

City of Keene  
New Hampshire

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

**Wednesday, July 25, 2018**

**6:00 PM**

**Council Chambers**

**Members Present:**

Janis O. Manwaring, Chair  
Randy L. Filiault, Vice-Chair  
Stephen L. Hooper  
Gary P. Lamoureux  
Robert B. Sutherland

**Staff Present:**

Elizabeth A. Dragon, City Manager  
Thomas P. Mullins, City Attorney  
Kürt Blomquist, Public Works Director  
Andy Bohannon, Director of Parks, Recreation  
& Facilities  
Jack Wozmak, Airport Manager

Chair Manwaring called the meeting to order at 6:00 PM, welcomed the public, and explained the rules of procedure.

**1) Kate Schwerin – Proposal for Permanent Public Art Installation – Airport Property**

Chair Manwaring welcomed Katie Schwerin (27 Hayward Drive, Gilsum) who is proposing an art installation on the Dillant-Hopkins Airport property. The proposed installation is a freeform labyrinth of 4’-6’ high boulders which mimics the profile of Mt. Monadnock. She said the proposed location is a good one because there is a pull-off area where people can stop, as well as an entrance to the woods. She shared photos that demonstrate the basic design. This initial proposal is for the maze structure and she anticipates returning with an additional proposal for sculptures to add to the pathway (three initially; she has artists she wants to work with). She hopes to move the boulders to the location with equipment and then engage the community in placing the rocks and creating the form. She demonstrated the location using an aerial image of Airport Road (right side of Airport Road if coming from RT-32). It is a natural area where the trees and topography create a small amphitheater. The area is mostly sand and will need minimal maintenance. Per Councilor Hooper’s request, the Airport Manager explained the proposed location currently has picnic tables and the nearby pine trees slope up into the woods; the boulders will be on flat ground, not the hillside. Councilor Hooper thinks it is a perfect location.

Councilor Filiault asked if there will be any effort to promote the history of the airport. Ms. Schwerin replied she anticipates more of an experience of this region—of climbing Mt. Monadnock when you cannot.

Councilor Sutherland thanked Ms. Schwerin for the presentation and noted the City is trying to welcome art in the community. There is a new resolution that states requirements the City is looking for with regard to permanence. He expressed concern

about the cost, maintenance, and security of the future sculptures. Ms. Schwerin replied the sculptures will be a separate request because she does not know what they will be yet. She plans to propose them separately so she can return and present them to the Committee. She does not seek any financial input from the City. Regarding maintenance, the Airport Manager replied the location was previously hydro-seeded, there are no FAA funds for non-aviation activity on airport property, and based on current treatment, this proposed use should require less maintenance.

Councilor Filiault said he is initially in favor, but he thinks the Committee needs more information. He recommended the Committee place this on more time. Councilor Sutherland agreed and asked if there is an administrative process so a department director can present that this project meets all City requirements and the Committee can clearly vote. The City Manager replied that the resolution is written so that a project manager is based on the location of the art; so, in this instance, the project manager will be the Airport Manager. In other instances the project manager could be the Public Works Director or Director of Parks, Recreation & Facilities. They will both likely still be involved making sure this project is ready to present to Council. She agrees there needs to be an administrative review and approval to ensure everything is done correctly. The last thing she wants to do, however, is discourage this great idea.

Rick Blood (Sparrow Street, Keene) commented that it looks like a wonderful project, but he is against anything at this location that is not aviation or veteran related.

Councilor Carl Jacobs said this is thrilling proposal because the City just passed the art installation resolution. He added he has been at other airports and has seen art displayed and he thinks it is a great way to welcome people to the community and indicate Keene's community values.

Council Filiault made the following motion, which was seconded by Councilor Lamoureux.

On a vote of 5-0, the Municipal Services, Facilities & Infrastructure Committee recommend that the proposal for a permanent public art installation be placed on more time.

