

City of Keene
New Hampshire

PLANNING, LICENSES AND DEVELOPMENT COMMITTEE
MEETING MINUTES

Wednesday, May 12, 2021

7:00 PM

**Hybrid Meeting
Council Chambers/Zoom**

Members Present:

Kate M. Bosley, Chair
Mitchell H. Greenwald, Vice Chair
Philip M. Jones
Gladys Johnsen
Catherine Workman

Members Not Present:

All Present

Mayor George Hansel

Staff Present:

Elizabeth A. Dragon, City Manager
Thomas P. Mullins, City Attorney
Rhett Lamb, Community Development
Director/Assistant City Manager
Kürt Blomquist, Public Works Director
Med Kopczynski, Economic Development
Director
John Rogers, Zoning Administrator
Steven Russo, Police Chief
Heather Fitz-Simon, Administrative
Assistant, City Clerk's Office

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 6:02 PM. Roll call was conducted.

- 1) **Keene Music Festival – Request to Use City Property**
- 2) **Keene Downtown Group – Request to Use City Property – Art Walk**
- 3) **Kiwanis Club – Request to Use City Property – Tree Lighting Ceremony**
- 4) **Friends of Public Art – Request to Use City Property – Outdoor Art Market - Railroad Square**

Chair Bosley stated that the PLD Committee will take the first four items on the agenda together. She asked to hear from City Staff. She asked Kürt Blomquist if it is correct that there are protocol meetings that need to happen for each one of these items.

Kürt Blomquist, Public Works Director/Emergency Management Director replied that is correct. He continued that the Keene Music Festival, Kiwanis Club, and the Keene Downtown Group all need protocol meetings. Most likely, they will start with the Downtown Group because that event is in June, so the timing is tight to meet with them and get then return to the PLD Committee and the City Council for approval. There is a little more time for the other ones.

Chair Bosley stated that it will be wonderful to have activity downtown again. She continued that the expectation is that these items will be placed on more time and staff can have those meetings and return to the Committee. Mr. Blomquist replied yes, that is correct.

Chair Bosley asked if there were any questions from the committee or public. Hearing none, she asked for a motion.

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

On a vote of 5-0, the Planning, Licenses, and Development Committee placed these four items on more time to allow protocol meetings to occur.

- 5) **Continued Discussion - Keene Ordinance – Wearing of Face Coverings**
- 6) **Relating to the Wearing of Face Coverings - Ordinance O-2021-07**

Chair Bosley stated that the discussion for agenda items 5) and 6) goes together. She continued that in O-2021-07, the wording refers to wearing of face coverings outdoors. The Committee has had lengthy discussions regarding the efficacy of wearing face coverings and she does not want to rehash all of that tonight. The Committee wants to hear public comments regarding whether or not the City should be looking at this Ordinance about wearing face coverings outdoors. She explained the procedures for participation. She asked the City Manager to begin.

City Manager Elizabeth Dragon asked the City's Health Officer, John Rogers, to talk about the more time item, related to the wearing of face coverings, and to recommend a sunset date.

John Rogers, Public Health Official, stated that staff has been talking about this and keeping an eye on the vaccine rates. He continued that you will get different numbers depending on where you get your research, but New Hampshire certainly is heading in the right direction, with the percentages of vaccinations. They keep opening up different groups that are eligible for receiving vaccines. Currently, people 16 and older are eligible, and it appears that it will be opened to people ages 12 and older, possibly starting tomorrow. The State is working to release vaccines to get to those populations, and as such, his recommendation is for the City to continue with the Mask Ordinance to allow people who want to get vaccinated the opportunity to do so.

Mr. Rogers continued that as the Public Health Official, his recommendation regarding the outdoor portion is yes, they could look at changing the Ordinance based off the CDC's guidance. Being outdoors lowers the risk for transference of the virus. He would support this.

He continued that regarding a sunset date, they have had different dates and conversations, and have said possibly July 1. That would allow time for more people, in the groups that are just becoming eligible, to become fully vaccinated with the two shots.

