

CITY OF KEENE
PLANNING, LICENSES, AND DEVELOPMENT COMMITTEE
MEETING MINUTES

Wednesday, July 8, 2015

7:00 PM

Council Chambers

Members Present:

David Richards, Chair
Emily P. Hague
Bettina Chadbourne
Carl B. Jacobs

Staff Present:

Thomas Mullins, City Attorney
Gary Lamoureux, Project Manager
Patty Little, City Clerk
Rhett Lamb, Planning Director
Mark Howard, Fire Chief
Kurt Blomquist, Director Public Works
Beth Fox, HR Director

Members Not Present:

David R. Meader, Vice-Chair

Others:

Councilors Present:

Terry Clark

Chair Richards called the meeting to order at 7:00 PM welcoming the viewers of Cheshire TV, Channel 10.

1. COMMUNICATION: James Phippard/Fairfield, Cadillac, Buick, GMC - Request to Use City Property

Jim Phippard, representing the applicant noted the request to City Council is for permission to encroach 12-feet into the south side of an existing right-of-way owned by the City of Keene. Mr. Phippard noted the area displayed on the plan elevation. Mr. Phippard continued the applicant recently received Site Plan approval to construct improvements and an addition, and renovations to the existing Fairfield's building. This includes an entrance canopy to a customer service area along the north side of the building. Mr. Phippard clarified this would just be a canopy with no walls; he added this is really a temporary structure. Continuing, Mr. Phippard noted the canopy measures 28-feet wide and 20-feet deep; with 12-feet extending into the right-of-way. The applicant understands this would be a license agreement with the City having the right to revoke it, and Fairfield's would be responsible for removal costs.

The City Attorney advised this is a statutory process; it is an air rights lease and the lease will still have provision rights.

Chair Richards asked for Committee questions/comments.

In response to Councilor Hague, Mr. Phippard noted this has been before the Planning Board for Site Plan approval; one of the conditions was getting City Council approval to allow the encroachment.

For clarification purposes, the City Attorney asked Mr. Phippard how high the canopy was off the pavement. Mr. Phippard replied the top of the canopy structure is approximately 18-feet.

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

Councilor Jacobs 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 Manager be authorized to do all things necessary to negotiate and execute an air rights lease with 434-440 Winchester Street, LLC, for the placement of a canopy on the north side of the Fairfield's building which will extend into the City right-of-way.

2. COMMUNICATION: Ron Robbins/KeeneSnoriders Snowmobile Club - Request to Use City Property

Ron Robbins, of 48 Eaton Road, Swanzey addressed the request for renewal of the existing license; he noted there have been no changes, no new crossings or new trails within the Keene city limits.

Kurt Blomquist, Public Works Director indicated this is probably the 10th year for this group's request. Mr. Blomquist reported there have been no issues. He also noted the group did work with the Department of Public Works and NHDOT to make improvements on Ashbrook Road that allows the snowmobiles to travel a little more safely across the road.

Councilor Hague made reference to the license dates in the motion noting groups often do maintenance in the off-season. Councilor Hague asked if any additional stipulations were needed to allow the group to do maintenance or clearing. Mr. Blomquist clarified you would be giving them permission to use City land and also along the edge of the road. He added they really don't do anything for maintenance in the off-season.

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

Councilor Hague made the following motion which was seconded by Councilor Jacobs.

On a vote of 4-0, the Planning, Licenses and Development Committee recommends that the Keene Snow-Riders, Inc. be granted a license from December 15, 2015 through March 30, 2016, to use the following locations on City property for a snowmobile trail:

The right-of-way along the north side of Krif Road from Krif Court to Winchester Street; city property identified by tax map numbers 911-26-015, 909-04-012, 909-03-210 and 707-02-009; the crossing of Winchester Street at Krif Road; and the crossing of Production Avenue approximately 200 +/- feet south of NH Route 9.

Access to the Class VI Portion of the Old Gilsum Road starting approximately one (1) mile from the Gilsum Town Line and going north,

Said use is subject to the following conditions:

The signing of a revocable license and indemnification agreement; and the submittal of a certificate of liability insurance in the amount of \$1,000,000, naming the City of Keene as an additional insured.

In addition, the Keene Sno-Riders, Inc. will be responsible (including cost) for the installation and maintenance of all signage/markings, which will be in accordance with Snowmobile Trail Standards published by NH Department of Resources and Economic Division of Parks and Recreation; that all signage/markings installed shall be removed from the City right-of-way and City property when there is no longer any snow cover, no structures, including buildings, shelters, lights, displays, walls, etc. shall be permitted with the City right-of-way or on City property; no parking of motor vehicles or trailers and no catering service activities of any kind shall be permitted within the City right-of-way or on City property; grooming shall not extend outside the right-of-way of Krif Road, snow windows shall be groomed to provide adequate sight distances and a gentle sloping approach at all road and driveway intersections; no part of the City Street (paved surfaces) may be used by off-highway recreational vehicles (OHRV) or their operators for any purpose, other than direct crossing; and that Keene Sno-Riders, Inc. shall be responsible for the repair of any damage (including costs) and the City right-of-way and property shall only be used when there is snow cover.

