

City of Keene
New Hampshire

PLANNING, LICENSES AND DEVELOPMENT COMMITTEE
MEETING MINUTES

Wednesday, July 8, 2020

7:00 PM

Remote Meeting via Zoom

Members Present:

Mitchell H. Greenwald, Vice Chair
Philip M. Jones
Gladys Johnsen
Catherine Workman

Staff Present:

Elizabeth A. Dragon, City Manager
Thomas P. Mullins, City Attorney
Rhett Lamb, Community Development
Director
Kürt Blomquist, Public Works Director

Members Not Present:

Kate M. Bosley, Chair

Vice Chair Greenwald read a prepared statement explaining how the Emergency Order #12, pursuant to Executive Order #2020-04 issued by the Governor of New Hampshire, waives certain provisions of RSA 91-A (which regulates the operation of public body meetings) during the declared COVID-19 State of Emergency. He called the meeting to order at 7:04 PM and explained the procedures of the meeting, including how the public could participate. Roll call was conducted.

1) Kristin Finnerty – Request to Discharge Fireworks on Private Property

Vice Chair Greenwald reported that the petitioner has withdrawn her request, because the time has passed and for other reasons.

Councilor Workman made the following motion, which was seconded by Councilor Jones.

On a vote of 4-0, the Planning, Licenses, and Development Committee accepts the communication as informational.

2) Let it Shine – Request for Use of City Property – Pumpkin Festival

Vice Chair Greenwald asked if Ruth Sterling is present to speak to her letter. Ms. Sterling replied that she is deferring to Tim Zinn.

Mr. Zinn of 43 Grove Street, stated he is a board member of Let it Shine. Mr. Zinn continued that their board of directors have had numerous meetings, looking at revisions and figuring out

how to keep a bright spot in the community while keeping it safe for everyone; noting safety is the number one concern. He continued that they also have concerns for the downtown businesses, and school kids, who are going through a lot. Downtown businesses and students have both been a big part of the festival for the past few years. Let it Shine hopes they have found a way to keep everyone safe and still have a bright spot in October in the community. They built this year's festival with virtually no fundraising expected, other than approaching one or two friendly faces for funding. It did not seem realistic or right to go out and fundraise. The festival's biggest support is small businesses. Donations from big corporations do not seem to be there. That is a tribute to this community. Small businesses have really stepped up for this reinvented festival, which they appreciate. Let it Shine will work with last year's leftover funds and maybe funds from one or two friends for this year's event.

Mr. Zinn continued that what they envision for this year is a concept closer to the annual Art Walk. Hopefully there will be no street closures, and there will be no entertainment at the gazebo or kids games, and no food or non-profit participation as was done last year. Last year 21 schools participated and they want to reach out to those schools again with a limited number of pumpkins – they think they can fund 500 pumpkins with the funds they have now. That is about 20 pumpkins per school with a little left over. They need to communicate with schools and downtown businesses but they would leave it up to the schools to decide how to use the 20 or so pumpkins. Obviously there would not be enough pumpkins for each child to have his/her own, but this allows for some participation from schools if they want to be a part of this. The idea would be to connect them with downtown businesses, similar to Art Walk. Together the businesses and schools would arrange and display the pumpkins out on the sidewalk. It would be a stroll up and down the Main Street sidewalk to view the pumpkins.

He continued that the main event will be Saturday, October 24, from 12:00 to 8:00 PM. Switching to Saturday is for the benefit of downtown merchants, maybe drawing a little business for them. And maybe there would be a preview on October 23 for three or four hours in the evening. They need to communicate with schools and downtown businesses and gauge the interest and coordinate this, but they are hopeful that this concept will work out this year. Schools are going through their own challenges, so they are not sure how much participation they will get. But if it is, say, half of what they are hoping for, maybe downtown merchants and/or local artists could fill the gap. There is an online component they hope to incorporate: people can carve their own pumpkins and post photos to social media, to safely participate that way. The advantage is that they will not need to shut down streets. They will need a little help from the Keene Police Department in managing traffic flow and sidewalks and assume it would be minimal, but they can learn about that at protocol meetings. Let it Shine would encourage social distancing and the wearing of facemasks. Let it Shine's door is open to suggestions. No one knows what October will bring, and it is far enough out to be a challenge in predicting, but they hope they have proposed something that is safe and provides a bright spot for the community.

