

City of Keene
New Hampshire

PLANNING, LICENSES AND DEVELOPMENT COMMITTEE
MEETING MINUTES

Wednesday, February 24, 2016

7:00 PM

Council Chambers

Members Present:

David C. Richards, Chair
Philip M. Jones, Vice-Chair
George S. Hansel

Members Not Present:

Bettina A. Chadbourne
Robert B. Sutherland

Staff Present:

Medard Kopczynski, City Manager
Patty Little, City Clerk
John Rogers, Acting Health Director
Tara Kessler, Planner
Beth Fox, HR Director
Rhett Lamb, Asst. City Manager/Planning Dir.

Other Councilors Present

Terry Clark
Carl Jacobs
Jay Kahn

Chair Richards called the meeting to order at 7:00 PM. Chair Richards noted agenda item #1 would be heard first.

4) PERIODIC REPORT: Conservation Commission

Tara Kessler, City Planner introduced Thomas Haynes, Chair of the Conservation Commission. She noted tonight marks the first phase of the second year of reports from Commission's and City Committee's. Ms. Kessler explained this year we will be trying something new; Committee's will be emphasizing the alignment of their work and activities with the Comprehensive Master Plan, in addition to providing an update on the previous year's activities along with planned activities for the coming year. Ms. Kessler noted the other Committees that would be reporting to the Planning, Licenses and Development Committee throughout the year.

Thomas Haynes, Chair of the Conservation Commission reported the Commission consists of seven members with a wide range of experiences and backgrounds. He explained the Conservation Commission's mission; adding the Commission meets monthly and does hold an annual retreat. Continuing Mr. Haynes noted the Commission has an annual budget in addition to the Land Use Change Tax Fund (this covers larger projects such as the Environmental Study of the West Street Dam project).

One of the Commission's primary responsibilities is to review Wetlands Permit applications

before they are forwarded to the NH Department of Environmental Services. Mr. Haynes noted the Commission does have the ability to intervene in this application process. The Commission also serves as an advisory body to the City in regards to conservation. Mr. Haynes pointed out the Commission also does community projects; noting the partnership with the Friends of Open Space forum coming up in April. Mr. Haynes commented on the Commission's work with other conservation groups such as the Monadnock Conservancy.

Mr. Haynes addressed the noteworthy projects from 2015 as being the Land Management Plan for Beech Hill (Antioch partnership) which was adopted in May 2015, and a Conservation Plan completed by KSC students under William Fleegeer which was completed in May 2015. Mr. Haynes noted this will be a resource for the Commission as it develops a conservation plan for the City. Continuing he noted not all the goals are completed, and the Commission is trying to tie their goals into the City's Comprehensive Master Plan.

Mr. Haynes noted one of the Commission's subcommittee's is working on amendments to the Surface Water Protection Ordinance. Mr. Haynes indicated the biggest project is the West Street Dam. He noted the recent completion of a hydrologic modeling study; adding the Commission should be holding a public meeting on this in a couple of months. Mr. Haynes concluded his presentation noting he would be happy to answer any questions.

Chair Richards asked for questions/comments from the Committee.

Councilor Jones thanked Mr. Haynes for his report and thanked the Commission for the work it does. He addressed conservation easements and Mr. Haynes noted the contributions to the Tenant Swamp Project with the Keene Middle School, and the Monadnock Conservancy's work extending the Horatio Colony Trust land. Continuing, Councilor Jones noted his service on the College/City Commission and that they are always looking for ways to involve students; he suggested the Conservation Commission would be a great opportunity to get students more involved. Mr. Haynes agreed this was a good suggestion pointing out this is something the Commission does occasionally when they have projects to do.

Councilor Hansel noted he serves on the Conservation Commission and agreed with Mr. Haynes synopsis. He further commented on the Conservation Plan noting its importance as a reference/resource document for City Council and this Committee moving forward.

Ms. Kessler commented on the further connection between the Commission and the Comprehensive Master Plan. She noted the following items as being continually addressed; 1) developing a conservation open space plan, 2) preserving the Land Use Tax plan, and 3) review and revision of Land Use Regulations. She pointed out the Commission has been actively implementing many of the strategies within the Comprehensive Master Plan.

Chair Richards thanked the Commission for the work it does noting he is looking forward to seeing what comes up with the West Street Dam.

