

Ad hoc Outdoor Dining & Food Truck Committee
Meeting #8
City Hall - Large 2nd Floor Conference Room
January 10, 2023

MEETING MINUTES

In attendance:

Committee: Councilor Erle Pierce (Chair), Mayor Jim Bouley, Councilor Stacy Brown and Councilor Karen McNamara

Staff: Interim Deputy City Manager – Development, Matt Walsh; Deputy City Solicitor, Danielle Pacik; Health and Licensing Officer, Gwen Williams; City Planner, Heather Shank; Community Development Specialist, Crayton Brubaker

Councilor Pierce called the meeting to order at 3:30 pm

1. Approval of the December 6, 2022 Minutes

Councilor McNamara made a motion to approve the December 6, 2022 draft minutes. Mayor Bouley seconded the motion. The motion was approved unanimously.

2. Proposed Amendments to Outdoor Dining Regulations

a. Review proposed amendments to Regulations to Permit Use of Public Space for Outdoor Dining

Ms. Pacik presented the proposed revisions provided in a handout entitled “Proposed Revisions to Regulations to Permit Use of Public Space for Outdoor Dining.”

Ms. Pacik noted that the furniture sections of the regulations require outdoor amenities to adhere to the updated pages in the Main Street Design Guidelines document. Ms. Pacik also noted the changes to the section regarding umbrellas made upon the direction of the committee from the last meeting.

Councilor Brown asked to clarify what the current policy is regarding logos on umbrellas. City staff stated that the only the name of the restaurant establishment may be printed on the umbrellas and that faded or torn umbrellas were disallowed.

Ms. Pacik also noted the change directing applicants to now submit applications through the Energov system now.

The committee consensus was to accept the proposed amendments, as presented by Ms. Pacik.

b. Discuss regulations and fees for year-round dining on Licensed City-owned Property

Ms. Pacik noted that the City is currently working on obtaining a license agreement with the new owner of the Cheers restaurant.

Ms. Pacik provided an update regarding taxes paid on the City-owned land adjacent to the Cheers restaurant.

Ms. Pacik noted the proposed changes to year-round dining, in the case of special license agreements. It was noted that safety requirements and insurance requirements will be included in any agreement for licensed, City-owned property going forward.

The committee discussed the potential of additional fees for year-round dining, and the requirement for licensees to pay taxes when using City-owned land.

The committee consensus was to have restaurants that have a special license agreement on City-owned, fee simple property to pay any applicable license fee outlined in the license agreement, pay taxes on the occupied land, and pay the regular outdoor dining fee, if applicable. It was also the consensus of the Committee to permit outdoor dining on a year-round basis for those restaurants operating on fee owned City property via license agreements in accordance with the terms and conditions of said licenses. Ms. Pacik told the committee she would review any applicable license agreements and ensure equity among the agreements relative to tax payments.

c. Discuss requirements for barricades/enclosures for dining areas in parking spaces

Mr. Walsh delivered a presentation to the committee regarding barricades and enclosures for outdoor dining in parking spaces. He noted the importance of public safety for outdoor dining users in those spaces. Mr. Walsh discussed the following items:

- Traffic counts on Main Street;
- The four current locations on Main Street that have outdoor dining in parking spaces and the use of plastic, waterfilled Jersey barriers;
- A recent vehicular accident involving the Barley House's outdoor dining area located within parking spaces;
- Concerns for public safety and inadequacy of the aforementioned plastic Jersey barriers in regard to protecting patrons and property;
- Specifications as to the dimensions of the current barriers;
- Examples of what other communities use for barricading off outdoor dining in parking spaces (i.e. parklets)

Mr. Walsh explained that the City purchased 35 water filled barriers in July 2021 to install at dining areas in parking spaces. The barriers are 6' long and weigh 850 pounds when filled with water. The barriers have not been interlocked to enclose parking areas. Following the July 5, 2022 accident at the Barley House, 31 barriers remain in the City's inventory.

Mr. Walsh then explained that other communities in New Hampshire use interlocked concrete Jersey barriers in high traffic areas to enclose outdoor dining areas located within parking spaces. Interlocking the barriers provides a continuous separation between diners and adjacent traffic. In addition, interlocking of the barriers can help further the safety provided in crash incidents. Concrete barriers 10' in length weigh approximately 4,000 pounds and require special equipment to move and handle.

