

**City of Keene**  
**New Hampshire**

**FINANCE, ORGANIZATION AND PERSONNEL COMMITTEE**  
**MEETING MINUTES**

**Thursday, May 28, 2015**

**6:30 PM**

**Council Chambers**

**Members Present:**

Mitchell H. Greenwald, Chairman  
Terry M. Clark  
Thomas F. Powers  
Randy L. Filiault  
Kris E. Roberts

**Staff Present:**

City Manager, John MacLean  
City Attorney, Thomas Mullins  
Human Resources Director, Beth Fox  
Airport Director, Ed Mattern  
Public Works Director, Kurt Blomquist  
Fire Chief, Mark Howard  
Assistant Finance Director, Mary Howe  
Parks, Recreation and Cemeteries  
Director, Andrew Bohannon

**Kendall Lane, Mayor**

**Councilors Present:**

Carl B. Jacobs  
David R. Meader  
Sheryl A. Redfern  
Janis O. Manwaring  
James P. Duffy

Chair Greenwald called the meeting to order at 6:30 PM

- 1. MEMORANDUM: Parks, Recreation and Cemeteries Director -  
Acceptance of Donations:**
- **Sumner Knight Chapel**
  - **Swing Set - Robin Hood Park**

Parks, Recreation and Cemeteries Director Andrew Bohannon addressed the Committee first. Mr. Bohannon stated the first donation is for \$140 raised by Kevin Dremel and the Keene Music Fest to be used for the maintenance of the Sumner Knight Chapel. To date, Mr. Dremel has generated \$5,429. In addition to the chapel series, Mr. Dremel has started a new series called Sunday Social with the help of the Heritage Commission, the Keene Music Fest, and the Keene Parks and Recreation Department. This Sunday would be the first of these events. Mr. Bohannon stated that the City can't thank Mr. Dremel enough for his generosity.

Councilor Clark stated that the first Sunday Social is scheduled to take place at 82 Court Street.

Councilor Clark made the following motion which was seconded by Councilor Powers.

On 5-0 vote, the Finance, Organization and Personnel Committee recommends the City Manager be authorized to do all things necessary to accept a donation of \$140 and the money is used for the care and maintenance of Sumner Knight Chapel.

Mr. Bohannon stated as he had mentioned at a prior meeting, the Southeast Keene Neighborhood Group is looking to purchase a swing set for Robin Hood Park. The donation tonight before the Committee is for \$326 and their goal is to raise \$3,200.

Councilor Powers made the following motion which was seconded by Councilor Roberts.

On 5-0 vote, the Finance, Organization and Personnel Committee recommends the City Manager be authorized to do all things necessary to accept a donation of \$326.00 collected by the Southeast Keene Neighborhood Group to purchase a swing set at Robin Hood Park.

**2. COMMUNICATION: Maria Dintino & Martin Monahan – Damages Associated with Basement Flooding**

City Manager, John MacLean was the first speaker on this matter. Mr. MacLean stated he had met with the parties present today and he had recommended they write a letter to the City Council.

Public Works Director, Kurt Blomquist stated on February 17<sup>th</sup> the Department received a call from the Police Department regarding a water main break on Baker Street. Crews arrived at the scene and were able to shut down the break, but a substantial amount of water had been released. The crews started working on the problem and because of the time of the season they used a back hoe and a hydraulic jack hammer. One of the challenges during winter is frost under the street and in this area the frost was around four feet.

The owners of 17 Baker Street later contacted the City about potential damage in their basement because of the water released from the water main break. The information was turned over to the City's insurance company, Primex. The investigation by Primex resulted in the determination that the damage to the basement wall area was related to water pressure and not necessarily vibrations.

Mr. Blomquist explained if this problem had occurred in the spring or summer the water would have risen through the pavement, forcing the pavement up. In this case, because of four feet of frozen ground, the water will hit that and because it can't go through it, it appears that it made its way to the basement foundation area which would have been

warm. The conclusion of the investigator is that this force is what made the water buckle up to the floor area and potentially the foundation wall. Based on this Primex denied the claim.

Councilor Powers asked whether the homeowners had informed the City of the damages that same night. Mr. Blomquist answered in the affirmative. Councilor Clark asked whether the water pressure was caused by the broken main. Mr. Blomquist stated it was. The Councilor clarified that it was not a natural occurrence. Mr. Blomquist stated he did not think this was a natural occurrence based on the photographs and added if it was a natural occurrence you will see a frost heave, but this was a dramatic process. Councilor Clark asked if the damage was caused by rising water due to the break in the city line, why the claim was denied. Mr. Blomquist stated according to liability policies, if the City did something out of neglect then the City can be held responsible for it, but a water main break is something they can't predict; and the City didn't cause the break.

