

City of Keene
New Hampshire

MUNICIPAL SERVICES, FACILITIES AND INFRASTRUCTURE COMMITTEE
MEETING MINUTES

Wednesday, April 7, 2021

5:30 PM

**Hybrid Meeting –
Council Chambers/Zoom**

Members Present:

Janis O. Manwaring, Chair
Michael Giacomo, Vice Chair
Randy L. Filiault (via Zoom)
Robert C. Williams
Andrew M. Madison

Staff Present:

Elizabeth A. Dragon, City Manager
Thomas P. Mullins, City Attorney
Med Kopczynski, Economic Development
Director
Rebecca Landry, IT Director/Assistant City
Manager
Kürt Blomquist, Director of Public
Works/Emergency Management Director
Eric Swope, Industrial Pretreatment
Coordinator
Don Lussier, City Engineer
Aaron Costa, Waste Water Treatment Plant
Operations Manager
Mary Ley, Waste Water Treatment Plant Lab
Manager

Members Not Present:

Chair Manwaring read the executive order authorizing a remote meeting: Emergency Order #12, issued by the Governor of the State of New Hampshire pursuant to Executive Order #2020-04. Pursuant to this Order, Chair Manwaring called the meeting to order at 5:30 PM and Committee members stated their locations and whether alone.

1) Denise Meadows – Request to Convert Loading Zone Space on Railroad Street to a Mobile Vendor Space

Councilor Manwaring asked to hear from Denise Meadows.

Denise Meadows [representing CC&D's Kitchen Market] stated that the space they are looking at was once a vendor space. She continued that the unit that [CC&D's Kitchen Market] is not a food truck or trailer; it is a little bigger than a hot dog cart. It would not fit on any of the sidewalk spots and thus it would be in the way of pedestrians. They were looking at the space that was once a spot for mobile vending, and at some point, was switched to a loading zone. They are looking for it to be converted back to what it was.

Councilor Manwaring asked if there were any questions from the committee. Hearing none, she asked to hear from Med Kopczynski, Economic Development Director.

Mr. Kopczynski stated that regarding loading zones and parking, there is a lot to talk about. He continued that loading zones historically have been used for deliveries. However, very few of the loading zones today are used for deliveries. Most are being used for curbside pickup. The City has established 14 temporary loading zones to accomplish that. That is not just for restaurants; it is for all businesses. All of the businesses on Main Street have requested that access for their customers. This particular spot was, as Ms. Meadows relayed, originally a vending spot for this type of use. In 2014 it was changed into a loading zone. What staff knows at the moment is that it is rarely used for trucks. There are a few that do use it in the morning, but the City is creating a temporary loading zone across the street, which is probably more appropriate. Most of the loading and unloading of trucks in the Downtown and Central Business District are of 55-foot tractor trailers, which do not fit into these spots at all. He reiterated that most loading zones are now being used for curbside pickup. Thus, staff thinks that by converting this back to this type of vendor space it will actually add activity to this area and to Railroad Square, and be good for all businesses, not just Ms. Meadow's business. It will be good for downtown intensity and activity and bring more people back to the downtown area.

Councilor Manwaring asked if there were any questions for Mr. Kopczynski. Hearing none, she asked for public comment.

Councilor Greenwald stated that he wants to support the petitioner. He continued that he thinks this is wonderful and they should let CC&D's Kitchen Market do this.

Jeff Igneri from Local Burger, 82 Main Street, stated that he is all for new business and supporting new business. He continued that he thinks this will have a negative effect on Local Burger. Local Burger uses that spot often for curbside delivery, as mentioned, and a delivery of local potatoes comes there. There are many trucks that go there for deliveries. Curbside deliveries are where it will really hurt Local Burger. With the high rent Local Burger pays for that spot, to have yet something else eat into their business is tough to handle. They have been trying to get outdoor seating in Railroad Square for years and cannot get it. They also have a food truck. Does this mean they can bring out theirs as well? If so, who will handle the scheduling? Local Burger has many questions that need to be answered. He supports new business, but to have someone come in and not pay rent like Local Burger is paying for an equal spot is tough.

Councilor Manwaring asked what hours Local Burger is open. Mr. Igneri replied 11:30 AM to 9:00 PM, seven days a week.

Councilor Manwaring asked Ms. Meadows what she plans to have CC&D's Kitchen Market's hours be. Ms. Meadows replied that they are considering 11:00 AM to 3:00 PM, Monday to Friday.

Councilor Manwaring asked if members of the public had any questions. Hearing none, she asked to hear what the committee members think about this.

