

The Claremont City Council held a meeting on Wednesday, August 26, 2008, in the Council Chambers of City Hall.

The meeting was called to order by Mayor Cutts at 6:30 p.m.

Members of the Council present were:

At-Large Councilor Thomas (Toby) Batchelder, III
At-Large Councilor Robert Picard
At-Large Councilor Keith Raymond
Assistant Mayor Andrew Austin
Mayor Deborah Cutts
Ward II Councilor Paul LaCasse
At-Large Councilor Kyle Messier
Ward I Councilor Christopher Lewis
Ward III Councilor Jeffrey Goff

Also present were:

Guy Santagate, City Manager
Jane Taylor, City Solicitor

A motion was made by Mayor Cutts and seconded by Ms. Messier to suspend Council Rule number 22 to move New Business City of Claremont's Long Range Plans and Related Zoning Issues first.

Roll Call Vote: Motion carried 9-0.

NEW BUSINESS

City of Claremont's Long Range Plans and Related Zoning Issues

Mayor Cutts gave some background about the draft Open Space Ordinance proposed by the Open Space Ordinance Committee (OSOC). A previous Council had appointed a sub-committee to review the ordinance. There is no motion to approve before the Council tonight, but the intent is to hear from the group and get more information.

David Putnam said three representatives from the OSOC (Tom Brothers, Alan Grigsby and himself) would make a PowerPoint presentation to outline the Committee's findings.

Mr. Putnam has been a Claremont resident and small business owner in Claremont for over 30 years. He was the Chair of the OSOC and is a School Board member for 11 years.

- Open Space Development. The future for Claremont land use
 - Benefits

- Allows clustering of housing units
 - Lowers cost of construction
- What are Claremont's land use challenges?
 - What impact will growth have on existing city services and infrastructure?
 - Do we have enough housing to support growth?
 - Smart Growth...country living with city amenities
- The History
 - The Planning Board and general public objected to certain details of Open Space Ordinance 474
 - "Open space" was a "right" and not a "special exception," taking away the Zoning Board of Adjustment oversight now required for a Planned Residential Development (PRD) and
 - Dramatically increased allowable unit densities in certain districts
 - The Planning Board did not recommend Ordinance 474 to the Council
 - The Administration presented Ordinance 474 to the Council and the Council voted it down.
 - The Mayor and Council established the Open Space Ordinance Committee to explore changes to the Ordinance 474
- The Open Space Committee
 - Committee members appointed by the Mayor represented: Chamber of Commerce, Claremont Development Authority, real estate, land developer, large land owner, small land owner, City Council, Planning Board, Zoning Board, School Board and Conservation Commission
 - Planning and Development Department contributed professional advice
 - Renamed Ordinance 474 to Ordinance 486 – Conservation Residential Development (CRD) [Note: Ordinance 486 is being used here for reference only. Number 486 has been issued to another ordinance.]
- Proposed Ordinance #486 – Conservation Residential Development (CRD)
 - Unanimously approved by the Planning Board for recommendation to the Council
- #474 versus #486 A Comparative Review

Alan Grigsby is the Planning Board Chair and a member of the OSOC.

- Existing Zoning
 - Traditional or "Checker Board"
 - Minimum allowable lot size prohibits "clustering."
- ZBA "Special Exception" Criteria
- Proposed Ordinance #474
- Proposed Ordinance #486
- Allowable Unit Density Comparison: AR (Agricultural Residential District)
- Allowable Unit Density Comparison: RR (Rural Residential District)
- Allowable Unit Density Comparison: R-2 (Residential – 2)

Thomas Brothers is a Claremont resident and member of the OSOC.

- Remaining Points of Contention

- Reinstatement of ZBA as part of their review
- Open Space calculation
- Relatively insignificant increase in allowable unit densities
- Why the ZBA? Isn't Planning Board oversight enough?
 - ZBA is accountable to the interests of Claremont's taxpayers and affected, adjacent property owners
- How much Open Space is enough?
 - Committee reviewed ordinances from other communities
 - #486 requires more "open space" in AR (including East Green Mountain Road), RR, RR-2 districts and requires less in R-1 and R-2 districts
 - #486 recognizes existing characteristics of zones designed to be sparsely developed
- Allowable Unit Density – too few or too many?
 - Forcing too much density where people have chosen to live and put their nest eggs will create problems
 - #486 provides incentives for tying into the sewer and water systems and for allowing public access to open space
 - Open space is area that cannot be improved
 - Unknown if increasing development will negatively impact tax problem. He doesn't want to be responsible for negatively impacting the tax rate. So only moderate density bonuses will be offered
 - He said there is a huge inventory of properties for sale in Claremont. If we create new developments, the properties that are currently for sale will not sell or will be reduced in value. He asked not to dissolve peoples' nest eggs with a change in zoning.

