

City of Keene
New Hampshire

PLANNING, LICENSES AND DEVELOPMENT COMMITTEE
MEETING MINUTES

Wednesday, February 9, 2022

6:00 PM

**Council Chambers,
City Hall**

Members Present:

Kate M. Bosley, Chair
Michael Giacomo, Vice Chair
Philip M. Jones
Gladys Johnsen
Raleigh C. Ormerod

Staff Present:

Elizabeth A. Dragon, City Manager
Thomas P. Mullins, City Attorney
Rebecca Landry, IT Director/Assistant City
Manager
Patty Little, City Clerk
Kürt Blomquist, Director of Public
Works/Assistant City Manager

Members Not Present:

All Present

Chair Bosley called the meeting to order at 6:00 PM.

1) Adam Toepfer/Keene Pride – Request to Use City Property – September 11–18, 2022

The Chair welcomed the applicant, Adam Toepfer of 411 Winchester Street. Mr. Toepfer stated that his group planned to bring a Pride Festival to Keene this year from September 11–18. This would involve decorating the downtown for the week and a block party on Sunday the 18th, for which they request to shut down parts of the downtown to traffic. The event would include booths, music, and food. Mr. Toepfer called it a wonderful family friendly event. They hoped that during the week there would be private events at downtown businesses. They hope the City would shut down what is necessary for the block party on Sunday, September 18. Chair Bosley asked if the applicant had started the process of having protocol meetings with the City yet. Mr. Toepfer said no, that was what he hoped to begin with this meeting.

Chair Bosley requested Staff comments from the Director of Public Works/ACM, Kürt Blomquist. Mr. Blomquist said that Staff had reviewed Mr. Toepfer's communication briefly and it was good to start hearing their plans. A protocol meeting with Staff had been scheduled already or would be soon; Mr. Blomquist anticipated it taking a few weeks to work through this new event with new organizers. Mr. Blomquist imagined this matter returning to the Committee in March potentially.

Councilor Jones noted that this would be the same time of year as the annual Music and International Food Festivals. He asked if the Director of Public Works could think of any

potential conflicts. Mr. Blomquist replied that the Music Fest is typically Labor Day weekend, which would be before this proposed event. He thought the International Food Festival was in the September timeframe but said those details would be addressed in the protocol meetings. The International Food Festival usually occurs at Parks & Recreation on Washington Street, so there is a chance they could occur concurrently.

Councilor Johnsen said it seemed this would be a wonderful event for our area. The Councilor referred to the event being “in a manner consistent with community event protocols” and asked whether there would be consideration of absorbing any additional costs of Police, Fire, etc. for the block party. The City Manager replied that the Council has a policy for submitting a request for funding an event, which talks about the organizers holding the event for two years successfully and then submitting a request for funding in the third year. The funding usually covers a portion of those fees the Councilor mentioned, and those fees go through the budget process each year; obviously, this would not be in time to follow that process. Chair Bosley followed-up, asking whether this was a situation where the license would come to the PLD Committee and the request for funds would go to the Finance, Organization, and Personnel Committee? The City Manager replied in the affirmative, stating that if it was a request outside the normal process, then the organizers would have to go directly to the FOP Committee to solicit their support in finding funds elsewhere in the budget. The Chair said that the PLD Committee had not seen that happen too often because some requests are divided amongst the Committees. Councilor Jones asked the City Manager to clarify that these are services provided and the City is not giving money to anyone; they are City services with a value placed on them. The City Manager replied that there are expenses that are paid on, so it is actually the bill that we would normally give an event organizer for the overtime cost of bringing in Staff on a weekend for services like removing blockades and other services above and beyond the normal budget. Councilor Jones wanted it to be clear that the City was not giving money to anyone.

Chair Bosley opened the floor to public comments.