Maria Dintino and Martin Monahan of 17 Baker Street were the next speakers. Ms. Dintino stated many residents in their neighborhood had their basements flooded. Although their homeowner's insurance denied their claim; some of their neighbors were able to have their damaged covered by their insurance. Ms. Dintino stated regardless of what circumstance led to this event, they have structural damage to their home and they are asking for the City's support because this is not something that happened to a lot of people and they are now left with a house that needs a lot of work.

Mr. Monahan stated their house was built in the 20's and it is a slate roof house and slate roof houses are usually well built. For the ten years they have owned this house it has not moved at all until this incident. He indicated the west facing wall has moved and is cracked, the entire house has shifted, and the hallway upstairs has an inch and an eighth drop. The house was a perfectly level, hard wood floor house which now has rolls in it and the foundation seems to have shifted a bit and the chimney has separated.

Chair Greenwald suggested that Ms. Dintino and Mr. Monahan meet with the City Manager and work something out. The Chair stated that he has experience dealing with insurance companies to know their answer is always no at first.

City Attorney Mullins explained the reason Primex denied the claim is because under the terms that apply to municipalities, a municipality will be liable if they had some prior knowledge there was some form of negligence on the part of the City or if the City was responsible for the cause of this event. It is the City's water main so wouldn't the City be responsible for it? Attorney Mullins stated that the law says that unless the City knew there was a problem at this location and failed to take reasonable steps to correct that, it is not the City's liability.

He noted that there is a public policy reason; public funds shouldn't be the last resort unless the public municipality was an actor in connection with the damage that was caused. What Primex said is because of the unprecedented cold that existed during the month of February it caused the pipe to freeze and break and hence the City doesn't have

a legal responsibility, but that does not mean that these individuals can't come before the Council and ask for consideration.

He added on a personal note, it is hard not to look at this situation and feel bad for these homeowners. What the Public Works Director said was the legal answer but the Council has the option to consider something else. Chair Greenwald stated that he feels badly about this situation; these are hardworking taxpayers and the City water main breaks and disrupts their home in a big way.

The Manager stated that if it is the will of the Finance Committee and ultimately the Council, he would like to be authorized to look at the circumstances and determine if there is a recommendation from staff that can be made to the Council and ultimately if that recommendation results in some sort of settlement it can be offered to the Council.

Councilor Filiault stated that he hears what the City Attorney said as well as what the Chairman said; the City might not have a legal responsibility to take care of this issue, but there is a moral responsibility and he felt the Manager should be authorized come to some sort of settlement.

Councilor Roberts recalled the incident with a sewer backup a few years ago and, at that time, the insurance company worked out \$3,500 for the homeowner and felt this could factor into the settlement. Attorney Mullins explained that the \$3,500 is built into the insurance program and it is related to sewer backups and is not available for other damages.

The Manager stated as compelling as one case maybe there could be many that are not and it is hence important for the City to do this correctly and have specific reasons for what it does because the City cannot differentiate from others who might have subsequent claims going forward.

Councilor Filiault made the following motion which was seconded by Councilor Roberts.

On 5-0 vote, the Finance, Organization and Personnel Committee recommends the City Manager be authorized to negotiate a potential resolution with the homeowners and report back to the Finance Committee.

**3. MEMORANDUM: Fire Chief - Joint Use Agreement for the West Keene Fire Station**

Fire Chief Howard stated Station 2 is located at 110 Hastings Avenue and the City has had a good working relationship with the State. He noted that two years ago he was before the Committee regarding a lease that was enacted in 2013, which provided for two consecutive, two year extensions if agreed upon by both parties.

Chief Howard stated he started a discussion with the State so that the City would know if any changes were going to be made to the new lease. He indicated the new lease has been reviewed by staff, to include the City Manager, Facilities Director and the City Attorney. Chief Howard noted the only change being proposed are the term length of the Agreement.

Councilor Filiault stated in past years there has been talk about the Armory moving to a new location and the City acquiring this property. He asked whether that discussion is still continuing. Chief Howard stated staff has been in a discussion with the State and they are aware that the City is interested in taking ownership of this property and staff is still optimistic about this opportunity.

Chair Greenwald felt that \$12,000 per year plus utilities is a great deal for the City.

The City Manager felt this location could be an ideal place for regional training and other such uses in the future for the City, especially if the building is in good shape and it could be acquired at a reasonable price.

Councilor Roberts made the following motion which was seconded by Councilor Powers.

On 5-0 vote, the Finance, Organization and Personnel Committee recommends the City Manager be authorized to execute the amended Joint Use Agreement between the City of Keene and the State of New Hampshire-The Adjutant General's Department for 110 Hastings Ave.

**4. REFERRAL:            Membership - Monadnock Buy Local**

Chair Greenwald stated this item has been forwarded from the PLD Committee to the Finance Committee as it involves an expenditure of money.

Ms. Jen Risley representing the Cities for Climate Protection Committee addressed the Committee and stated Monadnock Buy Local is a network of about 150 locally owned businesses and non-profit organizations geared to strengthen the local economy, encourage businesses to buy local and to have more sustainable business practices.

