

Minutes were approved on September 22, 2023, by the Government Operations & Ordinances committee.

CITY OF LACONIA - CITY COUNCIL SUBCOMMITTEE MEETING
Government Operations & Ordinances
2:00 P.M.

8/25/2023 - Minutes

1. CALL TO ORDER

Chairman Soucy called the meeting to order at 2:04 PM

2. SALUTE TO THE FLAG

Chairman Soucy led the salute to the flag.

3. RECORDING SECRETARY

Stacy Anders, Deputy City Clerk

4. ROLL CALL

Deputy City Clerk Anders called the roll of the following committee members: Councilor Soucy, Councilor Cheney and Councilor Felch.

5. STAFF IN ATTENDANCE

Kirk Beattie, City Manager

6. ACCEPTANCE OF MINUTES FROM PREVIOUS MEETINGS

6.A. Minutes of June 19, 2023

Minutes of the June 19, 2023, meeting were distributed to the Government Ordinances and Operations Subcommittee on July 18, 2023.

With no corrections or changes submitted to the Clerk, the minutes were accepted as distributed.

7. GOVERNMENT OPERATIONS & ORDINANCES (Soucy (Chair), Felch, Cheney)

7.A. Parks and Recreation rules

Parks and Recreation Director Amy Lovisek has requested that the City Council consider adding language to an existing Ordinance to allow certain rules contained in the Parks and Recreation Commission Rules and Regulations to be subject to law enforcement actions, as well as violations and penalties. The Laconia Police Department has indicated that including these specific rules and regulations in an Ordinance will allow enforcement of them by their department. Any violations of these rules will also then be subject to the penalties set forth. Please see the agenda to view the draft Ordinance that includes the changes requested. This draft Ordinance was presented to the City Council at their meeting on August 14, 2023. At that meeting the City Council referred this matter to the Government Operations and Ordinances Subcommittee for further discussion.

DISCUSSION: Director Lovisek spoke about this item. There are three specific rules that the Parks and Rec Department presented to the subcommittee. They are to add them into the ordinance to

allow the police department to enforce without notifying a Parks and Rec employee. If it is just a rule or regulation the police do not have the authority to go in and enforce those according to the Police Department. The three rules spoken about are as follows:

1. Damage to any structure, plant or natural feature within the City's park areas is prohibited.
2. No person shall affix, hang, drape, or display items on any structure, either natural or man-made, within a City park or City-maintained property.
3. No person shall bring in, use, or possess more than one bicycle at any time in a City park. This shall also include bicycle parts for a second bicycle.

Most of this stems from Rotary Park. These rules are also fairly new to help with it looking like people are hanging their clothes out to dry. Councilor Felch asked if we should include shopping carts in this. Director Lovisek said that they were not able to include this because the attorney didn't like the wording. Councilor Cheney asked Director Lovisek if there were any other areas of concern within the current rules to add to this ordinance change? She said not at this time because the rules are constantly having adjustments made so the attorney's suggested that they pick the ones that would best help the Police Department. City Manager Beattie asked Director Lovisek to speak on the "carry in, carry out" rule they were trying this year at Weirs Beach. This was started this year because they did not have the staff to be able to empty out the trash barrels and it would make a huge mess. So, they changed the rule to try this year that whatever you carry in, please carry out and it has been a huge success.

7.B. Proposal to change the City's Solid Waste Ordinances to reduce customers leaving the Transfer Station without paying

