

City of Keene
New Hampshire

PLANNING, LICENSES AND DEVELOPMENT COMMITTEE
MEETING MINUTES

Wednesday, April 28, 2016

7:00 PM

Council Chambers A

Members Present:

Philip M. Jones, Vice-Chair
George S. Hansel
Bettina A. Chadbourne
Robert B. Sutherland

Staff Present:

Mark Howard, Keene Fire Chief
Tom Mullins, City Attorney
Rhett Lamb, Asst. City Mgr./Planning Director
Med Kopczynski, City Manager
Beth Fox, HR Director
Kurt Blomquist, Public Works Director
Brian Costa, Keene Police Chief
Steve Stewart, Police Captain

Members Not Present:

David C. Richards, Chair

Other Councilors Present

Terry Clark
Carl Jacobs
Jan Manwaring

Mayor Kendall Lane

Vice-Chair Jones called the meeting to order at 7:00 PM. Vice-Chair Jones advised there will be no public input on agenda item #4 as it has already been before this Committee and had a closed public hearing.

1) COMMUNICATION: Swampbats - Request to Discharge Fireworks

Kevin Watterson of 10 Western Avenue addressed the annual request of the Keene Swampbats to host a Class B Fireworks display on two separate dates: Wednesday, June 22 and Sunday, July 3. He also noted these events would take place on Arch Street at Keene's Alumni Field immediately following the regularly scheduled Swampbats game at approximately 9:45 PM on those nights.

Vice-Chair Jones said July 3 is a Community Event (in-kind donation the City does with staff); he also clarified the Petitioner agrees to absorb any costs over and above that amount, to which Mr. Watterson agreed.

Vice-Chair Jones asked for questions/comments from the Committee.

Councilor Sutherland asked if this includes the fireworks that go off whenever there's a homerun. Mr. Watterson replied in the negative; adding this is no longer done.

Vice-Chair Jones asked Mr. Watterson if he would like rainout dates added. Mr. Watterson replied in the negative and advised the costs for doing that is almost prohibitive.

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

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

On a vote of 4-0, the Planning, Licenses and Development Committee recommends that the Keene Swampbats be granted permission for the discharge of display fireworks on the following dates: Wednesday, June 22 and Sunday, July 3, 2016 on Alumni Field at no later than 10:00 PM subject to the customary licensing requirements of the City Council; submittal of a signed letter of permission from SAU 29 for use of their property; and obtainment of a Class B fireworks permit for each display date. In addition, the petitioner agrees to comply with all recommendations of the Keene Fire Department and the Keene Police Department. This permission is conditional upon the Petitioner absorbing the charges for any City services provided for the June 22 display. The Petitioner agrees to absorb the cost of any City services over and above any amount of City funding allocated in the FY 17 Community Events Budget for the July 3 display. Said payments shall be made within 30-days of the date of invoicing.

Vice-Chair Jones advised the Petitioner this would go before the full City Council.

2) COMMUNICATION: Big Brothers Big Sisters (BBBSNH) – Request to Use City Property – Stiletto Sprint

Gregg Burdett of 8 Park Hill, Westmoreland, said the BBBSNH respectfully request approval to close Railroad Street on Saturday, September 17, 2016 from 3:00 PM – 6:00 PM for the Annual *Stiletto Sprint*. They are further requesting the following Sunday, September 18, 2016 for a rain date. Mr. Burdett further noted our Young Philanthropists for Mentoring (YP4M) Committee and BBBSNH staff will be organizing the *Stiletto Sprint* once again. The YP4M Committee is a group of young professionals who help raise financial support and awareness for Big Brothers Big Sisters of New Hampshire.

Vice-Chair Jones asked for questions/comments from the Committee.

Vice-Chair Jones noted he showed the motion to the Petitioner before the meeting and asked if the Petitioner agreed to all the terms. Mr. Burdett replied in the affirmative.

There being no questions/comments from the Committee or members of the public Vice-Chair Jones asked for a motion.