Mr. Grigsby read a statement from Steve Wood, Chairman of Conservation Commission and member of the OSOC, urging the Council to approve the open space ordinance. Mr. Grigsby said zoning is important because it shapes the community we live in. The Planning Board's Master Plan Advisory Committee is developing a new Master Plan and it embraces Smart Growth. Smart Growth uses cluster housing and open space and is endorsed by that committee. He asked the Council to adopt "Ordinance 486."

Mr. Putnam said the 70s and 80s were about controlling growth, but now we are talking about future growth and it feels good. He said he has been a business owner on Pleasant Street since 1970. Bringing in industry and residents has to happen together with careful planning.

Mr. Goff asked about the makeup of the committee. Mr. Grigsby said 12 people were principally involved and a 13th came a couple of times. Mr. Goff asked how many were age 25 or younger. Mr. Putnam said none. Mr. Goff asked if all were Claremont residents. Mr. Putnam said yes. Mr. Goff asked if there was input from prospective residents or developers living outside of the city. Mr. Grigsby said they solicited information from the state, professionals and other communities. Mr. Goff asked if there were any tenants of rental properties or if they were all property owners. Mr. Putnam said that was unknown. Former Mayor Scott Pope said the makeup of the committee was: people who had worked in zoning; Mike Lemieux, a contractor who had done some developing; Planning Board Representative; Mr. Brothers, who lived on the

outskirts of town; Bill Regan, Council representative; Art Luce who lives on East Green Mountain Road; Alan Croteau, Realtor; Keith Raymond, businessman; Steve Wood, involved in conservation; and Mr. Grigsby. He couldn't hit all cross sections of the community. The Council approved the members of the committee. Mr. Goff said that it has been said that this committee was representative of the entire Claremont population, but he doesn't see the perspective of the make-up or the result of the committee to represent the future of Claremont. He sees success of today and the short term, but we need to look at the future.

Mayor Cutts said she was an alternate and was involved in the selection process. She agreed those elements did not come up, but those elements are important today. Volunteers were sought, but not a lot stood up. Mr. Pope said he had looked for community leaders.

Mr. Brothers said the committee originally had six members, but that number was doubled.

Mr. Putnam pointed out the Charter guides that committee members are Claremont residents. Mayor Cutts noted that the Charter does not prohibit seeking input from non-residents.

Mr. Austin said young viewpoints would be helpful.

Mayor Cutts said she has spoken with high school students to serve or participate on committees. She will push it harder. They have community service requirements for graduation.

Mr. LaCasse asked how OSOC views the proposed zoning maps. Mr. Grigsby said they didn't study that. This ordinance tries to respect previous zoning. Mr. LaCasse thinks the committee did an excellent job, but a vote tonight would be premature. He would like to see the zoning maps. Mr. Grigsby said this stands apart from zoning. Future zoning will deserve scrutiny. This won't affect zoning.

Mr. Batchelder asked if other communities were used for research. Tracy Pope said they contacted Lebanon, Manchester, Keene, Florida and California. Mr. Putnam said they considered how those communities' demographics compared to Claremont.

Bernie Folta, Ward 3, said economic development can be viewed as three-legged stool: skilled workforce, good schools and workforce housing. He was wondering about the connection between workforce housing and open space development and if new housing would bring young people to Claremont.

Mr. Putnam asked that the committee be told when the ordinance comes up on the agenda.

CITIZEN'S FORUM

John Cloutier, Ward 1, State Representative, talked about the letter from the Attorney General's (AG) office about the caucus and that it was not illegal. He hoped we could move forward and he will work with the Council. Representative Donovan sent his regrets for not attending tonight

because he had hip surgery. Representative Gagnon was out of town and Reps. Neilsen and Converse were on vacation. Mayor Cutts sent the Council's best wishes to Rep. Donovan.

Mr. Goff said Mr. Cloutier's interpretation of the letter from the AG was not accurate. They said the Attorney General does not enforce RSA 91-A and the proper remedy would be to take it to Superior Court. He referenced RSA 91-A:2-a(2) and he believes the caucus was used to circumvent the spirit of 91-A. Mr. Cloutier disagreed.

OLD BUSINESS

Ordinance 501 Outdoor Wood Boilers – First Reading (to be Taken from the Table)

A motion was made by Mr. Austin and seconded by Mr. Raymond to take from the table Ordinance 501 Outdoor Wood Boilers.

Roll Call Vote: Motion carried 6-3 with Messrs. Batchelder, Picard and LaCasse voting no.

Ms. Taylor had given the Council a comparison of the proposed ordinance, state law and NESCAUM (Northeast States for Coordinated Air Use Management). She had tried to invite someone from NESCAUM to come here, but did not connect with them. She had discussions with Pam Moore, Compliance Officer at NH Department of Environmental Services (DES), Air Resources, and if the Council requested, Ms. Moore would come to talk to the Council about state law.