**2) Kate McNally/Cheshire Coalition for Tobacco Free Communities – Raising the Legal Minimum Age for the Sale and Possession of all Tobacco and Nicotine Products**

Chair Manwaring welcomed Kate McNally (36 Cross Street, Marlow), a Tobacco Treatment Specialist, and Program Manager of the Cheshire Coalition for Tobacco Free Communities at Dartmouth-Hitchcock Keene. She and the Coalition are asking the City to consider their proposal to increase the legal age of purchase and possession of tobacco and nicotine to 21 years old. She said she takes this issue seriously and that it is not political to her. It is about preventing chronic disease and illness. She shared the story of her mother who had emphysema and said if the laws had been different then, her mother

may not have developed that illness. She submitted a letter to the Mayor and City Council outlining how this proposal would reduce addiction to tobacco and nicotine, and reduce the number of high schoolers who report smoking and vaping. Adoption of the Ordinance would also reduce adult smokers, and prevent youth from initiating use of tobacco in vapes. The Dover City Council recently overwhelmingly passed a similar ordinance, joining 330 localities in 21 states (including five states with this policy statewide).

Ms. McNally continued that she is aware of the concern about the burden this can place on retailers. She reported results of studies on this topic:

- American Journal of Public Health – maximum initial loss of sales from 2-4%
- Institute of Medicine – only 12% sales reduction expected between 18-20 year olds (0.05% reduction in total sales)

Ms. McNally continued that the Coalition is confident the benefit of reducing tobacco related illnesses in our communities far outweighs the potential loss of revenue. Ms. McNally continued presenting research and statistics that support increasing the minimum legal age:

- Centers for Disease Control – NH’s annual health care costs due to smoking related illness exceed \$735 million, of which \$139 million are in Medicaid costs. This leads to an annual state and federal tax burden of \$175/year/household. Ms. McNally said these proposed preventative measures will benefit tax payers.
- Portland, ME Retailer Survey – 3 of out 15 retailers who responded to the survey reported negative feedback from customers, one reported mixed feedback, and the rest reported no issues. Only one reported a loss of revenue at the time from passing this resolution.
- Institute of Medicine – if enacted, Tobacco 21 is expected to reduce overall smoking rates by 12% and decrease smoking initiation 25% among youth.
- Letter from Director of Economic Development in Needham, MA – indicated no convenient stores went out of business because of the city’s tobacco regulations passed in 2005, nor have convenience stores there gone out of business after its Board of Health restriction on the sale of flavored tobacco products in 2016.
- A veteran non-partisan organization supports this resolution because it improves combat readiness and the military supports this resolution because illnesses are a burden on the Department of Defense and Veterans Affairs. She said this is an argument against those who say if military can serve their country at 18 they should be able to buy a pack of cigarettes.
- She said she respects the intent of electronic nicotine devices (ENS) to help people quit smoking, but a Georgia study showed no evidence that ENS help people quit at higher rates. “Absent any meaningful changes, ENS used among adult smokers is unlikely to be a meaningful solution to increase population quit rates.” Ms. McNally said this resolution is not to get people to quit smoking, but to prevent youth from smoking and using tobacco products (a preventative policy).

- Dartmouth Study – 168,000 people who never smoked cigarettes would initiate smoking due to the use of ENS even though 2,070 smoking-age adults may quit. Researchers concluded that ENS use is more harmful than beneficial.
- 75% of adults surveyed favor increasing the minimum legal age, including 7/10 smokers. Most smokers (70%) want to quit and 85% wish they never started.
- 2017 Youth Risk Behavior Survey – youth report getting their vapes and other products from social sources, not stores or the internet. 46.7% of youth report borrowing vapes, 15.3% report buying them in a store, and 5.7% buy them on the internet.
- Keene Sentinel – reported that the high school says the vape devices are prevalent and the school resource officer is often taking them away.

Ms. McNally continued listing what the Coalition will do for the community if this resolution passes:

- Offer materials to educate and inform customers (e.g., window clings, table tents)
- Compliance checks for alcohol and tobacco with the Monadnock Alcohol and Drug Abuse Coalition

Ms. McNally concluded that the City feared businesses would lose revenue when they adopted the smoke-free dining ordinance in 2002, but the opposite happened. She said she knew some local retailers offered their customers points for coming to this meeting in opposition; she said she did not have points to give, but that she can offer healthier youth. She wants to give kids and the community a chance. She thanked the Committee for their time and consideration.