The fee for Transfer Station customers disposing of household waste, construction and demolition debris and metal are based on the weight of the material. A customer's vehicle is weighed before disposing of the material and after disposing of the material. A customer with both household trash and construction and demolition debris is weighed after disposing of each type of material. The fee is calculated using the difference between the vehicle weights before and after disposing of the waste. When a customer crosses the scale for the first time, the Transfer Station operator enters their license plate number into the station's operating software. When a customer who is disposing of household waste, construction and demolition debris or metal leaves the Transfer Station without coming across the scale to weigh out (drive off), the City only knows the vehicle's entry weight not their final weight, so the City cannot provide the weight of materials brought into the Transfer Station. Thus, the City does not have a means of determining the value of the service. During the summer the Transfer Station has as many customers during the four hours it is open on Saturday as the station has during a weekday. Many weekend customers have different types of materials with different fees that result in more processing time. Recently, the Department has seen an increase in the number of customers who do not come across the scale to weigh after disposing of their solid waste (drive offs) from about one per quarter to an average of one per weekend. Most residential customers with only household waste charge will not exceed \$100 per "use". For construction debris, most residential customers' charges will not exceed \$300. For mixed loads most will not exceed \$300. In order for the City to recover its costs, the scale operator must report the incident to Police. This would occur after the Transfer Station closes resulting in an increase in the solid waste program's overtime costs. To recover the City's costs and to act as a deterrent to potential drive offs, Public Works is proposing that the City include the following in its solid waste Ordinance: First Offense – a fine of \$500 with no suspension of Transfer Station privileges. Second Offense - a fine of \$1,000 and suspension from use of the Transfer Station for one month Third Offense - a fine of \$2,000 and the City may seek an injunction from use of the Transfer Station from the Belknap County Superior Court. Public Works is asking for the City Council's guidance on the proposal. Public Works will prepare a change to the City's solid waste Ordinance for the Council's consideration at a future meeting. At their meeting on August 14, 2023, the City Council referred this matter to the Government Operations and Ordinances Subcommittee for further discussion. **DISCUSSION:** Public Works Director Wes Anderson explained that when a customer enters the transfer station, their license plate is recorded. That is how they track the customers currently. Most of the problems are on the weekends and what happens is, you have one customer come up for three different types of materials, so they have to keep going around until they dispose of everything to keep track of the

weights. Some people get frustrated from having to go around several times and just leave after they have already gone through. The fine system would help discourage people from doing this and recover the cost from the Police Department and the cost of what they dispose of. Councilor Soucy asked how they use the plate number to track the customer. Director Anderson has to file a police report for theft of services, and they provide the plate number. Councilor Soucy asked if they can get the state on board to not allow renewal of registrations. Both Councilor Cheney and Councilor Felch said that cannot happen without statutory changes but that we can withhold them from getting another transfer station permit. It is also not typically noticed until the end of the day when the number of people who came in does not match the number of people who go out when reports are printed. It does happen every now and again during the week but the majority of the time, it's on the weekend. Councilor Cheney said that he is on board with this but asks that something be posted on the window of the weigh station. Director Anderson said that is the intent. Councilor Felch's concern is someone might say that they went up to the scale and decided that they didn't want to go around several times and chose to leave instead and making sure that person doesn't get a fine in case they do not tell the scale operator that they won't be dumping. Councilor Cheney believes that they will be able to post enough information to make customers aware of the changes. Manager Beattie said that he can run this scenario by the attorneys.

7.C. Discussion of a 1968 RSA regarding maintenance of private roads for 20 years