Councilor Filiault stated that with all due respect to Local Burger, he appreciates their concern, and as someone who used to lease a spot in that building, he remembers when that spot they are talking about was meant for food trucks. He continued that there would be a food truck parked out front, sometimes from breakfast through the day and past dinner. It certainly did not have an effect on anyone else's business, and as Mr. Kopczynski pointed out, as far as delivery trucks go, that can easily be worked out. That was never a problem when he leased a spot there. He is all in favor of as many food trucks as they get downtown; they and the brick-and-mortar businesses can work well together as they did in the past. He is all in favor of this and thinks that with a little help from the City, regarding the delivery trucks, they can all get along and survive downtown fine.

Councilor Williams asked how these spots are managed, in terms of who can use the spot at which times. He asked what the scheduling process is. City Manager Elizabeth Dragon replied that her understanding is that it is first come, first serve for the mobile vending spots throughout the city.

Councilor Giacomo stated that his question for Mr. Kopczynski, Mr. Igneri, or someone else who has a business there: if there is a concern with loading trucks back and forth, what time of day do those deliveries usually occur? He continued that his understanding is that they usually do not want to come in the middle of the day for deliveries. How much will there actually be a conflict with that narrow of an hour range being open, with loading trucks?

Mr. Kopczynski stated that the experience he has with the loading and unloading of trucks is peripheral from the standpoint of his constant attention and walking around in the downtown. He continued that he is usually in the downtown three to six times a day. This is something to take into consideration. When he sees loading zones being used by trucks, it is rare. This particular one he sees used occasionally by a beer truck and occasionally by People's Laundry. What he understands anecdotally is that is about once a week. The size of that particular loading zone can be accommodated in another loading zone across the street where they do not have this same potential for there being a site for a food vendor. Most of the loading and unloading that he sees in the downtown, during the day, is UPS trucks, and trucks delivering oil. Trucks delivering meat and produce for the restaurants tend to be 55-foot tractor trailers. When he sees those, it tends to be early in the morning, around 8:00 or 9:00 AM. Occasionally he sees them coming to places like the Monadnock Food Co-op a little later.

Councilor Manwaring stated that the big trucks would not fit in this space anyway.

Councilor Madison asked if this is a trailer that would stay there for a few days on end, or if it would be there permanently, or if it would be removed at day's end and then brought back the next day. Ms. Meadows replied that it would come and go each day.

Mr. Kopczynski replied that this loading zone right now, per Ordinance, has been created. To allow use by a food truck they have to re-do the Ordinance. He continued that staff's role is to craft changes to the Ordinance, and it would go through the City Council to make that happen. The actual utilization of the space by Ms. Meadows or any other vendor is a conversation that takes place in the normal way that they handle scheduling those spaces out. As the City Manager said, those are pretty much first come, first serve. They are not reserved. It is not like Ms. Meadows could reserve this spot and have ownership of it. It would be first come, first serve for the timeframes that she sets up.

Ms. Meadows stated that she is wondering if that space could possibly be treated like the sidewalk spots, in that it would be a spot that CC&D's Kitchen Market would pay the fee for the season for that space, rather than a first come, first serve basis. Mr. Kopczynski replied that for clarity, the reservation is first come, first serve – it is not who shows up first in the morning. Councilor Manwaring replied yes, if Ms. Meadows is the first one, she gets it for the season.

Councilor Giacomo made the following motion, which Councilor Filiault seconded.

On a roll call vote of 5-0, the Municipal Services, Facilities & Infrastructure Committee recommended staff draft an amendment to the City Code to create the mobile vending spot.

Councilor Manwaring stated that the recommendation for staff to draft an amendment to the City Code goes to the City Council next week and this item will come back to the MSFI Committee in 2 weeks.

2) Referred Back: Request for Exception from the Public Improvement Standards – City Engineer

Councilor Manwaring asked to hear from the City Engineer. She continued that the MSFI Committee heard this issue last week.

City Engineer Don Lussier stated that earlier this week the City received a letter from Liberty Utilities indicating that they would like to withdraw their request for a waiver. He continued that they have found an alternative for the routing for the gas main and thus will not have to disturb any significant portions of the sidewalk. At this point, they are recommending that the MSFI Committee accept the oral report as informational and consider the matter resolved.

Councilor Manwaring asked if committee members had questions or comments.

