

City of Keene
New Hampshire

COLLEGE CITY COMMISSION
MEETING MINUTES

Monday, April 22, 2019

4:00 PM

**2nd Floor Conference Room,
City Hall**

Members Present:

Steve Fortier, Co-Chair
Dave Richards, Councilor
Phil Jones, City Councilor
Dr. Chris Cusack
Robin Picard
Ely Thayer
Kim Schmidl-Gagne (arrived at 4:30)

Staff Present:

Rhett Lamb, ACM/Community Development Director
Thomas Mullins, City Attorney
Kim Schmidl-Gagne (arrived at 4:30)
Donald Lussier, City Engineer

Members Not Present:

Peter Starkey
Davis Bernstein
Dr. Dottie Morris
Kelly Ricaurte
Dick Berry
Victoria Bergstrom

1.) Call to Order

Co-Chair Richards called the meeting to order at 4:04 PM and Mr. Lamb conducted roll call.

Ms. Picard asked why Mr. Bernstein was not called as a member. Mr. Lamb responded that his understanding was that Ms. Bergstrom and Mr. Bernstein shared a spot on the Commission and that Ms. Bergstrom was the primary member. Mr. Lamb will confirm the membership of Ms. Bergstrom and Mr. Bernstein with Ms. Schmidl-Gagne.

2.) Approval of Minutes – March 25, 2019

Ms. Picard noted a correction on page 5, fifth paragraph, the sentence “Ms. Picard reported that Shana Davis, who owns a food truck located near the College, has reported that students always behave very well and does not have a problem with trash” corrected to “Ms. Picard reported that Shana Davis, who owns a food truck located near the College, has reported that students always behave very well but does have a problem with trash.

Councilor Jones made a motion to accept the minutes from March 25, 2019 as amended. The motion was seconded by Dr. Cusack, which carried unanimously.

3.) Co-Chair Updates

Co-Chair Richards announced that Ms. Kayser has resigned as Co-Chair and he has been appointed as Co-Chair on the City side by Mayor Lane. Co-Chair Richards thanked Ms. Kayser for her service and dedication to the CCC.

Co-Chair Fortier then distributed copies of the CCC Commission Charges for 2019 and copies of Keene State College's Sustainability and Vitality Plan 2018-2019.

4.) Staff and Subcommittee Update regarding requirements under the Right to Know Law – New Hampshire RSA 91A/Subcommittee Updates

Co-Chair Richards stated that at the last CCC meeting he was confused by a few things. He stated that the City met and discussed how the rules of RSA 91 with City meetings have to be followed. Co-Chair Richards explained that at the last CCC meeting he was unsure about who was on the Committee. He stated the City Attorney is present to clear up any confusion and to answer questions from the CCC. Co-Chair Richards stated that his understanding is that the CCC is made up of seven members on the City side and seven members on the College side. He stated that three members on each side constitute a quorum; meetings have to be noticed and opened to the public. In addition, he stated that the appointed members should be the only ones seated at the table. Co-Chair Richards noted that members from the public are welcome to attend meetings.

Co-Chair Richards explained that the subcommittee must also follow the exact same rules as the Commission including doors remaining open and meetings must be open to the public.

Co-Chair Richards recognized the City Attorney and turned the discussion over to him.

The City Attorney began by reporting there is a proposed Ordinance change with respect to the CCC. He explained the proposed changes will be going for review and then to the City Council for review. He noted the review will include the requirement that the quorum consists of at least 3 members on the City side and 3 members on the College side. The City Attorney stated that right now the Ordinance as it was presented does not appear to have those requirements.

The City Attorney reported there is some internal discussion within the City about how to define what a quorum is. He explained that a statutory board has specific requirements with respect to how many members constitute quorum. The City Attorney stated the legislative bodies, such as the CCC does not operate in the same kind of way as a statutory body. He explained the discussion within the City for the legislative bodies is about having the quorum based on the membership right now and how many members there are supposed to be. The City Attorney explained that if the membership starts dwindling then the quorum will also start to dwindle. In the meantime, a quorum is the majority of the appointed members to the body.

The City Attorney then moved the discussion to the other issues that have been presented. He stated that he had to take a closer look at his role in this entity when issues first come up, when talking and giving advice. He explained that he had to think about if he can actually come to this body and give these types of presentations. The City Attorney noted there is another governmental entity associated with this Commission and is the only body in the City that has two of those entities involved.