Councilor Soucy has requested the Government Operations and Ordinances Subcommittee to discuss this matter. **Discussion:** Director Anderson handed out a packet showing the state laws for a 20-year prescription for private roads. Director Anderson explained that private roads started out of the Great Depression because the municipalities didn't have the money to pay for them, so they discontinued them. Over the years the roads came back in through prescription, and they were paying for them again, but they still didn't have the money for it. The state then passed the law that says prescription only applies for 20 years prior to the first of January 1968. There are about 45 private roads in the City. There are 4 current ways for a private road to be owned by the City. Through prescription, layout and return, dedication and acceptance or the city actually owns the land that the private road is on. An example is Railroad Avenue. Through research Director Anderson found a lead from December 1, 1949, the city council authorized the city engineer to plow private roads at his discretion during the housing shortage. A second critical document he found was a letter by the city manager at the time in 1977 that said, "the city council informally decided to plow those unaccepted streets on which people are living on a year-round basis, taken informally as legally no public funds may be expended on unaccepted streets." Prescription would be very hard to prove if it were taken to court. Councilor Cheney asked what prescription means. It means that the public has to prove use of the road for 20 years or that the city has been maintaining the road for 20 years. An example would be Pickerel Pond Road because it's a cut through. A dead-end road would not be considered under this. "Accept as is", is the best way for some of the roads in the Weirs but there needs to be 100% approval from the abutters. On Hillcrest Road there is one person who is saying absolutely no way at all. He believes that he has put in so many improvements and he doesn't want to risk the chance of ruining the improvements. This will be going out to legal counsel. Councilor Felch asked if Pickerel Pond Road can be accepted "as is". The difficult part with that particular road according to Director Anderson is because he cannot prove that they have prescription to the road. The width and length of the road don't match so they will have to survey it to start the process. The second part is they would be limited by the stone walls. Letters were sent out to all homeowners on this road to inform them that the City has been given information that could lead them to believe it's a city street and do they agree or disagree and do you have any information in support of this or against this. Councilor Felch asked if they could accept Prescott and Paugus as public roads. Director Anderson said that the legal team has determined who owns the roads so he cannot put it through the accept "as is" program and it would be left up to the Council to decide what to do next. Councilor Felch then asked who owns the roads. The abutting property owners own them. The roads would have to be surveyed and the Council would have to change their decision on who owns the road. Councilor Felch thinks that the state should require realtors disclose to buyers if a certain house is on a private road because they cannot always afford to take care of a road. The state law says that before the planning director can sign off on permits for building on a private road, the homeowner must sign off that they understand they will not be receiving city services. Paugus Avenue is very narrow, and the road would have to be made bigger to be able to maintain it. Director Anderson doesn't believe that

prescription is the correct way to move forward. Lots of decisions will be left to the council to make. Manager Beattie will be having a conversation with legal regarding this. Councilor Cheney would like to know if they had an agreement with the property owners saying that the City owns 20 feet from the center line if a survey would still be required. Director Anderson said yes because the survey determines where the road actually is. If you don't do the survey, they will not be able to use federal money. The subcommittee also will need to discuss if they want to keep the 100% approval rate from the abutters or if they want to change it. It runs a risk of having a court case. Councilor Felch questioned Park Street. Director Anderson said that based on City Council guidance of needing 100% approval and one of the owners saying no, so he cannot do anything about it. Councilor Felch would like to have an agreement with Scott Everett to ensure he will maintain all of Park Street, because as of right now he owns most of it. Manager Beattie said he is not sure, but he can ask him. Director Anderson would like to know if he needs to bring back more information to the Council regarding the "accept as is" program.

7.D. **Discussion of no parking on one side of Girard Street**

A request was made to include an agenda item regarding no parking on one side of Girard Street. Public Works Director Wes Anderson will be present at the meeting to provide additional details. **Discussion:** Public Works Director Anderson explained that the current policy is that a complaint goes before the council before it goes to him. In this case, the complaint came from a person who could not get out of his driveway. Director Anderson presented a photo explaining that if someone were to park at a certain spot on this street, it causes a driveway blockage. Part of the problem is that the street isn't wide enough. Realistically the "no parking" should be on the side with the sidewalk because people aren't supposed to be parking on the sidewalks. Councilor Felch asked if there was sub-lawn between the street and the sidewalk. There is, but not much of one. Councilor Felch agreed with the proposal to have no parking on the sidewalk side of the street. Director Anderson is going to do a write-up for the Council to approve at a future meeting.

7.E. **Discussion regarding a legal procedure to enforce owners of a dilapidated or abandoned building to tear it down**