Councilor Sutherland asked staff if the City has a license for the sale of tobacco within City limits or if it comes from the state. The City Attorney replied he was unsure; Ms. McNally said retailers get licenses from the State. She said like Dover, the City does have the authority to restrict sale. Councilor Sutherland replied that in that case, the City could also regulate opioid prescriptions; Chair Manwaring asked to stay on topic.

The City Attorney said it also surprised him that the City has the authority to do this, but it is a part of the Youth Access to Tobacco Products statute. Councilor Sutherland replied asking why stop at 21 or 25, when the Affordable Care Act recognizes children until age 26. Ms. McNally said they want to parity alcohol laws because they are already established.

Chair Manwaring recognized Katherine Unger (44 Stanley Avenue, Columbus, OH) who said the Institute of Medicine looked at the effect of changing to various minimum ages. They found that increasing the minimum age to 21 had the most impact on youth aged 13-17, which is what this ordinance is trying to prevent.

John Schlegelmilch a retired physician said he was there when the Coalition was formed in 1996. He said the first thing to do for general health of the population is tobacco prevention. His patients always agreed they started when they were young. He said the

chances of someone initiating nicotine use after 21 are small, there has been a lot of loss in this community from tobacco, and increasing the age will benefit the community. He said reasons were presented in the past for why restricting tobacco would fail that turned out to be untrue. He said continuous efforts at tobacco prevention are necessary with a tobacco industry that is constantly trying to get people more addicted to their products.

Dan Cavallero (341 Court Street, Keene), Owner of Monadnock Vapor, asked Ms. McNally how this ordinance will not affect his business. He said he knows this would affect a high percentage of his business. He asked why young adults old enough to vote and die for their country cannot choose between vapor and smoke. Why is it up to the opinion of a small group of people to make this decision for taxpayers, military, and retailers. He added that if this ordinance passes, he will have to fire one of his employees.

Chair Manwaring clarified that the Committee would not be voting on an ordinance at this meeting; the City Attorney will work with staff to draft an ordinance to present to the Committee at another public meeting. Still, she said she was willing to hear from more members of the public.

Chair Manwaring recognized Jane Scanzez (62 Christian Hill Road, Swanzey), Substance Abuse Prevention Coordinator with Center for Population Health at Cheshire Medical Center. Ms. Scanzez read a statement, in which she stated that:

- She supports the Tobacco 21 ordinance both because of her profession and because of the loss of her grandmother who died due to lung cancer.
- Tobacco kills more people than all other substances combined.
- By age 24, the odds are 20-1 that someone will begin smoking.
- The emergence of new nicotine devices and advertising has led to more youth using tobacco.
- An evidence-based way to reduce smoking age deaths is to increase the legal smoking age.
- Use of one substance often leads to use of other substances; substance abuse occurs for many reasons. Reducing youth access to tobacco can prevent other problems developing. Youth brains are vulnerable as they are developing until age 25.
- Passing this ordinance would be a response to the increasing demand for the City to do something about the drug crisis. Keene will increase protective factors and reduce risk factors for youth.

Mr. Cavallero said he does not see the correlation between drug addiction and nicotine use. He said he does not want vaping pooled into the same category as tobacco products. They do not combust, and they only contain nicotine, vegetable glycerin, and propylene glycol. He said there are 70.3 million nicotine users in this country and only 980,000 heroin addicts. If only 1.43% of the people who use nicotine also use heroin then he does not think that seems like a gateway drug. He said nicotine does not lead to opioid addiction.

Chair Manwaring recognized Polly Morris (Lakeshore Drive, Winchester), a certified Prevention Specialist, who said risky behavior; leads to many things (e.g., drug use, alcohol use, violence, crime) and children are predisposed to risky behavior. Things like smoking and vaping look cool to these impressionable children. She said she understands the risks because she is currently undergoing treatment for throat cancer. She said they cannot prove smoking caused her cancer but it is one of the two risk factors. They cannot prove vaping does not cause cancer because there is insufficient research. She said if there is a way to keep children safer longer, the City should do it.

Nathan Taruck (47 Washington Avenue, Keene), Assistant Manager of Monadnock Vapor, said changing the age restriction in Keene will not change the problem, it will just send people to Swanzey and other surrounding towns. He said changing the age in Keene will not change the problem at all.

