

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

Wednesday, August 26, 2015

7:00 PM

Council Chambers

Members Present:

David Richards, Chair
Emily P. Hague
Bettina Chadbourne
Carl B. Jacobs

David R. Meader, Vice-Chair

Members Not Present:

Councilors Present:

Staff Present:

Thomas Mullins, City Attorney
Gary Lamoureux, Project Manager
William Dow, Deputy City Clerk
Rhett Lamb, Planning Director

Mark Howard, Fire Chief
Steve Russo, Capt. KPD

Others:

Chair Richards called the meeting to order at 7:00 PM welcoming the viewers of Cheshire TV, Channel 10.

1. COMMUNICATION: Request to Use City Property – 38th Annual Clarence DeMar Marathon and 2nd Annual Half Marathon

Alan Stroshine, of 27 Salisbury Road was present to answer any questions regarding this annual Community Event request to be held on September 27, 2015.

Chair Richards asked Mr. Stroshine if he had made a request to use the Public Works signboards. Mr. Stroshine replied in the affirmative. Chair Richards also thanked Mr. Stroshine for coming before the Committee well in advance of the event. Committee members were in favor of this event.

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

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

On a vote of 5-0, the Planning, Licenses and Development Committee recommends that The Elm City Rotary Club be granted permission to sponsor the Clarence DeMar Marathon on September 27, 2015, subject to the customary licensing requirements of the City Council, and compliance with any recommendations of City staff. The Petitioner agrees to absorb the cost of any City

services over and above any amount of City funding allocated in the FY 16 Community Events Budget, and agrees to remit said payment within 30-days of the date of invoicing.

2. COMMUNICATION: Proposed Transfer of Franchise Agreement to Charter Communications

As Councilor Clark was not present, Chair Richards asked the City Attorney for his thoughts on this issue. Attorney Mullins reported he did follow up on this and read the Agreement as well. He noted he also requested an opinion from Kate Miller, who is outside counsel from Donahue Law Firm. Attorney Mullins reported that Attorney Miller agreed with his assessment that the Cable Company is carefully structuring this so it is not a transfer of the Franchise Agreement. As with other communities, our Agreement would require the permission of the City if there were to be a transfer of the Agreement. However, because of the way Charter is structuring the transfer of the assets with Time Warner this doesn't trigger that because they remain commonly controlled entities.

Continuing, Attorney Mullins noted this does present an opportunity if there were some issues under the Franchise Agreement that the provider was non-compliant with, for the City to negotiate compliance with respect to that. Attorney Mullins discussed this with the City's IT Director, Rebecca Landry who reported they are not in violation of any of the terms or conditions under the Franchise charter. They have lived up to the Agreement; bills are paid and he has heard of no service complaints.

Attorney Mullins reported a couple from Marlborough came to City Hall presenting a communication from Time Warner regarding possible programming changes which they had concerns about. Attorney Mullins noted this is sort of a warning letter which is federally required to let subscribers know the company is in negotiations with different television entities and may not be able to reach agreement with these different entities. The other part of the letter noted that certain FM radio broadcasts were being terminated. He noted apparently various FM stations are broadcast over the cable system. Attorney Mullins also consulted Attorney Miller about this; her perspective was that these minor changes to programming would probably not allow the City to challenge the changes. The City could contact the cable company letting them know they prefer the FM radio broadcasts not be terminated. Attorney Mullins suggested having the City prepare a letter to Time Warner Cable based on these programming changes asking them to consider not dropping the FM stations. Referring to Councilor Clark's letter, Attorney Mullins noted he agreed with Attorney Miller's opinion that we have no opportunity to impact the transfer.

Councilor Jacobs noted he is unsure what Councilor Clark is asking of the Committee. Councilor Hague suggested what Councilor Clark is asking is whether or not our consent is required. Attorney Mullins replied the answer is no.

In response to Councilor Chadbourne the City Attorney noted the letter he suggested would likely come from the City Manager; it would be composed by himself and Rebecca Landry. Attorney Mullins recommends sending the letter in support of the local subscribers.

Councilor Jacobs noted his understanding of the discussion. Attorney Mullins clarified his suggestions to the Committee that there really does need to be two recommendations.

- Recommend to City Council on the advice of the City Attorney that no consent to the sale of the assets to Charter Communications is required by the City.
- Recommend to City Council that City staff prepare a letter, over the signature of the City Manager to Time Warner Cable objecting to the removal of the FM station programming from the services provided.

The City Attorney also recommended this be done in two motions.

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

Councilor Hague made the following motion, which was seconded by Chair Richards.

On a vote of 5-0, the Planning, Licenses and Development Committee recommends to City Council per advice from the City Attorney, that no consent is required regarding the sale of assets between Time Warner Cable and Charter Communications.

Councilor Hague made the following motion, which was seconded by Councilor Chadbourne.

On a vote of 5-0, the Planning, Licenses and Development Committee recommends that City Council request the City Manager draft a letter to Charter Communications and Time Warner Cable objecting to the reduction of FM radio programming as part of their services.

