

City of Keene
New Hampshire

MUNICIPAL SERVICES, FACILITIES, AND INFRASTRUCTURE COMMITTEE
MEETING MINUTES

Wednesday, March 11, 2015

6:00 pm

**City Hall, 2nd Floor, Council
Chambers**

Members Present:

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

Members Absent:

Staff Present:

City Manager John MacLean
City Attorney Thomas Mullins
Police Chief Kenneth Meola
Code Enforcement Director Medard
Kopczynski
Parks & Recreation Director Andrew
Bohannon
Finance Director Elizabeth Fox

Others Present:

Councilor David R. Meader
Councilor Terry M. Clark
Councilor Carl B. Jacobs
Councilor Randy L. Filiault

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

**1. MEMORANDUM – Parks, Recreation, and Cemeteries Director – Removal of
Invasive Species**

Mr. Bohannon stated that the City was approached as a collaborative effort between the Historical Society of Cheshire County and Monadnock Conservancy about creating a buckthorn fence, for a project in April that these groups want to do. He continued that the fence would be about 30 feet by 6 feet. The buckthorn that grows in Ashuelot River Park is an invasive species. It helps the City to have this invasive species removed, and it helps the two groups because they can wind the buckthorn in between and weave it to make a fence. It is a benefit for both parties. This can help the City and help the park. He is bringing it to the MSFI Committee as informational and they will let the Conservation Commission know about it, too.

Chair Duffy asked for questions or comments from the public or committee. Hearing none, he asked for a motion.

Councilor Redfern made the following motion, which was seconded by Councilor Manwaring.

On a vote to 5-0, the Municipal Services, Facilities, and Infrastructure Committee accepted the memorandum relative to Removal of Invasive Species as informational.

2. COMMUNICATION – Eversource Energy dba Public Service Co. of New Hampshire – Memorandum of Understanding

Laurel Boivin, Community Relations in Keene, for Eversource Energy, introduced Mark Frazier, Manager of Engineering. She stated that the MSFI Committee has before them a letter asking the City Council to authorize the City Manager to execute a Memorandum of Understanding (MOU) with Eversource Energy dba Public Service Co. of New Hampshire. She continued that the MOU has been a work in progress for a while, regarding some of the major projects and initiatives Eversource has going on with the City. Eversource has a partnership with the City and works every day with various City officials, on various initiatives. There are several items that Eversource, as the electric service provider, having distribution and transmission in the city of Keene and the surrounding area, would like to address. The MOU addresses four specific items. It establishes a framework that documents how Eversource and the City of Keene will work together on initiatives. Sometimes Eversource has something going on that the City does not know about and vice versa, and then when the other entity finds out about the projects they find they might not be a good fit. This MOU allows us to work together, more closely than before and earlier than they have in the past, and it formalizes the relationship. That is the basic function of the document.

Ms. Boivin continued that the first three initiatives the document covers are: outdoor lighting/street lights, which they have worked closely with the City on; the downtown underground, which is a project Eversource brought to the City; and the Roundhouse T Phase II multi-use trail, which is a project the City brought to Eversource. The latter is her favorite part of the MOU, because when she first brought the topic to the internal team, she thought it was dead in the water, but here they are a year later and it is happening. That is a testament to the working relationship Eversource and the City has. The fourth initiative is tree-trimming, which the public is aware of and has concerns about. The City, as stewards of the trees, finds itself somewhat in the middle.

Councilor O'Connor asked about tree cutting. He stated that he knows it must be done, for safety reasons, but sometimes people contact him about trees that were cut and say it does not look nice afterwards. He continued that they say the brush-cutter goes up on its side and whacks a bunch of trees on its way by. He asked if Eversource can have an arborist involved.

Ms. Boivin replied that they have arborists on staff. She continued that the Manager in the Vegetation Management Department is a licensed forester and arborist. They have a regional arborist, and the lead supervisor for whatever contractor Eversource uses is an arborist also. For a short time they used Lucas but now they are back to using Asplundh. They have trained arborists overseeing that, and they try hard to work with the property owners on what the specifications are, such as the distance from the lines. If the property owner wants more or less trimmed, they talk about that. Sometimes Eversource gets called back when the tree does not look good and they work with the property owners to make it better. Sometimes the City and

Eversource replants after Eversource removes trees. They will do more of that. On River Road, Eversource did stump-grinding for aesthetics. They try to work with the landowners on these issues.

