



Town Council Regular Session

March 1, 2023 at 7:00 PM

Town Council Chambers

MINUTES

1. Pledge of Allegiance

Chair Weinstein convened the meeting at 7:00 PM. Councilor White led the Pledge of Allegiance.

2. Roll Call

Present: Council Chair Toni Weinstein, Council Vice-chair Katanna Conley, Councilor Megan Brabec, Councilor Brian Ward, Councilor Joe LaMattina, Councilor Colin White

Absent: Councilor Scott Blackstone and Town Manager Stephen Fournier

Staff: Finance Director William Tappan, Environmental Services Director William Tappan, and Wendy Chase, Recording Secretary

Non-Public Session Pursuant to RSA 91-A:3.II(a) Personnel

Motion: Councilor White made a motion to Approve the non-public session.

Seconded: Councilor Brabec

Vote: Unanimously Approved (6-0-0)

Seal March 1, 2023 Non-public Minutes

Motion: Councilor White made a motion to seal the March 1, 2023 Non-public Meeting Minutes

Second: Councilor Brabec

Vote: Unanimously Approved (6-0-0)

3. Public Forum

Chair Weinstein opened the Public Forum 7:04 PM.

Bert Allen, 56 Smith Garrison Road, spoke of personal matters and political views.

Chair Weinstein closed the Public Forum at 7:07 PM.

4. Public Hearing

- a. Ordinance NO. 3 - 2022/2023 | AN ORDINANCE TO AMEND CHAPTER 32 Zoning, Article I. *In General* Sec. 32-5 *Nonconformity*; Sec. 32-9 *Special use permits*; Sec. 32-11 *Definitions*; and Article VII. Sec. 32-234 *Accessory apartments* of the Municipal Code of the Town of Newmarket, New Hampshire

and Zoning Ordinance, adopted 2/14/1996, as amended through February 15, 2023.

Community Development Director Bart McDonough gave a PowerPoint presentation for Ordinance No. 3.

He explained that the Planning Board has been working on the Accessory Dwelling Unit (ADU) section of the Zoning Ordinance for some time. The ADU ordinance was codified in 1987 and amended through the years. The last revision was in 2017 to coincide with the new state statute. Currently, an applicant applying for an ADU would have to apply for a Special Exception with the Zoning Board. The current Zoning only permits attached ADU's on conforming lots.

Key Elements with the purposed changes:

- Deletes and replaces Section 234 with new language and standards; clarifies and adds definitions, updates the purpose statement
- Restores property rights by allowing for single-family, legally nonconforming lots and structures to build an ADU
- Reduces approval timeframe by designating an ADU as permitted use and removes the ZBA special exception requirement; allows for detached, attached and internal conversion ADUs
- Prohibits short-term rentals, condo conversion or building within the flood plain.
- Requires owner-occupancy and an annual recertification for the ADU
- Limits the size of an ADU between 200 -1,000 square-feet and adds other standards that create a sense of scale and harmony on the lot
- Add stormwater requirements if a project increases the lot's amount of impervious surface over a certain threshold
- Adds living space incentive if rooftop solar is incorporated into the project
- Amends parking standards and maintains water and waste disposal requirements.

The Planning Board held public hearings between September 2022 and January 2023 and presented the amended Ordinance to the Council for a first reading on February 15, 2023 and the public hearing and second reading this evening is for action by the Town Council.

Councilor LaMattina asked if the Planning Board did any kind of analysis to determine the amount of ADU's that could potentially be added to town under the new Ordinance. Director McDonough said that is hard to determine. He said potentially it could be up to 1,000 units but doesn't believe that to be the case because of NH DES septic system requirements and the cost of construction of the units.

There were no comments from the public.

Chair Weinstein closed the Public Hearing at 7:27 PM.

5. Town Council to Consider Acceptance of Minutes

- a. February 15, 2023 Work Session
Motion: **Councilor Conley** made a motion to approve the February 15, 2023 Work Session Meeting Minutes
Second: **Councilor White**
Discussion:
Vote: **Unanimously Approved (6-0)**
- b. February 15, 2023
Motion: **Councilor Conley** made a motion to approve the February 15, 2023 Meeting Minutes
Second: **Councilor Brabec**
Discussion: Councilor LaMattina corrected a spelling error.
Vote: **Unanimously Approved (6-0)**

6. Report of the Town Manager

- a. Town Manager's March 1, 2023 Report
Finance Director William Tappan read Town Manager Fournier's Report to the Town Council.
- The Town Election is March 14th from 7AM to 7PM at Town Hall. There must be a quorum of Councilors at 7PM.
 - SB111 - Clarifying the Authority of Town Council Form of Government: Town Manager Fournier testified before the State Senate on Senate Bill 111 introduced by Senator Rebecca Perkins Kowka that clarifies that Town Councils have the same authority as City Councils. It was well received by the Committee.
 - Cable Franchise: Legal counsel has provided the Town Manager with a draft Second Amendment to the current Renewal Franchise Agreement to add another 10 years to the term. Epiratin would be 11/3/32. After review by the Communication Manager and Finance Director, we will bring it to the Town Council for action.