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

On a vote of 4-0, the Planning, Licenses and Development Committee recommends that the City Council grant permission to BBBSNH to sponsor the annual *Stiletto Sprint* on September 17, 2016 from 3:00 PM to 6:00 PM with a “rain date” of September 18, 2016 should there be inclement weather. Said permission includes the use of Railroad Square and the closure of Railroad Street from Main Street to Wells Street and is subject to the customary licensing requirements of the City Council. In addition the Parking Division shall identify Railroad Street immediately adjacent to Railroad Square as a No Parking zone from the hours of 3:00 PM to 6:00 PM. This permission is conditional upon the Petitioner absorbing the charges for any City services provided, and compliance with any recommendations of City staff.

Vice-Chair Jones advised Mr. Burdett this would go to the full City Council and thanked him for hosting the event.

3) COMMUNICATION: Clarence DeMar Marathon - Request to Use City Property - Community Event

Vice-Chair Jones reported staff has recommended this item be placed on “more time” to allow for one more protocol meeting to be held.

There being no questions or comments from the Committee or public, Vice-Chair Jones asked for a motion.

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

On a vote of 4-0, the Planning, Licenses and Development Committee recommends the request be put on more time to allow protocol meetings with City staff.

4) COMMUNICATION: Requesting that the City Council take a position on the Kinder Morgan Pipeline

Vice-Chair Jones noted the pipeline item has been before this Committee and there was a public information meeting before the City Council. Vice-Chair Jones thanked Mayor Lane for his transparency. He continued noting public comment has been closed; however, City Councilors and staff can still speak to this issue. Vice-Chair Jones reported he asked the City Clerk to distribute copies of the Resolution from the County Commissioners which is included in the packet as informational. Vice-Chair Jones indicated he was not suggesting the Resolution be mimicked here.

Vice-Chair Jones asked for questions or comments.

Councilor Clark, with reference to the County Commissioner’s Resolution, noted he is in favor of mimicking the letter to the Public Utilities Commission (PUC). He also urged the

Committee to look closely at the letter when they are making a recommendation to City Council.

Councilor Hansel stated his understanding from the testimony received is that the PUC hasn't yet made a decision whether the rate charges are legal. If they do this could go into an appeals process. Councilor Hansel recommended letting that process unfold and consider weighing in after that legal process plays out. He recommended this Communication be reported out as informational.

Vice-Chair Jones addressed the City Attorney asking whether we call the Kinder Morgan Pipeline item a public hearing or workshop. The fact that the Mayor set a deadline for comments means the public hearing over, correct. The City Attorney replied in the affirmative adding it is the Mayor's prerogative.

Councilor Chadbourne asked if the County Commissioner's letter was written before Kinder Morgan made the decision to suspend the pipeline. Councilor Chadbourne noted she believed was. Vice-Chair Jones commented the Resolution also includes an opinion, not just facts; he added if we were going to do something he wouldn't want to mimic the County Commissioner's resolution.

Councilor Sutherland said he has noticed there are a lot of people very engaged in the pipeline issue and that is a positive thing; on the other hand there were a number of questions addressed within the County Commissioners Committee and PLD Committee to better understand the position of City Council and their charge and what we do for the constituents in our community. Councilor Sutherland continued noting since the pipeline had no specific plans for coming to Keene and the plan has been suspended, he had difficulty trying to determine whether it is the charge of the City Council, or the charge of the citizenry to work with their State Representatives on state issues, to work with their Federal Representatives on federal issues, and then to work with the City Council on local issues. He reiterated his earlier comments regarding people working together adding he questions whether or not it is this body's charge to carry that message further.

Vice-Chair Jones noted his agreement with Councilor Sutherland suggesting that was why Councilor Hansel previously made a motion that dealt with the part of the recommendation that affects the Keene residents. Councilor Hansel agreed the idea of having rate payers pay for infrastructure work is a concern. Councilor Hansel continued he doesn't see how our input will affect a legal determination at this point, and waiting a little while will allow us to get more information and perhaps some perspective from Eversource and the utility companies. Councilor Hansel noted he does not see how this can hurt us.