The City Manager stated that today was the weekly COVID-19 meeting the City has with Cheshire Medical Center, SAU 29, Keene State College (KSC), the County, and the City's Emergency Management staff. She continued that they talked today about this PLD Committee meeting, because it is their recommendation to sunset the Mask Ordinance on July 1. Dr. Don Caruso from Cheshire Medical Center agrees. She asked if it was okay to share that information with the PLD Committee tonight and he said yes. There are a couple reasons why July 1 is the recommendation. By Memorial Day, everyone who is eligible for a vaccine will have had an opportunity to get one, and within 3 to 4 weeks of that date, they will have had their second shot. In addition, KSC's graduation will have passed and all of the public schools will have closed for the year. Everyone was feeling comfortable with the July 1 end date for the Mask Ordinance.

Mayor George Hansel stated that regarding how they got here, procedurally, with the version of a changed ordinance in front of the PLD Committee: he received feedback from many Councilors, wanting to see some action with the Mask Ordinance. It seemed like there was consensus among those who approached him that they were interested in removing the outdoor part of the mandate. He continued that that was the ordinance he instructed the City Attorney to craft and put before them last Thursday. Since then, he has heard from the same Councilors and others agreeing with the sunset date of July. The PLD Committee has before them an option to take. This has certainly taken up a lot of discussion and generated a lot of public interest. Regardless of whether or not the committee is able to build a firm consensus tonight, he suggests moving *something* on to the full City Council, because he knows there is a lot of interest among the Councilors to do something, which is what he has tried to facilitate.

Chair Bosley asked if there were any questions from the Committee. Hearing none, she recognized Councilor Filiault.

Councilor Filiault stated that it was a year ago this month when the PLD Committee first started talking about a Mask Ordinance. He continued that this is the first he has heard about the July 1 sunset date. What he recommended, which is up for debate, is to have the outdoor portion of the Mask Ordinance removed on June 1. He thinks July 1 is a good date for removing the indoor portion of the Mask Ordinance. They have heard that outdoors, the transmission rate of the virus is extremely low. For the most part, where people congregate the most outdoors is at outdoor restaurants' tables and chairs, and you do not have to wear a mask there. One of the reasons he brought this up for the outdoor portion was: it was brought to his attention that there is a gray area meaning that even if you are at Wheelock Park or Alumni Field and completely in an open air area, the Ordinance still requires you to wear a mask. He hopes the outdoor portion of the Mask Ordinance is lifted June 1 and if the discussion is to lift the indoor portion on July 1, he is up for listening to that.

Chair Bosley asked for public comment.

John-Michael Dumais [no address given] stated that he and others have been here a number of times, talking about masks and what he and others consider to be a valid but heterodox volume of information suggesting that masks do not work. He continued that his comments tonight have more to do with a perception that the City Council has decided what is real and true in all instances – not just Keene’s, but other city councils as well – and dismisses this heterodox information as “right-wing hogwash” or “extremism.” He requests that the City Council be more curious as to why a good number of citizens hold a different perspective and be curious as to what body of information they might be pointing to that might offer something different. For example: they are talking about vaccines being some kind of measure, and he understands that the City Council has the best interests of the people in Keene at heart. But there is other information out there, being suppressed, such as information about these vaccines. They are not designed to reduce infectivity or transmission. The City Council may or may not know that their evidence of the vaccines being effective was the reduction of a single, COVID-like symptom, not even all COVID-like symptoms. In the British Medical Journal, the vaccine-makers themselves have admitted that these vaccines do not stop transmission or infectivity. That is why there are “breakthrough cases” of people getting COVID-19 after receiving the COVID-19 vaccine. You can read about this from the FDA or Pfizer. He asks the City Council: please be curious as to why citizens of Keene say there is something the City Council is not seeing.

Councilor Greenwald stated that he has a question for the City Attorney: if the Committee wants to terminate the outdoor portion of the Mask Ordinance on June 1, how would that wording go into the recommended motion? The City Attorney replied that staff prepared a couple different recommended motions, which Chair Bosley has. He continued that as the Mayor mentioned, staff did submit the Ordinance as amended to remove the outdoor requirement. The only reason everyone is talking about June 1 is because that is how long it would take to move through the City Council process. There is no June 1 effective date in the motion; it is effective at the City Council meeting at which the Ordinance would presumably be adopted.