The City Attorney stated that he had to do some investigating with respect to this issue. He reported the consensus from some of the ethics people that he has spoken to, is that because the City of Keene created this body by Ordinance it is a City entity. He stated that from his perspective this is one thing because the City has created the CCC by Ordinance and it is a specific public body under the law. He explained that public bodies have specific responsibilities under RSA 91A. He stated

that a lot of those responsibilities are with City staff and they are the ones responsible for posting and noticing meetings. The City Attorney stated that the public has the right to attend meeting and participate in the meeting if allowed by the chair.

The City Attorney stated that it is important to keep the separation about who is on the Committee and who is not. He stated that people that are not a part of the Commission should be in a separate area. In addition, he noted that if there is not a quorum no business can be transacted.

The City Attorney then discussed how the body has the right to create subcommittees. He stated that business conducted for the subcommittees should happen at a meeting and have an agenda. In addition, for any new business that comes before the body it should go on the agenda for the next meeting. He stated there should be a vote by the body to create a subcommittee and then vote to place specific people on a subcommittee from the Commission. The City Attorney explained that a subcommittee becomes a public body because it is an advisory body. He stated that NH RSA 91A specifically requires that advisory bodies that are created by the public body meet the requirements of the statutes just like the full body. He stated that the members of the subcommittees should be members of the larger body. The City Attorney noted that the public can also be invited to the subcommittee meetings. The City Attorney referenced the minutes of the last CCC meeting and noted that Mr. Weststrate presented the Neighborhood Revitalization report. He noted this should not be done because Mr. Weststrate is not a member of the Committee. The City Attorney added that there should be a Commission member as chair of the advisory committee. City Chair added that there should be a commission member in addition as Chair of the advisory committee.

The City Attorney referred to a discussion he had with Ms. Picard in regards to questions about preparing ordinances or otherwise. He stated that generally, the way the process works in the City with all of the boards and commission, if there was for some reason a legislative change the advisory board can then make a recommendation to City Council. He noted there is a place on the City agenda for the Boards and Commission Reports. The City Attorney explained by doing this it alerts everyone about what the body is thinking about and gives the City Council notice, which is the entity that has the authority to create the ordinance.

With no further comment, the City Attorney welcomed comment.

Dr. Cusack thanked the City Attorney for the presentation. He stated the first two years of the CCC felt flexible in terms of being able to send emails while still being able to generate reports. He asked if that was something the CCC could go back to doing. The City Attorney responded that the Board cannot go back to doing conducting business in this manner. He explained that is the big difference between a public body and other boards. The City Attorney noted that it can be difficult to transition into the public body context. The City Attorney explained that is one of the reasons he is back before the CCC because it became clear the Commission was not operating in a manner that was appropriate under the statutes.

Mr. Lamb asked the City Attorney to speak to the minute taking with the subcommittees. The City Attorney stated those subcommittees minutes are required to take minutes under the statutes just like any public body. He stated the minutes need to reflect there was a quorum, what actions were taken and identifies the person making motion and seconding motion. In addition, state in the minutes what happened as a result of that motion and what business occurred. Mr. Lamb asked if the subcommittee minutes come back to the body. The City Attorney responded in the affirmative. He explained the minutes must first be approved by the subcommittee and should come back for to

full body to review. The City Attorney explained this is so everyone knows what is going on with the subcommittees. Mr. Lamb noted that the subcommittees have been doing a great job with the minute taking.

Ms. Picard asked about the timing of minutes for the subcommittees. She asked if that means approval for the subcommittee minutes would be a month later. The City Attorney responded that it is a good idea for the subcommittee to approve the minutes but statutes. He noted that a draft is required within five days.

Ms. Picard stated that by looking at the attendance at the CCC meetings, the Mayor and President Treadwell gave a charge that goes off in two different directions. She stated there are not enough people on the Commission to fulfill the work of these two charges. Ms. Picard stated that she thinks the goal would be to have the CCC talk more to the constituents. The City Attorney responded that the model is defined by the statutes. He stated, to the extent of the need to have more people doing the work of the Commission is a conversation to have with the Mayor and President Treadwell. He stated the subcommittees can still meet as a group and still take in public comment.