Councilor Williams stated that he wants to express his disappointment. He continued that he was hoping to get a sidewalk there. He was happy to have a utility pay for it. He feels like many times when it comes to the public right-of-way, utilities are not really pulling their weight, but maybe having them do things like build sidewalks for the city can provide some of the compensation that he feels the public should be getting. He thinks this is a shame that this is happening. He saw there is already work happening on Roxbury Street. They appear to be digging at the very edge of the road. He expects that is how they will proceed. This is too bad.

Councilor Manwaring replied yes, she expects Roxbury Street will look like Marlboro Street.

Vice Chair Giacomo made a motion to recommend that the City Council accept this as informational. Councilor Filiault seconded the motion.

Councilor Greenwald stated that regarding the previous agenda item, it was his hope that the Police Chief could use his emergency powers to empower the petitioner to utilize that space before they go through the whole process of amending an Ordinance.

Councilor Greenwald stated that he is very upset that Liberty Utilities is not being a good corporate neighbor. He continued that they found the easiest way out to work this project. It was his hope that the city would end up with a quality sidewalk. To put it down a grass strip between the sidewalk and the road is bad. He wants the record to reflect that he is very disappointed. He has been a supporter of the gas company's work to improve the gas lines and believes it is important, but it was going to be more expensive to go down the middle of the road and less expensive to go down the sidewalk and now they found a no expense option to just rip up the grass. He hopes that at least the City Engineer will make sure Liberty Utilities replaces the trees that are ripped up in the course of their construction. When he saw it this morning, he thought it was a mistake, but it is not a mistake. He called the City Manager. Liberty Utilities found the lowest cost alternative and he is disappointed in the City and Liberty Utilities for the solution. Not only do they not get an improved sidewalk, they get no sidewalk. The gas company just puts their pipe down the road and that is it. A good portion of Roxbury Street does have a cement sidewalk. It is not a quality sidewalk, but it is something. Now they have nothing. He was contacted by more than a few people encouraging him to push this forward.

On a roll call vote of 5-0, the Municipal Services, Facilities & Infrastructure Committee recommended that the City Council accept the oral report as informational.

3) Sewer Service and Industrial Pretreatment – Ordinance O-2021-02

Councilor Manwaring asked to hear from the Public Works Department staff.

Kürt Blomquist, Public Works Director, stated that tonight he and Eric Swope will talk about the Sewer Use Ordinance. He continued that this was forwarded to the City Council last week for a first reading. This has been a long time coming. He turned it over to Mr. Swope.

Eric Swope, Industrial Pre-Treatment Coordinator who works at the Waste Water Treatment Plant Laboratory, gave a PowerPoint presentation. He stated that he is here to talk about proposed changes to the Sewer Use Ordinance (SUO) section of the City Code. He continued that within that is a subset of changes they are proposing to make for local industrial discharge limits, referred to as “local limits” from here on out.

Mr. Swope stated that to give a brief background of why this is important, he runs the Industrial Pre-Treatment program for the City, of which there are several main objectives. One is to protect the City’s collection system. He showed a picture from Louisville, Kentucky in 1981 when a business discharged a lot of hexane into the sewer system. A car drove by with a muffler dragging, which caused a spark, and it exploded two miles of the main city line and a total of 13 miles of city sewer. It took about two years to repair. He showed a picture of one of London’s “fatbergs” from a couple years ago, which was about 800 feet long and weighed about 130 tons. It is food grade fats, oils, and grease, and other things combined with it, causing a blockage in the sewer. He showed what a smaller fat blockage looks like and explained the hole was created by the auger going through and trying to clear the line. Once a line gets plugged with grease, any other solids in the line also contribute to the blockage, and when that happens, one of the possible outcomes is a sewer overflow from a manhole. These are some of the things City staff is concerned about getting into the sewer and some of the reasons they need to make sure they protect the City’s collection system. They also need to make sure to protect their workers and public health. Sometimes workers have to go down into confined spaces. They want to make sure there are not particularly toxic or explosive atmospheres waiting to meet them.

Mr. Swope continued that they also need to protect the Wastewater Treatment Plant (WWTP). He showed a picture from a few years ago when they were doing a large upgrade. He pointed out the aeration basin, which is packed full of zillions of micro-organisms that are doing important work of breaking down pollutants. Some things that get into the sewer system have the potential to be toxic to those micro-organisms. They want to make sure they do not shock the system and are able to continue treating wastewater as needed. Also, they need to protect the environment. The WWTP outfall goes into the Ashuelot River. He showed a picture of the outfall, stating that there are two and a half to three million gallons a day of wastewater, and they need to make sure it is clean enough that when it goes to the river it meets the permit limits and will not negatively impact the river. The way that they do all this is through the SUO. That is how all of this is regulated.