3. MEMORANDUM: Dumpsters Located on City Right of Way

Gary Lamoureux, Parking Project Manager reported that in planning for the infrastructure improvements to be done in the Commercial Street Parking Lot, dumpsters for the two noted businesses were accommodated in the planning. In anticipation of the completion of this work, staff is requesting the use of City property by these entities be documented in the form of a non-lapsing revocable license and indemnification agreement. The license would not be transferrable to a new owner, and the staff would follow up on an annual basis with the current owner for updated liability insurance in the amount of \$1,000,000 listing the City of Keene as an additional insured.

Mr. Lamoureux also reported the dumpsters had been in these locations for the past 16 to 17 years, and were unlicensed. In 1977 City Council had licensed dumpsters on that City property which was not transferrable to the current owners, Margaritas, at 77 Main Street. The dumpsters have been there since Margaritas moved into that location. He continued the second location is Heidi's Hallmark, at 87 Main Street where the dumpsters have been in place for the past 16 years.

Mr. Lamoureux reported this issue was reviewed with City staff including the Public Works Department who has no other issues if the City were to license them in the provided location. The property owners are willing to come into compliance with whatever the City requires. The owners are also willing to install fencing around the dumpsters; Rhett Lamb will handle the material (cedar fencing) selection to ensure compliance with the Historic District Commission guidelines.

Chair Richards asked for Committee questions or comments.

Referring to Margaritas, Councilor Hague asked if a grease trap/tank was included. Mr. Lamoureux noted that Margaritas owns approximately eight feet right off the rear of their property; that is where the grease unit is located.

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

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

On a vote of 5-0, the Planning, Licenses and Development Committee recommends that permission be granted to Heidi's of New England and Margaritas Mexican Restaurant to place dumpsters on City property behind their respective buildings in the Commercial Street Parking Lot, subject to the customary licensing requirements of the City Council, compliance with City Code requirements and any recommendations of City staff.

4. MEMORANDUM: Revisions to Chapter 46 – Licenses and Permits

William Dow, Deputy City Clerk provided the background information on this item. The Planning, Licenses and Development Committee had expressed an interest in reviewing their focus and potentially eliminating from their workload some of the cyclical and recurring licenses that could be handled administratively by staff. This shift would allow the Committee to focus on other initiatives and objectives while still retaining issuing authority for certain licenses that are required to go to Council or those that would be more appropriately handled by the governing body.

This review and streamlining of regulatory processes was also identified as a goal in the City Manager's budget message in fiscal year 2012-2013. Steps to work towards that goal have been ongoing internally among the various Departments of the City since the goal was articulated; and this is one of the areas where streamlining would improve service delivery and simplify licensing and permitting processes for our customers.

Mr. Dow continued that City staff has reviewed section Sec. 46-62 Designated Licensing Officials, and suggests that staff be given authority to issue the following licenses administratively: Bike race, road race and parade licenses; Licenses for the General use of City property; Requests to serve alcohol on City property; Sidewalk Cafes; and Sidewalk Obstructions. There would be an opportunity to send licensing requests along to the City Council for authorization should the Council need to be involved or if it is a first time request for a particular license.

Staff is further suggesting that certain licenses remain the purview of the Council, and those would include: Community Event licenses, Discharge of Fireworks, and Lodging House licenses. The rationale for these licenses remaining with the governing body is that they either have a public safety component, or could be potentially disruptive to the community in the case of a community event.

Chair Richards noted his pleasure with this action; he also asked why Lodging Houses wasn't removed because if Code Enforcement and the Fire Department have signed off then the applicant has met the requirements. He also suggested this be incorporated into those issues handled administratively.

Councilor Jacobs noted his assumption the last issue before the Committee would have been handled administratively. He also clarified new or first time licenses would still come to the Committee. Mr. Dow replied in the affirmative, adding this would be the protocol.

Councilor Meader noted his agreement with Chair Richards regarding Lodging House licenses.

Councilor Chadbourne also noted her favor regarding this action. She referred to the staff notes for the rationale of licenses remaining with the governing body (public safety component) noting she would like to hear from the Fire Chief and Code Enforcement before discussing an Ordinance. Chair Richards asked that the Fire Chief and Code Enforcement be in attendance when the draft comes back for first reading. Attorney Mullins also suggested the Police Chief be present.

Councilor Hague asked if these changes would produce an additional burden on staff or reduce the burden on staff. Mr. Dow noted that staff does the work whether or not it goes to Council. He added this would definitely be a more streamlined process for the citizens; which is really our goal.

There being no further questions or comments from the Committee or members of the 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 that staff be directed to introduce an Ordinance for first reading that would incorporate various changes to Chapter 46 of the City Code of Ordinances relative to administrative authority to issue the following licenses and permits: Bike race, road race and parade licenses; Licenses for the General use of City property; Requests to Serve Alcohol on City property; Sidewalk Cafes; and Sidewalk Obstructions.

Councilor Hague inquired about adding Lodging House licenses as discussed earlier. Chair Richards asked Mr. Dow to remind the City Clerk we would like to put that in there. He also commented bear in mind that we will have Police, Fire, and Code Enforcement to review that when we actually get an Ordinance in front of us.

There being no further business Chair Richards adjourned the meeting at 7:34PM.

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

August 27, 2015