Councilor Jones asked for clarification on whether Eversource is looking for a courtesy notification to the City when someone is going to put outdoor lighting on private land. Ms. Boivin replied yes, it allows the City an opportunity to facilitate a discussion. She continued that currently, if a customer calls to request a light, they do not have that notification requirement. If a property owner wanted an outdoor light in, say, their parking lot, the MOU would reference “in the public right-of-way.” Eversource would ask the property owner to give them documentation that they have notified the City of their request. After that, Eversource could install the light.

Councilor Jones asked if this MOU, had it been in place at the time, would have changed the situation in the Moore Farm Road/Old Concord Road area (when a neighbor installed street lights without first notifying the neighbors), and if the neighbors would have been notified ahead of time. Ms. Boivin replied yes. Chair Duffy stated that a lot of what drove this portion of the MOU, regarding street lights, was that issue that Councilor Jones is referring to. Ms. Boivin replied that this portion of the MOU was entirely driven by that situation.

Councilor Manwaring stated that she is not clear what they are agreeing to under “Electrical Services.” Mark Frazier replied that in the downtown area between Emerald Street and the head of the square, Eversource has underground transformers and switches. He continued that these are under the sidewalks and many times underwater. Eversource does maintenance checks each spring. Sometimes they need to be changed out. They are looking at ways to get this oil-filled equipment out from underground. They need to work with the City and find above-ground locations to relocate this equipment to, such as the back sides of the buildings, on the east and west sides of Main Street.

Councilor Jones asked if the City Manager is expecting this to be accepted as informational or if he wants to be able to authorize this. The City Manager replied that what he is looking for is authorization from the City Council.

Carl DeMatteo, of 30 Moore Farm Road, stated that his understanding is that there would be a notification if there was a request from a private individual to put a light on the City’s property. He continued that Eversource would notify the City or the requester would be obligated to notify the City. Once the City is notified, he asked, will there be a procedure that notifies the abutters and a process for this being heard? He continued that going back to the original issue, there was a great concern that the lights were installed and there was no abutter notification, no opportunity for neighbors to sit down with the person in some appropriate venue and discuss it – what are the drivers for the lights, what are the alternatives, etc. He knows it is up to the City to decide what that process would be, and he wants to know how that fits in.

Chair Duffy asked the City Manager to comment. The City Manager replied that the City would notify abutters to the extent that that is possible to do. He continued that they would have to use their best judgment as to what constitutes an abutter. They would work with affected neighborhoods in the best way possible.

Mr. DeMatteo asked if there would be a process or procedure that would outline the steps, or if it would be an ad hoc thing. The City Manager replied that he supposes that notices would come directly to the Public Works Department with the Mayor's Office and City Manager's Office carbon copied, so they are all fully aware, and the City Manager and Mayor could work with the Public Works Department to make sure the affected neighborhood is advised. He continued that they will develop some protocols.

Councilor Redfern asked what happens if a person requests to have street lights installed on their own property very close to City property. Ms. Boivin replied that the MOU addresses City land or the public right-of-way. Councilor Redfern asked if that means that if someone wanted to put a street light five feet back from City property they would not need to notify the City first. Ms. Boivin replied that Eversource would not require notification to the City; they would use the rules that the Public Utility Company (PUC) outlines, without that added step.

Mr. DeMatteo stated that his understanding is that a person can put up as many lights as they want on their own property, but wouldn't they have to do the wiring from their house? He asked what Eversource has to do with it. Ms. Boivin replied that an example is Community Way, a private road. She continued that if the owner wanted street lights, Eversource is still involved in working with them to make sure their lighting is appropriately connected to Eversource's service. Yes, the owner would hire an electrician and be responsible for that, but Eversource does have some interaction. Mr. Frazier added that they have a private area light rate. He continued that if someone has a pole in their yard owned by Eversource, Eversource will hang a light on it and charge a monthly fee for it. People are welcome to put up a meter on their own property and as many lights as they like, as long as they are behind the meter. You can have a private area light installed by Eversource and have a monthly fee. Mr. DeMatteo asked if a person is solely responsible for a light if they put a lamppost in their yard and hire an electrician to connect it to the electricity they already have at their house. Ms. Boivin replied yes.