At several Government Operations and Ordinances Committee meetings there has been discussion of including a legal procedure in the City's Ordinances to enforce owners of a dilapidated, abandoned or burned out building to tear it down during an established timeframe. **Discussion:** Currently the City has a property maintenance code and a state RSA that helps with enforcement. Chief Joubert has been working on an ordinance that clearly defines the authority, the order, the timeframe, fines, and levies. It talks about the value of the property and the home and repair or removal. Chief Joubert believes that this covers all the bases and doesn't conflict with what is already in place. Councilor Felch asked how long a property owner would have to start the tear down process if a building is burnt. Once issued the notice they have 20 days. Councilor Cheney asked who will be doing this, code enforcement or the fire department. Chief Joubert says that is yet to be determined, but quoted the ordinance he drafted referencing to "the completion of an inspection made by the fire chief or building inspector". Councilor Cheney's concern is not for the burnt buildings because the fire chief would already have been involved but for the ones that are dilapidated. Councilor Haynes asked if this gives the chief permission and or enforcement to take the rest of a building down that is already 3/4ths totally gone. Chief Joubert says that there is a section in there about the 75% rule. Manager Beattie explained that if you state there is eminent danger you can go that route, but if it is not then there would be court proceedings because then you would be going onto private property. The next step is to get a legal opinion and then take it to the full council.

7.F. **Fireworks**

Councilor Felch requested that the City Council receive an update and discussion regarding current regulations governing fireworks in the City of Laconia as compared to other New Hampshire Communities. The Council discussed this matter at their July 24, 2023, meeting at which time Mayor Hosmer referred the item to the Government Operations and Ordinances Subcommittee for further review. **Discussion:** Manager Beattie referenced the ordinance in Franklin as being very

straightforward. Councilor Cheney asked Chief Joubert if he was satisfied with using the Franklin ordinance. It says no fireworks Monday through Thursday except for federal holidays. On Friday, Saturday, and Sunday they are allowed from 10pm to noon the next day. Chief Joubert said yes. Councilor Soucy asked about how it would affect the Weirs. It wouldn't, because the ordinance is only for consumer fireworks, not display fireworks. Manager Beattie's recommendation is to add this clause into the noise ordinance to allow police enforcement. The subcommittee requested that this get written up the way he sees fit and to bring it back to the full council. Councilor Haynes said that he had a few concerns. One is how to make people aware of the type of fireworks that they are using. He finds that some people are using some that may be professional grade and the debris is falling into people's yards. His suggestion is that citizens can do whatever you want on the 4th of July but at any other time would require a permit that comes from the Fire Department. Councilor Cheney asked if there are any other municipalities that require permits. Chief Joubert said some do for all display fireworks and some do for consumer/residential fireworks. Councilor Cheney likes the idea of having to get a permit because not only does it help with enforcement but also if there is damage then you know who may have done it and would like to have this added. Councilor Soucy asked if they were to issue permits, would there be a fee involved. Chief Joubert said he wouldn't think so. Councilor Felch's concern with issuing permits for fireworks would possibly overload the Fire Department because a lot of people set off fireworks and there are already so many rules already in place so it would be cumbersome to the citizens.

7.G. Discussion regarding a potential zoning change which would allow casinos in the City of Laconia

The City Council agenda for the August 14, 2023, meeting contained an item for a discussion regarding a potential zoning change which would allow casinos in the City of Laconia. This matter was referred to the Government Operations and Ordinances Subcommittee for further discussion and review. **Discussion:** Councilor Soucy's question to Manager Beattie is, is there any current city ordinance that has a definition of a casino? The answer is no. Manager Beattie said that the current zones in Laconia do not allow casinos at this time. It may fit under the entertainment zone/ordinance. Manager Beattie explained that he is really looking for guidance from the subcommittee on how he should proceed. Anthony Santagate, a Laconia business owner, is working with the state and has been in contact with the city manager to try and get the local part squared away. Councilor Soucy asked about raffles and currently if there are ordinances for raffle permits in the City. Councilor Soucy is also concerned about the work that will go into all of this and then have the revenue go to the State and the City wouldn't getting any of it. Councilor Felch looks at it more like entertainment and bringing people in to the City and he referenced the Belmont Casino. Councilor Felch would like to see these places be able to get ready so if it does become legal, they are already in place. He even compared casinos to Funspot, just their machines give out tickets if you win. Councilor Soucy agrees that it would bring people in and encourage them to spend money, but the City wouldn't benefit from the rooms and meals tax very much. Councilor Felch questioned how much revenue the state would receive, and the subcommittee does not know. Manager Beattie will look that up. Councilor Felch asked Anthony if he would be paying for the license of a casino. Anthony believes so but he's not sure how much because he hasn't done it yet. Councilor Soucy thinks it's something to definitely explore. Manager Beattie will go and get more information on how we make this appropriate, state percentage of total revenue, the zoning board may have to weigh in on possible changes, and any fees the City may incur. Councilor Cheney likes this idea and would like to see some proposals with definitions and permission for police and fire to inspect the casinos. Councilor Soucy asked if this satisfied Councilor Bogert's questions and he said yes and believes it could be positive.