Councilor Greenwald asked if his understanding is correct that with the way that the Ordinance is presented now, it terminates the outdoor portion of the Mask Ordinance. Chair Bosley replied that is O-2021-07.

Councilor Greenwald asked if the options for consideration are potentially to terminate the entire Ordinance July 1 or wait for the Governor to lift the State of Emergency. The City Attorney replied that those are binary options. He continued that the Committee has other options they could consider. They could consider a hybrid of those two things, if they want. Not the end of the State of Emergency and not July 1, but some other metric. The July 1 date is just the suggested date at this point.

Chair Bosley asked if there were any further questions. Hearing none, she asked for more public comment.

John Schmitt of 31 Green Acres Rd. stated that he wants to share some science about masks, which applies to indoor or outdoor use. He continued that the vaccines and the use of masks are based on the germ theory of disease, which is the belief that there is a virus or bacteria spreading disease. Germ theory has never been scientifically proven for any disease. The terrain theory of disease says disease is caused by toxins or a lack of nutrition. Toxins could be in food, water, or air, and other toxins are electromagnetic radiation, stress, and emotions like fear or hate. There are also many toxins in vaccines. They are looking in the wrong place, by saying it is a virus and thinking they can stop it with a mask. If people are getting sick, and some people always are, we should find out why, and not just assume it is a virus. As he said last time, they have never isolated any virus for [COVID-19]. He suggests that the PLD Committee research the germ theory of disease versus the terrain theory of disease, and read the book *The Contagion Myth* by Thomas Cowan. One more example is that chickens eat dirt and filthy worms, knowing from instinct what they can or should eat, and what they cannot or should not eat. They do not get sick. If the dirt is full of Glyphosate and other poisons the chickens will get sick and die.

Chair Bosley asked if there was any more public comment. Hearing none, she asked for discussion from the committee.

Councilor Jones stated that he leans towards thinking they should eliminate the outdoor part of the Mask Ordinance, because 1) it is summer, and 2) there are many events coming up, including the opening of the Swamp Bats season, the Four on the Fourth road race, the Keene International Festival, and more. They want those to be successful. Thus, it is time to start tweaking the Ordinance and let the public know the City is beginning to allow things to happen.

Councilor Greenwald stated that he spent a lot of time talking with the public (about this), asking many people he came across at Home Depot what they think about this. He continued that he thinks the public realizes that mask wearing will end at some point. In the news, experts are saying that the curves are flattening, people are being vaccinated, and an end is in sight. He wants to remind the City Council that they are representing the public, who are the people out there talking to them. Still, he urges, regardless of what they vote, that wearing a mask is not a bad thing, and is probably a good thing, and probably should continue. But it becomes a personal choice at that point. There are situations in which he will wear a mask, and other times when he will not. For example, in Council Chambers, there is enough room for separation, and people have been vaccinated. Waiting for the Governor to terminate the Emergency Order will take a long time. He thinks there are other values to the Governor to keep the Emergency Order. The Governor is running the State his way without too much interference from the legislature. Fortunately, the City of Keene, under the Emergency Order, has been in great hands with the City Manager, who has not run wild doing things on her own. It has worked out well. But there comes a point when they need to get back to business as it was. He is not prepared to just wait for the State. If the committee wants to take the option of sunseting or terminating on or about July 1, they still have an opportunity between now and then, because this Ordinance goes through a second reading. If there is a surge, or new information that comes out, the City Council can throw the brakes on this. He feels confident that they should look to terminate the

outdoor portion of the Ordinance as soon as possible and terminate the mandatory requirement essentially July 1.

