamp Bat games at Alumni Field. Councilor O'Connor asked if the fireworks being set off in Alumni Field fall into the exemptions category of 66-125-4. Do they have a permit for the fireworks? The City Attorney replied yes, that is a good point – they do have to get a permit from the City and permission from the school district, too. He continued that that is a spot where it would be exempt because it is subject to a license.

Councilor Manwaring stated that there is nothing in the ordinance specifically about animals (e.g. dogs or roosters), but she sees where that is covered. She asked, what about the complaint that came to the MSFI Committee, regarding trucks going back and forth in the middle of the night? Chief Costa replied that that was exceptional. He continued that the noise was originating from outside the city limits but was creating a disturbance in the city. It is impossible to write an

ordinance that covers every single possible violation. Councilor Manwaring stated that they want to encourage residents to call right away when a noise starts bothering them, not right at the end, so the KPD can check it out. Chief Costa replied yes, there are many options they can go through, before the officers resort to issuing tickets. He continued that the sooner they know about an issue, the better the chance is that they can have a positive impact.

Councilor Jones asked, a noise is not a violation unless it is disturbing someone, right? He asked if it would be okay to have a band play until 2:00 or 3:00 AM if no one was bothered by it. The City Attorney replied that this is a complaint-driven ordinance. He continued that if a band is playing in a venue and no one is disturbed and no one complains, there is no reason for the KPD to respond.

Chair Duffy stated that he hears that a permit is needed for the fireworks in Alumni Field. He asked if a permit is needed for the games themselves. The City Attorney replied not from the City's perspective. He continued that there may be times when the games go late. This is a complaint-driven process. If no one has complaints the noise ordinance will never get triggered. If people complain about late games the City Council has the opportunity to review the ordinance, which they can talk about changing as needed.

Councilor O'Connor stated that he is happy with how it is written with two zones and agrees that they can always revisit it. Chair Duffy stated that hearing everything, he is on the fence about whether or not to support the ordinance.

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

Move that the Municipal Services, Facilities, and Infrastructure Committee recommend that the City Council adopt Ordinance O-2015-12 – Relating to Noise.

Chair Duffy stated that he will not support the motion. He continued that he does not think it is needed. What Chief Costa reported is that when the time was changed to 11:00 PM there was a steady decrease in complaints, and most of them are in a specific area. Off-campus issues have been around for a long time. A report from 2002 identified all of these concerns. It has taken time but he concurs that there is a lot of progress being made. The City Council was about to pass a disorderly house ordinance in 2006 or 2008 to target the problem houses, but since then there has been unprecedented cooperation with KSC and the KPD and property owner managers. He continued that he hears numbers are decreasing and anecdotally people are saying things are a lot better. He contrasts that with what he heard at the August 26, 2015 MSFI Committee meeting, that "residents are begging," there "has to be an immediate need for change," and the "ordinance has no teeth," and so on and so forth. He continued that it was not Councilor Filiault saying the ordinance has no teeth, it was him saying that a Police Officer had told him that.

Chair Duffy stated that he thinks that in this case, less is more. Unless this problem erupts again, he is concerned that creating these two zones will create other issues, perhaps unforeseen. He knows they got emails about noise from roosters and trucks. An officer at any time of day or night can address disorderly behavior and noise. He commends Chief Costa's efforts and the efforts of everyone else involved.

Councilor O'Connor stated that he thinking of the man on Old Concord Road who had a neighbor using a tractor at 10:00 PM and was told he had to wait until 11:00 PM to call to complain about the noise. He continued that that is an example of why he is supporting this noise ordinance..

Councilor Jones stated that he agrees with Chair Duffy but still looks at this as something that could help. He continued that it could not hurt and they could always change it if they run into problems. He thinks they should support this.

On a vote of 3 – 1, the Municipal Services, Facilities and Infrastructure Committee recommends the adoption of Ordinance O-2015-12. Chair Duffy was opposed.

### **3. Adjournment**

Hearing no further business, Chair Duffy adjourned the meeting at 6:31 PM.

Respectfully submitted by  
Britta Reida, Minute-taker