

City of Keene
New Hampshire

PLANNING, LICENSES AND DEVELOPMENT COMMITTEE
MEETING MINUTES

Wednesday, February 7, 2024

6:00 PM

**Council Chambers,
City Hall**

Members Present:

Kate Bosley, Chair
Philip Jones, Vice Chair
Raleigh Ormerod
Robert Williams
Edward Haas

Staff Present:

Rebecca Landry, Assistant City
Manager/Communications & Marketing
Director
Thomas P. Mullins, City Attorney
Amanda Palmeira, Assistant City Attorney
Jesse Rounds, Community Development
Director

Members Not Present:

All Present

Chair Bosley called the meeting to order at 6:00 PM. She welcomed the Committee's newest members, Councilors Haas and Williams.

- 1) **Relating to Amendments to the Permitted Uses in the Downtown Core, Downtown Growth, and Commerce Districts – Ordinance O-2023-16-A, and**
 - a. **Communication - Bridget Hansel - In Support of O-2023-16-A**
 - b. **Communication - Joslin Kimball Frank - In Support of Ordinance O-2023-16-A**
 - c. **Communication - Camille Helminski - In Support of O-2023-16-A**
 - d. **Communication - Judy and Jim Putnam - In Support of O-2023-16A**

Chair Bosley recalled that the public hearing for Ordinance O-2023-16-A occurred already, so there would be no further public comment at this meeting. She began by sharing her position on this Ordinance. Over the previous few months of the Joint Planning Board-Planning, Licenses, and Development Committee public hearing process, it occurred to Chair Bosley that questions continued to arise that had not necessarily been answered in the context of Ordinance O-2023-16-A. Despite her conversations with the City Attorney, Chair Bosley still had questions about restrictions that could be enacted to limit the size of charitable gaming facilities, as well as questions about what further zoning districts this use should be permitted in. She had heard references to Planning Board (PB) regulations that could be addressed, what constitutes the PB's scope, what constitutes the Council's scope, and what can go in these Ordinances. While those were not things to debate at this meeting, Chair Bosley felt that this version of this Ordinance was not ready enough for her to commit her full support. She was in favor of a large part of the Ordinance, but she thought more tuning-up was needed.

Councilor Haas posed some questions about the distinction between Ordinance O-2023-16-A and O-2023-17-A. The City Attorney explained that O-2023-17-A contains the definition of charitable gaming facilities, while O-2023-16-A would amend the Zoning Ordinance, which includes the definition but also states where in the City the charitable gaming facilities would be permitted. Keene's Zoning Ordinance is a "permissive Ordinance," meaning that if the Ordinance does not specifically state that something is permitted, then by definition it is not allowed. Ordinance O-2023-16-A includes both the definitional language and the locations where charitable gaming facilities would be permitted. Ordinance O-2023-17-A is the definition of charitable gaming facilities that would be placed in the definitions section of the Land Development Code, which is not technically a part of the Zoning Ordinance. Because these two Ordinances are so intertwined, it made the most sense to deal with them together.

Councilor Williams said he generally supported this Ordinance. He wanted these referred to as "charitable gaming facilities" and not just "gaming," because he saw a distinction between gaming (e.g., teenagers playing video games) and charitable gaming facilities, which include placing bets that the Councilor viewed as gambling. Chair Bosley asked if the definition of charitable gaming facilities under review was in accordance with the State of NH's definition. The City Attorney said yes, and he recommended keeping that definition from the NH license language. Still, the City Attorney and Chair agreed with Councilor Williams' point that there is a distinction between gaming and betting. Councilor Ormerod added that for the last 25 years, the industry had referred to the activity as "gaming" and not "gambling."

Chair Bosley also wanted to address the fact that during the public hearing before the City Council, there was a lot of testimony regarding a particular applicant for this charitable gaming facility use. She challenged the Committee to keep in mind that regardless of any one potential applicant, the City already had a charitable gaming facility license issued in the municipality. Chair Bosley was concerned about the existing charitable gaming facility in Keene, particularly after hearing during the public hearing that these facilities never get smaller, they get larger. She thought it was the Committee's job to think about where in the City these sizeable facilities would fit best. Chair Bosley did not even think the Downtown Transition District was appropriate for this use; she thought other Zoning districts would be more appropriate. She questioned what size of facility should be allowed in a more centralized area. Chair Bosley thought this whole conversation should happen during a PB-PLD workshop process, which she hoped the rest of the Committee would agree with.