Chair Bosley stated that she tends to agree with Councilor Greenwald. She continued that she probably was the lone person at the last conversation about this who was really interested in seeing the Committee make a decision about this. She compromised by making sure they left something on more time so they could continue the discussion. She spoke to several constituents who felt like there has been ample opportunity for people who are interested in vaccines to receive them and that everyone has been doing their part and wearing masks, and lots of people will continue to wear a mask in the grocery store or crowded place, but they want to have that choice themselves. These constituents felt June 1 was a reasonable date. She hears everyone tonight saying that July 1 is a reasonable date and she would go along with that. She would like to see it sooner, but she would accept July 1 as long as they are moving in the right direction. There are some good points happening, such as the fact that the majority of people from KSC, where the majority of the COVID-19 cases in our community are right now, will be going home this month; and the fact that more people are going to be socializing outdoors anyway, in this good weather. Thus, she supports deleting the paragraph regarding tying the Mask Ordinance to the Emergency Order, and she supports inserting a formal date for that.

Councilor Workman stated that she seconds what Chair Bosley, Councilor Greenwald, and the Health Inspector said. She continued that she agrees with the July 1 sunset date. A lot of information has changed and transpired since the last PLD Committee meeting. The CDC guidelines for outdoors changed almost immediately following the PLD Committee meeting. She supports eliminating the outdoor portion of the Mask Ordinance immediately upon the next City Council meeting, if agreed upon by the Council, rather than waiting until the specific date of June 1. She supports the July 1 sunset date for the overall mandate.

Councilor Johnsen stated that she supports what the other PLD Committee members have already said. She continued that outdoors, we have much more space. She was interested in July 1 but she supports whatever the committee wants.

Councilor Jones stated that he agrees with the June 1 date for the outdoors. He continued that at the last PLD Committee meeting he did not want any sunset clause in the Ordinance, not the Governor lifting the Emergency Order or tied to anything else. He thought it should just be when a simple majority of the City Council thinks it should come to an end. He still thinks that, but he would go along with the recommendation because as Councilor Greenwald said, there will be a second reading, so if there is an event that could happen between now and then, they can adjust it. Thus, he may disagree, but he will go along with it.

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

On a vote of 5-0, the Planning, Licenses, and Development Committee recommends to amend Section 66-171 (1) of Ordinance O-2021-07 by deleting the paragraph and inserting the following:

This Ordinance shall automatically terminate, without the necessity of further action by the City Council for the City Of Keene, on July 1, 2021.

Chair Bosley asked for a motion for the new Ordinance, regarding the outdoors.

The City Attorney stated that first, he wants to make sure the Committee is clear, since the June 1 date has been batted around quite a bit: this Ordinance was introduced to the City Council at the last City Council meeting and had its first reading there, and it will go back to the City Council with the PLD Committee's recommendation, to be acted on May 20. He continued that it becomes effective on the date it is acted on, unless the City Council *wants* it to be effective on June 1. If that is what the Committee wants, the motion would have to include that.

Chair Bosley asked if he is saying that if the Committee does not include an effective date, it will be effective on May 20. The City Attorney replied essentially, yes. Chair Bosley replied that she is comfortable with that. Councilor Greenwald replied that was his intention.

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

Move to recommend adoption of Ordinance O-2021-07, as amended.

The City Manager stated that she has a question for the City Attorney: a couple of times there was reference to another reading of the ordinance. Is this coming back again? She did not think it was. The City Attorney replied no – that is his point – it was introduced at the May 6 meeting of the City Council, which was essentially the first reading, because it came in with an ordinance and an ordinance number. It did not come in as a request to go to the PLD Committee for a recommendation on whether to draft an ordinance; it already came in as an ordinance on May 6. Thus, the second reading will occur on May 20.

Councilor Greenwald thanked the City Attorney for the clarification. He continued that at that City Council meeting it would be an opportunity for the Council, if they want, to push it off or make a change. They could change the date, or they could change the July 1 issue, or they could just hold it until another meeting. Chair Bosley replied right, but the City Council will get the opportunity to have the conversation, which she thinks is important.

Chair Bosley asked if there were any further questions from the committee or public. Hearing none, she called for a vote. The motion passed unanimously.

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

On a vote of 5-0, the Planning, Licenses, and Development Committee accepted agenda item 5), Continued Discussion - Keene Ordinance – Wearing of Face Coverings, as informational.