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

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

On a vote of 3-0, the Planning, Licenses and Development Committee recommends the periodic report of the Conservation Commission be accepted as informational.

1) COMMUNICATION: Danielle Boudrand – Suggested Ban on Single use Plastic Bags

Danielle Boudrand, of 19 Bridge Court noted she has submitted a request for the ban of single use plastic bags in this city. In not having a ban we are adding to the ongoing problem of plastic bag pollution. This is unnecessary waste that continues to adversely affect wildlife, wildlife habitat and humans. There have been many studies, including the new proposal on what needs be done about this growing issue done by the World Economic Forum. Ms. Boudrand indicated she would also like to see a five cent tax on the use of paper bags with the retailer keeping one cent and the remaining four cents going into an environmental fund for educating the public. She continued the ultimate goal is to get businesses to think about being more sustainable by the products they are offering their customers (paper and plastic bags should all be 100 per cent recyclable). She suggested this could be the starting place and would probably take two or three years to get going.

Chair Richards asked staff what our regulatory ability is on something like this. Mr. Lamb responded by noting the statutory ability does not exist within the state. SB-410 is currently in the Senate; this Bill would allow cities and towns to do what Ms. Boudrand is asking. The City Manager also pointed out the City has no authority to do the taxation portion of Ms. Boudrand's goals. If SB-410 does pass the City could only pass an Ordinance to ban the use of plastics. He continued New Hampshire is not a Home Rule state and authority must be granted from the Legislature.

Chair Richards asked Ms. Boudrand if she understood to which she replied in the affirmative. He noted he agrees with what she is trying to do and reiterated there is nothing the City can do at this time. Ms. Boudrand noted her conversations with local businesses and asked if the Committee could wait to see what happens on March 3rd before voting on this. The City Manager pointed out the legislative process and commented we wouldn't be safe voting on this until we know how the final Bill actually reads. Discussion continued with regards to the legislative timeframe.

Councilor Terry Clark suggested the Committee recommend to City Council that they could amend this communication into a Resolution supporting the adoption of SB-410. Chair Richards recommended continuing the legal discussion before moving onto the merits of the issue. Chair Richards continued he agrees with the merits but is unsure there is anything the Committee can do.

Councilor Hansel noted he would have trouble supporting a Bill without knowing its final form, regardless of the merits. He continued right now he doesn't have enough information. Chair Richards suggested putting the issue on "more time" and waiting to see what the Senate and House do. If they give us the ability then we are talking about something we can act on. If the legislation fails we'll probably take it off "more time" and report out as informational.

Chair Richards asked for Committee thoughts.

Councilor Jones recommended not moving too fast on this issue. If this happens he would like to see it happen statewide. If done locally there will be economic impacts to the local Mom and Pop stores. Councilor Jones pointed out paper bags cost more than plastic bags; adding some stores such as Kohl's use their bags as part of their marketing programs and is part of the reason they stay in certain communities. Councilor Jones pointed out we have a number of empty stores in the community adding it will make it more difficult to bring new stores here if we're adding this extra cost. He continued plastic is recyclable citing examples of closed-loop recycling. Councilor Jones suggested as a community we should promote more recycling. He recommended asking staff to look at starting a better recycling program for the plastic. Although he agrees with Ms. Boudrand's goals he feels a ban in one community is not the way to accomplish them.

Chair Richards commented we can't vote on a ban or even debate it until we hear what the State Legislature is going to do. Among other comments Ms. Boudrand suggested we could have businesses become more conscious of what they're handing out to consumers. Councilor Hansel suggested this will come down to a public education issue and he sees no place for government regulation on this issue right now.

Councilor Clark agreed we shouldn't debate this issue right now. He continued we could take a position SB-410 right now. Councilor Clark would at least like to see this issue out in front of City Council whether or not we support the State Legislature giving us the choice. He suggested City government is very frustrated about this because there is very little we can do without a State Statute behind it. He reiterated his suggestion to put this before City Council as a Resolution to support or not support SB-410. Councilor Clark pointed out Keene was the first city to pass a ban on smoking without a State Statute. Chair Richards agreed we should have more authority than the state gives us. Chair Richards asked Councilor Clark if it had to be a Resolution or could it simply be a letter, and what are we endorsing if we send the letter. Councilor Clark replied that the state allow us the authority to ban plastic bags in our community. Chair Richards clarified the letter would be in support of SB-410.

