

**City of Keene**  
**New Hampshire**

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

**Wednesday, June 24, 2020**

**5:30 PM**

**Remote Meeting via Zoom**

**Members Present:**

Janis O. Manwaring, Chair  
Michael Giacomo, Vice Chair  
Randy L. Filiault  
Bettina A, Chadbourne  
Robert C. Williams

**Staff Present:**

Elizabeth A. Dragon, City Manager  
Thomas P. Mullins, City Attorney  
Rebecca Landry, Assistant City Manager/ IT  
Director  
Patricia Little, City Clerk  
William Dow, Deputy City Clerk  
Kürt Blomquist, Public Works  
Director/Emergency Management Director

**Members Not Present:**

Chair Manwaring called the meeting to order at 5:30 PM, welcomed the public, and read the authority to hold a remote meeting: Emergency Order #12, issued by the Governor of the State of New Hampshire pursuant to Executive Order #2020-04. In accordance with this order, Councilors Filiault & Giacomo reported that they were calling from their respective home addresses with their wives present, Councilor Williams was calling from Fitzwilliam, NH with his son present, Councilor Chadbourne was calling alone from her home address, and Chair Manwaring was calling from City Hall with City Staff present.

**1) Derek and Linda Stone – Requesting Permission to Remove Trees on City Property**

Chair Manwaring welcomed Derek Stone who was calling from the property in question, 31 Andover Street, Keene, with his wife Linda Stone present. Mr. Stone explained that there are four City trees on his private property, two on each side of his driveway. In 2016, the Stones were concerned about one of the trees closer to the road and thought that the City should remove it. At that time, the Highway Superintendent, William Byrne, visited the property to assess the trees and he did not think the trees required removal at that time. Mr. Stone said that Mr. Byrne had stated at that visit that if the trees needed removal, the City would be responsible for the trees and the property owner would be responsible for property damage, such as to the driveway. Mr. Stone said he questioned what would happen if one of the trees fell on a person or car, for example, and stated that Mr. Byrne said to contact the City if that happened. Mr. Byrne told Mr. Stone that he could also petition City Council to remove the trees at his own expense.

Today, Mr. Stone stated that his beautiful driveway of more than 30 years is damaged by roots of the trees in question. Over the years, he has repaired the damage to his driveway manually at his

expense but the cracks have progressed into two areas of approximately 3'x 4' and 5'x 11', respectively, which need to be repaired again. Mr. Stone said that the trees have continued deteriorating since 2016, citing significant moss buildup that has resulted in the trunks sagging, and he fears the old trees damaging the property further or hurting a person. If the dead areas were pruned from one area in particular, he said that an aesthetic void would remain. He said that an arborist, Jeff Garland, visited and saw how the tree roots are extending into the driveway. Mr. Stone noted that he received three different estimates and said that all agreed that the two trees close to the house should come down and that the one tree close to the road that Mr. Byrne assessed in 2016 should come down as well. As such, Mr. Byrne visited again and Mr. Stone said he agreed that the tree needed to be removed and that a new tree could be planted at the City's expense. Mr. Stone believes that the City saw leaves on the trees in 2016 and did not look as closely as they should have. The Stones requested that City Council permit them to remove the trees, which they said would be replanted. Forty photos of the property were available for reference through the City Clerk's office.

Vice Chair Giacomo referenced one of the submitted photos in which he noticed flags in the yard and asked their purpose. Mr. Stone said that Dig Safe flagged areas of concern if tree removal progressed; he added that Dig Safe staff said that Mr. Byrne is overwhelmed with tree issues.

Chair Manwaring requested Staff comments. The Public Works Director & Emergency Management Director, Kürt Blomquist, shared aerial and street photos of the site and provided background. In the 1970s and early 1980s, the City developed a tree-planting program in response to the Dutch elm disease. With private property owner permission, the program allowed the City to plant trees within 20' of property lines outside the City right-of-way. The Public Works Director said that in 1974, this property's owner entered this agreement and had the four trees in question planted on their property, giving the owner general responsibility of the trees minus emergency City maintenance in case of hazard. Ultimately, if a property owner wanted to remove one of the trees, they were to contact the City. The Public Works Director said City Code dictates that Council permission is needed to remove healthy trees planted through this program or otherwise in the City right-of-way. In general, if a property owner requests removal of a tree in this program, he said that the Public Works Department could find a reason to remove the tree, like age. Sometimes, he said that a property owner requests to remove a healthy tree and Mr. Byrne consults an arborist to determine tree health. The Public Works Director said that the arborist consulted in this instance, Mr. Garland, is someone the City works with on occasion. In this case, Mr. Garland reported that the trees are healthy and provided trimming recommendations to maintain good health. Because the trees are healthy, the City would not remove these trees. The Public Works Director said that the Stone's concerns regarding pavement damage are valid. He said that in most cases in which a property owner has sought Council permission to remove a tree with potential to damage private property, Council has granted. In a few instances, Council has denied the requests because the only reason was the owner not liking the trees.

Chair Manwaring asked what type of trees these are. The Public Works Director said there are two multi-stem red maples, one multi-leaf red maple, and one single-boled red maple. When this program began in the 1970s, maple trees were chosen because of their tall height, wide canopies, and quick maturity.