7) Amendments to the Land Development Code - Historic District Commission

Chair Bosley asked to hear from Tara Kessler.

Tara Kessler, Senior Planner, stated that these amendments are coming from the Historic District Commission (HDC) from their meeting on April 21, and are specific to the HDC's regulations, which currently are a stand-alone document. With the proposed Land Development Code those regulations would be morphed into the one body called the Land Development Code with other land use regulations. Typically, and by State statute, the HDC has authority to adopt and amend its own regulations through a public hearing process. The HDC held that public hearing, concluded on April 21. This agenda item works in some ways like an administrative act, in that those amendments are proposed to be incorporated into the proposed Land Development Code before the City Council acts on it. She can go through the HDC amendments in detail if the Committee wants that, or just answer their questions regarding the memo.

Ms. Kessler continued that there are two other amendments being proposed that do not relate to the HDC regulations. She would call them more like "scrivener's edits," versus substantial content changes. They are specific to two sections of the proposed Land Development Code. One area is related to the City's application submission requirements, clarifying language around what is required for notice of the public in an application submission. Typically, they call this an "abutter list" but they wanted to be more precise with their language so there are some amendments proposed related to that. Finally, staff proposes replacing the term "certified by" in any reference throughout the Land Development Code to when a plan needs to be stamped or sealed by a licensed professional. Right now they have "certified by" and they propose changing the language to be clear that it needs to be "signed and stamped" by such a professional. Those are the two edits that are outside of the HDC proposed amendments.

Ms. Kessler asked if the Committee wants her to go through the HDC's proposed amendments. Chair Bosley replied that for the purposes of the public understanding, it would be important to at least highlight them.

Ms. Kessler stated that the first amendment is related to the HDC's proposal to exempt buildings younger than 50 years old from the HDC's regulations. She continued that this is a change that is currently incorporated in the draft Land Development Code. The change that they voted on April 21 was to have the Planning Board send any new development that would meet the threshold for major site plan review to the HDC for recommendation. This amendment would need to come at a later date, since they are not proposing that the Planning Board amend its regulations as they have been incorporated in the Land Development Code at this time, but that is something that was included in the memo that was shared with the Council and that is before the Committee tonight. The other amendment that would O-2020-10A is an amendment that affects Article 25 of the proposed Land Development Code, which is the Historic District regulations. It would clarify that security fencing is exempt from the HDC regulations if it is required for Building, Fire, or Life Safety Codes.

Ms. Kessler continued that there was an amendment proposed to the standards related to art. There were concerns by Commission members about standards related to murals, specifically the

criterion that murals in the Historic District, if painted on primary or contributing resources and painted on brick buildings, showcase images of local places, people, and/or products that have historic significance to Keene. The Commission felt this might be too restrictive and that other standards address similar concerns, so they propose eliminating that criterion from the mural standards.

Ms. Kessler continued that the HDC has a number of standards regarding windows and window replacement, and upon further review of those standards they felt like more clarity was needed with respect to historic windows replacement. They have included more precise language that certain standards related to window replacement would only apply to historic windows or windows that are considered architecturally significant, and they further define what that would mean. This is adding that clarification to language that actually exists today in the HDC's regulations.

She continued that the HDC also added some additional standards regarding window replacement, to provide more guidance for when a building that might be a historic building but has had its windows replaced over a period of time, and the windows might be of different ages and styles. These two standards, 3. and 4., relate to when and what standards would apply to a property owner who is proposing changing or replacing their windows. Number 4 specifically gives a threshold: if more than 50% of the existing windows on a primary elevation (which would be the front of the building or the street-facing façade) are proposed for replacement, then the applicant would need to ensure that the replacement windows are consistent with the historic windows on the existing building based on pictorial evidence, or they would need to show that the style and pattern of the window they chose is appropriate to that period for the building.