Councilor Bettina Chadbourne shared the history of the Stonewall uprising on June 28, 1969 in Greenwich Village, New York City. The police were notorious for raiding and beating patrons of the Stonewall gay bar and on June 28, 1969, the patrons fought back in an effort to live openly and not be discriminated against. Other bars in the City began to participate and over a few weeks, the protests gained momentum across the country. One year later on June 28, 1970, the first gay pride marches were held in Chicago, New York, San Francisco, and more. From those events, many organizations developed to fight for gay and lesbian rights. In 2000, President Clinton declared June as Pride Month. In 2011, President Obama expanded that scope, making it Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) Pride Month in the U.S. Because June has been Pride Month nationally for more than a decade, Councilor Chadbourne hoped the organizers and Council would consider holding this event in June versus September to be consistent with the rest of the country.

Chair Bosley asked Mr. Toepfer what the decision-making process was for September and whether June was considered. Mr. Toepfer replied that the organizers considered September, thinking that it would be a high time for tourism in NH and Keene. He is not opposed to having it in June but was sure that would restrict the extensive planning period for this year. Mr. Toepfer did counter that Keene would not be the only City in the nation to have pride events outside of June. Chair Bosley thought the organizers could hold an event in September this year, so the planning period is not restricted, and then consider holding the event in June in 2023 if it makes sense for the volume of people they hope to engage.

Councilor Jones thanked the organizers for bringing this forward and referred them to the City's Human Rights Committee, which has a long history of supporting events in the City and navigating the government logistics. Mr. Toepfer said he intended to meet with them. Councilor Jones continued recommending meeting with the Monadnock Region Diversity, Equity, Inclusion, and Belonging Committee, which helped in creating the City's Declaration of Inclusion; the Chairman is Dan Smith, CEO of the YMCA. Mr. Toepfer was appreciative for the advice. Chair Bosley hopes applicants leave the PLD Committee with both homework and direction, and then City Staff will follow-up with them.

Chair Bosley recognized Councilor Randy Filiault from the public, who said he thought this was a wonderful idea and that the City should do everything possible to get behind it. He said that while these meetings are commonplace for the Councilors, it could be daunting for the applicants, whom he applauded for bringing this forward. He agreed with Councilor Jones on contacting the Human Rights Committee because they know how to circumvent the government logistics, which can also be daunting. It did not matter to Councilor Filiault what time of year the event occurs because no matter what, it would be a great way to demonstrate the City's Declaration of Inclusion as more than just a plaque on the wall. He intends to support the organizers 100% and hopes the Council and Staff do too. He hopes this whole process better educates the community.

Vice Chair Giacomo made the following motion, which Councilor Jones seconded.

On a vote of 5-0, the Planning, Licenses, and Development Committee recommends the request for the Keene Pride to Use City Property be placed on more time to allow protocol meetings to occur.

2) Proposed Amendments to the City Council Rules of Order – City Clerk

Chair Bosley said these amendments were only a portion of amendments to the Council's Rules of Order and did not cover the entire document before the Committee. Parts of the document were chosen for review at this meeting. The Chair had submitted a letter to the Clerk's office, asking the Council and the Mayor to return Section 15 on conflicts of interest back to this PLD Committee for further discussion, hopefully in March. Additionally, the FOP Committee has raised the issue of remote participation that has been on more time to their regular agenda this

week. This agenda item was in response to a letter submitted some time ago by Councilors Bosley, Giacomo, and Remy. The Chair expects that matter should be referred back to PLD in March as well. Those two topics would not be discussed at this meeting.

Chair Bosley welcomed the City Clerk, Patty Little, and City Attorney, Thomas Mullins, to discuss the proposed amendments. The City Clerk said that in 2019 when former Mayor Kendall Lane concluded his 20-year term as Mayor and Councilor, she and the City Attorney wanted to solicit his perspective on the Council's Rules of Order. Throughout four meetings, the Clerk, Attorney, and Mayor Lane workshopped the Rules for improved consistency and identified more substantive changes like those presented at this meeting. The City Clerk said the original intent was to have the Council review these in fall 2019, but things precluded the matter. A few months into Mayor Hansel's term, the City Clerk and Attorney met with him to solicit his perspectives as well. In total, there are 40 sections of the Rules of Order and she recalled focus on conflict of interest and remote participation on the Council floor. Because of that focus, the other procedural changes to the Rules for effectiveness of meetings were not considered. The City Clerk said this was the third attempt to bring these administrative changes back to Committee and while some was wordsmithing, there were some more substantive changes for the Council to consider. The City Clerk asked the City Attorney to provide the Committee an explanation of each change.