Regarding the Town Election, Chair Weinstein said that she would be there at 7PM in addition to other times during the day for the final vote count. Councilor Brabec signed up for time slots and Councilor Ward will also be available to attend during the day of the election.

7. Committee Reports

Councilor LaMattina reported on the Environment & Energy Committee's February 22, 2023 Meeting:

The Committee decided to hold a Public Hearing, March 29, 2022, on the Energy Aggregation Plan.

8. Old Business

9. Resolutions/Ordinances in the 2nd Reading

- a. Ordinance NO. 3 - 2022/2023 | AN ORDINANCE TO AMEND CHAPTER 32 *Zoning*, Article I. *In General* Sec. 32-5 *Nonconformity*; Sec. 32-9 *Special use permits*; Sec. 32-11 *Definitions*; and Article VII. Sec. 32-234 *Accessory apartments* of the Municipal Code of the Town of Newmarket, New Hampshire and Zoning Ordinance, adopted 2/14/1996, as amended through February 15, 2023.

Motion: **Councilor Conley** made a motion to Ordinance NO. 3 - 2022/2023 | AN ORDINANCE TO AMEND CHAPTER 32 *Zoning*, Article I. *In General* Sec. 32-5 *Nonconformity*; Sec. 32-9 *Special use permits*; Sec. 32-11 *Definitions*; and Article VII. Sec. 32-234 *Accessory apartments* of the Municipal Code of the Town of Newmarket, New Hampshire and Zoning Ordinance, adopted 2/14/1996, as amended through February 15, 2023.

Second: **Councilor Ward**

Discussion: Councilor Conley asked for more information on extending ADU's on non-conforming properties.

Director McDonough explained that the idea is to utilize as much of the land as possible and allow opportunities for ADU's to exist as much as possible, but any expansion on a non-conforming lot would require ZBA approval.

Councilor White asked about affordability.

Director McDonough said that is hard to predict. If the ADU has a smaller footprint, you may assume that the rent would be less, but because of the reduced housing supply, that will have an effect on the rental amounts.

Councilor Brabec thanked Director McDonough and the Planning Board for all their work on the ordinance. This has been a topic of discussion for some time. It's a great next step towards multi-generational living.

Chair Weinstein said that homeowners with septic systems will be challenged due to NH DES requirements that the system will have to support additional bedrooms/bedrooms.

Director McDonough mentioned the challenge of financing. There are no financial packages for ADUs. Home Equity loans or cash are the only options currently.

Vote: **Unanimously Approved (6-0-0)**

- b. Resolution #2022/2023-33 Re-adopting the Veteran's Optional Tax Credit

Motion: **Councilor LaMattina** made a motion to Approve Resolution #2022/2023-33 Re-adopting the Veteran's Optional Tax Credit

Second: **Councilor Ward**

Discussion:

Councilor White explained that a Veteran is someone who has served in the Military and has been honorably discharged from the Service. The proposed Resolution includes those who are currently serving and they could potentially be discharged with a less than an honorable discharge; since they have not been discharged they cannot be a Veteran.

Councilor Brabec referred to the section that states, "If this does not pass, the optional veterans tax credit will no longer be in effect and the standard veterans credit of \$50.00 would apply as of April 1, 2023."

Councilor Conley said that the Resolution is attempting to extend the tax credit and is not categorizing those still serving as Veterans; it is including those who have served four years and continue to serve.

Councilor Brabec reminded the Council that they have the option to table the Resolution to the next meeting when the Town Manager is back to help clarify the Resolution.

Vote: No vote.

Motion: **Councilor White** made a motion to table Resolution #2022/2023-33 Re-adopting the Veteran's Optional Tax Credit to the March 15, 2023 Meeting

Second: **Councilor Ward**

Discussion: None

Vote: **Unanimously Approved (5-1-0)** Chair Weinstein against

c. Resolution #2022/2023 - 34 Adopting All Veterans Tax Credit

Motion: **Councilor Conley** made a motion to approve Resolution #2022/2023 - 34 Adopting All Veterans Tax Credit

Second: **Councilor Ward**

Discussion: Councilor Brabec commented that the wording in the Resolution was unclear.