Councilor Philip Jones said Keene is a part of the Healthy Monadnock team. He is the only municipal politician recognized by Cigar Aficionado Magazine as a politician against smoking. He supported being the first City in NH to vote against smoking in restaurants, which led to the state statute. He said the City needs to take the lead and he asked for a yes/no vote from the Committee at this meeting so staff can draft an ordinance for Council to review.

Ms. Unger said this effort is not just one woman, it is evidence-based. She said research shows the people do not seek retailers in adjacent towns when this ordinance is enacted; in another City there were 46% smoking reduction rates. She said the Juul vape and many e-cigarettes contain chemicals, like formaldehyde, which are unsafe. She added that one Juul pod is the equivalent of one pack of cigarettes; they contain extremely addictive levels of nicotine.

Todd Silverstine (Cardiologist at Cheshire Medical Center) thanked Ms. McNally for inviting him to this meeting and said he spends his days talking about the risks of cigarette addiction. He said anything that increases the likelihood of young people not starting to smoke will enhance general population healthcare and decline work-related illnesses. He said reducing tobacco at the high school level makes sense considering sugary drinks are restricted in schools and seatbelts are mandated in cars. He said sometimes we need the help of elected officials to institute modalities to ensure public health.

Mr. Cavallero shared research from England and a similar report in the NE Journal of Medicine that say the formaldehyde in e-cigarettes is negligible. Tests that showed high levels of formaldehyde used a machine that puffed the e-cigarette at maximum power levels a human never could. If used in that way the e-cigarette would, “exceed formaldehyde levels in a cigarette between five and 15 times.”

Councilor Terry Clark said Ms. McNally spent time defending her proposal against the effect on business. He asked if the Committee members ran for office to protect the health and well-being of the citizenry or to protect business profits.

Councilor Sutherland asked why this proposal was referred to this Committee. The City Manager replied it was because this issue has to do with public safety. The City Attorney said this Committee seemed logical because this is not about finance or licensing.

Councilor Sutherland noted Dartmouth-Hitchcock Keene provides smoking cessation products, which contain nicotine. If this ordinance passed, he thinks it would impact the hospitals ability to distribute those products. The City Attorney said he thinks there is an exception for smoking cessation products in the proposed ordinance and it can be drafted that way.

Councilor Hooper said he has more questions after this meeting about the economy, business, and other complex issues the City needs time to investigate. He suggested a motion to place this on more time.

Councilor Filiault said he understands both sides of this issue because he lost his mother to tobacco use, but he was also in the military and appreciates that right because you lose many other rights when you sign a military contract. It concerns him that businesses will just go to Swanzey and he agrees with Councilor Hooper that many questions still need to be resolved.

Chair Manwaring said she wants to know more about how Dover passed this ordinance. She said she is not ready to vote because this effort was new to her and she is uncertain about what her constituents think about this. When Ms. McNally returns, Chair Manwaring hopes she will share education efforts to help the general public understand.

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

On a vote of 5-0, the Municipal Services, Facilities & Infrastructure Committee recommends that more time be granted to allow City staff to investigate the process that the City of Dover utilized in adapting a similar ordinance that would raise the legal minimum age for the sale and possession of all tobacco and nicotine products.

### **3) 48 Stanhope Avenue – Release of Easement – Public Works Department**

The City Attorney said he visited the property with the City Engineer and he is asking for more time because of the time period for repurchase possibilities for this property. The City did take this property by Tax Deed and an abutting property owner invited the City to look at an easement that abuts both properties. He and the City Engineer will return to the Committee with a recommendation to release the easement, but no action should take place until the repurchase period for the property.

Councilor Sutherland made the following motion, which was seconded by Councilor Filiault.

On a vote of 5-0, the Municipal Services, Facilities & Infrastructure Committee recommends the request for release of an easement be placed on more time.