Councilor Clark of Ward 3 said members of this body are elected by the citizens of Keene to represent the interests of the citizens of Keene. He continued if we have an interest we have a national interest/state issue that directly affects our citizens, then it is our duty to speak up. Councilor Clark argued that there is something before the Public Utilities Commission that does affect us; the Algonquin pipeline. Councilor Clark indicated there is a petition before the PUC that was filed on the April 13, 2016; which is why he wanted to have the pipeline

issue done the beginning of April. He continued the PUC is weighing in on whether or not the State of New Hampshire will allow Eversource to charge rate payers for a natural gas pipeline. He also said a letter from the City of Keene is powerful, more than letters from individual citizens. We represent our citizens and if we're going to represent them we need to stand up for them. Councilor Clark explained Eversource was invited to the public information meeting; they chose not to come and didn't provide the requested information. Councilor Clark suggested we already have all the information; what we need to do is protect our citizens from an administrative law by people who aren't elected (Commissioners) who will be setting a precedent for anyone else coming down the line. Councilor Clark continued stating we need to present the decision on behalf of the City of Keene.

Mayor Lane stated at the public information hearing Don Kreis, Consumer Advocate for the State of New Hampshire, made it clear that there is currently no public process pending before the PUC relating to Eversource, Northeast Energy Direct (NED), or the inclusion of any pipeline costs in the rate base; there is a request pending by Eversource to submit that. Continuing, the Mayor stated that is a legal question that the PUC is going to have to determine. Don Kreis indicated if it is determined that such a petition would be permitted, he intends to appeal that to the New Hampshire Supreme Court. Once that appeal has been determined, if in fact it is determined that Eversource can submit such a petition, and they do submit such a petition, there will be a public process. At that point the City Council should become actively involved, and should say clearly that we do not support this issue. The Mayor continued, however, at this point there is no public process, nothing for us to respond to, and nothing for the City Attorney to draft a response to this issue. Continuing his comments Mayor Lane suggested responding at this time is premature; we do need to continue to monitor the issue and participate in the public process if and when there is one.

Vice-Chair Jones clarified we would be taking a position on something that doesn't exist; Mayor Lane agreed.

Councilor Clark of Ward 3 held up a document which he said is a response to a petition sent to the PUC by Eversource on February 18, 2016. Disagreeing with Mayor Lane, Councilor Clark said there is a petition before the PUC (NH PUC Docket No. 16-241). Mayor Lane commented that just started the legal process to determine whether or not they'd accept that petition; they haven't decided to accept that petition yet. After reiterating earlier comments Councilor Clark again disagreed with the Mayor. Councilor Clark continued we're talking about public outrage here and we need to let them know we don't support this. Vice-Chair Jones said he strongly agrees with Councilor Clark but not with the timing.

Councilor Sutherland noted his concern with what is called "scope creep"; when what was initially requested was for us to take a position with Federal Energy Regulator Commission (FERC) on the NED Pipeline. Vice-Chair Jones agreed with Councilor Sutherlands comments; he added it was the City Council who brought it back to what affects the Keene citizens, and the petitioner had every right to include all the other information.

Councilor Chadbourne said this is an important issue with far reaching consequences; she noted she received a couple of calls from residents angry with the County Commissioner's letter. Councilor Chadbourne feels it is premature to respond now because the NED Pipeline has been suspended. Councilor Chadbourne continued she would like to see us wait to respond.

Vice-Chair Jones said the way he sees it the Committee has two choices, 1) to accept as informational, or 2) to take action.

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

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

On a vote of 4-0, the Planning, Licenses and Development Committee recommends this Communication be accepted as informational.

Vice-Chair Jones wanted it made clear in the background notes this doesn't mean we can't come back to the pipeline issue once the public process has begun. Councilor Hansel agreed with Vice-Chair Jones, noting he would also continue to monitor this process. Councilor Hansel also noted he learned a lot during this process; he added he just doesn't see us having an effect on a legal process like this.

5) MEMORANDUM: Police Captain - Large Gathering Ordinances

Steve Stewart, Police Captain referred to the March 9, 2016 meeting where City staff was directed to look at other municipalities that had Ordinances in place that addressed the issue of large gatherings; specifically North Hampton and Sutton.

