

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

**PLANNING, LICENSES AND DEVELOPMENT COMMITTEE**  
**MEETING MINUTES**

**Wednesday, August 26, 2020**

**7:00 PM**

**Remote Meeting via Zoom**

**Members Present:**

Kate M. Bosley, Chair  
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  
Don Lussier, City Engineer  
Kürt Blomquist, Public Works Director

**Members Not Present:**

**George S. Hansel, Mayor**

Chair Bosley 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. She called the meeting to order at 7:02 PM and explained the procedures of the meeting and how the public can participate.

Roll call was conducted.

**1) Licenses and Leases – The Colonial Theater Group Request - Public Works Director/Emergency Management Director**

Chair Bosley asked if Tad Schrantz or Alec Doyle were present. She continued that she sees both of them in the attendees list. She asked Mr. Schrantz to speak to his request. Mr. Schrantz replied that he would like Mr. Doyle to start.

Alec Doyle stated that he will start with background information for people who are not familiar with the project. He continued that The Colonial Theater has undertaken a three-part project, which he calls the three-legged stool. The three major parts are: 1) front of house, which includes the ticketing area, concessions area, and what is now the lobby, to make a major expansion of that within the envelope of the building; 2) back of house/stage house, to expand the stage house back to the edge of The Colonial Theater's footprint, and to improve what goes on inside there, which is currently 19<sup>th</sup> century technology, and to build an up-to-date machine

within that envelope; and 3) a second venue, an intimate venue for presentations that do not make sense in the other theater but that there is a big audience for, which they want to support the community with. It would be for local productions and smaller, touring, niche artists. That project has been underway since April. It is on 20 Commercial Street, immediately behind the theater. The project is nearing completion. They expect everything to be in place by the end of September for opening in October, for socially-distanced tours for donors, members, and the public. Mr. Doyle concluded that those are the three parts, and Mr. Schrantz can now speak more to the specifics.

Chair Bosley asked Tad Schrantz to speak. Mr. Schrantz stated that Mr. Blomquist sent out information for the committee to review. He continued that he thought he would use that document and go down that list. Then they can talk about anything specific that PLD Committee members want to review. The background area of the document has eight items listed, which he will go through.

He continued that the first is the foundation design extending onto City property right-of-way. The Colonial Theater Group is working with the Finance, Organization, and Personnel (FOP) Committee and the City to determine the best approach with regards to the foundations for this extension for the back-of-house addition. The back-of-house is the area where the stage is and also where they intend to expand the theater to provide green rooms and more space for the visiting artists as well as a variety of other functions that support the theater's ability to provide shows that they have not been able to do in the past. That is the way Mr. Blomquist has described it, on a separate path. They will be providing additional information and that will move forward as they go through this approval process. Because they are in the Central Business District they are allowed to build to the property line, but foundations below the property extend into the adjacent property. What the City has recommended, based on the most recent input from a couple days ago, is to make a transfer of property for that foundation to go in the ground. They will be requesting that transfer of property for those two to four feet, from the City to the Colonial Theater to make that installation of the addition. They will make a survey and get very specific boundary requirements but that has not happened yet. It is in process.

Chair Bosley asked if the committee has questions on the first item. Hearing none, she asked him to continue.

Mr. Schrantz continued that that the second item is the discontinuance of a public layout, located where the proposed addition is going. This is a historic issue. They had to do the same thing for the 20 Commercial St. property. This goes back to the 1970s. There was property that was conveyed but the actual documentation between the City and property owner was not completed. For 20 Commercial St., that has now been completed. The Colonial worked with Attorney Mullins and the City to make sure that was in place. They also have to do that for the Colonial Theater, for some property behind the theater. That is in process. That has been submitted by their attorney Gary Kinyon. He and the City Attorney are in conversation.

Chair Bosley asked if the committee members had questions about that item. Hearing none, she asked Mr. Schrantz to continue.