Councilor Jones noted the original Ordinance under membership also says the CCC can have four alternates. He asked if these alternates can vote if there is an empty chair. The City Attorney responded that the alternates can attend meetings and be a part of the Commission's discussions. He noted that if the alternates have not been appointed to vote then they should not be voting.

Co-Chair Richards asked for a list of members of that has been appointed to the subcommittees.

Mr. Lamb responded there are two subcommittees that were formed in January. The Diversity and Inclusion Subcommittee consisted of Ms. Kayser (Chair that recently resigned), Ms. Ricaurte, Councilor Jones and Ms. Bergstrom. The Neighborhood Revitalization Subcommittee consisted of Ms. Picard (Chair), Mr. Berry, Mr. Zinn, Ms. Franklin and Ms. Weststrate. Mr. Lamb noted that Mr. Zinn, Ms. Franklin and Ms. Weststrate are not members of the Commission.

Mr. Lamb recommended reconstituting the subcommittees and have the CCC members self-select a subcommittee and be appointed by vote of the Commission.

Councilor Jones asked if it was the Mayor's understanding that after the reports have been turned in the subcommittees end. The City Attorney responded that it was his understanding that when the report was tendered the subcommittees were supposed to have ended. Mr. Lamb stated that in January the CCC decided to reconstitute the subcommittees because of the new charge of the Commission.

The CCC will add voting on the Subcommittees for the next agenda and will vote on the subcommittees at the next CCC meeting. At the request of Councilor Jones, the charge for both committees will be included in the packet for the next meeting.

The City Attorney noted that the body has to act as a group and no individual member of a public body has any authority to act unless it is done through the actions of the full group.

Ms. Picard asked what the access is to City personnel once the subcommittees are properly situated. The City Attorney responded that access to the City staff will go through the Chair and then the

Chair makes a request through the City Manager's Office. He stated that process is also true for his office.

Ms. Picard asked if it would be different if a group of neighbors not affiliated with the CCC wants access to City officials. The City Attorney responded that they would contact the City Manager. The City Manager is in charge of staff. This should go through the Chair.

Ms. Picard stated that for her personally it feels as if the real goal is being encumbered by so much restrictiveness. She stated there was a lot of confusion, aside from the fact that she did not think this group was supported as well as it could have been. She stated they were not proposing an Ordinance; they were going to make a recommendation to the City Council to inform them of what other committees and cities are doing to see if this would be of interest. She explained the subcommittee was trying to talk with stakeholders in order to see what could be improved. The City Attorney stated that he took the email that she sent him as much more specific because she was asking questions about authority and questions such as "can something like such and such require the reimbursement of medical expenses". He explained that this was a question that he would not be thinking about until the City Council gives the go ahead. Ms. Picard stated that the group did some good work, looking at some specifics.

Ms. Picard stated that she was confused because she knows there was a meeting on the City side. She asked how that can be allowed. The City Attorney responded that the meeting was allowed because there was not a quorum of the Commission. Ms. Picard stated that the College would not go off in a group and start discussing issues. She did not understand how this could not be allowed. The City Attorney responded that from his perspective he works for the City and for the Commission. He stated that one of the opportunities that Council has is to meet with people outside of the context of RSA 91A and the meeting does not have to be publically notice or posted. The City Attorney noted that the meeting Ms. Picard is referring to happened in that context.

Mr. Lamb asked the subcommittee Co-Chair's to email staff where the subcommittee meetings will be held in advance so his department can post the notices for the meetings. Ms. Picard noted that all of the minutes from the three meetings held at the College were sent two weeks in advance. Mr. Lamb noted that sometimes the meetings have changed since the minutes were submitted. He asked the Co-Chair's to send an email to him stating where and when the meeting will be held.

Councilor Jones noted that at the last CCC meeting that was held at the College there was not a place for the public to sit. He noted that this is what made it confusing. He suggested the CCC possibly find another room in order for the public to have a place to sit that is separate from the CCC.

With no further comment, the CCC thanked the City Attorney for his presentation.

5) Presentation: Proposed Main Street crosswalks, Don Lussier, City Engineer

Co-Chair Richards recognized Don Lussier, City Engineer. Mr. Lussier stated that Mr. Lamb asked him to come in and talk to the CCC about the Main Street crosswalk improvement project. Councilor Jones noted the project came out of the Committee from a former member of the CCC, Chris Hrynowski.