Councilor White disagreed that the

Chair Weinstein said that without the staff report and lack of information the Council should consider tabling the Resolution to the March 15, 2023 Meeting.

Vote: **Councilor Ward withdrew his Second on the motion to Approve. Motion failed.**

Motion: **Councilor White** made a motion to table Resolution #2022/2023 - 34 Adopting All Veterans Tax Credit to the March 15, 2023 Meeting.

Second: **Councilor Brabec**

Discussion: None.

Vote: **Unanimously Approved (6-0-0)**

d. Resolution # 2022/2023 - 35 Wastewater Collection System Evaluation

- Motion:** **Councilor White** made a motion to Approve Resolution # 2022/2023 - 35 Wastewater Collection System Evaluation
- Second:** **Councilor Ward**
- Discussion:** Environmental Services Director Greig said that he applied for a planning grant and received \$100,000 (the maximum amount available). They intend to evaluate the collection system, which will cost \$120,000. Some of the collection system dates back to the late 1800s. They will use cameras to go into 55,000 feet of sewer pipe to evaluate the pipe and report on what needs to get done to the system and begin planning on how to get it done.
- Vote:** **Unanimously Approved (6-0-0)**
- e. Resolution # 2022/2023 - 36 Sewer Cleaning
- Motion:** **Councilor Ward** made a motion to Approve Resolution # 2022/2023 - 36 Sewer Cleaning
- Second:** **Councilor Conley**
- Discussion:** Environmental Services Director Greig explained that the town is required through our EPA Permit to clean out the system annually. The Environmental Services Department usually does that in-house, but due to a lack of staffing, they are asking to hire an outside company to do the cleaning. A Vac-Truck is used to flush out the sewer lines and the department does have a Vac-Truck but doesn't have the staff to complete the cleaning this year. The money will come out of the operating budget and it will take 7 days to complete the cleaning of the sewer lines.
- Vote:** **Unanimously Approved (6-0-0)**
- f. Resolution # 2022/2023 - 37 Lead & Copper Rule Assistance
- Motion:** **Councilor Conley** made a motion to Approve Resolution # 2022/2023 - 37 Lead & Copper Rule Assistance
- Second:** **Councilor Ward**
- Discussion:** Environmental Services Director Greig explained that they test lead and copper from 40 homes alternating 20 homes every other year. They have not failed a lead and copper test in the 30 years he has been working here. They applied for and received a \$50,000 grant to enter into an agreement with Wright-Pierce to help the Town meet the Lead Service Line Inventory requirement.
- Vote:** **Unanimously Approved (6-0-0)**
- g. Resolution #2022/2023 - 38 Adopt Streetlight Pole Banner Policy
- Motion:** **Councilor Conley** made a motion to Approve Resolution #2022/2023 - 38 Adopt Streetlight Pole Banner Policy
- Second:** **Councilor Ward**
- Discussion:** Councilor Brabec said she would potentially like to move to table Resolution #2022/2023-38. She explained that the Arts, Culture and Tourism Commission Chair mentioned that she met with the Town Manager about the Commission

taking over this process and it's not mentioned anywhere in the resolution. She would like to table the resolution until the Arts, Culture and Tourism Commission has a chance to meet and touch base with the Town Manager.

Councilor Ward said they could move forward to approve and then later assign authority to the Commission if that is to be the case.

Councilor Conley said that the Resolution doesn't distinguish the body who would review the permits.

Chair Weinstein said she doesn't think she would be in favor of giving that authority to the Arts, Culture & Tourism Commission.

Councilor Brabec said that she has no complaint with the Resolution; she said she was just trying to be a good Representative to the Commission.

Vote: Unanimously Approved (6-0-0)

10. Resolutions/Ordinances in the 1st Reading

- a. Resolution #2022/2023-39 - Naming of Leo P. Fillion Park
Chair Weinstein read Resolution #2022/2023-39 into the record.

11. New Business/Correspondence

- a. Correspondence to the Town Council
- b. Closing Comments by Town Councilors
Chair Weinstien reminded everyone that the annual town meeting/election is on Tuesday, March 14th, from 7:00 AM to 7:00 PM in the Town Hall Auditorium.
- c. Next Meeting
 - i. March 15, 2023

12. Adjournment

Chair Weinstein adjourned the meeting at 8:04 PM without objection.

Respectfully submitted,

Wendy V. Chase
Recording Secretary