Ms. Kessler continued that finally, there were two additional edits proposed for standards related to the rehabilitation of primary and contributing resources, which are the most significant historic resources in the Historic District. There was interest in including a standard, which they have today for non-contributing and incompatible resources, which is that any alterations or building rehabilitation that is proposed not detract from the historic, architectural character of the surrounding area or to the relationship of any existing historical resources, including structures on the site. This is an existing standard that is just not currently under the standards they have for primary and contributing resources. Similarly, the HDC has asked that they include standards for when there is new construction added to a primary or contributing resource so that the new construction/additions reflect the context of the surrounding historic buildings or structures and not detract from the overall character of the Historic District.

She continued that those are the amendments that the HDC has voted on, through their own public hearing process that they would like to see incorporated into the Land Development Code. She is happy to answer questions. She has already given an overview of the other two amendments proposed by staff, which staff feels are mostly administrative. They are not changing the content of the Code, just providing clearer language about the application procedures.

Mr. Lamb asked if Ms. Kessler could speak to the broader set of changes for the Historic District that are not part of the amendments that were voted by the HDC, keeping in mind that they are making other really important and significant changes to the HDC process. Specifically, addressing the question of what type of review is done through the HDC. The threshold has changed. He asked her to address that briefly, to remind the PLD Committee members who might not remember staff's presentation from several months ago.

Ms. Kessler replied that when staff first started the Land Development Code project, they looked at all of the development review processes to see where there might be overlap or redundancy, or where there might be an opportunity to streamline the process. One area that showed the most promise for streamlining while still preserving community concerns about the quality of buildings downtown was the opportunity to exempt buildings in the Historic District that are younger than 50 years old from the HDC regulations. The HDC has historically had some issues with applying its standards to new construction, and the standards they have today do not provide enough guidance for how to evaluate new construction in the context of the Historic District.

Ms. Kessler continued that through the Land Development Code process, staff have done two things – one, they propose amending the HDC regulations with respect to visual and architectural appearance to provide a little more objectivity and specificity for the board and applicants, with respect to the appearance of buildings. A building's appearance needs to be compatible with the surrounding area. Two, they propose adopting form-based zoning in the downtown, which would be regulating through the Zoning Code some of the concerns the HDC has, like the size and mass of the buildings being compatible with buildings nearby or in that same area. They felt like through those amendments it gives the City the opportunity to remove a whole review process that an applicant might need to go through when they are building a new building in the downtown, while still ensuring that the same level of review or similar standards are being applied to the review of this new construction. Today, if you are building a new building in the downtown – which has happened a number of times in the past few years – you are in the Historic District and you need to go to both the HDC for review and then the Planning Board for review, which is two board processes. That is not only time, but money and expense on the part of the applicant, and you have two different boards weighing in on one proposal. Thus, this amendment staff is proposing, which is a pretty big one, would remove that requirement to go to the HDC. An applicant would just need to go to the Planning Board. The HDC, as she mentioned earlier, has asked that the Planning Board defer the larger projects, major site plan projects – like new buildings greater than 5,000 square feet or additions over 15% of the size of the main building – to the HDC for a recommendation, but not for a formal review process. And that would not be a binding recommendation. That would be for the Planning Board's consideration. This is a big step in trying to achieve the project goals, which are to create a simpler, more efficient, thoughtful set of regulations. It was one of the areas where staff has seen an opportunity to take a step out of the process while still ensuring that the standards they are applying are not diminished in any way.

Councilor Jones thanked Ms. Kessler. He continued that as someone who has been critiquing the process of the Historic District for a long time, he is glad they are lightening up on their restrictions. He asked about the window time of 50 years, on that one amendment – can there be something else in there? Just a date is not enough. If there have been significant changes over the past 50 years within that building, he does not think that counts. He has an example: they almost did not have their Keene Fire Department headquarters on Vernon St. because the HDC said there was a building there that the City owned that did not meet the requirements, and the City had to go to its own board and prove that there were significant changes over the years. That building was once a doctor's office, once a radio station, and once an attorney's office. The onus was on the property owner to go before that board and show those significant changes. Is there any way they can keep that in the amendment also?