Mr. Lussier stated the generation of the project came in the spring of 2016. He reported there was an accident at one of the crosswalks and his office got involved to look at what could be done on the interim to draw attention to the crosswalks and make drivers more aware of the high volume of pedestrian traffic in that location. Mr. Lussier reported they did some interim measures in the fall with the signs; the yellow hatch striping that goes down the center of Main Street, some advance warning signs and yield markings. He explained these were installed for something to be done quickly. Mr. Lussier stated that during the same timeframe they included in their CIP Plan a budget for 2024 to do this in a more permanent way with granite curbing and landscaped features. He stated that Dr. Treadwell and the City Manager got together and found some way to move this forward. The City Council agreed to advance the funding from fiscal year 2024 to fiscal year 2019.

Mr. Lussier reported they put the project out to bid last August and they got one bid that was way over budget. He stated they talked to the contractor and asked why the price was so high. He said they came to realization that during this time of year everyone was overbooked. Mr. Lussier stated that over the winter they worked to refine the design and found some cheaper ways to do the work. The City put out another bid in the spring and got a second bid that also over budget but determined this was the best they were going to find. He stated they talked to City Council about a month ago and they have agreed to fund the remaining portion that will be shared with the College. Mr. Lussier reported that right now they have an approved budget and a contractor at to do the work. The contract amount is for \$343,009 and is a 50/50 split with the College. Mr. Lussier reported the project is going forward and the contractors look to begin the work this summer.

Mr. Lussier reported that part of the project includes the flashing beacons and noted that those have a six week lead time. He noted that a lot of people are using the flashing beacons and have also been officially approved by Federal Highway Administration. Construction will begin on June 1st and is a 45 day project.

Mr. Lussier displayed a site plan explaining there will be a curbed median down the center of Main Street. He explained where the yellow hatch marks are located is where the raised curb median will be located, with vegetation in the center. Mr. Lussier stated what they are trying to do is extend the downtown to this area with the same look and feel as Main Street. The same lighting and decorative lighting will be added with the addition of the rectangular rapid flash beacon (RRFB). He stated they will be setup will be two beacons on each side in each direction. There will be a beacon in the median and a beacon on the right hand shoulder that will alert drivers when someone activates the button. In addition, there will be a beacon in the median on the right hand shoulder facing the southbound traffic. He explained that everyone will know someone is entering the crosswalk when the beacon is activated. Mr. Lussier stated there will be an irrigation system to keep the grass and trees healthy. He reported there will be 6 street trees planted in the island with the same look and feel that is north of the roundabout. Mr. Lussier stated this will be a 6 foot wide median and constitutes an island of refuge. The timing of the lights is going to be such that they should proceed across with both the northbound and southbound traffic stopped. In addition, traffic will be required to yield to pedestrians at the same time. The intent is that it is one crossing.

Mr. Lussier stated that right now there is 62 feet from curb to curb. He explained to ease that they will be realigning the curb lines on each side in order for the oncoming traffic to see pedestrians and for the pedestrians to see the traffic. The crosswalks themselves will have the same type of treatment that has been done in the downtown with the asphalt that is stamped to look like a brick pattern. Mr. Lussier noted that this treatment wears well and lasts a long time. In addition, he noted the crosswalks will not be raised and will have the white stripes on the leading edge. He noted this

is what makes it compliant with the Federal Highway requirements. The yield signs that were previously installed will be repainted.

Mr. Lussier reported that at Elliot Street the same kind of thing where it was made a one way right turn will be more formal. The curbing will extend out to move drivers into the right lane. He noted one request for the project was from the Fire Department. He explained that the Fire Department has to go the wrong way down Elliott Street when responding to issues. The request is to have a crosswalk similar to what is on Water Street. He reported this will be done with an AstroTurf and below the AstroTurf is a there is a grid of traffic reinforcement that helps bear the load.

Chair Richards stated that the projects look awesome. Ms. Picard asked if the trees will be slighter in size compared to the size of the trees that are currently situated near the crosswalks. Mr. Lussier responded the trees that will be planted will be street trees and will grow to an 8 or 10-inch diameter. The trees will also be trimmed as they grow.