Vice Chair Giacomo was unable to find Mr. Garlands up-to-date NH Arborist Association License #105, and asked whether that matters; the Association had yet to reply to him. The Vice Chair said he questioned less Mr. Garland's knowledge and more the potentially outdated license. The Public Works Director said he would inquire and noted that Mr. Garland has been the arborist at Keene State College for many years as well. Mr. Stone said he was disappointed that Mr. Garland did not identify unhealthy areas of the trees beyond noting some tree roots 2"-3" above the surface. The Public Works Director said exposed tree roots indicate the trees are crowded and the only remedy is to cover the roots with more soil. Chair Manwaring said she saw green leafy trees in the photos.

Vice Chair Giacomo moved to recommend that Derek and Linda Stone be authorized to remove several trees in front of their property at 31 Andover Street at their expense, which Councilor Filiault seconded.

Councilor Williams said that he drove past the property and the trees did not look to him worse than any others around. He was concerned with setting a precedent for cutting many trees. He said that Keene is a City within a forest and he is leery of things that damage the forest, like cutting mature trees. While new trees can be planted, the Councilor said that it is hard to replace 40-50 year-old trees. He understood the frustration about a cracked driveway but said that we live in a forest and sometimes must accommodate trees in the ecosystem around us.

Councilor Filiault said that Council periodically sees similar requests and if Staff has no major objections, the requests are granted. He has never experienced a large series of requests after granting this permission. Because Staff did not object, the Councilor said he also did not object.

Vice Chair Giacomo said he also drove past the property and agreed with Councilor Williams' assessment, but said it seemed like asking Council for permission in the context of this program was simply a formality. He questioned the phrasing of the aforementioned motion and asked whether the language should read as, "four trees," instead of, "several trees." He understood removing two or three of the trees, but he could not see damage to or understand removal of the smaller tree. Mr. Stone said that if the larger trees were removed, the small one would be aesthetically displeasing, with too few branches and leaves. Mr. Stone continued to say that he was not guaranteeing that all four of the City's trees would come down, but he wanted the option.

Councilor Filiault asked whether the Public Works Director looked at the trees recently. The Public Works Director said no but he is familiar with the trees, and while he did not have sufficient knowledge to determine what trees are damaging the driveway, he would assume those

immediately adjacent are the culprits. Councilor Filiault was uncomfortable guessing about these trees based on possibly inaccurate information and suggested placing the matter on more time. The Public Works Director was unsure what more information he could gather for the Committee because it is hard to know what tree is causing the damage and while the owner was asking to remove all four trees, they might not take all at once. With the current motion under discussion, the Public Works Director said the background notes could indicate that the petitioner should work with the Public Works Department as they remove the trees. He said that all four trees are a concern for the Stones and Chair Manwaring agreed it was clear they were interested in all four.

Vice Chair Giacomo said that the Stones only need permission to remove these trees because the City planted them on private property. He thought the Committee might be making too much of the matter and so he did not amend his motion.

On a vote of 4-1, the Municipal Services, Facilities & Infrastructure Committee recommends that Derek and Linda Stone be authorized to remove several trees in front of their property at 31 Andover Street at their expense.

Councilor Williams was opposed.

The City Attorney clarified that this vote was not final pending Council vote on July 2.

## **2) Dog Warrant for Unlicensed Dogs – City Clerk**

Chair Manwaring welcomed the City Clerk, Patricia Little, who was at the meeting regarding the annual warrant for unlicensed dogs. Ms. Little explained that annually, per state statute, City Council must vote to authorize the Keene Police Department to issue forfeitures – a \$25 fine – for owners who have failed to license their dogs. Due to Covid-19, the Clerk's office has found two things affecting the number of dogs on this warrant: 1) the Clerk's office being closed for face-to-face business until accepting appointments in the last few weeks, and 2) vet's offices being similarly closed except for emergencies until recently, forcing some rabies vaccinations to be delayed. A dog cannot be licensed without an up-to-date rabies vaccination. As a result, there are several hundred more owners on this list than previous years with many vets booked through July/August. As such, the Clerks have removed from this list owners whose dogs remain unlicensed solely due to expired rabies and are working with those owners case-by-case if those owners notify the Clerks in writing. Therefore, the City Clerk requested Council authorization for issuance of a civil forfeiture for unlicensed dogs pursuant to NHRSA 466:14.

Councilor Filiault spoke with his vet and they were concerned because they were getting reports from angry dog owners of rabies information they sent to the Clerk's office not making it into the system. He assumed a glitch somewhere in the system due to Covid-19. The City Clerk reiterated that if a dog's rabies was still due and the owner worked with the Clerk's office, they would not be fined. She said it was conceivable that vets were not sending rabies information for

the past few months due to Covid-19 and she shows discretion if a problem can be found in the flow of information. She said the Clerk's office is not interested in fining dog owners. Councilor Filiault was concerned with the April 30 date in the motion irritating constituents and was glad that Staff was using discretion.

As opposed to showing discretion, Councilor Williams asked whether the deadline can be extended a few months, and the City Clerk said that was not authorized under state law.

Vice Chair Giacomo questioned whether the motion should mention formally the rabies delay. The City Clerk said that was unnecessary because dogs that remained unlicensed due to rabies vaccination delay were removed from this warrant list.

Vice Chair Giacomo made the following motion, which Councilor Filiault seconded.

On a vote of 5-0, the Municipal Services, Facilities & Infrastructure Committee recommended that City Council issue a warrant for unlicensed dogs pursuant to NHRSA 466:14, and the Animal Control Officer be directed to issue a civil forfeiture to those dog owners who have failed to license their dog by April 30, 2020.

There being no further business, Chair Manwaring adjourned the meeting at 6:26 PM.

Respectfully submitted by,  
Katrnya Kibler, Minute Taker  
June 25, 2020

Additional Edits by,  
Terri M. Hood, Assistant City Clerk