Vice Chair Greenwald asked if Ms. Sterling had anything to add. Ms. Sterling replied no. Vice Chair Greenwald stated that what they are proposing is exactly what he was hoping Pumpkin Fest would come back as – pumpkins along the sidewalks with no street closures, no barriers, no Bearcat, just a good family event. It sounds great. He continued that he would encourage them to have non-profits there on the corners, so they can participate, make some money, and add to the festival. Mr. Zinn replied that they do want to incorporate fundraising for local non-profits online. Vice Chair Greenwald replied that they should let them sell candy apples and do some of the stuff they previously did. He asked Mr. Blomquist to speak.

Kürt Blomquist, Public Works Director/Emergency Management Director, stated that he is here to answer questions. He continued that as Mr. Zinn indicated, the program will be a little different this year. Staff is looking forward to working with Mr. Zinn on this. They hope to have recommendations for the City Council for their second meeting in September.

Councilor Workman stated that she thanks the petitioners for their community spirit – she has always enjoyed their event and looks forward to it every year. She continued that she praises their efforts to still move along this year, even if the event is modified. She continued that she thinks the modifications are great and loves the idea of online participation as well.

Councilor Johnsen asked if they are completely eliminating Keene State College (KSC). Mr. Zinn replied that he thinks it would be limited volunteers, maybe help with clean up. He continued that it is really just getting a small amount of pumpkins coordinated with downtown merchants and that is about the extent of the festival. There might be something small-scale, but nothing like they have had for the last three years.

Ms. Sterling asked for clarification on the question. Was Councilor Johnsen asking about having KSC student's exhibit pumpkins? Councilor Johnsen replied yes. Ms. Sterling replied that that would be a beautiful thing. She continued that they have a limited number of pumpkins/space for pumpkins. If the elementary schools are not able to fully participate, she thinks it would be wonderful to invite KSC to be part of the exhibiting group. She asked if Mr. Zinn agrees. Mr. Zinn stated that protocol has been great; there is no guarantee on who is going to participate, but if they give them some numbers and they work with those numbers, he thinks protocol has been okay with whoever might participate, if they stay within whatever parameters are set up for the festival. They can talk about that at protocol meetings.

Councilor Johnsen stated that she is a retired KSC professor. She continued that she knows there have been problems, but the festival has been a big deal at KSC over the years with lots of interest from students and it is a wonderful thing to observe. She understands that the pumpkins are limited this year but she hopes KSC students are not completely left out. President Treadwell is doing very well with the students.

Vice Chair Greenwald stated that the problem year was a long time ago; the current KSC students were probably in elementary school then. It is a different school now and they are ready to come around and rebirth the project.

Mr. Zinn stated that the volunteers have been extremely helpful and they could not have asked for better volunteers; they really stepped up to the plate the past three years, which is what Let it Shine wanted. They wanted to give everyone that chance to move on and look to the future, and he cannot say enough about the help they get from the students.

Vice Chair Greenwald stated that he commends the committee for hanging on through the difficult times and it is coming back very well, and he is very pleased, and supportive. He continued that he has been told that a protocol meeting with City staff is appropriate and the PLD Committee will make a motion to put this on more time to allow for that.

Vice Chair Greenwald asked if the committee members had questions or comments. He asked for questions or comments from members of the public.

Councilor Jones stated that he thinks Let it Shine is doing a great job. He continued that he has always been a big supporter of the Pumpkin Festival and would love to see it come back as the majestic occasion that it was, and he knows that can be done. They have learned what to do and what not to do. It is too bad that COVID-19 happened this year because it could have been the start of something really nice. He likes what Let it Shine is doing and looks forward to the festival and hopes the protocol meetings work out.

Councilor Workman made the following motion, which was seconded by Councilor Jones.

On a vote of 4-0, the Planning, Licenses, and Development placed the request on more time to allow time for protocol meetings with staff.