Eric Giles, City Planner, gave a PowerPoint presentation

- Outdoor Wood-Fired Hydronic Heater
 - NH RSA 125 (R) OWHH means a fuel burning device
 - Burns wood or other solid fuels (clean wood or pellets only)
- City of Claremont Proposed Ordinance
 - Other Boilers – prohibited as of 1/1/09
 - Accessory Structure – Building permit required
 - Phase I & II boilers setbacks
 - 100' – property lines
 - 200' – abutting home
 - 50' – building served
 - Stack height 5' higher than peak of building served or any resident or business within 300 feet
- Bluff District, R-1 (example)
 - Minimum lot size is 10,000 square feet. These lots can't meet the setback requirements
- Thrasher Road & Elm Street, R-1 (example)
 - 1 acre lots minimum. Wood boiler may be able to fit on a 1.3 acre lot

Mayor Cutts would like to hear from NESCAUM.

Mr. Raymond commented on the stack height and air dispersion.

Mr. Picard asked, using the 500 feet setback recommended by NESCAUM, how many parcels could put in the boilers. Fire Chief Peter Chase said it is complicated. He noted a lot of literature is available from the manufacturers. One of the selling points is that it removes the fire hazard from your home, but there is still a fire hazard. On most, the spark arrester is an option, not standard. The units cost approximately \$10,000 to buy and install and will take a few years to recoup the cost. Companies advise not to set up boilers in the compact areas. One pamphlet suggests talking to neighbors before buying. Chief Chase noted that even if these were restricted by zone, the ordinance would still be needed to address code enforcement issues.

Mayor Cutts said this is still at first reading. Council had not been given all the information that was asked for. Ms. Taylor said to gather the GIS information would be an extensive project. She asked for more specific direction. Mayor Cutts asked why NESCAUM's recommendations were drastically different from the state's. Ms. Taylor said it is a legislative process. Mayor Cutts asked if NESCAUM is supportive of the state's recommendation. Ms. Taylor is not sure they would comment on that.

Ms. Messier asked why NESCAUM recommended a 500-foot setback. She is concerned about the pollution from these boilers and she said Claremont is in a "bowl." Chief Chase said originally these were designed for heating in rural areas and that is probably where the 500 feet came from.

Mr. LaCasse made a request to hear from NH DES. Mr. Batchelder objected. Mayor Cutts said they would talk more about it later.

Mr. LaCasse asked about the 50-foot setback since it was not addressed by either the state or NESCAUM. Chief Chase said the boilers are a fire hazard and the manufacturers recommend placing them 30-60 feet from the building served. Mr. LaCasse asked about feeding the wood boiler into the masonry chimney of the building. Chief Chase said the literature does not talk about using a masonry chimney. Mayor Cutts asked about the stack. Chief Chase said the company offers a 4-foot stack with a 4-foot extension. Questions about stacks that are taller will have to be addressed to the company. It is an engineering question.

Mr. Goff asked if this is tabled, it can be brought back again, but if it is defeated, what happens. Mayor Cutts said it dies and then we go with state standards. Mr. Goff questioned if now is the right time to get more restrictive on a legal source of alternative heat. These types of structures qualify for alternative financing (green financing) and the interest is tax deductible. He believes it is a cheaper alternative. These should not be in high density areas.

Mayor Cutts said this is a first reading; if it passes and we get additional information before or at the second reading, changes could not be made. Because they had not gotten all of the information they had requested, she was inclined to table it again. Because of the emissions,

there may be an impact in trying to bring young people back to the community. She would like more information.

Mr. Raymond thinks with the standards that there will not be many wood boilers. He asked about a grandfathering clause. Ms. Taylor said if an existing unit has to be replaced, it has to be up to code. Ms. Taylor said as of January 1, 2009, boilers other than Phase I or Phase II will not be allowed for sale under state law.

A motion was made by Mr. Picard and seconded by Mr. LaCasse to table the motion indefinitely.

Roll Call Vote: Motion failed 1-8 with all Councilors voting no except Mr. LaCasse.

A motion was made by Mr. Picard and seconded by Mr. LaCasse to table the motion until the September 10, 2008, meeting or until additional resources are available.

Roll Call Vote: Motion carried 5-4 with Messrs. Batchelder, Raymond, Lewis and Goff voting no.

CITY MANAGER REPORT

None

CONSULTATION WITH LEGAL COUNSEL

None

ADJOURNMENT

At 8:49 p.m., a motion was made by Mr. Raymond and seconded by Mr. Austin to adjourn.

Motion carried 9-0.

Respectfully Submitted,

Dorée M. Russell
Clerk to the Council