3. COMMUNICATION: Tracy Keating & Shannon Hundley/Keene Downtown Group - Request to Use City Property

Tracy Keating, of 388 Old Homestead Highway, Swanzey said the Keene Downtown Group is requesting permission for use of sidewalks for Sidewalks Sales on July 31 and August 1, 2015. In addition, they request the renting of Central Square for August 1, 2015. She noted on August 1, they will be hosting the "Light up the Night" event. It will consist of business owners decorating their storefronts with Chinese lanterns for a downtown decorating competition. They will recruit the nonprofit Arts Alive Group to decorate Central Square with lanterns, provide activities for families (such as decorating your own lantern), and host the "grand lighting" at dusk. They are also requesting the use of electricity on Central Square. Ms. Keating continued the purpose of these requests are to compliment the Free Parking Weekend that occurs that same weekend. The Keene Downtown Group understands they will need to pay for electricity and show insurance for this event.

The City Clerk advised that all City requirements had been met.

Chair Richards asked for Committee questions or comments.

Councilor Jacobs asked if the Chinese lanterns were an electrical device. Ms. Keating noted they are paper lanterns using battery powered illumination. Chair Richards clarified there will be no open-flames to which Ms. Keating agreed. Ms. Keating also clarified for Councilor Jacobs this would take place two weeks after the already approved side-walk sale.

Councilor Chadbourne commended Ms. Keating for bringing in Arts Alive and for bringing her initiatives forward to the City.

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

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

On a vote of 4-0, the Planning, Licenses and Development Committee recommends that the Keene Downtown Group be granted a street fair license to use downtown City rights-of-way for purposes of conducting merchant sidewalk sales as well as the use of Central Square on July 31, and August 1, 2015 in conjunction with their "Light up the Night" event subject to the following conditions: compliance with the customary licensing requirements of the City Council; unimpeded public use of the sidewalk and maintenance of a minimum of 5 feet in width for public traveling; obtainment of all necessary licenses and permits and compliance with all laws; payment of a \$60.00 fee for electricity access; and compliance with any recommendations of City staff.

4. COMMUNICATION: Tracey Keating & Shannon Hundley/Keene Downtown Group - Request to Allow Fire Pits/Fire Towers in Downtown

Tracy Keating, of 388 Old Homestead Highway, Swanzey noted the mission of their group is to maintain and enhance the vibrancy of Downtown Keene. This happens through different avenues. They regularly host events, work together for promotions, and employ group marketing to draw visitors to downtown Keene. She noted a new trend being used throughout the country to draw shoppers and diners to main streets is outdoor fire towers and fire pits. One of the great advantages in downtown Keene is our outdoor seating. They believe fire pits would be such a great asset for Main Street businesses, and an addition that would draw and enhance downtown ambiance to draw shoppers and diners. Ms. Keating continued they are requesting that fire pits and fire towers be allowed in downtown Keene, provided that regulations and required conditions are met. They believe whole heartedly that it will enhance the ambiance of downtown Keene, and make this area even more of a destination for locals and visitors.

Gary Lamoureux, Project Manager for Parking provided a brief overview of how this issue came about and how it has moved forward. Mr. Lamoureux noted contact was made with Code Enforcement who had no regulations for this type of unit. The Fire Department also reviewed the request, and as anticipated, the Fire Code does specify what needs to happen next to buildings with the proposed propane units. Mr. Lamoureux reported there are areas downtown that do meet the regulations of the Fire Code. Mr. Lamoureux pointed out the units proposed are UL rated, they do have safety features over the top of the fire pit. He further noted that cooking is not allowed on the tops of the units.

Chair Richards asked if a new license would have to be issued. The City Clerk advised of the intent to incorporate this activity into their existing Sidewalk Obstruction license; clarifying no new license would be required and the City would still be insured.

Mark Howard, Fire Chief reiterated comments made by Mr. Lamoureux noting he would be referring to the proposed units as lanterns with heaters. He noted the efforts of the Fire Prevention Officer including inspection of several sites downtown. The finding was this idea was at least feasible to move forward for further review. Chief Howard noted the conclusions with moving forward regarding the language, and his concern that today the proposed units are LP and at another time they could propose units with a different fuel source. Chief Howard indicated these would be looked at individually. Chief Howard outlined the conclusions reached specific to the LP units:

- We would need to know the specifics of each product used (manufacturers' recommendations).
- Units used for cooking or any other heating shall not be used on any balcony, under any overhanging portion or within 10 feet of any structures.
- The units must be at least 5 feet away from any assembly exits (fenced in areas are considered an assembly exit).
- They must be three feet away from any below grade windows or doors.
- Vehicle protection against vehicle impact shall be required (6-inch curbs, raised sidewalks, steel bollards).
- There must be a six foot vertical plane for any electrical wires (would need to be evaluated).