Ms. Kessler asked if what he is asking is specific to windows. Councilor Jones replied no. Ms. Kessler stated that the 50-year "period of significance" is the period during which a building would be subject to the HDC regulations in this proposed Code. Today, all buildings in the Historic District are subject to the review of the HDC. The proposal is to exempt those younger buildings. If a building is older than 50 years, there is a "resource ranking." A building could be ranked as either "primary" or "contributing," which means there are different standards that would apply to it, or it could be "incompatible" or "non-contributing," with a lesser degree of standard that would be applied in the review. They have tried to create tiers in that sense, where if a building is not as architecturally significant as another one from that same time frame, the board has a little more flexibility in its review process.

Ms. Kessler continued that with the window amendment specifically, this is one area that is a big challenge for property owners, in that windows have been replaced in a building over time and that the standards today are not clear about what is a "historic window." There is no definition today. The definition that they have proposed is that it would either have to be a window that is original to the building or is an example of exceptional craftsmanship or design, and it also gives the HDC the ability to evaluate whether a window is historical or not on a case by case basis. It is important to give the board that flexibility, because right now, if you are just doing a strict reading of the standards, sometimes their hands are tied with how they apply this standard.

Chair Bosley stated that originally, they were just going to speak to the HDC' amendments, but during Ms. Kessler's presentation she also spoke to the other scrivener amendments. She asked if that is correct. Ms. Kessler replied yes. Chair Bosley stated that how they want to do this procedurally, is potentially vote to accept the HDC's report as informational and then accept all of the amendments: the HDC amendments as well as the Community Development Department scrivener's amendments. Once they do that, if that is what they choose to do, that would create a B version of this ordinance. Once they have accepted those amendments and there is a B version, that is the version the PLD Committee would be sending to the City Council to vote on. She asked if everyone is clear on that.

Mr. Lamb stated that PLD Committee is accepting item 7) as informational. He continued that with item 8), they are amending Ordinance O-2021-10A. Thus, the motion should say “to amend the Ordinance based on the memorandum.” Once they have approved the amendment then they would vote on the B version. Chair Bosley replied right, and she wants the committee to be clear that the amendments include not only the HDC amendments but also the other Community Development Department’s amendments that Ms. Kessler noted in her presentation.

Councilor Jones stated that 8) also mentions Ordinance O-2021-11A. He continued that they are not changing that Ordinance and it should not be in there. He asked if that is correct. Mr. Lamb replied that 11A is the map amendment that goes along with 10B. Councilor Jones replied that it would not become a B version. Mr. Lamb replied that is correct; it would stay 11A.

Chair Bosley asked if there were any further questions from the committee. Hearing none, she asked if members of the public had any questions. Hearing none, she asked for a motion.

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

On a vote of 5-0, the Planning, Licenses, and Development Committee accepted the amendments to the Land Development Code as informational.

8) Land Development Code and Downtown Zoning – Ordinance O-2021-10A & Ordinance O-2021-11A

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

On a vote of 5-0, the Planning, Licenses, and Development Committee amended Ordinance O-2020-10A as proposed in the memorandum dated May 10, 2021 from Tara Kessler.

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

On a vote of 5-0, the Planning, Licenses, and Development Committee recommends that the City Council vote to adopt Ordinance O-2020-10B and Ordinance O-2020-11A with an effective date of September 1, 2021.

9) Relating to Chapter 46 Licenses and Permits – Social Services and Congregate Care Uses License – Ordinance O-2021-04

Chair Bosley asked to hear from Tara Kessler.

Ms. Kessler stated that this is an item that she presented on at the April 21 PLD Committee meeting when it was introduced for the committee’s consideration. She continued that she is happy to answer any questions they have on it. It is specific to the proposal to establish a licensing process for congregate living and social services uses and it would be making amendments to Chapter 46 of the City Code of Ordinances to do so. Staff has given a few presentations on the content of this Ordinance previously, but she can answer questions.

Chair Bosley stated that she remembers the presentation and knows they made edits before the Ordinance was introduced, so she is comfortable moving forward. She asked if anyone from the committee had questions. Hearing none, she asked if members of the public had any questions. Hearing none, she asked for a motion.

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

On a vote of 5-0, the Planning, Licenses, and Development Committee recommends that the City Council vote to adopt Ordinance O-2021-04 with an effective date of September 1, 2021.