Councilor Haas fully supported the idea of "just about any" commercial occupancy in the City where appropriate, which requires use standards for how those uses could exist in their permitted environments. Chair Bosley explained that the City of Keene has both a Zoning Ordinance and a Land Development Code, which are two separate documents. When one is updated, so too must the other. The City Attorney explained further that everything for the City exists in the Land Development Code, which has many parts, including the Zoning Ordinance. There is a process for amending the Zoning Ordinance that is different than the regular ordinance amendment

process.

Vice Chair Jones noted that he had opposed this change of use since the beginning. He thought the Committee was getting too far into the weeds during this conversation. He recalled that Keene's 2010 Comprehensive Master Plan called for an energetic and vibrant downtown. However, he thought the Council was starting to pick-and-choose uses that could contribute to the downtown's vibrance. Chair Bosley asked whether Councilor Jones would oppose sending the Ordinance back to the Joint PB-PLD Committee to have more conversation about the definition and what the Council might be willing to adopt. Councilor Jones stated that he would support sending it back to PB-PLD if that was the only option, but he preferred voting against the adoption.

Councilor Ormerod mentioned concerns about the parking required for charitable gaming facilities (i.e., turnover rate) and how large these entities would need to be to have a profitable venture. He asked if those considerations were in the Land Development Code. The City Attorney said that—regarding this specific use—the answer was no. However, there are Site Plan Regulations adopted by the Planning Board that would apply to commercial uses. Adding to those Site Plan Regulations would go through the Planning Board. Chair Bosley asked if the Council could recommend that the Planning Board adopt additional, more stringent regulations for this use. The City Attorney said yes and added that this would be a discussion for the PB-PLD Committee.

A motion by Councilor Williams to refer Ordinance O-2023-16-A back to the Joint Planning Board-Planning, Licenses, and Development Committee for further consideration was duly seconded by Councilor Ormerod.

Vice Chair Jones moved to amend the motion on the floor to recommend against adopting Ordinance O-2023-16-A. With no second, the motion to amend failed.

Councilor Haas noted that he fully agreed with Vice Chair Jones that the City should be open to all kinds of occupancies, but said that needed to occur in the proper manner with written use standards that could be applied across the board.

On a vote of 5–0, the Planning, Licenses, and Development Committee recommends referring Ordinance O-2023-16-A back to the Joint Planning Board-Planning, Licenses, and Development Committee for further consideration.

Communications were received from members of the public, all of which were in support of Ordinance O-2023-16-A.

Chair Bosley made the following motion, which was duly seconded by Vice Chair Jones.

On a vote of 5–0, the Planning, Licenses, and Development Committee recommends filing the

communications from Bridget Hansel, Joslin Kimball Frank, Camille Helminski, and Judy & Jim Putnam into the record.

2) Relating to Amendments to the City of Keene Land Development Code, Definition of Charitable Gaming Facility – Ordinance O-2023-17-A

Vice Chair Jones made the following motion, which was duly seconded by Councilor Ormerod.

On a vote of 5–0, the Planning, Licenses, and Development Committee recommends placing Ordinance O-2023-17-A on more time.

The Committee had a brief discussion with the City Attorney about the PB-PLD Committee process. The process for updating the Zoning Ordinance is different than the process for the Land Development Code. Under the law, the Zoning Ordinance has a different amendment process than for ordinances in general. Because Ordinances O-2023-16-A and O-2023-17-A are so intertwined, it would be impossible to talk about one without talking about the other during the PB-PLD Committee process. At the PB-PLD meetings, the PB and PLD Committee each make recommendations to the City Council. If the PB and PLD Committee do not agree on a matter, the process would start back at the beginning, which the Joint PB-PLD Committee process is meant to alleviate. Ultimately, O-2023-17-A would be back before this Committee, which would have the opportunity to make any remaining recommendations to ensure O-2023-17-A conforms to O-2023-16-A.

3) Adjournment

There being no further business, Chair Bosley adjourned the meeting at 6:22 PM.

Respectfully submitted by,
Katrinya Kibler, Minute Taker
February 11, 2024