Councilor Hansel commented if the end goal is to support giving us the authority to manage some sort of ban on plastic bags can we act rather than referring to a Bill we don't have the specific details on yet. Chair Richards replied in the affirmative indicating he doesn't know how it would be worded. Councilor Jones agreed with Councilor Hansel; he would not vote to support legislation we don't have before us without seeing

the wording. He clarified Councilor Hansel is just mentioning that we support the concept of it.

Chair Richards asked the City Manager who the letter would be sent to. The City Manager confirmed the letter would go to the Delegation and noted offering support for the concept is a good and wise thing.

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

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

Both Councilors Hansel and Jones noted they would not be voting in favor of this motion as more information was needed. Councilor Jones also noted he feels this should be a statewide ban. Chair Richards noted he would be supporting the motion.

On a vote of 1-2, the Planning, Licenses and Development Committee recommends that City Council draft a letter supporting the concept of allowing local municipalities to create an Ordinance and design a framework for banning plastic bags. The motion failed with Councilors Jones and Hansel voting in opposition.

Chair Richards noted this issue will still move forward to City Council for a full vote.

Chair Richards suggested another motion was needed on the letter and recommended it be put on “more time” until this is resolved.

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

On a vote of 3-0 the Planning, Licenses and Development Committee recommends the communication from Ms. Boudrand be placed on “more time”.

Chair Richards explained the “more time” process for Ms. Boudrand.

2) COMMUNICATION: Igor Monteiro/Red Devils Soccer Club, Inc. – Request to Use City Property – Spring Street

Attorney Jeremy Hockensmith was present with his client Igor Monteiro, of 111 Ridgewood Avenue to address this request. Attorney Hockensmith distributed handouts depicting the existing conditions for the record. Attorney Hockensmith noted the Red Devils Soccer Club is new to Keene and will be located on 17 Washington Street (the old Keene Middle School). Based on our lease agreement, we will be using the parking lot off Spring Street behind the school and adjacent to the fields. A portion of that parking lot belongs to the City of Keene. We ask for permission from the City Keene to use the City part of the parking lot, or permission to let cars pass from one side of the parking lot to another, because the City's lot is between the entry and Red Devil's parking lot. We ask for this permission to be between the hours of 5:00 PM to 9:00 PM on weekdays, and from 8:00AM to 9:00 PM during the weekend. Attorney Hockensmith noted Mr.

Monteiro's intent to restore the field; he also noted other organizations have already reached out and would also like to use the field. Attorney Hockensmith reported the applicant has been before the Zoning Board of Adjustment and the Planning Board in the last several months. Attorney Hockensmith noted the issues raised with Mr. Monteiro's use of the parking lot. At this point Attorney Hockensmith discussed the distributed handout. He pointed out the only access to the lower lot is through the City owned parking lot which separates the two lots.

Continuing Attorney Hockensmith noted the two requests:

1. Approve/grant permission to go through City property using the existing ramp to access the lower lot. Noting the hours of operation Attorney Hockensmith indicated there should be no conflict with City employees using the parking lot.
2. The second request would be for the City to simply allow Mr. Monteiro to use the parking lot during those times (proposed hours of operation).

Chair Richards asked the City Manager if the lots were empty in the evenings and on weekends. The City Manager replied not necessarily. He continued we were prepared to speak about the ingress/egress of the lot, having had conversations with the City Attorney. There are considerations and discussions that need to take place regarding the use of the lot; passing through the lot doesn't necessarily have the same issues as using the lot. We know the Keene Fire Department does use the lot so we do need to pin down the actual uses of the lot. The City Manager explained he was not prepared to speak on the uses tonight.

Chair Richards noted he also wanted that information and suggested having all the information available for the next Committee meeting. Chair Richards continued by asking aside from parking is there any other reason they couldn't use the field. The City Manager commented we don't own the field; historically the City used it for overflow parking and the School Board also used it for many years. Continuing the City Manager noted the lot does cutoff access to the back lot and in order to use the lot they do have to cross City property. The grass field is where they'll be using the land for soccer games; the first request is getting from lot to lot. The second request will take more discussion.

Chair Richards asked for Committee questions/comments.