Captain Stewart reported he spoke with officials in both towns noting neither is really comparable to what we have here in Keene. Captain Stewart said Sutton considers their Ordinance to be unenforceable; they did try to redraft it but there was no public support for the ordinance. Sutton's Ordinance was basically born out of concerns their Police Department had over athletic events and the like at a regional High School (parking and crowd issues).

Continuing, Captain Stewart reported North Hampton's Ordinance came about because a group of people or one person purchased a local farm in North Hampton within the residential area. It was the owner (s) intention to hold weekly music/art festivals that would draw a lot of attention to the neighborhood. The North Hampton Ordinance has gone through a lot of confusion but they seem to have ordinance hammered out now; the number they have placed on the number of people is 200. The types of events they have approved in their Ordinance are car shows, cross country meets held on a closed golf course, charity benefits at private establishments, and bars. Captain Stewart noted most of the things they were concerned with would have already been handled through our City protocols.

Captain Stewart reported he also spoke with Officials in Durham and Hanover, neither Durham or Hanover has an Ordinance dealing with outdoor gatherings. Hanover does have an Outdoor Event Permit with no number attached to people. Captain Stewart concluded reiterating his comments from the previous meeting; he believes we have some great strategies in place and the College has had a shift in their ideology and the way they're handling off-campus student behavior. He noted the reduction in noise complaints along with a reduction in alcohol and open container complaints. Noting there is no statistical data for the spring yet, Captain Stewart reported there was nothing out of hand during the past two weekends. Captain Stewart said he feels we have the right tools, strategies, and partnerships in place right now to help us improve the quality of life for the citizens of Keene.

Vice-Chair Jones clarified we feel we have the tools to handle the issue raised by Mr. Zinn. Captain Stewart replied we are making good progress.

There being no questions/comments from the Committee Vice-Chair Jones asked for public comments.

Tim Zinn 49 Grove Street acknowledged there has been a lot of improvement. Mr. Zinn said he still sees a gap suggesting another tool for the toolbox as he mentioned at the March 9, 2016 meeting. Mr. Zinn questioned if the things that have caused these improvements are permanent; is it subject to the College kicking in extra money throughout the year. Mr. Zinn noted he is unable to identify the permanent piece of the tool. Mr. Zinn raised the issue of the 2014 riots stating, as a resident, it felt like the bad guys got away with one. Agreeing with Captain Stewart the last two weekends were quiet; Mr. Zinn raised the issue of a confrontation with a citizen. After additional comments Mr. Zinn suggested he would like to see the City formulate some kind of language that advises if you're going to hold large gatherings you will be held responsible to the taxpayers of Keene.

Vice-Chair Jones commented as you know we have no control over FinnaRage; they do have a constitutional right to organize. Vice-Chair Jones noted his agreement with Mr. Zinn's comments and also noted we can't stop them (FinnaRage). Vice-Chair Jones also said he thinks there isn't one large tool but many small tools which is why things are getting better. Vice-Chair Jones noted the work of the College/City Commission along with the College, Fire Department, and the Police Department. Vice-Chair Jones also reiterated the goal of the SEED District. Mr. Zinn agreed with Vice-Chair Jones' comments adding he still feels we're vulnerable, and that he is worried. Mr. Zinn noted he feels the Music Festival will become the next big party thing. Vice-Chair Jones suggested staff is aware and there are preventive measures in place. .

Councilor Sutherland reported work is being done on some of the Ordinances for the Eastside redevelopment and a lot of these issues are being taken into consideration.

Noting Robin Picard was in the audience Councilor Chadbourne suggested perhaps she could speak to some of the initiatives the College has taken.

Robin Picard of 64 West Surry Road and Coordinator of Student and Community Relations at KSC echoed the tributes to the great work that has happened. Ms. Picard continued we have seen great improvements both on the part of the City, Police, and Fire involvement along with new policies at the College. Ms. Picard noted her confusion; she hasn't heard what the obstacle is to lowering the number from 100 people to 50 people. Ms. Picard suggested we would have better control if the Ordinance said 50 people; it would also take a little time for that message to get out to students. Referring to Councilor Chadbourne's request Ms. Picard reported 640 students went through the Off-Campus Orientation, only about 40 students have not attended. Ms. Picard addressed the College's more strict and expedient process with student conduct. Ms. Picard reported on the monthly meetings with herself, Code Enforcement, along with the Police and Fire Departments. She follows up weekly on houses that have been in the Police Logs for noise complaints. Ms. Picard stated that both UNH and Plymouth College have a limit of 50 people.