Councilor Clark stated that every time the City does construction of a street he asks himself why the lines are not being buried. He continued that each time he asks that he is given anecdotal responses about how it is very expensive. After the public hearing he asked Eversource about this and asked if there is an actual study. Ms. Boivin sent him a 56-page report, which he read, that talks about the conversion of standing electrical services to underground, what goes into it, what the costs are, and so on and so forth. It mentions a long list of benefits to burying the lines. The costs are substantial. But the study stops short in giving a cost/benefit analysis of some of the other benefits, and many are substantial - aesthetics, repairs, trees, and the list goes on. There is nothing they can do in this MOU about this. But if some City Councilor asks about this in 20 years, say, he does not want them to be relying on the same report. He wants to dig deeper to see if anyone has discussed what the cost/benefit analysis is and why they are not burying the lines.

Councilor Jacobs stated that when he wanted to put a porch on his house he needed a building permit. He asked if a street light on private property could be included in a permitting process. It can have a rather profound effect on neighbors. The thought of "It's private property, I can do what I want" is not always right. Maybe there is an avenue to explore to regulate the lights. He continued that his question is whether this is already covered.

The City Manager replied that when someone does work on their home, they will have a contractor get a permit if required. He continued that Mr. Kopczynski could give more information about that process. He assumes Eversource is also concerned about connections being made correctly, and that the lights are inspected.

Code Enforcement Director Med Kopczynski stated that there are two aspects to this: one is a provision of a utility. He continued that anything related to that is handled in a different manner, through Eversource. The electrical supply itself is not a permit issue. Everything on the house side of the meter is subject to meeting the electrical code. If the property was a one- or two-family unit the only application of a regulation would be related to electrical safety, not the light itself. Anything that would be subject to Planning Board regulations does have lighting requirements. In that case, you may need Planning Board or administrative approval from the Planning Director in addition to ensuring electrical safety.

Chair Duffy stated that the Planning Board does have standards to minimize light pollution. He continued that this is a tricky issue. He asked for public comment. Hearing none, he thanked Eversource and expressed gratitude especially for their work on the street and outdoor lighting issue.

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

On a vote of 5-0, the Municipal Services, Facilities, and Infrastructure Committee recommends authorizing the City Manager to execute a Memorandum of Understanding, dated February 17, 2015, with Eversource Energy.

Councilor Jones stated that the background notes should show that the committee anticipates that the City will create a notification process (regarding outdoor lighting).

3. COMMUNICATION – Councilor Randy Filiault – Panhandling

Councilor Filiault stated that everyone is aware that panhandling downtown has reached a level that causes problems. He continued that he lives downtown and has to deal with it every day. Many residents and merchants have approached him to talk about this, and he has been inundated with messages on social media, regarding the aggression of panhandlers downtown. Some people say the panhandlers are harmless. He was approached by two today, who were previously convicted of drug dealing and sexual assault. He has researched them and they are not the only ones. Everyone has different reasons to be panhandling. The problem he has seen is aggression. It is not just people asking, “Can you spare any change?” – people have been physically stopped on the sidewalk by panhandlers who say, “I want your spare change.” That changes the dynamic. He has talked with the Chief of Police and others in the Police Department, and they are aware of the situation.

Councilor Filiault continued that he is not looking for an aggressive ordinance against panhandling. The ACLU would appeal it. He is asking the question, looking for staff to look into this issue, particularly the City Attorney. Is there anything at all that might have influence to curtail this? He wants them to look into it and see what they can do. Downtown merchants and city residents alike are very concerned about this. He hopes staff can report back sooner than later and give recommendations to the MSFI Committee and the City Council about how to handle this.

Chair Duffy asked when Councilor Filiault wants the report. Mr. Filiault replied that he would like to see recommendations within 30 days, but if staff needs more time, that is fine; he is not trying to push. He continued that he would not want recommendations that violate individuals' rights.

Chair Duffy thanked Councilor Filiault for sharing the concerns of folks downtown. He asked if any of these folks have expressed a willingness to come and speak to the MSFI Committee about their concerns, and/or if Councilor Filiault can ask them to do so. He continued that it would help the process. People could send letters to the City Council so they can look at people's concerns and have as much information as possible.

Councilor Filiault replied that some people did not want to come forth because they do not want to "rock the boat." He continued that they want to be good merchants. Others said that if there is a need for them to speak at a public hearing, they would come forth. Many residents are feeling intimidated. Chair Duffy replied that his concern is that their boats are already being rocked. He continued that he knows it is hard to speak up but it would move this process along to find the best possible solution. Councilor Filiault replied that maybe when staff returns with some recommendations they should have that public hearing.

