

Ordinance Oversight Committee Minutes

18th February 2021

Town Manager Fournier reads electronic meeting announcement and Chairman Dumont opens meeting at 7:02 PM.

Chairman Dumont opens on a brief recap of the committee's purpose, where it stands and what direction it is moving towards. Chairman Dumont references that the committee must now consider a noise ordinance or language as a result of complaints made by members of the public regarding a business.

Chairman Dumont hands off to Town Manager Fournier, who begins discussing where and how an ordinance may look, with respect to the fact that the ordinance would need to be mindful of specific zoning areas. Town Manager Fournier gives examples of surrounding communities and police involvement for enforcing a noise ordinance.

Town Manager Fournier yields and Chairman Dumont speaks to a noise complaint received by the council in the previous two years regarding a rooster and that the council should be mindful of tailoring an ordinance to needs vs. reaction.

Chairman Dumont hands off to Lieutenant Jordan. Lieutenant Jordan speaks to the rooster situation and how the current ordinances allow the police department flexibility that doesn't necessarily force police to take specific actions. He says that he does see some room for movement. Chairman Dumont asks if the Newmarket Police Department has the leeway and discretion to make decisions or if the committee needs to modify or target a specific area. Lieutenant Jordan thinks that the current structure is appropriate but isn't perfect.

Town Manager Fournier asks about permissions that were previously granted to the Stone Church in the 1960's when the venue was first approved, additionally wondering what could happen to their approval if we passed an ordinance on noise ordinances.

Councilor Weinstein takes over and discusses how other businesses in town may impact the community, but agrees that perhaps some time constraints may be appropriate. Town Manager Fournier points out that the purpose of keeping out a specific end time into the codes prevents bad actors from being able to point to the ordinances and say, "Well I have until 11:00 PM" or related. He states that the more strict you become on the allowable times, the more opportunities there are for abuse. Town Manager Fournier expands on his point.

Chairman Dumont agrees that the Newmarket Police should be able to say that events at twelve, one, or two in the afternoon are permissible as this is a reasonable time during the day to expect noise, however, points to letters received that complained about excessive noise in apartments from the Stone Church during weeknights.

Town Manager Fournier states that if he were to buy a house in Market Square, Portsmouth, he would expect to hear noises as that is a mixed use and busy area. Newmarket should avoid trying to shut down businesses or prevent businesses from exercising their right to operate.

Chairman Dumont hands off to Councilor Brabec. Councilor Brabec highlights the difference between renters and buyers. Renters may not always have the choice of their living arrangements, whereas buyers have some discrimination in purchasing their homes. Councilor Brabec notes that while she enjoyed the music coming from the Stone Church that she could hear from her home, she understands and empathizes that there were nights that were too loud.

[Responding to Councilor Brabec] Town Manager Fournier apologizes if it seems that he came off as dismissive toward citizens who have made complaints.

He expands on his point that police should be able to have the ability to work with residents and businesses to help mediate issues, so that we can allow the town to function properly. Town Manager Fournier also states that when you think of a noise ordinance, most people think of loud music, but there are a number of other loud situations that should be noticed or highlighted such as backyard weddings or garbage collection.

Lieutenant Jordan says that they [police] appreciate allowing people to enjoy their functions, but permits can be beneficial for items around the 4th of July holiday, though it is an imperfect system.

Town Manager Fournier states that Dover, NH does not have a noise ordinance but does offer licensing to live music venues to hold businesses accountable. He thinks it may be easier to grant a blanket license for businesses instead of trying to license every single event. Town Manager Fournier says that he would prefer to see licensing for live events as it may be a better way to control businesses from getting too far out of line and or becoming nuisances.

Town Manager Fournier yields and passes to Councilor Weinstein. Councilor Weinstein says “*don’t be stupid*” mentality is where police or licensing can step in and provide that guidance. She says that this is a unique situation but can only think of concerts at Schanda Park may be similar to what’s happening now. So long as the permit is reasonable and followed, the council should do it that way.

Town Manager Fournier says that the pandemic has changed the way municipal officials view how businesses operate. That a lot of the rules we have in place on outside dining are from a long time ago. He says some businesses in other municipalities are looking at leasing parking spaces in front of their businesses to expand outside dining. Town Manager Fournier suggests that the committee seems to be moving in the direction of wanting licensing for live music/events instead of a straight noise ordinance.

Chairman Dumont agrees that this seems to be the general consensus. Chairman Dumont says he did not realize that Councilor Brabec lived so close to the Stone Church and appreciated hearing her comments and thoughts on the situation. Chairman Dumont says that it wouldn’t be out of the question to get language for permitting or licensing for live music. He asks Town Manager Fournier if there was any draft language at this time.

Town Manager Fournier said he wasn't thinking about going down the licensing route at this time, but he can start doing the researched.

Lieutenant Jordan adds that some of the downtown businesses have reached out to the police department about possible outdoor events in front of their business, such as someone playing a guitar or related. He says that licensing may be a good way to allow these actives to take place.

Town Manager Fournier thinks licensing may be the better way to control these kinds of outdoor events, such that we can be mindful of noise and have police interject when needed, with the risk of pulling a license.

Councilor Weinstein says she has concern about our small downtown business district from having the police department fall into scheduling events if needed. For example, allowing one business six nights a week to hold outdoor events, but other businesses not receiving similar allowances.

Chairman Dumont states that it may be a good idea to get the framework down and tailor it to work within the community.

Town Manager Fournier thinks that this may be a good door to seeing what a post-pandemic downtown Newmarket may look like.

Chairman Dumont says that when the committee first started, it was to go through the municipal code to look for needed changes. Barring any complaints or major disagreements, the body should perhaps be more open to complaints and suggestions the town receives from police, citizens, and concern individuals. Town Manager Fournier agreed that this committee could serve as a good sounding board, because it allows the committee to work without needing the whole Council to get involved. Town Manager Fournier, in jest, asks Lieutenant Jordan asking when the last time he licensed a bicycle.

Town Manger Fournier said he'll start looking up some of the licensing ordinances.

Chairman Dumont says that the committee is in a good spot to play things by ear for moving forward and plugs the Newmarket Police Department for having an officer sit on the committee. Town Manager Fournier says that he may bring some ordinances that may seem stupid, but the purpose and reasoning can be fleshed out in committee.

Meeting Adjourns at 7:41 PM