Mr. Walsh stated that staff received two quotes from local vendors as to cost of purchasing and delivering thirty (30) ten-foot (10') concrete Jersey barriers to enclose the four existing dining areas located in parking spaces. Acquisition of the barriers would cost approximately \$18,000. This figured excludes the cost to seasonally install, remove, and store the barriers. Said additional costs were tentatively estimated at around \$10,000 per year.

Discussions regarding public safety, aesthetics, and costs ensued.

It was the consensus of the Committee that the City require the use of interlocked, concrete jersey barriers to enclose all dining areas located within parking spaces. The Committee recommended that staff seek an appropriation from City Council for purchase and installation of said barriers. The Committee also recommended that the interlocked, concrete barriers be purchased and installed at the City's sole expense.

Further discussion ensued regarding requirements for restaurants to accept concrete jersey barriers to enclose their dining areas. Ms. Williams explained that all restaurants participating in the outdoor dining program are required to accept safety barriers. Ms. Williams also noted that information on changes made by the City would be distributed to applicable restaurants.

Discussion ensued regarding the aesthetics of concrete barriers. There was a general sentiment that the City may want to consider tasteful, uniform aesthetic enhancements to the concrete barriers, such as painting and/or planter boxes used in Portsmouth, NH. It was the consensus of the Committee to have staff on standards for potential painting and other aesthetic enhancements for the barricades.

d. Review proposed amendments to Main Street Design Guidelines for barricades / enclosures for dining areas on sidewalks, plazas, and squares

Ms. Shank presented the updated changes to the Main Street Design Guidelines. She noted the proposed addition of page 7 to the guidelines, which demonstrates various sidewalk barrier design recommendations. These were created to be in line with other communities' outdoor dining regulations. Ms. Shank noted the inclusion of several updates made to outdoor dining areas in the right-of-way:

- Addition of a 48-inch height maximum restriction for sidewalk enclosures;
- Requirement of planters needing live vegetation in order to be accepted;
- Addition of a list prohibiting certain materials to be used as fencing; and,
- Inclusion of picture examples added to be representative of recommended barrier designs.

It was noted that in her research, Ms. Shank had seen well-done fabrics used as a barrier in some other communities.

Ms. Pacik asked the committee if they would like to allow or prohibit stanchions. Councilor McNamara noted that chain link stanchions or rope barriers often encourage people to go over them. Councilor Brown noted that may lead to a tripping hazard.

Councilor Pierce noted he supports the presented additions to the Main Street Design Guidelines. Councilor McNamara asked about requiring matching or uniform patterns for posts with fabric. Councilor Pierce asked whether that would require restaurants to go before the Planning Board and City staff indicated that was not the case.

Councilor Pierce asked how any changes to the outdoor dining program, such as the new page of the Main Street Design Guidelines, would be communicated to outdoor dining program users. Ms. Williams noted that once any changes would be identified in an email communication with businesses.

Councilor Pierce made a motion to accept the newly updated Main Street Design Guidelines, as presented by Ms. Shank, inclusive of removing “fabric inserts” from the list in section 7.4, and replacing the top left picture with one demonstrating fabric inserts to the presented page 7. Councilor McNamara seconded the motion. The motion passed by unanimous voice vote.

Ms. Pacik noted she will add verbiage to allow canvas barrier (fabric inserts) in the Regulations to Permit Use of Public Space for Outdoor Dining document.

3. Old Business

a. Food truck communications plan to potential users

Councilor Pierce asked about the status of food truck outreach. Ms. Williams noted that she will maintain communication with relative parties and will get the proposed new changes out to the public as soon as possible. City staff also noted a communications plan, flyer for the 2023 season, a 2022 press release for food trucks, and email regarding social media interactions for 2022 food truck posts.

The committee discussed the distinctions between a food truck and a food cart and how the City can get information about the food truck program to smaller scale food trucks. Ms. Williams noted that she reaches out to vendors with a standard food truck commissary license and can work to send information out to smaller food carts around the region.

4. New Business

No new business was discussed.

5. Adjournment

Councilor Pierce made a motion to adjourn. Councilor Brown seconded the motion. The motion passed unanimously.

Meeting adjourned at 4:43 p.m.

*Respectfully submitted,
Crayton G. Brubaker*