3) Keene Music Festival – Request for Use of City Property

Mr. Blomquist stated that the City has received the request from Pablo Fleischmann, who oversees the Keene Music Festival. He continued that it happens Labor Day weekend with lots of very interesting bands with multiple types of music. This year, Mr. Fleischmann is looking to downscale the program somewhat, due to the COVID-19 issues. Staff recommends placing this on more time, bringing it back at the PLD Committee's next meeting, so that it gets approved before the City Council's break on August 6, because the next meeting date would be the first Thursday in September, which is extremely close to the event's date.

Vice Chair Greenwald replied that that sounds good. He asked if the committee members had questions or comments. He asked for questions or comments from members of the public. Hearing none, he asked for a motion.

Councilor Workman made the following motion, which was seconded by Councilor Jones.

On a vote of 4-0, the Planning, Licenses, and Development Committee placed the item on more time to allow protocol meetings with staff.

4) Draft Resolution – Wearing of Facemasks

Vice Chair Greenwald stated that this was drafted by the City Attorney at the request of several City Councilors. He asked the City Attorney to speak.

Tom Mullins, City Attorney, stated that this came forward as a request for the City Council to consider an ordinance. He continued that that was withdrawn. Then the request was to draft a resolution for review and recommendation by the PLD Committee and then back to the City Council. Staff did draft this resolution. He is not taking any particular pride in authorship. He took the Nashua ordinance and reconfigured it into an ordinance for the City Council to consider. For the benefit of the members of the public wanting to know the difference between an ordinance and a resolution: an ordinance becomes part of the City Code and has enforcement potential, unlike a resolution, which does not go into the City Code but states the City Council's position with respect to wearing a mask in public. The resolution encourages the use of masks for business owners and people entering businesses, and in public spaces, and encourages people entering a restaurant to wear masks before sitting down, and encourages servers to wear masks. It also encourages masks if you are in a commercial building complex, such as a mall or a place with several businesses, and the resolution defines what a mask/face covering is. It exempts children under the age of 10, encouraging parents to make their own decisions, and recommends that children under the age of 2 do not wear a mask. Individuals in high risk categories, meaning individuals over the age of 60 or who have medical issues that put them at risk, are encouraged to wear a mask all of the time. The resolution can be revised if the PLD Committee wishes and is then ready to go before the City Council.

Vice Chair Greenwald stated that he knows Councilor Filiault is very passionate about this issue and has been a driver on this.

Councilor Jones stated that he has questions. He continued that the recommended motion is for the City Manager to introduce this. Why would it not be the PLD Committee introducing it? The City Attorney replied that the recommended motion is for the City Manager to introduce a draft to the City Council. He continued that from the PLD Committee's point of view it should be a motion to recommend to the City Council that they adopt the resolution. In this case, there is no resolution number associated with this, it came in as a draft, so it would be a recommendation for staff to submit it back to the City Council at the next meeting. Councilor Jones replied that in that case, it should say "draft." The City Attorney agreed.

Vice Chair Greenwald stated that he wants to read the draft resolution into the record for the public's sake:

“WHEREAS, COVID-19 has been determined to be a virulent infectious disease threatening the public health and welfare of the country, and including residents in the City of Keene; and

WHEREAS, infectious diseases such as COVID-19 are caused by germs, such as viruses, bacteria, and parasites; and

WHEREAS, some diseases, including COVID-19, are transmitted from person to person very easily through respiratory droplets produced by sneezing and talking; and

WHEREAS, Public Health Officials have determined that it is possible for an infected individual to transmit certain diseases without exhibiting any symptoms; and

WHEREAS, the best means of slowing the spread of a virus is through minimizing close personal contact with individuals in a public environment, social distancing, covering the mouth and nose by wearing a face covering, and proper hand washing; and

WHEREAS, for optimal protection, the safe use of face coverings also requires the wearer to maintain proper hand hygiene by frequently handwashing with soap and water or hand sanitizer for at least 20 seconds; and

WHEREAS, the wearer of the face covering can prevent the spread of disease by not touching the face, nose, or eyes with unwashed hands, not touching the outside of the face covering, and by keeping a distance of at least six feet between from others; and

WHEREAS, the City Council for the City of Keene desires to minimize the threat to public health posed by the spread of communicable disease such as COVID-19 within the community;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL THAT:

- 1. Employees of businesses are encouraged to wear a face covering over their mouth and nose when interacting with the public and whenever they are within six feet of a co-worker or a customer.*
- 2. Members of the public entering any business, including any outdoor area where business is conducted, work site, or government building, are encouraged to wear a face covering, such as a fabric mask, scarf, or bandana over their nose and mouth.*
- 3. Members of the public entering a restaurant for the purpose of picking up food for take-out or any other purpose are encouraged to wear a face covering over their mouth and nose.*
- 4. Residents, visitors, and members of the public entering or present at a commercial building complex of greater than two (2) units are encouraged to wear a face covering over their nose and mouth while in common areas.*

5. As used herein “face covering” means a covering made of cloth, fabric, or other soft or permeable materials, without holes, that covers only the nose, mouth, and surrounding areas of the lower face. A face covering may be factory made or homemade and improvised from ordinary household materials.

6. Notwithstanding the above, children under 10 years of age are not generally encouraged to wear a face covering, although parents should make their own judgment on such use. A face covering is not recommended for children 2 years of age or less.

7. A face covering is also not encouraged for any person who has been advised that wearing a face covering may pose a risk to the person for health related reasons.”

Vice Chair Greenwald stated that he took the time to read all of that out loud because it is important for the public to hear it, so they can hear that the City Council is not mandating this. He continued that they are just saying this is the right thing to do. It is not political. It is common sense, and about health, and it is important. He thinks this is great and commends the City Attorney for a good job. If other issues need to be addressed, the committee and the public can speak up.

Councilor Johnsen stated that she very much appreciates Councilor Filiault’s idea of encouraging face masks. She continued that she is over 60 and her family has been very protective of her going out. Keene is an aging community and she encourages folks to wear masks. The City Council received some letters from citizens who were very upset about this and she appreciates hearing from everyone, but this is something that she really wants to support.

Councilor Jones stated that at the last PLD Committee meeting when they discussed whether to do this draft resolution, the PLD Committee decided the resolution would include an endorsement of the Safe Keene program. Vice Chair Greenwald replied that that could probably be accomplished, along with an explanation of what Safe Keene is.

Councilor Workman stated that she thinks it is amazing that they are taking this stance as a city. She continued that as they can see nationwide, mask-wearing is important. Keene has kept its COVID-19 numbers low and this is one step further to encourage people to continue to do this. When she was out in the community regarding the Keene Reopening Task Force, many businesses were doing this. She was pleased to see a lot of Safe Keene stickers. She wants to continue to send the message that this is important. The only thing she saw to change in the resolution, other than adding the endorsement of Safe Keene as Councilor Jones pointed out, is that the third “WHEREAS” has an extra “E” on the end.

Vice Chair Greenwald recognized Joseph Mirzoeff.

Mr. Mirzoeff stated that our first line of defense against disease is our immune system. He continued that every single recommendation from the WHO and the CDC inhibits people’s freedom and inhibits people’s immune systems. The first order was shelter-in-place. Natural

sunlight gives Vitamin D, which strengthens immune systems. Telling people to shelter-in-place means people spend more time in their homes and get less sunlight and less exercise. People need fresh air. It is clear that this disease means people should not be in closed environments. If people stay in their apartments they might be rebreathing bad air. Also, every recommendation reduces personal contact – the ability to speak to people or to gather in groups. The next order was closing the economy. This causes financial stress. People cannot take care of themselves as well. It also causes fear, depression, and anxiety. The mainstream media blares exaggerated figures every day. He continued that in the beginning, the media said 2.2 million Americans would die so the recommendation was to close down the economy; that was an exaggeration. Dr. Fauci says the numbers are understated, but they are overstated, because the hospitals are bribed to call cases COVID-19 cases. They get more money if cases are COVID-19 cases instead of regular cases. For all sorts of reasons, medical people and coroners put “COVID-19” on death certificates when a death was a combination of factors – the difference is whether COVID-19 caused a death or was present at the time of death.

