

CITY OF KEENE
PLANNING, LICENSES, AND DEVELOPMENT COMMITTEE
MEETING MINUTES

Wednesday, November 10, 2015

6:30 PM

Council Chambers A

Members Present:

David C. Richards, Chair
David R. Meader, Vice-Chair
Emily P. Hague
Carl B. Jacobs
Bettina Chadbourne

Staff Present:

Thomas Mullins, City Attorney
Gary Schneider, Code Enforcement
Tara Germond, Planner
Rhett Lamb, Planning Director
Patty Little, City Clerk
Brian Costa, Police Chief
Kurt Blomquist, Public Works Director
Rebecca Landry, IT Director

Members Not Present:

Others:

Councilors Present:

Jan Manwaring
Robert O'Connor
James Duffy
Philip Jones
Thomas Powers

Mayor Kendall Lane

Chair Richards called the meeting to order at 6:30 PM welcoming the viewers of Cheshire TV, Channel 10. Chair Richards noted the intent to place agenda items 1 and 2 on “more time”.

1. COMMUNICATION: Councilor Clark – Amending Definition of “Historic Property” in Terms of Demolition Review Process

Chair Richards explained that Councilor Clark could not be present due to another Council event he was attending. He noted this is not a timely issue; adding if there are no objections he would accept a motion to place this on “more time”.

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

On a vote of 5-0, the Planning, Licenses and Development Committee recommends placing this item on “more time”.

2. ORDINANCE: O-2015-13: Relating to Licenses and Permits

Mayor Lane explained this is a proposal that would transfer responsibility for many of the licenses and permits which this Committee currently deals with to the to the City Clerk's office. This takes away a large part of the workload for this Committee (80%). Mayor Lane reported a review is in progress with the City Clerk, the Acting City Manager, and the Chairs of the other three committees to determine if the workload can be more evenly divided amongst the three committees. Mayor Lane asked for this item to be placed on "more time" while the review is completed.

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

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

On a vote of 5-0, the Planning, Licenses and Development Committee recommends that O-2015-13: Relating to Licenses and Permits be placed on "more time".

3. MEMORANDUM: Planner – College City Special Commission Initial Report and Recommendations

Councilor Hague pointed out the intent of bringing this report forward is to update the Council on the work of this new Commission. Councilor Hague stated she is joined this evening by Bart Sapeta, of Keene State College who is Co-Chair the College/City Special Commission. Councilor Hague suggested this report is really a follow on to the Proactive Code and Law Enforcement update this Committee received in May 2015. Continuing Councilor Hague noted this report is a culmination of over a year's worth of work on behalf of the College/City Special Commission, related to one-half of their charge. Councilor Hague explained the breakdown of the charge, which contains 4 focus areas.

Councilor Hague provided the history and background of the Commission and touched on some highlights of the report, including positive changes that have already taken place and future work of the Commission. Councilor Hague provided the web address for the Commission as <http://ci.keene.nh.us/node/91238>, noting this report is available on the site for viewing, along with the Good Neighbors report from NH Listens (community conversations), and meeting minutes. Councilor Hague noted the Mayor, Chief Costa, and Bart Sapeta would also be speaking to this report, and all are willing to answer questions. In her closing comments, Councilor Hague noted the Commission hopes to have a report on parking infrastructure/tax base within six months. With the blessing of Mayor Lane it is hoped the Commission will continue in the structure it currently has with counterparts from the City and College. Councilor Hague noted the Commission's suggestion that this Commission remain instated in an ongoing basis; adding this is a great forum for the College and the City to talk about issues that may arise from time to time.

Mayor Lane thanked Councilor Hague and the other members of the Commission for the work they have done. Mayor Lane noted he feels the Commission did an excellent job of capturing the spirit and direction of the relationship between Keene State College and the City of Keene. He reiterated there are regular meetings going on between he and President Huot; the next one is Tuesday, November 17, 2015. Mayor Lane pointed out part of those discussions are looking to expand the

Charge of the Commission to handle not only the contentious issues between the two entities but also some positive issues. Mayor Lane made note of the economic impact the College has on the City, Councilor Clark's idea of having students shadow at various committee meetings, volunteer efforts by the students and faculty, and also the internships throughout the community. Mayor Lane said he will do everything he can to make sure the Commission continues for the long-term, and that he will be re-appointing the Commission.