Mr. Swope stated that to give some history of the changes to the SUO, in about 2008 they were already in the process of revising it, for the sake of clarity. They wanted to make it easier for people to understand. It also seemed a little outdated. Around the same time, the Environmental Protection Agency (EPA) told the City they needed to make some additional changes in order to be in line with new EPA rules. The NH Department of Environmental Services (NHDES) also had some new rules that the City had to make some changes to align with. The City brought in Teton Environmental, which had a lot of experience with this work. The City presented the

proposed changes to the 11 Significant Industrial Users (SIUs) and other stakeholders in the Towns of Swanzey and Marlborough. No concerns were expressed about what the City was proposing.

Mr. Swope continued that in December 2020 the EPA got back to them and approved the changes proposed in 2008. In the interim there had been some other changes at NHDES, so NHDES wanted another look at it. In January 2021, the NHDES also finished the review and approved the changes. The main reasons for these proposed changes are clarity and flexibility, consistency with State and Federal language and purpose, and compliance with EPA and NHDES rules. Also, they had to come up with some site-specific local industrial discharge limits. This has its own history with the EPA.

He continued that in 2007 after being required by the EPA to redo the local limits, they submitted some site-specific local limits. These were approved by the City Council and sent to the EPA and NHDES. Following EPA guidance, they calculated the limits and it resulted in some stringent limits, which staff was concerned about. In 2010, the EPA got back to them and recommended that staff reevaluate using a different allocation method. Thus, right now all of the City's SIUs are under an allocation method that results in them all having the same milligrams per liter or the same concentration limits they all have to meet regardless of how much of a certain pollutant they have in their water, and regardless of how much flow they have. Someone who has 200 gallons per day of processed wastewater had to meet the same limit as someone who has 20,000 gallons per day.

Mr. Swope continued that staff started to review their options right away. They met with the stakeholders. After looking at the available options, they agreed on a new way of doing this called "mass allocation." With mass allocation, rather than giving everyone a uniform concentration limit, the consultant calculated out how much of a given pollutant - say, copper - the WWTP could accept and adequately treat, without having any issues with their permit or issues with water quality criteria. They do a very good job at removing these pollutants but they only remove most of it, not all of it. They calculated it and figured out they could accept a certain amount of pounds of copper per day and still be in good shape. A certain amount of that copper comes from pipes and other things, unregulated loads, homes and small businesses the City is not monitoring on a regular basis, schools, and other places that are discharging to the collection system. Some of this poundage of copper staff wants to leave as a buffer for future business growth, so they cut off 10% of it right off the bat. The remainder is the "maximum allowable industrial limit." For example, say the WWTP could accept two pounds of copper per day and they assume that, 1.1 of it is from unregulated loads and 10% is cut out for growth, the remainder of that is what is allocated out to businesses. With mass allocation they can look at a business and say, "You have 30,000 gallons per day of processed wastewater, and essentially no copper. You do not need much copper. We're giving you a small slice." Then maybe the next business they look at has 20,000 gallons per day of processed wastewater and a fair amount of copper, maybe not an unreasonable amount but more than any other user does, and staff says, "We can give you a larger slice." They go through, divide it all up, and make sure everyone gets

what they need. Under the current scenario, with the current pollutant loads, they are in good shape. None of the businesses will have any specific trouble with the local limits staff are proposing. It looks like they will be able to allocate everything they need to and still have some extra space left over.

Mr. Swope continued that staff proposed these newly calculated mass allocation limits to the EPA in 2012. Between then and the time that the EPA got back to them, there was a change in some underlying assumptions. There was a change in NHDES rules that meant some of the things staff had based their calculations on no longer held true. They went back, recalculated, and resubmitted in 2015, which the City Council approved. Stakeholders were still on board with the mass allocation. At the same time that the EPA accepted the SUO changes, they also accepted the City's local limits changes, in December 2020. The EPA had to put it out for a public comment period of 30 days. He believes they received no comments. The EPA got back to staff in January 2021 saying the local limits were approved as proposed.