Councilor Jones asked if the School Board had an underground storage tank there previously. The City Manager replied in the negative. He noted the underground fuel storage tank is adjacent to the parking garage here. The City Manager also pointed out there were discussions about changing ownership of the lots, but that was never realized. The tank has been removed; it was a CIP project from last year. There is an above ground tank on that lot which the School Board did put in (on City property). Councilor Jones asked if the applicant was a non-profit organization. Attorney Hockensmith replied not yet, but that is the intent. Also in response to Councilor Jones Attorney Hockensmith noted this is a youth soccer organization.

Chair Richards noted we are talking about two issues and the prepared motion only addresses parking. Mr. Lamb commented the prepared motion was more to address the pass and repass

issue. He suggested a recommendation for “more time” would allow both issues to be addressed. In response to Attorney Hockensmith, Mr. Lamb indicated this would not delay the Planning Board process.

There being no further questions/comments from the Committee Chair Richards asked for public comments.

Bob Beauregard, of 47 Spring Street noted he is an abutter and doesn't have a copy of the handout distributed earlier. After being provided a copy Mr. Beauregard noted his location and addressed the crack in the retaining wall surrounding the parking area (behind his toolshed). Mr. Beauregard noted his concern with the lateness of the activity; pointing out at night the car lights are an issue with his tenants and others on the Marlboro Street side. Discussion continued with Chair Richards clarifying the shut-off time is 9:00 PM. Chair Richards asked staff if we could look at the wall within the next week. Mr. Lamb commented he thinks the wall only affects the other property owner, but we will have solid answers when we come back in two weeks.

Chair Richards asked for further comments/questions from the public or the Committee.

Councilor Jones referred to the prepared motion's last sentence regarding the wording “said license is revocable” and suggested this wording should stay there. He also suggested there should be condition subject to the use as a soccer field, in case the property should be sold. The City Manager reiterated the motion was prepared looking at the pass/repass issue only; not the use of the soccer field or two parking lots. He also explained we would want the license to be revocable, be only for a period of time and may not get renewed. It is our parking lot and we want to be sure we preserve our rights to that parking lot as well as help out citizens when we can; discussions need to take place. Councilor Jones noted this is exactly what he was getting at.

Attorney Hockensmith asked if the School Board previously had an agreement/easement with the City to use the property. The City Manager agreed to look into an answer to this question.

Councilor Jones made the following motion which was seconded by Councilor Hansel.

On a vote of 3-0, the Planning, Licenses and Development Committee recommends that the Red Devil's Soccer Club, Inc. request be placed on “more time”.

3) COMMUNICATION: Mark Fraser/Eversource Energy – Request to use City Property – Electrical Distribution System in Central Business District

Laurel Boivin, of 76 Graham Road in Concord addressed the request noting moving forward, Eversource will request use of city-owned property for potential locations on public property. The request accompanying this report (in the packet) is seeking approval to locate two aboveground transformers on city-owned property adjacent to the Commercial Street parking lot. Eversource will also begin to engage with individual private property owners to explore the feasibility of potential locations for aboveground

transformers. Eversource will also continue to work with city staff to ensure that all planning and zoning requirements are met including historic district requirements. The requirements will vary depending on the exact location of each pad-mounted transformer. Ms. Boivin reported this is a reliability improvement project that is part of the larger project presented to City Council last week. Ms. Boivin introduced Mark Fraser and Scott Perkins who is a Project Coordinator.

Mark Fraser, of 364 Park Avenue, Hopkinton distributed copies of four photographs and a plan titled Commercial Street Parking Lot (Lighting, cable TV, high speed internet) for the record. Chair Richards suggested in the future these documents should be included with the request letter. Mr. Fraser reviewed and discussed the handouts presented noting the two locations Eversource is looking at 1) the existing pad near the charging station, and 2) at the existing transformer near the Colonial Theater. He noted these locations were chosen to prevent voltage or reliability problems. Mr. Fraser noted the safety measures taken as depicted in the first photograph. Referring to the last photograph (manhole on Main Street) Mr. Fraser reported it is not uncommon for these manholes to fill with water and cause degradation of the equipment. He also explained the proposed design provides the ability for the system to grow. Addressing the timeframe Mr. Fraser noted they are hoping to do the work by the end of spring/beginning of summer. Mr. Fraser concluded we are looking for the ability to use these locations for the transformers.