Chief Costa stated that he just spoke at the MSFI Committee meeting on a related topic. Chief Costa noted he wanted to share information on what this year has looked like compared to last year. Chief Costa read the following into the record (from Captains Russo and Stewart): "Since the beginning of Keene State College's academic year we have heard consistently, anecdotally, from our Officers, Supervisors, Keene State College personnel, and also some residents that things [in off-campus neighborhoods] seem, feel, and are better this year, since the return of students".

Chief Costa noted he pulled together some statistics regarding alcohol calls for service and noise complaints from August 27th to October 28th. Comparison was made to like calls for service from last year during the same timeframe. The following are the findings: noise complaints overall are down 16%, there was a 40% increase in self-initiated noise investigations, and looking at liquor law violations we saw an overall decrease of 67%. Chief Costa commented the relationship with the College has never been stronger; both organizations are on the same page with the goal of maintaining these improvements. He added the goal for his Department is not the number of tickets/arrests; the goal for the Police Department, the City, and the College is to change the unwanted behavior.

Bart Sapeta, of 11 Pleasant Hill Road commented this was a very cooperative effort between the college and the City. He noted the number of people that attended the community meetings, and the number of experts that spoke before the Commission at various meetings. Mr. Sapeta also commented he feels the success of this Commission in comparison to the previous ones is the robust structure with the Mayor and President Huot adding to the Commission's Charge. Mr. Sapeta noted his willingness to answer any questions.

Chair Richards asked for questions or comments from the Committee or the public.

Councilor Jones noted he is also a member of the Commission and thanked Councilor Hague and Mr. Sapeta for their efforts. Councilor Jones asked Chair Richards to think back to his first year on the Council which was the first year the City Council started dealing with student issues (1996). He noted the Ordinances past that year, suggesting the Council was being reactive instead of proactive. Councilor Jones continued instead of looking at students as the enemy, we now look forward to working with them. Councilor Jones thanked the Mayor for appointing the Commission; he also noted everything that comes up at the Commission always has a positive swing that comes out of it. Chair Richards agreed with Councilor Jones that it was all reactive instead of proactive.

Councilor Chadbourne referred to Page 8 of the report under Long Term Recommendations (second bullet). Councilor Chadbourne commented she thinks this is a great idea; and noted her concerns regarding the Planning Department. She also asked if we would have the staffing to make these changes. Mr. Lamb replied he suspects it is also connected to the Land Use Code update; he feels the question is do we deal with it as a separate item or deal with it as we move ahead with other

initiatives that are coming up. Mr. Lamb suggested if we were to take it on as a separate project he feels there would be a delay, at least in terms of our time to get to it based on staff the way it exists right now.

Councilor Chadbourne also referred to Page 11 of the report where the recommendation to share a list of off-campus addresses is discussed. She asked if this would be public information or information privately shared between the College and Police. Councilor Hague noted that level of detail had not been discussed. The discussion indicated the college could retain that information as part of the student registration process, and it would be available to emergency services in the event there was an emergency at an address to determine if there were actually students living there. Other uses would require further discussion.

Councilor Jacobs asked if students were involved in this process. Councilor Hague reported two students were appointed by President Huot; one attended faithfully and the other had scheduling difficulties. Councilor Hague also noted the student participation at the April forum.

Chair Richards noted how the landlords got together when the Disorderly Housing Ordinance was proposed; he asked Councilor Hague if that had been discussed. Councilor Hague referred to Page 7 noting the Commission did talk about that with respect to the Voluntary Inspection Program being implemented by Code Enforcement. Councilor Hague noted the Commission received a lot of positive feedback about that program. She noted the Commission talked about how to incentivize other landlords to participate in that program. All the Commission could come up with right now was encouraging a Landlord Association so that there was some encouragement and accountability among landlords to participate and spread awareness.

Councilor Jacobs asked what sort of action we should be contemplating with this report tonight. Chair Richards suggested the thought was to accept it as informational tonight, and it will continue on. Councilor Hague clarified the Commission was hoping for just an informational vote. She reiterated the intent to present this as an update. Councilor Hague added the Commission also wanted to acknowledge and appreciate the staff from both sides for their hard work. She also suggested a lot of the changes already seen in the community are a result of staff's hard work.

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

On a vote of 5-0, the Planning, Licenses and Development Committee recommends that this excellent report be accepted as informational.

4. ORDINANCE: O-2015-06: Intent and Permitted Uses – Medium Density

Gary Schneider, Plans Examiner and Zoning Administrator noted this is the third time he has spoken about this Ordinance; which is basically a change in the grammar of what has been enforced by Code Enforcement and the Zoning Office since about 1992-1993.