Councilor Jones stated in the past the pavers were slippery and asked what material will be used so this is not an issue. Mr. Lussier responded the material used is engineered and manufactured in a facility that is a plastic impregnated with aggregate coarse sand that gives it the grit. He stated that part of the submittal process is that they have to review the documentation that shows sufficient documentation that expects the coefficient of friction for pedestrian purposes.

Mr. Lamb stated the primary emphasis was safety and that it seems to him the aesthetic and appearance was also taken into consideration. He noted the concept fits with the idea of the College facing more into the community. Mr. Lussier stated that aesthetics were a big piece but safety was the driver. He stated the real safety components are the curb extensions where visibility can be improved from both directions and the RRFB great.

Councilor Jones stated looking back at the CCC's Ordinance that was originally created under Powers, Duties and Guidelines this is exactly what they were looking to accomplish. He stated that this is why he feels the Committee was formed by working on projects together with the spirit of cooperation.

Dr. Cusack stated that as a person that has to cross the street in this area it is very difficult. He noted another benefit of the bump outs is removal of the big puddles. Mr. Lussier stated there are a few modifications to drainage system in the area.

Co-Chair Fortier stated that he has done a lot to develop walkable communities, the median will slow traffic. Mr. Lussier stated that as a part of the original interim measures they narrowed the lines from about 12 foot lanes to 10 feet. He explained that narrowing lanes causes people to slow down and drive more cautiously.

With no further comment, Mr. Lussier updated the CCC on another project, the Winchester Street and Ralston Street drainage improvements. He reported this project is also happening this summer. He stated the project consists of replacing and installing a drainage trunk line that runs down Ralston Street. He stated the current configuration comes down Ralston Street and takes a left heading toward Main Street and turns down to the College at Madison. He stated from there it runs parallel to the College's drain line that runs through the campus. Mr. Lussier stated the corner intersection of Winchester and Ralston has historically seen some repetitive flooding.

Mr. Lussier explained that this project has been coming for a number of years. He stated for the mitigation they will be increasing the drainage capacity system by putting a 36-inch drainage line from that intersection all the way down to the Ashuelot River by Walier Chevrolet. The project is on schedule to start a week before May 13th and there is a request that nothing can be done in traffic until May 13th. KSC graduation was taken into consideration when planning construction.

Mr. Lussier reported work may be seen at the outlet end where the discharge goes into the Ashuelot River. The work will be off the shoulder and out of the way of traffic. Mr. Lussier reported the tearing up of Winchester Street will start on May 13th.

Mr. Lussier reported that next summer they will be also be redoing Winchester Street from the Key Road intersection to the Island and Pearl Street Intersection. He reported this project will begin April 15th and be under construction until December 1st. Councilor Jones noted that the State of New Hampshire is providing the funding for this project. Mr. Lussier stated this project is a carryover from the State of New Hampshire's bypass project and Federal Highway. The State and Federal Highway are paying 80% of the project.

Councilor Jones asked if there will be a crosswalk for students living on Pearl Street. Mr. Lussier responded there will be crosswalks at Pearl Street and at Island Street where the two streets meet the roundabout. He stated there will be a cross from Winchester Street to get from the north side of Winchester Street to the parking lot. Mr. Lussier stated they will have to rebuild the access ramp down into parking lot. The bus stop in the parking lot will be relocated to accommodate the roundabout and sidewalks. Mr. Lussier they are trying to improve bicycle and pedestrian access.

6.) Staff Updates

No staff updates were presented.

7.) New and Other Business

Co-Chair Richards noted the subcommittee discussions would take place next month. In addition, the reauthorization of the subcommittees will take place.

Mr. Thayer requested a list be sent of the City members, College members and City staff. Ms. Schmidl-Gagne will send the group the membership list and charge of the Commission.

Mr. Lamb noted the discussion of the Ordinance that is being drafted by the City Clerk should be placed on the agenda.

8.) Public Comment

9.) Next Meeting – May 29, 2019 at Keene State College (location tbd)

10.) Adjournment

Hearing no further business, Co-Chair Richards adjourned the meeting at 5:20 PM.

Respectfully submitted by,
Jennifer Clark, Minute Taker

Reviewed by Rhett Lamb, Community Dev. Director/ACM
Edits by Lee Langella