The City Attorney reviewed the various sections with substantive changes, not including the issues of conflict of interest or remote access. A lot of issues were of consistency; for example, referring to a temporary chair as such throughout a meeting. He continued reviewing each section being changed:

- Section 1: Regular Meetings
 - The new language recognizes that as a result of the pandemic, there could be events or things that occur that could prohibit the Council from meeting.
- Section 2: Special Meetings
 - Minor changes and wordsmithing. Changed the requirement for calling a special meeting from five members to seven to be more representative of the whole Council.
- Section 10: Decorum and Order
 - This involves electronic communication during the period of time when the meeting is in session. This change is a result of some discussions that have happened in the Municipal Bar and at the State Legislature. This regards access to digital devices during a meeting and a concern about the internet becoming communicating ex parte, either with other members of the Council or even with constituents. Those are communications that may have something to do with what is being discussed during the meeting and those occurring outside of the public context. Thus, language was that references that possibility and states that it would be inappropriate.

- Section 21: Temporary Chairman
 - Under the Charter, the Mayor cannot vote unless it is to break a tie. However, the changes clarify that in the Mayor’s absence, a temporary chair can vote, which could result in a tie. If a tie occurs in that situation, it would be considered a no vote because a majority is required to act.

- Section 22: Special Committees
 - Due to statutory issues, the City Attorney suggested this change to remove the direction for the City Manager to expend funds for Staff time regarding one of these initiatives. This is within the City Manager’s purview, but the City Attorney stated that most any City Manager would be reticent in assisting the Council when it comes to funding and Staff time.

- Section 23: Standing Committees
 - This change was relative to ensuring that instead of legislative proposals automatically appearing before the PLD, now the proposals would go to the Committee that may have the appropriate jurisdiction for that legislation. During the last review of these changes, Staff suggested moving changes to the Rules of Order to the FOP Committee but have now agreed that it would stay with PLD. Unfortunately, the change back from FOP to PLD had not occurred yet and that edit needed to be adopted with this amendment.

- Section 24: Communications
 - The City Attorney pointed out a Scribner’s error in this section in the following passage, where the word “electronic” has replaced the word “digital,” “... or an electronic signature created in accordance with the City Ordinances.” This language is needed to be able to accept these signatures.

- Section 26: Review of Items of Business
 - This refers to the referral by the Mayor to the appropriate Committees that are in place. There were some changes to refine language to reflect that sometimes matters are referred to Committee and on occasion, there is a different governmental entity to which the matter should be referred, such as the Department of Transportation.

- Section 33: Submission of Items Once Considered
 - A fair amount of language was eliminated in this section because it became difficult to determine when some material change or substantial change or who makes that decision and why the Council would do that. The City Attorney said there is a reconsideration provision both for the Mayor’s reconsideration and the Council’s reconsideration that says once a matter has been handled, it cannot be

reconsidered until the next calendar year, which keeps the Council from revisiting a matter all year.

- Section 36: Rules of Procedure
 - The Council eliminated the provision dealing with the unanimous vote to waive, which the City Attorney said did not seem appropriate if someone is going to make an amendment. He said the matter should go before Committee and there should be some discussion about it because people could be caught off guard and on occasion vote when they really do not know what they are voting for. This elimination would make the section in better alignment with the rest of the Rules.
- Section 37: Procedures to Fill a Vacancy
 - There was a change because of the last election cycle when there was a vacancy to fill. He said it did not seem appropriate to fill a vacancy when an election is imminent, but instead to place it in a context where it is far enough out to make a decision on someone to take that seat in the interim.

Chair Bosley thanked the City Attorney for that summary. She pointed out that some of the Councilors on this Committee had already reviewed these amendments in depth, but newer Councilors appointed to the Committee might have more questions.