Chief Howard continued the Fire Department would in no way be issuing a blanket recommendation to the Council or Committee. If this is what the Downtown Group is looking for we would need each individual store that wants to do this to go through the process with the Fire Department and the City Clerk's office.

Chair Richards addressed the language that would be needed; the City Clerk clarified the prepared motion endorses the concept while letting the particulars of the license be handled administratively.

Councilor Chadbourne and other Committee members noted they were in favor of this idea. Councilor Jacobs noted his primary concern as public safety.

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

Councilor Jacobs made the following motion which was seconded by Councilor Hague.

On a vote of 4-0, the Planning, Licenses and Development Committee recommends that the request be referred to staff to be handled administratively with the understanding these Obstructions will be permitted under the Sidewalk Obstruction section of the City Code, subject to review and approval by staff and compliance with any terms and conditions of the Fire Department.

5. ORDINANCE: O-2014-12: Institutional Use – Wyman Road

The City Attorney verified for Chair Richards that the public hearing is closed, and that this issue is open for Committee discussion only at this point.

Chair Richards noted he would like to hear from the Committee on this; he also noted the presentations heard on this issue, and pointed out the recommendation by the Joint Committee with a split vote. Chair Richards indicated he was in favor of this and would recommend adoption to the full Council.

Councilor Jacobs commented he has done a lot of thinking about this and read the reports while he was at the location. He suggested what we are talking about is opening a door for a number of uses, and knowing there is one group with a particular use in mind. He noted the zoning allows for a Corporate Park there, and shared his concerns over losing some of the agricultural lands. Councilor Jacobs referred to the Staff Report and asked for an explanation of the term locally important soils.

Mr. Lamb explained the term comes from the New Hampshire Soil Data Dictionary; the term is “farmland of local importance”, and that is farmland that is not prime, unique or of statewide importance but has local significance for the production of food, feed, fiber, and forage. He continued the criteria for identification and delineation of local farmland is determined on a countywide basis by individual County Conservation District Boards. In Cheshire County there are two criteria that would classify about 26% of this land as farmland of local importance. Mr. Lamb outlined the two criteria; noting this is mostly the land area over by Black Brook which is overlapped by wetlands and floodplains in some cases.

Councilor Hague noted that like Councilor Jacobs, she gave this a great deal of thought, read the reports, visited the location and combed through the Master Plan. She commented what has been challenging about evaluating this proposed zoning change is we have so much information about the proposed use in mind. She noted the PLD’s responsibility is to evaluate all of the potential institutional uses; therefore her comments will be with that in mind. Councilor Hague’s concerns included:

- 1) There are no density requirements on institutional uses.
- 2) This abuts a rural area which could create an abrupt change there.

Councilor Hague referred to the Institutional Use Road and Zoning map included in the April Staff Report which shows the existing institutional roads as they relate to the existing zones. In comparing the 12 other roads she found none of them end in a rural zone. The only other road that does go through a rural zone is upper Washington Street which joins with Route 9 (arterial road). Councilor Hague indicated this would be inconsistent with what has been allowed in the past. Another concern she noted was legislative history shows that institutional uses are intended for arterial streets; this street is arterial in a way, at the end abutting Route 12, but travels through a rural zone and intersects with Old Walpole Road. Councilor Hague noted her background in Natural Resource Management; she added her concern that putting institutional uses in this area could really impact the Black Brook watershed which is already an impacted watershed. She asked if this is the best place for these types of uses, and are there other areas in the City where these uses can be concentrated so we can keep our natural resources on the periphery of the City intact.

Councilor Chadbourne also noted she visited the area, and agreed with Councilor Hague that we need to separate the project from the issue of rezoning and how that impacts us as a city. She noted the three elements of sustainability in the Master Plan pointing out she feels we have a responsibility to preserve

the rural area, and to control urban sprawl. Councilor Chadbourne advised she would not be supporting this.

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

Councilor Hague made the following motion which was seconded by Councilor Jacobs.

On a vote of 2-2, the Planning, Licenses and Development Committee recommends adoption of O-2014-12 relating to amending the Zoning Ordinance to add this street to permanent Institutional Use. Councilors Hague and Chadbourne voted in opposition.

6. ORDINANCE: O-2015-10: Sandwich Board Signs

The City Clerk noted this was an effort put forth by the Assistant City Manager, Medard Kopczynski and it deals with wayfaring and sandwich board signs. She advised Rhett Lamb would be presenting this for Mr. Kopczynski.