Mr. Schneider reported he would like to start out by answering questions that were asked at the last City Council meeting. In response to Councilor Hague's question regarding the number of properties affected when the Zoning Board of Adjustment overruled the Zoning Office, Mr. Schneider's responded there was only property affected; it was the one property that went to the

Zoning Board (Kingsbury Street property). The property owner merged three properties that each contained one duplex, creating one lot with six units on it.

Mr. Schneider displayed several maps depicting the medium density zone in Keene along with some statistics. The first map depicted the medium density zones in green. The second map showed the medium density zones with single-family homes indicated in red. Mr. Schneider reported there are 771 properties in the City's medium density zone. Mr. Schneider noted his work trying to figure out how many properties could be affected if the Ordinance stays the way it is now. He continued there are 45 properties with enough land size to possibly be affected. There are 62 existing dwelling units on those 45 properties; if the Ordinance is not changed there could possibly be 313 units there. Mr. Schneider outlined the requirements for having four units on a piece of land in the medium density zone; he also discussed the various sizes of the properties in the medium density zone. Mr. Schneider also presented a couple of scenarios. Mr. Schneider's third map depicted all the land owned by the Surry School which was outlined in black; he also presented the scenario where we could end up with 12 units on that property.

Continuing, Mr. Schneider added that when the Zoning Board overruled the Zoning Administrator they really didn't think the Zoning Administrator made the wrong determination. The applicant that appealed the decision to the Zoning Board came with counsel; counsel stated before the Board the Ordinance says what the Ordinance says. It doesn't matter what the opinion of Code Enforcement has been, it doesn't matter what the intent of the Committee back in 1992-1993 was, the Ordinance says what it says, and the Ordinance says no more than three units per structure. Mr. Schneider indicated the Zoning Board was staying in compliance with state law.

Mr. Schneider addressed the request to rewrite the Ordinance to make the limit no more than three units per lot.

Chair Richards commented although it may be written poorly, what we're getting at here is the intent. Mr. Schneider agreed. Chair Richards asked if Mr. Schneider believed the intent in 1992-1993 was that there should only ever be 3 units per lot, and that they missed the lot size. Mr. Schneider replied absolutely. Mr. Schneider noted his research through the minutes of that time adding all the conversations talked about the piece of property, not the structure. Chair Richards discussed his reason for asking the question adding if it's just a case of wording we should follow the intent that was made in 1992-1993. Mr. Schneider agreed.

Chair Richards asked for questions from the Committee.

Councilor Jacobs referred to the Joint Committee meeting discussion last night regarding the possible reconsideration of some of our zoning; he asked if perhaps we should be open to a different intention today. He continued he feels the interpretation has been done in good faith and served us well; maybe greater density is something that would benefit us. Councilor Jacobs also commented he didn't want to assume that because something was decided in 1992 that is correct for 2016. Councilor Jacobs also commented he is not saying he has an opinion one way or the other.

Chair Richards commented he hears what Councilor Jacobs is saying. He continued he thinks this is almost like a technicality and we'd like to fix the existing zoning. Chair Richards commented he

would like to see zoning options considered especially when talking about things like Marlboro Street. Chair Richards suggested looking at it and saying maybe we need to expand the high density zones or create a new hybrid zone. Chair Richards noted he was okay with cleaning the language up on this. Councilor Jacobs agreed adding as long as it doesn't prohibit us from being open-minded about how we develop zoning in the future. Councilor Jacobs clarified all we're really doing here is making it consistent with the practice.

Chair Richards commented he is looking forward to what's coming from Planning especially on the Marlboro Street Initiative. He noted there is a belief that everyone should own a house; pointing out there are many places in the world where people never own a house. They spend their lives in a condo or an apartment. These are things we need to consider as we plan for the future; some people want to travel, not mow the lawn. Councilor Meader agreed with Chair Richards regarding moving forward with this Ordinance tonight. Councilor Meader noted he is also looking forward to seeing what comes out of Planning over the next several months.

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

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

On a vote of 5-0, the Planning, Licenses and Development Committee recommends the adoption of O-2015-06.

Councilor Hague complimented staff for catching this before any of the 45 eligible properties decided to apply for additional dwelling units.

5. MEMORANDUM: City Clerk & Mayor – Proposed Amendments to the City Council's Rules of Order

The City Clerk commented in anticipation of the inauguration of the 2016-2017 Keene City Council, several amendments to the City Council's Rules are being proposed for consideration. She explained Amendments 1 through 4 are housekeeping in nature, and she will be addressing them. Mayor Lane will address Amendment #5.