Mr. Schrantz stated that the third item is the Americans with Disabilities (ADA) ramp on City property. He continued that previously, last fall, the Colonial Theater Group had shared with the PLD Committee some plans and requirements for access to the building. On the north side of the building, which is between the Colonial Theater and what is now Mon Amie, in that drive space they are looking to install a handicapped ramp to provide accessibility to the back-of-house to the addition to the theater. It does not impact the sidewalk or any parking areas or other things that might impact people's ability to move around the space. They need the ramp in order to provide an accessible route out of the new addition at the back-of-house.

Chair Bosley asked if the committee members had questions about that item. Hearing none, she asked Mr. Schrantz to continue.

Mr. Schrantz stated that fourth item is the canopy extending over the City's right-of-way. He continued that that is in direct relationship to the ramp. They propose a canopy over the ramp area, which would be an air rights lease. All of these documents have been drafted and submitted to the City by Attorney Kinyon. The canopy over the handicapped ramp would provide protection from inclement weather and help prevent slips and falls.

Chair Bosley asked if the committee members had questions or comments about that item. Hearing none, she asked Mr. Schrantz to continue.

Mr. Schrantz stated that the fifth item is the relocation of existing utilities and parking lot lights. He continued that on the previously submitted plan, there is a light on City property that is in question, which the Colonial Theater believes is on Colonial Theater property. In order to do the construction for the addition to the back-of-house, they would take the light out and use lighting on the building to provide enough light in that area to provide safe passage for people there.

Chair Bosley asked if the committee members had questions about that item. Hearing none, she asked Mr. Schrantz to continue.

Mr. Schrantz stated that the sixth item is installation of underground electric and telecommunications infrastructure. He continued that they are working with Eversource and other utility providers in that area to make sure that as construction moves forward, assuming they are approved for construction, they can make any adjustments or rerouting as necessary. Based on their current plan they do not think there will be dramatic impacts to the theater or the neighboring properties, but anytime you dig below grade you have to put that on the table and figure that out.

Chair Bosley asked if the committee members had questions about that item. Hearing none, she asked Mr. Schrantz to continue.

Mr. Schrantz stated that the seventh item is use of City property right-of-way for a dumpster. Currently the Colonial's dumpster is in a fenced-in area in the back of the house. He continued that in that fenced in area is where the addition will go, and then they will not have a fenced-in area. They request the ability to use the dumpster area behind Mon Amie, which is designated for Mon Amie. Mon Amie uses about half of it right now. The Colonial would like to be able to place a dumpster in that area as well.

Chair Bosley asked if the committee members had questions about that item.

Councilor Johnsen asked if they have been in touch with the Mon Amie people to get that permission. Mr. Schrantz replied that they are in conversation with their neighbors and have not received this specific confirmation but are continuing the conversations.

Councilor Greenwald stated that regarding the dumpsters, to minimize the number of dumpsters out there it would make sense to share a dumpster with Miller Brothers and Mon Amie. That has worked well for him with his building. It is one less unsightly can. That is just a suggestion. There is an alleyway between the fitness building and the parking lot and the theater. He asked who maintains that. Who would be responsible for the large potholes? The Colonial Theater, or Miller Brothers, or someone else?

Kürt Blomquist, Public Works Director/Emergency Management Director, replied that that is a private right-of-way that belongs to all the adjacent property owners in the area. It belongs to the Wichland Co. that owns Miller Brothers. That area has a very unique history going back over 100 years. The City owns where the fresh pavement is. Outside of that it is the privately-owned right-of-way.

Councilor Greenwald replied that someone needs to take control of it. He continued that that alleyway is in terrible condition and now there will be more traffic. If the Wichland building owns it and everyone uses it, it would not take much to fill in the potholes and make it passable. He tosses the ball back to the City Manager to try and mediate this. There are so many abutters that use it and it is in deplorable condition. Mr. Blomquist replied that the City has talked with them before. He continued that it is an issue of expending property tax dollars on private property. Councilor Greenwald replied that he is sure the City Manager could negotiate something amongst all the abutters, to take care of what is essentially private property used for a public purpose.