Mr. Mirzoeff continued that a letter titled “Why Should We Believe These People?” looks to him like the CDC and the WHO do not have people’s best interests in mind. It is too coincidental that every recommendation takes away people’s freedoms, looks for control, and pushes money away from the middle class up to the elite. These things are bad for the population at large. Why should we believe these people? As for the wearing of facemasks, people say the masks stop the droplets from going out, but what about the person wearing the mask, who is breathing his own exhaust? What is inside the mask is carbon dioxide and not oxygen/fresh air, which is bad. If you are stopping the germs with the mask you are rebreathing them. The greatest way that the virus is transmitted is within the home. If the mask makes you sick, you bring it home, and very likely transfer it to people you live with. Every one of these studies which says droplets transmit the virus do not balance it against the harm that the mask does to the wearer. He has three heart conditions but a very good immune system.

Mr. Mirzoeff continued that the CDC and WHO could have mitigated all of these things. When they gave the stay-at-home order, they could have said “But get outside and get some fresh air and exercise. Do what you can to contact people, because it’s important.” But they did not. They did nothing to mitigate these issues, and they did harm. These people are not trustworthy and he does not think the PLD Committee should listen to them. He asks the committee to drop this resolution and rethink the pressure that mainstream media and government is putting on people to [wear masks]. When he looks at the masks he feels fearful, because it means people are willing to, after 250 years of fighting for various kinds of freedom, to give it all up in three minutes because “some nerds” make up a story that makes us fearful. The City Council should not do this; it is wrong.

Vice Chair Greenwald asked if any other members of the public wanted to speak. He asked the City Attorney: if the PLD Committee votes to move this along, is it an “A” resolution? The City Attorney replied no, the draft was not introduced with a number. He continued that the motion would be for the PLD Committee to recommend that the City Manager introduce into the City

Council a resolution with respect to face coverings, as reviewed by the PLD Committee, with the addition of the endorsement of the Keene Safe program.

Councilor Williams stated that he is glad this is being discussed and most of them seem to be on the same page. He continued that regarding “encourage” versus “require,” they are talking about “encouraging” mask-wearing. That is what the numbers support. They should all keep in mind that there could be an outbreak at some point and numbers [of cases in Keene] could go up. If that happens he hopes they are prepared to pass something similar as an ordinance but with stronger language, which does require masks. They have been lucky that there have not been many cases so it is difficult to make the case, but if they want to be safe and do things like open up the schools in the fall without much trouble, the more people they can get to wear masks, the safer they will be.

Councilor Clark stated that he is glad this resolution has come forward but he is of two minds with it. He continued that he thinks the City is giving mixed messages. They have the Safe Keene program but they are allowing sidewalk dining that does not adhere to the City’s own six-foot rule. There is dining on the median strips and people are asking him if they should walk in the street instead of on the sidewalk to stay six feet away from the people dining. Do people have the right to walk on the sidewalk without getting exposed to COVID-19? It is almost like they are not acknowledging that this pandemic is really happening. They recognize that COVID-19 is a genuine emergency yet they are unwilling to take the leadership role and mandate masks. He supports this resolution but a resolution is mere words, not action. He is very distressed that they seem to be ignoring the dangers to Keene’s citizens. This resolution is not enough. They need to take more of a leadership role.

Councilor Filiault stated that he encourages the committee to endorse the proposed resolution. He continued that Councilors Clark and Williams are correct that they might need an ordinance down the road, and it depends on the result of the court case in Nashua. They have heard from all the experts, especially Dr. Fauci that masks help stop the spread of the virus. So many states are seeing an increase in COVID-19 cases, and they are hoping NH does not. He asks the committee to please support this resolution, knowing that if they need to go to step B down the road they will do that.

Vice Chair Greenwald made the following motion, which was seconded by Councilor Jones.

On a vote of 4-0, the Planning, Licenses, and Development Committee recommends that City Manager be requested to introduce into the City Council a resolution with respect to encouraging the use of face coverings, as presented to the PLD Committee, with the addition of encouraging the use of the Keene Safe program.

Vice Chair Greenwald thanked City Councilors and City staff. He continued that staff is doing an incredible job during this unusual and difficult time. He praised the work of the City

Manager, the City Attorney, and the City Clerk. He misses seeing everyone in person, but knows that these restrictions will end. He thanked everyone again.

There being no further business, Vice Chair Greenwald adjourned the meeting at 7:51 PM.

Respectfully submitted by,
Britta Reida, Minute Taker

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