**4) Councilors Hansel, Hooper, & Manwaring – Installation of Receptacle for Lead Fishing Tackle Disposal – Keene Transfer Station**

Kurt Blomquist, Public Works Director, said he received the request from Councilors Hansel, Hooper, and Manwaring concerning placement of collection devices for lead based fishing tackle. Loons are threatened in NH and lead fishing equipment they mistake for pebbles can kill them. He spoke with Duncan Watson, Assistant Public Works Director, and staff supports this request. He suggested collection at more than just the transfer station, but also potentially City Hall, Parks & Recreation, sporting goods stores, etc. He suggested the Committee recommend staff handle this administratively, place the collection devices, and handle the public relations efforts to advertise their locations.

Councilor Hooper added that loons are coming back to NH and he showed a picture of one catching a 10” bass in a nearby lake. Loons are in every water body of NH so it is important to have lead receptacles and he appreciates the City endorsing it and participating.

Councilor Hooper made the following motion, which was seconded by Councilor Lamoureux.

On a vote of 5-0, the Municipal Services, Facilities & Infrastructure Committee recommends the request to locate a receptacle for the disposal of lead fishing tackle be granted subject to any recommendations of City staff.

**5) Relations to the Use of the City Park Lands: Resolution R-2015-30 & Resolution R-2018-27**

Chair Manwaring recalled there were questions about these resolutions at the last meeting. Councilor Sutherland said the last line of the resolution states the City can request a charge for instructional recreation uses that equals 20% of collected registration fees. He feels that all fees related to recreation should be housed in one place, publically available, and consistent for all parties. They have only been specifically applied to camps, which he thinks is discriminatory. He understands the argument and history that led to this fee to match use. He has reviewed the state laws, which enable the City to enter into contracts. He said fees should not be a percentage of registration (which could include coaching fees, jersey’s, equipment, etc.), which has nothing to do with use. State law says fees should be reasonably in line with use and maintenance. He suggested striking the last line of the Resolution R-2018-27 and separately reviewing fees, addressing them specifically based on hours, days, and participants. An appropriate fee schedule can be determined regarding use to appropriately reimburse the City for that type of use. He thinks this would be most appropriate and applies to all parties who use something consistently.



The City Manager said she has learned since the last meeting that there are more organizations other than camps that this applies to (like yoga and health classes). It applies to any organization using fields that are fee based. She looked at other communities (like Portsmouth and Concord) which also charge these fees based on registration. The City Council reviewed all recreation programming fees in 2017. She thinks the Council can look at additional language for a possible resolution in the future, but this language has been applied to various organizations since 2002 and she thinks it has been applied consistently. An organization that the City is considering a memorandum of understanding type agreement with, as Councilor Sutherland suggested, is the Cal Ripkin program because over time they have invested in facilities instead of paying fees. Still, this system has worked in Keene and other communities.

Councilor Lamoureux made a motion to recommend that R-2015-30 be rescinded and R-2018-27: Relating to the Use of City Parklands be adopted, which was seconded by Councilor Filiault.

Councilor Sutherland asked, then, if the last sentence of R-2018-27 was not going to be removed. He argued this line of the resolution is not being applied to all necessary parties, as the City Manager suggested, because Mr. Bohannon said he has only applied this to two organizations in recent time. He said many non-profits lease these lands and fees are not applied, which is discriminatory. He thinks these fees should be public and tied to use. If an organization charges nothing but uses the land extensively then the City will not get what they need. He said this is not articulated well and the City can do this better.

Mr. Bohannon said at the last meeting he mentioned this was strictly for camps and that was incorrect. This also includes fitness classes, tennis lessons, etc. and the City is consistent in how it is applied. The City only seeks the 20% of registration fees for camps, lessons, and instruction based programs. The fee is based on use of the facility and number of participants so that the fee is consistent with the size of the class/activity. He said this is how the process was explained to him in 2004, so he has continued working in that manner. Councilor Sutherland said if someone is not charged a high registration fee and destroys a field, the City will not get reimbursed; he thinks the City should think more about this.

On a vote of 4-1, the Municipal Services, Facilities & Infrastructure Committee recommends that R-2015-30 be rescinded and R-2018-27: Relating to the Use of City Parklands be adopted. Councilor Sutherland opposed.

## **6) Adjournment**

Hearing no further business, Chair Manwaring adjourned the meeting at 7:20 PM.

Respectfully submitted by,  
Katryna Kibler, Minute Taker