Councilor Sutherland noted we have also seen porch collapses at some of these parties; he asked if we have anything on the books to address this. Ms. Picard replied there are two houses that are a concern; she suggested this was a question for the City to answer. The City Manager advised when talking about the limitation (number of people), you are talking about a permit from the Fire Department for assemblies (inside a building). He also noted the Fire Code could be amended to reduce that number to 50. The City Manager also indicated most of the issues tend to be overcrowding both in the unit and the exterior. The City Manager continued stating that what is going on outside the building and the back and forth traffic is usually what bugs people in the neighborhood. He suggested some of the foot traffic needs to come to the front and be addressed in some manner. Addressing another issue to keep in the back of our minds, the City Manager noted a lot of these properties are not proactively managed. Also problems with some of the properties are repetitive even though they may have different individuals renting annually. Although this is a systemic problem what happens is the taxpayer is absorbing the costs for managing that piece of property, and the landlord is reaping the benefit. Addressing the porches, the City Manager noted this is a complaint driven process for both the Fire Department and Code Enforcement. He noted the inspection program for those wishing to rent to KSC students; advising there are a couple of those properties under repair today.

Brian Costa, Police Chief noted there is accuracy in everything that was said tonight. He added he wanted to offer his Department's philosophy on a couple of things. Reporting that he and Councilor Manwaring attended the last Southeast Neighborhood Group meeting where he heard in Mr. Zinn's opening remarks that he was looking for that one concrete thing that would end these quality of life issues. There was also a question regarding what that changed the previous 10 years (prior to 2014) and what caused the positive results following in 2015. Chief Costa noted he wrote down strengthened relationships as the answer to the second question. Addressing the sledgehammer Mr. Zinn is looking for Chief Costa said if there was one we'd be the first in line to sign-up for it. Chief Costa thanked Captain Stewart and the Fire Department staff for taking the time to look into this.

PLD Meeting Minutes
April 27, 2016

Vice-Chair Jones noted we were addressing the same issues in 1998; at that time we were reactive not proactive. He continued today we're communicating and doing a much better job. Vice-Chair Jones also thanked staff and the Council for all they have done.

Mr. Zinn commented he wasn't trying to indicate this was the only tool, but that it was a tool. Mr. Zinn also asked as a City why didn't we go after FinnaRage and those other people for the expenses they imposed in 2014. He asked if we could do it should this happen again.

Mark Howard, Fire Chief provided clarification regarding the FinnaRage issue on the weekend of the riots. There was a Task Force established of multiple agencies that was deployed before anything occurred. A positive outcome of this Task Force was that FinnaRage was intercepted at a gathering on Pearl Street and they left. Chief Howard outlined the actions that took place and the outcomes. Chief Howard clarified there was never a FinnaRage activity the day of the riot. In response to Vice-Chair Jones both Chief Costa and Chief Howard reported they have not heard of any FinnaRage plans to come back to Keene.

Councilor Chadbourne referred to Ms. Picard's comments regarding Plymouth State and UNH having limits. Ms. Picard responded the way she understands it from her colleagues is it is the Ordinance in the town that has drastically improved their control of gatherings in the town. Councilor Chadbourne asked Mr. Zinn if this is what he was looking for. Mr. Zinn replied in the affirmative; adding or at least some language letting people know the City will go after them. Noting that he spoke with the Durham Police Chief, Captain Stewart reported the Chief is unaware of an Ordinance that prohibits more than 50 people at a party.

There being no questions/comments from the Committee Vice-Chair Jones asked for a motion.

Councilor Sutherland made the following motion which was seconded by Councilor Chadbourne.

On a vote of 4-0, the Planning, Licenses and Development Committee recommends that the City Council accept this Memorandum as informational.

There being no further business Vice-Chair Jones adjourned the meeting at 8:03 PM.

Respectfully submitted by,
Mary Lou Sheats Hall
May 1, 2016