Councilor Bosley began with a question on the change to Section 36. She believed that Councilor Ormerod had pointed out earlier that there was a conflict with some of the language on where referrals were going. She said it was correct in the breakdown of Standing Committees, but in Section 36, it says “to amend the Rules the preceding regular meetings of the City Council shall be referred to ...” and the Planning, Licenses, and Development Committee was stricken, and Finance, Organization, and Personnel Committee was bolded. The City Attorney agreed that needed to be edited back so it still reads as “... shall be referred to the Planning, Licenses, and Development Committee.”

Councilor Ormerod thought these were beautiful and elegant edits; they were exceptionally well done. He appreciated the work, clarity, and use of modern clear language that could otherwise read quite legalese. The Councilor questioned Section 33, stating that he understood and appreciated the intent for clarity or not building extraneous ambiguity, but he wondered if a resubmission of something beyond that timeline, whether the Rules of Order could be suspended again; for example, the Mask Ordinance that has been heard multiple times. He wondered if the Rules of Order suspension would allow the Council to reconsider things. The City Attorney replied in the affirmative, that the Rules are subject to suspension and change. Councilor Ormerod stated that in that case, he was even more impressed because the rest of that language is completely unnecessary.

Councilor Giacomo really liked most of the language that had been changed. However, in Sections 6 and 11, he noticed that it refers to the Chair, and in the rest of the document it says

Chairman. He requested those all be changed to Chair for consistency and to remove the gender specific language. Councilor Bosley stated that women Councilors would likely appreciate the change. Vice Chair Giacomo did note that the Rules read he/she and him/her in several other places. The City Attorney was content with that change. Vice Chair Giacomo pointed out the change in Sections 6, 10, 11, 12, 13, 14, 17, and 21.

Councilor Jones referred to vacancies and asked why four months was chosen. The City Attorney replied that that they thought about that a fair amount, and it was chosen because it is the time period necessary to announce the vacancy, allow reasonable time for people to apply for the vacancy, and send public notices. Other than that, it seemed reasonable to Staff based on necessary action to fill the seat. Then, Councilor Jones said it would be six months before a vacancy is filled because there are two months after the election before swearing-in. The City Attorney agreed. Councilor Jones noted that in some states if there is a vacancy the elected member could take the seat immediately after the election, which the City Clerk confirmed is not possible in NH.

Chair Bosley was pleased to be moving quickly through these edits after this Committee originally scrutinized each section for hours.

Councilor Ormerod asked whether there needed to be motions for each amendment. The City Attorney said that at this point, there were some Scribner's errors and the change back to PLD in Section 36, so he did not hear anything else requiring a motion but that was at the Committee's discretion.

Councilor Jones asked if the changes to Section 17 and the matter of dividing the question, when the Mayor usually says to take two votes. The City Attorney said to remember that a lot of this only applies if there is no consensus. If someone wants to divide the question and there is no objection to that, the Mayor as the Chair or any Chair has the right to operate by consensus; this only applies if there is an objection. Robert's Rules of Order recognize that action by consensus is preferable. Councilor Jones referred to the same section, recalling that a term "call the question" was not included, but he also recalled that if someone calls the question, the Mayor will accept it unless someone objects to it, followed by a vote. The City Attorney said that is where it says limit or extend debate. Limit debate is really calling the question because at that point you are ending the debate on the issue.

Chair Bosley asked if the City Attorney was comfortable proceeding with the regular motion, and he replied in the affirmative, with the understanding there are Scribner's errors included that Staff would correct.

Chair Bosley heard no public comments.

Vice Chair Giacomo made the following motion, which Councilor Jones seconded.

On a vote of 5–0, the Planning, Licenses, and Development Committee recommends the adoption of the proposed amendments to the City Council Rules of Order with the minor Scribner’s errors corrected.

3) Adjournment

There being no further business, Chair Bosley adjourned the meeting at 6:42 PM.

Respectfully submitted by,
Katryna Kibler, Minute Taker
February 10, 2022

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