Amendment #1: SECTION 21. SPECIAL COMMITTEES

The City Clerk commented this is something new to us; the term Special Committee is meant to mean committees of the Keene City Council. It is not meant to include public members. She continued we have never had that interpretation before; adding we actually have two Special Committees (College/City and Fall Festival) with public members. The Mayor is not looking to correct that, but in the future we would want to recognize that Special Committees are committees of the City Council. The City Clerk explained the change we are making is to add in a statement about their term, unlike an Ad-hoc committee the Special Committee has no term. "Special Committees shall continue to exist until their charge has been completed or one year from the date of establishment, whichever comes first."

Chair Richards asked what if they need 13 months, can they be reappointed. The City Clerk replied in the affirmative.

Councilor Hague noted a question brought up at the College/City Special Commission regarding continuation with an on-going charge. The City Clerk indicated this should be a standing committee.

Councilor Jacobs clarified the City Clerk was saying there cannot be members of a Special Committee that are not City Councilors. The City Clerk replied that is correct. She also noted this is the wrong term (Special Committee) if you're thinking the membership should go beyond City Council members. Councilor Jacobs continued, referring to the two existing Special Committees he asked if we needed a different term. The City Clerk replied in the affirmative and added they would either be an ad-hoc committee or a committee under the City Code (standing committee).

Amendment #2: SECTION 23. ORDER OF BUSINESS

The City Clerk explained this Amendment recognizes our long standing practice of providing an opportunity for the City Manager to give comments during the agenda. We actually have what's called the "Order of Business" in our Council Rules; and this is providing that spot on the agenda form.

Chair Richards asked the question it wasn't there before? The City Clerk replied in the negative. The City Clerk commented the City Attorney is reminding her that this is provided for in the City Charter. Chair Richards clarified we are now just making it official; the City Clerk agreed. The language added is as follows: 9. City Manager Comments.

Chair Richards asked for comments or questions; there were none.

Amendment #3: SECTION 25. COMMUNICATIONS

Noting this is probably a sign of the times; the City Clerk reported receiving communications without the original signature. What are received are scanned (PDF) documents. She continued our practice is to reject this; we call the individual who wrote the letter and ask them to come into the office with an originally signed letter. The City Clerk explained this Amendment will allow for the submittal of electronic communications via email or fax. The following language was created to allow this; Communications containing a scanned image of the person's actual signature may be submitted electronically.

Chair Richards clarified originally signed letters sent via regular mail are still acceptable. The City Clerk replied in the affirmative.

Amendment #4: SECTION 16. MOTIONS

The City Clerk noted the title is being changed and we're adding the statement, "A long or complex motion shall be reduced to writing if the Chair so directs; or if any member of the Council requests it". The City Clerk further clarified what this means for Chair Richards.

Chair Richards asked for questions or comments from the Committee or the public.

Councilor Duffy asked the City Clerk or City Attorney, how do you define long or complex motion; adding that could be sort of subjective. The City Attorney replied it really is the Chair's prerogative.

Discussion ensued with regards to the table on Page 31 of 32 in the packet. In response to Councilor Chadbourne the City Attorney advised a lot of this comes out of Robert's Rules of Order. "Lay on the table" basically is a means to not deal with the issue; it is different from "more time" where the issue is dealt with at a later time. In response to Councilor Hague the City Clerk noted "call from committee" is not an add-on; it is something we do frequently.

Councilor Jones commented he doesn't see when somebody calls for the vote in this table. The City Clerk explained this would be "previous question". The City Attorney further elaborated the shorthand would be "move the question" and the official title would be "previous question". Councilor Jones continued noting he has heard some Mayor's say only if it's challenged; adding is this correct. The City Attorney further explained adding it is required if there is an objection to moving the question.

There being no further questions or comments from the Committee or public, Chair Richards moved on to Amendment #5.

Amendment #5: SECTION 31. ANNUAL APPROPRIATION

Mayor Lane commented there has been a lot of misunderstanding regarding the intent of this proposal. He continued the budget is a planning document, and a document in which we set the priorities. The purpose of this amendment is simply to provide that if there is to be an amendment to the budget, the subject matter of that amendment has to be notified to the Council in advance. This allows the Council to know what the subject matter is going to be and be prepared on the night of budget adoption to either agree or disagree with the amendment. The budget is not a document where it is appropriate for surprises or uninformed votes to be taken. It is a document in which transparency is extremely important. Mayor Lane continued noting the purpose of this is not to prevent anyone from making motions or for motions going forward. The language developed for this amendment is as follows: If a Councilor wishes to make an amendment to the proposed annual operating budget during the budget adoption process, the Councilor shall submit the text of the proposed amendment, including the line item(s) to be amended, to the City Clerk for inclusion on the Council agenda no later than five (5) days prior to the Council meeting scheduled for the adoption of the annual budget. Mayor Lane noted this allows the Council and the public to know what is being proposed ahead of time.