Rhett Lamb, Planning Director noted this Ordinance addresses work that in 2010 there was a removal of prohibition on signs in the right-of-way through the Zoning Code which created an opportunity to provide a permitting process through the City Code. We are attempting to make the adjustment that was anticipated back in 2010. Instead of addressing these temporary signs in the right-of-way through the Zoning Code they would be addressed by City Code, through a licensing process with the City Clerk's office, and Public Works. Mr. Lamb continued typically the signs were of sandwich board type used in conjunction with outdoor seating or obstruction licenses, but it could also be the types of signs that are temporary for general business development. The Ordinance does create the allowance, the definitions, establishes some criteria for what would constitute an obstruction, and identifies areas where these types of signs could be located.

Mr. Lamb verified for Chair Richards this is part of an existing proposed Ordinance, it sits in Chapter 46 under the Sidewalk Obstruction standard.

Councilor Chadbourne asked if the strikeout on Page 3 is a reference to a street vendor (non-resident applicant). The City Clerk noted it could be; adding we have never had a request to occupy the sidewalk under this particular paragraph. Mr. Lamb provided an example for Councilor Chadbourne of temporary sales at the Best Western using off-premise signs. Councilor Chadbourne used Walpole Creamery as a scenario; adding they wanted to put out a sandwich board sign noting the flavors of the day. The City Clerk advised this is covered under the Mobile Vendors section of the Code. The City Clerk further noted there are five or six areas in the City where mobile vending is permitted. The City Clerk also clarified this particular strikeout would not affect that; and the other Code would allow a vendor to have a sandwich board sign (such as the gelato vendor). The City Clerk continued when we have an outdoor café and they want to put out a sandwich board we just roll it into one license; so this strikeout will not impact that activity. The City Attorney noted for clarification part of the concern from staff is the over proliferation of the signs in the downtown if you open it up to entities that really didn't have any connection to the downtown. Councilor Jacobs commented he was thinking of something like the Film Festival as an example of how a non-resident can approach the Council.

Mr. Lamb commented another area to be addressed is wayfinding signs. He cited businesses just off Main Street, such as the Food Co-op, that don't have Main Street frontage that couldn't take advantage of this. Mr. Lamb suggested this type of sign be addressed through wayfinding signs so that a traveler can be directed to the businesses in a more unified way. He noted the Merchant's Group is still working on this concept.

Councilor Hague referred to the Ordinance language noting she finds the double negative style of construction confusing. Mr. Lamb pointed out this is a legislative tactic; adding sometimes it's easier to say what is not allowed, and then create the exceptions for what is allowed.

Councilor Hague referred to Page 3 noting she had questions regarding letters d, g, j, and m. Referring to (d) she asked if LED's would be prohibited. The City Attorney replied in the affirmative; adding the signs are supposed to be removed after dark. Referring to (g) she noted it is almost inevitable that someone is going to feel blocked. Mr. Lamb indicted that's why we have the six foot restriction. The City Attorney noted the needed correction from six feet to 60 inches (5 feet). Referring to (m) and asked if the license could be on the interior of the sign. The City Attorney replied the thought there was as part of enforcement we needed a way to quickly and clearly identify whether or not the sandwich board was in compliance. Councilor Hague asked if this would take the form of a license number or something. The City Clerk advised we are looking at a weather resistant decal.

Chair Richards moved to amend Section 46-960 (g) by changing 6 feet to 5 feet. Councilor Jacobs seconded the motion to amend which carried unanimously.

Councilor Jacobs moved to amend Section 46-956 by removing a reference to the license being valid for one year from the date of issuance in favor of a license that expires on March 1 of each year, so the paragraph would read as follows:

No person who owns or operates a business in the central business district shall put or place or cause to be put or placed as a contiguous extension of his business, in an area equal to or less than the width of his business, any display, merchandise, goods, tables, chairs, vending machines, sandwich board sign as defined below, or any other obstruction ("Obstruction") on any sidewalk or right-of-way maintained by the city, whether publicly or privately owned, unless he shall have received written permission in the form of a license ~~valid for one year from the date of issuance~~ from the city clerk. All licenses issued under this division shall expire on March 1 next following their date of issuance. There shall be no pro-rated license fees to reflect use of the sidewalk for a portion of the year.

Councilor Chadbourne seconded the motion to amend which carried unanimously.

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

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

On a vote of 4-0, the Planning, Licenses and Development Committee recommends the adoption of O-2015-10-A relating to Sandwich Board Signs.

There being no further business Chair Richards adjourned the meeting at 7:56 PM.

Respectfully submitted by:
Mary Lou Sheats-Hall, Minute-taker
July 10, 2015

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