10) Relating to Social Services and Congregate Care Uses and License – Ordinance O-2019-13 – Ordinance O-2019-14

Chair Bosley stated that this item has been on more time on the PLD Committee’s agenda for as long as she has been here. She continued that this Ordinance had been introduced hoping that it could move along separately from the Land Development Code, but during the Joint Committee proceedings and the PLD Committee process, it was recognized that it was not going to move quickly enough to be effective in the community any time sooner than the Land Development Code. Thus, that entire body language was introduced into the Land Development Code, therefore making these two ordinances redundant.

She asked if Ms. Kessler had anything else to add. Ms. Kessler replied that the Ordinance in 9) referenced O-2021-04 with changes to Chapter 46; this agenda item 10) also affected Chapter 46. The content has been incorporated in both the Land Development Code through O-2020-10B and O-2021-04.

Councilor Greenwald asked if the Committee “recommending to defeat the Ordinance” is really the best way to phrase it. The City Attorney replied that it is “to not adopt.” Councilor Greenwald replied that it is confusing when you are voting “yes” to mean “no” and “no” to mean “yes.” Mr. Lamb clarified that voting “yes” means voting to defeat/not adopt the Ordinance.

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

Move to recommend that the City Council vote to defeat Ordinance O-2019-13 and Ordinance O-2019-14.

Chair Bosley asked for public comment.

Loretta Simonds of 79 Woodburn St. asked: what is the name of that line item of the Ordinance that the committee is voting for, so the public knows what is being voted on, other than just a set of numbers?

Chair Bosley replied that this is relating to an old version of the congregate living and social services uses and licenses ordinance that was introduced about a year and a half ago. She continued that it never made it through the full process. It sat on the PLD Committee's agenda under "more time" while they were clarifying amendments and ended up being rolled into the full Land Development Code. Thus, it does no good to adopt this item separately because the language is in the full Land Development Code. Essentially, they are doing housekeeping, by defeating this Ordinance.

With reference to the motion on the floor:

On a vote of 5-0, the Planning, Licenses and Development Committee recommends that the City Council vote to defeat Ordinance O-2019-13 and Ordinance O-2019-14.

Chair Bosley stated that the agenda is finished. She recognized Mr. Lamb.

Mr. Lamb stated that this is a monumental moment from staff's perspective, resulting from hard work from the Planning Board and the PLD Committee meeting for many months reviewing this Ordinance. He would like to recognize the work of staff who have put a lot of time and effort into this - in particular, Tara Kessler, who has been presenting to the PLD Committee and has also been the primary researcher and the primary person drafting this Ordinance, the contract manager, the general project manager, and doing all the presentations and all the outreach. She has done this in partnership with Med Kopczynski. He thanked her for her professional, high-quality work, and for her diligence and patience. He thanked the Committee for its hard work as well, and for putting the time in to understand the work and to work towards this great new future for the city.

Chair Bosley stated that she really appreciates the help of Rhett Lamb and Tara Kessler through this process. She continued that as a new PLD Committee member and a new Joint Committee member, she has found the information extraordinarily well organized and well delivered, and articulate.

Councilor Greenwald stated that he also appreciates the work of City Attorney Tom Mullins, City Manager Elizabeth Dragon, and Med Kopczynski, Economic Development Director. He continued that he also wants to recognize PLD Committee Chair Kate Bosley and Planning Board Chair Joshua Gorman, for having run the meetings so well and keeping it all on task.

The City Manager stated that she wanted to specifically recognize Mr. Kopczynski and the City Attorney. She continued that Mr. Kopczynski has changed roles with the City over the last few years and one of his primary objectives was seeing the Land Development Code project through, and she really appreciates all of his help making sure this process stayed on track and appreciates him assisting however he could. Also, the City Attorney has spent a lot of time reviewing this Land Development Code and also deserves a great deal of recognition.

11) Adjournment

There being no further business, Chair Bosley adjourned the meeting at 7:10 PM.

Respectfully submitted by,
Britta Reida, Minute Taker