Chair Richards asked for questions from the Committee.

Councilor Jacobs clarified this doesn't preclude some other change from taking place. Mayor Lane reiterated all they have to do is notify the Clerk they want to amend such and such section of the budget. The Council is then notified of the amendment. When the amendment is made on the floor it can be further amended. Mayor Lane commented looking into the future will be interesting with staff proposing a different type of budgeting; programmatic budgeting rather than Departmental budgeting. Councilor Jacobs clarified his understanding and commented he liked this.

Councilor Chadbourne asked about the programmatic budgeting. Mayor Lane noted this would be discussed at the Budget Workshop on December 8, 2015. Councilor Chadbourne discussed the level of transparency this would provide adding she would support it.

Councilor Hague commented she feels this is a very wise amendment; adding she is disappointed there are no members here from the FOP Committee to comment.

Chair Richards commented he also supports this amendment. He explained how new and old Councilors could have difficulty knowing what is being discussed. Chair Richards also noted transparency is a must; adding not just so that Councilors, but staff too can take a look at it and prepare an answer for the Council floor. Chair Richards suggested this forces Councilors to do their homework, and adds value to the budgeting process.

Councilor Duffy noted his support adding he thinks this is a very ethical step to take. He concurred with Councilor Hague's dismay that no members of the FOP Committee are present.

Councilor Jones commented he was opposed to this amendment until he discussed it with the Mayor. Councilor Jones continued he likes the fact it is making people do their homework, and is making things more transparent for the public.

Councilor Manwaring outlined the budget process clarifying the budget goes to FOP one week before City Council. Chair Richards agreed. Councilor Manwaring continued asking if she would then have two days to get an amendment in. Chair Richards replied based on the calendar you would have to have it in by the Friday. He added you could also talk about this on the floor at FOP and they can amend the budget during that process. Councilor Manwaring noted her understanding was if you weren't on the FOP Committee you didn't get a chance to offer an opinion. Chair Richards replied in the negative, adding up until this you could amend the budget on the floor. What we're asking for here is that you submit it five days ahead so that people can react to it.

Councilor Jacobs asked if Councilor Manwaring was correct or incorrect in her understanding that Councilors couldn't offer an opinion at the FOP meeting. Chair Richard suggested you can offer suggestions to the FOP Committee and they would have to move on it. Councilor Jacobs continued he feels there has been an understanding that you couldn't. The City Attorney commented he really didn't understand where that misconception came from; it is in the City Council Rules of Order, Councilors have the same rights as the general public to participate in the public process. The City Attorney continued you can't make a motion to the committee, but you can state your opinion. Mayor Lane also pointed out the budget public hearing is kept open for several days to allow written comments to come in and be considered by FOP. Councilors have every right to make written comments and submit them to the FOP for their consideration. It is open for members of the general public and the City Council to make suggestions to FOP to amend the budget. If FOP does not adopt their suggestions they simply notify the City Clerk the next day that they want to take their suggestions to the floor of the Council.

Chair Richards commented standing committees are just an advisory board to the full Council. Continuing his comments he summarized all we are saying is we want time so everybody can understand it; we are just trying to get transparency five days ahead of time.

Councilor Chadbourne commented she appreciated Councilor Jacobs asking the question, and Attorney Mullins response. She raised discussions from four years ago relating to RSA 91: A and the roles of City Councilors. Councilor Chadbourne addressed the quorum and un-noticed meeting requirements; adding she thinks this may be why Councilors thought they couldn't express their opinions. Both the Chair and the City Attorney clarified this was more on saying how you were going to vote. Attorney Mullins discussed the tension here between a Councilor's role as a Council member and their rights as a citizen.

Councilor Jones requested to return to Amendment #4. He referred to "point of order" and provided his understanding according to Robert's Rules that this has to come from a voting member. Councilor Jones asked if this was correct. The City Attorney replied a strict answer to your question is that that's true. Councilor Hague thanked the City Attorney for the clarification noting a recent incident of this happening at the Joint Committee meeting.

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

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

On a vote of 5-0, the Planning, Licenses and Development Committee recommends the adoption of the amendments to the City Councils Rules of Order.

There being no further business Chair Richards adjourned the meeting at 7:50 PM.

Respectfully submitted by:
Mary Lou Sheats-Hall, Minute-taker
November 12, 2015