The City Attorney stated that he appreciates Councilor Greenwald's comments. He continued that as Mr. Blomquist pointed out "there is a lot of spaghetti" in this location at this point. They are still trying to figure out the different rights and agreements that were executed. The City is trying to locate an agreement of significance that was executed in the early 1970s; it was an agreement with the City and reportedly one of the deeds. One of the tasks is to establish what

those easement rights are, what the responsibilities are, and who they run to. This is an open question. The City will be looking at it as they move forward with the Colonial Theater.

Chair Bosley asked if there were further questions about this item. Hearing none, she asked Mr. Schrantz to continue.

Mr. Schrantz stated that the eighth item is use of City property/parking/right-of-way for construction. He continued that they are currently working with Economic Development Director Med Kopczynski to make a request for certain areas directly behind the Colonial Theater. There is a parking lot due west of the theater and they would request use of that area during construction. They provided preliminary information to Mr. Kopczynski and will give additional information in the coming weeks to talk about the use of those spaces and any cost associated with those, for the renovation.

Chair Bosley asked if the committee members had questions about that item. Hearing none, she asked Mr. Blomquist to respond to all eight items.

Mr. Blomquist stated that Mr. Schrantz covered it very well. He continued that as Mr. Schrantz indicated, the reason they are going through the FOP Committee is because there could potentially be property exchange. Regarding the discontinuance of a public layout, what that goes back to is that in 1969 the City laid out the Commercial St. parking lot as a public way. At that time, certain existing property owners wanted certain access, so the layout was done such to include their property. Then 10 months later in 1970 the property owners did not wish to continue on with what was approved so the City Council quickly adopted a different layout, thinking it would supersede the one done in 1969. Unfortunately the City Council did not do it correctly. They left the 1969 layout in place. Memories faded and time went on. It is very similar to what the City dealt with regarding the former Hamblet property. They will be going through the same process, through the City Council. There will be a public hearing set, site visits, and so on and so forth. The only other item here is the use of City property during construction. At this point there is no City Council action because if the Colonial compensates the rate that the Parking Manager can charge for those spaces, which there is no waiver for, that will be handled through the administrative process.

Mr. Blomquist continued that the dumpster Mr. Schrantz was referring to is on City property. When the City reconstructed the Commercial Street parking lot they built it to provide two spaces. At that point Heidi's Hallmark was in there, and they got a license for one of the spaces, and there is another space open there, which is the one the Colonial is interested in. The City has a number of these licenses around the downtown area for the dumpsters and other things. Because, as Mr. Schrantz talked about, property owners can build lot line to lot line and that does not leave a lot of space for things that become needed over time. The ADA license will be given in accordance with a City Council policy. The City Council adopted a policy in 2008 that deals with ADA ramps on public property within the downtown. So there is already a guidance document that sets up what the license will be looking at.

Mr. Blomquist continued that staff recommends the PLD Committee authorize the City Manager to negotiate and execute these various licenses and leases with the Colonial for all the various items. Some people may wonder why the canopy needs to have an air rights lease. It extends over City property and the City has rights up [in the air]. The Marriott has a lease for their canopy extending over the sidewalk there. These are not uncommon in a downtown, dense area.

Chair Bosley asked if the committee had any questions. Hearing none, she asked if anyone from the public had questions or comments. Hearing none, she called on the City Attorney.

The City Attorney stated that to clarify about the air rights: there was a comment some time ago about the extent of the City's rights to the air above public ways. It is a reasonable height. He continued that it does not extend up to the atmosphere. It is a pretty low standard.

Chair Bosley stated that hearing no further questions, she would entertain a motion.

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

By a vote of 5-0, the Planning, Licenses, and Development Committee recommends that the City Manager be authorized to do all things necessary to negotiate and execute leases and licenses with the Colonial Theater Group for:

- An American with Disabilities Act (ADA) ramp along the southern side of Commercial Street and Commercial Street Parking Lot
- Relocating existing utilities and parking lot lights
- Installation and maintenance of underground electric and telecommunication infrastructure
- A canopy extending over the southern side of Commercial Street and Commercial Street Parking Lot
- For the placement of a dumpster on City property

There being no further business, Chair Bosley adjourned the meeting at 7:32 PM.

Respectfully submitted by,  
Britta Reida, Minute Taker

Additional Edits by,  
Terri M. Hood  
Assistant City Clerk