7.H. Discussion regarding impact fees and tax incentives in the City of Laconia

At the July 24, 2023, City Council meeting Councilor Cheney requested that the Government Operations and Ordinances Subcommittee review impact fees and tax incentives in the City of Laconia. **Discussion:** Councilor Cheney asked for this because he believes they need to review impact fees and tax incentives to make sure that we're doing what we really intend to do. Routinely people want to put an apartment in the space above their garage and they ask for an 80% reduction in the impact fees and the planning board has routinely granted significant reductions. He

understands that people are just trying to get by, but it does have an impact on police, fire, parks and Recreation and so on. He would like to see this reviewed and tightened up. Councilor Felch completely agreed and that there needs to be a guideline for how much can be waived. There are currently 3 different categories to qualify for a waiver of fees. Manager Beattie is not sure if the planning board is going down the checklist to make sure they qualify. Councilor Cheney said that they're not. It's when the citizens come up to the mic and ask for a waiver of fees for reason a, b, or c. Manager Beattie said the impact fees on a single-family home is just over \$3,000. Councilor Soucy asked how much the impact fees were for the condos going up in the Weirs or in Lakeport. Councilor Cheney and Manager Beattie are not sure. Impact fees are collected early on in the building process. Councilor Cheney would like to look at the impact fee calculation and tighten up the waivers and possible reasons why it would be waived. Councilor Cheney's second concern is the tax incentives. He gave an example of one developer getting a tax incentive to put up apartments, it was given and then they were sold as condos. That tax incentive goes to the next purchaser which upsets him. Councilor Felch referenced another similar circumstance where a completed apartment building that was mostly rented and sold within a year or so after the tax incentive was given. Councilor Cheney's thought is that the tax incentive should not be transferable and is that even possible for future requests.

7.I. Discussion regarding Heritage Commission By-Laws

Councilor Soucy requested an agenda item to discuss Heritage Commission Bylaws. The Planning Office states that there are no By-Laws for the Heritage Commission, only the Ordinance which is attached for review. **Discussion:** Councilor Haynes said the Heritage Commission has done exploratory work towards combining the heritage commission and the historical commission. He believes the reason why they did this was because the members were dwindling. But nothing has been brought forward officially to combine the two. The RSA's as written for the historic district is that they can raise and expand funds without the authority from any board whatsoever. There's a similar issue with the heritage commission. They want to increase the demolition fees and then have the money go back to them to spend how they want. Councilor Haynes has tried to explain that it doesn't work that way. Councilor Cheney asked what they would spend the money on, and Councilor Haynes doesn't know. Councilor Haynes said that the other issue is what do you do with a building that's not historic if the historic district is expanded. Councilor Felch just wants to make sure they have specific definitions on what makes a building historic, and what buildings are included. He also understands that it's just a geographical area, not everything will be considered historic in the district. Councilor Haynes just wants to make sure that we preserve our buildings. Councilor Felch and Soucy are requesting a map of all the historic buildings and definitions.

8. CITIZENS REQUESTS TO COMMENT ON CURRENT AGENDA ITEMS

None.

9. Any other business that may come before the Council

Councilor Felch asked Manager Beattie if he could look into the guidelines for having to get three estimates when going out to bid. Councilor Felch would like to see if there is any kind of override that can be used when three bids are not achievable. For example, the library has very specific repair work that they need and not just anyone can do the work.

10. ADJOURNMENT

Chairman Soucy adjourned the meeting at 3:54 PM.

Respectfully submitted,

Katie Gargano, City Clerk