Chair Richards noted he was impressed by the presentation at City Council and really has no questions because they were all answered. He also noted how well Eversource worked with City staff.

Chair Richards asked for questions/comments from the Committee.

Councilor Jones referred to the City Council presentation and asked if this is the only two places where you're going to need public property or is it just one stage you were talking about. Mr. Fraser reported Eversource will be crossing public property in other places; this is the first stage of a bigger project (8 non-sequential phases).

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

Councilor Hansel made the following motion which was seconded by Councilor Jones.

On a vote of 3-0, the Planning, Licenses and Development Committee recommends that Eversource Energy be granted permission to place two pad-mounted transformers on City property adjacent to the Commercial Street Parking Lot. Said license is granted subject to the customary licensing requirements of the City Council and compliance with any recommendations of City staff.

5) COMMUNICATION: Councilor Hansel - Adoption of RSA 79-E "Community Revitalization Tax Relief Incentive"

Councilor Hansel referred to his request, dated February 17, 2016 that the City Council authorize city staff to investigate the possibility of adopting RSA 79-E and report back with a recommendation both positive and any negative to The Honorable Mayor and City Council. Councilor Hansel noted this RSA was signed into law in 2006; he continued by explaining the intent of this RSA. In order for us to have this on the table as an offer for a potential redevelopment project, City Council would have to formally adopt it. Councilor Hansel noted he brings this forward just to explore as a possible tool in our toolbox as we continue to prioritize economic development and redevelopment. He also pointed out not everyone who has adopted this RSA has used it. After additional comments Councilor Hansel suggested this could play into a larger strategic plan; it is not necessarily a silver bullet.

Chair Richards noted he was not familiar with this RSA and clarified it has been passed by the State and has to be passed by the local community to be in effect. Councilor Hansel reiterated it was passed by the State in 2006, and amended in 2013.

Councilor Jones thanked Councilor Hansel for bringing this forward and clarified Councilor Hansel is only asking us to investigate; he is not asking us to support this right now. Councilor Jones asked Mr. Lamb if the RSA included things we could put towards our SEED District. Mr. Lamb explained the statute was written primarily to create financial incentives through the ability of the City to reduce taxes on a temporary basis. The incentives are cooked into the Legislation and are primarily financial; when we did the SEED District those were incentives that created more opportunity by either lessening the height limitations, or lot coverage requirements (Zoning). Mr. Lamb sees RSA 79-E incentives matching nicely with other potential Zoning incentives; working in tandem with each other. In response to Councilor Jones, Mr. Lamb noted we would have to designate where it would apply and there are some limits as to where it can apply. This is part of the research staff would be doing.

Chair Richards noted his support for this idea. Mr. Lamb noted he also appreciated Councilor Hansel's point of view on this; it should be seen as part of a larger economic strategy, and we should be looking at this as part of a bigger picture with respect to options and opportunity for economic development.

Chair Richards asked for public comments/questions.

Councilor Carl Jacobs mentioned the proposed extension to the Historic District and the fact that people could make less expensive investments in their properties if they didn't live in a Historic District. He asked if this might be a tool to help compensate those people, and asked if this is something we have looked into. Mr. Lamb noted this is an angle staff could look at.

John Therriault, of 76 Bradford Road noted he supports the study and wants everyone to understand that there is a minimum dollar value of improvement that must be made in order to trigger this incentive. Additionally the tax incentive is only on the incremental value; normal taxes are still paid on the previously assessed value during the abatement

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period. Only the incrementally assessed value can be abated for the allowed timeframe dependent on what the ultimate usage of the property is. Mr. Therriault does not feel anyone in the Historic District would be spending enough to trigger this incentive. He also indicated that valuations that grow because of economic factors are not included; only active rehabilitation triggers the abatement. Councilor Hansel pointed out in essence this would protect the current tax base.

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

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

On a vote of 3-0 the Planning, Licenses, and Development Committee recommends that the City Council authorize city staff to investigate the possibility of adopting RSA 79-E.

The City Manager noted staff would bring back the pros and cons of this issue.

There being no further business Chair Richards adjourned the meeting at 8:21 PM.

Respectfully submitted by,
Mary Lou Sheats Hall
February 25, 2016

Additional Edits by,
Terri M. Hood
Assistant City Clerk