Councilor Redfern stated that she is concerned with public safety. She continued that other communities have had this issue, and she found an article about one community that passed an ordinance saying you cannot panhandle 300 feet from banks or freeway ramps. She is concerned about people using ATMs. She spoke with someone who said that as she was coming out of a bank, a panhandler was right there as she came out, knowing that she had money. There are a lot of banks downtown and people go to ATMs at night. She is concerned about harassment.

Councilor Jones asked about how a motion would be worded. The City Attorney replied that he has a recommended motion.

Councilor Jones asked if the report can include, if possible, information about where these problems are coming from. He continued that for example, he has heard that there is an out-of-town business that shuttles people into town to panhandle and then takes commission on what they make; he is not sure if that is true. It would be helpful to find out if there is a relationship between the panhandling and drugs, alcohol, and/or local social services.

Charles (Chuck) Redfern, of 9 Colby Street, stated that he witnessed a man panhandling downtown. He continued that this person then spends the money, and a lot of his time, on buying and doing scratch tickets. He saw this man standing 15 feet away from a woman

withdrawing money from an ATM, staring her down. Feeling that it was a safety issue, he hung around to watch, making sure he was far enough away that the woman would not feel like he was teaming up with the panhandler, keeping the panhandler in his line of sight until the woman was safely moving along. Mr. Redfern continued that he is concerned about public safety. This is a generous community with broad and comprehensive social services. The residents here are generous people; just ask the United Way. This comes down to a concern for public safety, at busy intersections where people get distracted. He and Councilor Redfern give money to local charities instead of directly to panhandlers. One community puts up signs saying “Give to local charities, not panhandlers,” so that is an idea.

The City Manager stated that time is a factor for City staff. He continued that he understands the sense of necessity and the timeframe of 30 days that Councilor Filiault wants but it does not work out to be 30 days because of how the meetings are scheduled. Also, it is not just one person doing the report. The City Attorney will do research but he will talk with people in the Police Department, Code Enforcement Department, the City Clerk’s Office, the City Manager’s Office, and so on and so forth. There is a lot of coordination involved. It would be more realistic to expect the report back in three meeting cycles. That way they can make sure it is a decent report, done the right way.

Chair Duffy asked if it would be appropriate, regarding the concerns about public safety, to ask the Chief of Police or someone else in the Police Department to define what the issues are and explain if actual laws are being broken. He continued that he understands that this report will take time and it is a complex issue, but in the meantime, people downtown are concerned. He asked if there are any short-term steps they can take, such as increased foot patrols. The City Manager replied that he knows the Police Chief is very aware of this and has been a proponent of foot patrols downtown, and it might be helpful to hear his comments, although he is not in a position to give solutions yet.

Police Chief Kenneth Meola stated that the Police Department is well aware. He continued that most incidents have been requests for money. The stories about people demanding money are new information for him. He consistently says that he is not an advocate of giving money to panhandlers, but to giving in other ways. Asking for money is not a crime. If people feel the requests for money are harassing or intimidating in nature, they should call the Police Department and let the Officers see if there is another law to enforce, regarding behaviors other than the panhandling. The weather is warming up, people are ramping up again, and Officers are out patrolling more. But they cannot shut down this activity. It could continue. He continued that he hopes that the tone of it scales back so it is not intimidating and threatening to people.

Councilor Redfern stated that when she was coming out of Price Chopper, there was a man sitting with a sign that said, “I would rather beg than rob you.” She continued that he did not speak. Chief Meola replied that that does not violate any statute to his knowledge. He continued that since the man was on private property, Councilor Redfern could go in and talk to the store manager and say that it is intimidating. Speak to the people who have the ability to do something about it.

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Chair Duffy stated that this is a real concern. He continued that there is a tension between the perception and actual safety of members of the community and, on the other side, the constitutional rights of individuals. He is looking forward to hearing from staff and hearing of ways to help the community feel safer. There are two items on “more time” for the MSFI Committee - concerns over the growing drug problem in Keene, and a resolution related to disorderly behavior in Central Square and Railroad Square. This issue is part of a broader context.

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

On a vote of 5-0, the Municipal Services, Facilities, and Infrastructure Committee recommends that this matter be placed on more time for City staff to research the issues related to panhandling and to present potential options with respect to the matter.

Councilor O’Connor asked if the motion should say to come back in three cycles. Chair Duffy replied that it is in the background notes. He asked what the other committee members thought. They agreed with him. Chair Duffy added that if it does not come back in three cycles they will ask why.

4. Adjournment

The meeting adjourned at 6:50 PM.

Respectfully submitted by
Britta Reida, Minute-taker