Mr. Swope stated that to give an idea of what some of the changes in the SUO are all about: there are many changes, and most are just administrative. They added a section on abbreviations, because there were places in the text of the document where abbreviations are used and not defined. They added new definitions, either because of EPA requirement or NHDES requirement, or just for additional clarity. Sometimes there was a term used in the text that was not clearly defined. There are a number of minor, non-substantive changes scattered throughout the document. There are also simple changes such as, for example, removing or changing outdated language if a bureau within the NHDES changed its name. There were also changes to make sure the City is consistent with and compliant with the EPA and NHDES rules and some of their SUO model language and purpose. For example, in Sections 98-328 and 98-329, Prohibited Discharges and Limited Discharges, there are a couple added items that were EPA-required, at least one added item that was NHDES-required, and other items that were recommended to more clearly define what they are trying to do. Another example is 98-344-B – the EPA came out with the rule a few years ago that all dental offices have to have dental amalgam separators, and the State already had such a rule. The City Code did not have anything specifically talking about that and it was recommended that they add that in, just for consistency. There is inclusion of a certain certification statement that is required with all reports that sent to him by the City's SIUs.

He continued that regarding "Reports of changed conditions or sludge discharges," those are things that the EPA required the City to have in the SUO, that they did not have before, or at least, not in the format that the EPA wanted. If a business is, for example, doing a certain process and then they add on a new process, they need to first notify the City and go through an application process to make sure it is not going to cause an excessive amount of some sort of pollutant coming to the WWTP. They also have to notify the City of any sludge discharges. If there is an accidental spill, for example, and someone suddenly discharges, say, 500 gallons of something toxic, they have to alert the WWTP right away.

He continued that 98-480, Permit Conditions, was not as expansive as NHDES thought it should be, so they added more specifics to it. Sections 98-481 and 98-482 are new. It lays out the process by which a business can appeal, if there is a requirement that they think is unfair or unnecessary. Businesses already had the ability to approach staff and ask about it but now the process is laid out clearly, based on models of SUOs from the EPA and/or NHDES. Modification of Permit is also a new section.

Mr. Swope continued that they wanted to add some flexibility. One of the rules the EPA came out with a while back was the Streamlining Rule. One objective was to make things easier for some businesses. Something that was optional for a municipality to adopt was to classify some of the categorical industrial users, which is a subset of the SIUs, to categorize them as “non-significant.” Basically, it would take off some of the reporting requirements. In order for that to happen the user would have to have very low wastewater discharges and a very clean record of no violations in recent history. This would be helpful for one of the City’s businesses at this point. Thus, staff opted to put that in. Section 98-330, Best Management Practices, is new and gives dental offices, for example, the ability to forego meeting the City’s strict mercury and silver limits by doing a ‘best management practice’ of installing and maintaining an amalgam separator. The Local Limits section is 98-330. Instead of concentration limits for local limits, there are now mass allocations. This section says what the mass limit is for the SIUs, and staff will divide it up separately (not in the Code) and keep a spreadsheet of how much has been allocated and how much is still available.

Councilor Giacomo stated that his only question is about the mass allocation strategy, which is interesting. In this case, if they are able to flex up and down depending on the actual mass outflow of a specific chemical, it still needs to meet the concentration limits set by EPA and NHDES. Is that correct?

Mr. Swope replied yes, he thinks Councilor Giacomo is talking about categorical industrial users, which EPA has standards for, and specific metal concentration limits. He continued that the City cannot supersede that, but they can allocate some of the available poundage. If the EPA has a uniform concentration limit for a metal finisher for copper that is, say, 1.0 milligrams per liter, the City cannot allow a business, in their permit, to discharge more than 1.0 milligrams per liter. They still have to work within that. However, it gives the City more flexibility. For some of the pollutants, the EPA categorical limit is quite a bit higher than what the City would have normally had previous to this or currently with their uniform concentration limits – for instance, for chromium. This gives them the opportunity for a business that is a very small discharger of a little bit of chromium, maybe the City can give them a very small amount of poundage. They can then go up to the categorical limit. Councilor Giacomo is correct that they still have to stay within the concentration limits set by the EPA if they have a categorical limit.

Councilor Manwaring asked if there were any further questions. Hearing none, she asked if members of the public had any questions or comments. Hearing none, she asked the committee if they want to send this forward with a recommendation.

Vice Chair Giacomo made a motion the following motion which was seconded by Councilor Filiault.

On a roll call vote of 5-0, for the Municipal Services, Facilities & Infrastructure Committee recommends the adoption of Ordinance O-2021-02.

Councilor Madison stated that he wanted to acknowledge Mr. Swope for doing a great job with that presentation. He continued that it is complex material. Councilor Manwaring replied that she particularly liked the beginning where all of the abbreviations are in one place to make them easier to look up.

4) Adjournment

There being no further business, Chair Manwaring adjourned the meeting at 6:24 PM.

Respectfully submitted by,
Britta Reida, Minute Taker

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