Chair Greenwald stated what is being asked is if the City wants to spend City funds to participate in this and, if so, at what level, keeping in mind this has not gone through the budget process. Membership in this organization is at many levels and it is more about showing them support.

Councilor Powers felt that general membership fits the City's category. He added there is a sum of money in the planning budget to help expenses related to the Cities for Climate Protection.

Councilor Clark asked whether the Cities for Climate Protection is a member of this group. Ms. Risley answered in the negative and stated there has been a request for the CCP

Committee to join Monadnock Buy Local, but the CCP Committee felt it would be better if the City was the member and not just the Committee.

Councilor Roberts clarified that if other individuals wanted to contribute to the membership to get to a higher level whether the City's action today would limit that from happening. Attorney Mullins stated that once this process goes through the Council and if someone felt the City should be at the Sustaining Membership level and wanted to contribute the difference, that contribution would have to come back before the Finance Committee, because at that point it is an acceptance of a donation. What is happening tonight won't prevent that from happening.

Councilor Clark made the following motion which was seconded by Councilor Powers.

On 5-0 vote, the Finance, Organization and Personnel Committee recommends the City take out a general membership for the amount of \$100 per year.

**5. MEMORANDUM: Airport Director - Request for Land Lease Assignment/Extension - George Trahan**

Airport Director, Ed Mattern stated the airport has many privately owned hangars that the City leases to individuals. One of those hangars is owned by George Trahan who is interested in selling that hangar to Jason Horn. Mr. Horn would like to use the hangar for aviation purposes. Mr. Trahan's lease will expire in one year and because of the short term remaining time on the lease, Mr. Horn is requesting the ability to extend that lease. Mr. Mattern stated the Airport Advisory Committee voted unanimously in favor of the assignment of the lease and the extension of the lease term. Staff is also in support of this request.

Chair Greenwald clarified the new term and lease price is in keeping with the recent appraisal that was done at the airport. Mr. Mattern answered in the affirmative and went on to say that Mr. Trahan's lease was adjusted when he renewed the lease and he is paying the current rate and this rate is subject to the CPI adjustment.

Councilor Powers asked for explanation of this lease term. Mr. Mattern stated generally the lease term would be at the maximum term of ten years, but in the past the City has done five year extensions. Councilor Clark asked whether it wouldn't make more sense to transfer the remaining term of the lease and then start out a new term with Mr. Horn. Mr. Mattern stated this is typically what the City will be doing subject to the assignment.

Councilor Powers made the following motion which was seconded by Councilor Filiault.

On 5-0 vote, the Finance, Organization and Personnel Committee recommends the City Council authorize the assignment of a Land Lease Agreement from George Trahan to Jason Horne and that the City Manager be authorized to negotiate and execute an extension to the term of that agreement.

**6. MEMORANDUM: Public Works Director - Roundhouse T Phase II Project - Construction Phase Engineering Services Agreement - CHA**

Public Works Director, Kurt Blomquist stated this item is for the Roundhouse T Phase Multi-Use project. This project starts at the intersection of Ralston Street and Emerald Street, goes down Emerald Street across the PSNH property to Island Street along the west side of Island Street to the downtown trail section that ends at the North Bridge. This project will connect three existing trails, Cheshire Rail Trail, Ashuelot Rail Trail and the Jonathan Daniels Trail. The City is receiving Transportation Enhancement Funds for this project through the State (80/20 program), the City pays for 20%.

This is the construction administration phase and Clough Harbour and Associates was selected for the work. As with all Transportation Enhancement projects, the DOT reviews and authorizes the project. The DOT has reviewed the contract, including the scope and fee and has authorized the City to move forward. Mr. Blomquist stated the City is comfortable with proposed fee at this time.

Councilor Filiault made the following motion which was seconded by Councilor Powers.

On 5-0 vote, the Finance, Organization and Personnel Committee recommends the City Manager be authorized to do all things necessary to negotiate and execute a technical services contract with CHA for Construction Administration and Engineering services for an amount not to exceed \$53,864 for the Roundhouse T Phase 2" Project (State Project #27790 and Federal Project# X-A003(625)).

**7. MEMORANDUM: City Manager - Emergency Management Director**

Mr. MacLean addressed the Committee and stated when he was first hired the State Statutes read that the Manager would be the person who hired the Emergency Management Director. The Statute has since changed and it now requires the ratification by the City Council. This came to the attention of the City only recently. The Manager has always hired this position and he has always hired Police Chiefs and Fire Chiefs, but now there is the option to hire the Public Works Director for this position.

The Council has the authority and should exercise it. There are two options; the first is the City Manager and/or his designee which replicates the process that has existed in the past. There is value to that in having the Manager involved in the selection process which has worked well but necessarily with the authority of the Council to do so. The Manager's position could be the one this position defaults to.

The other option would be for the Council to go directly to an individual and the Manager's recommendation would be the Public Works Director Kurt Blomquist. Both the Fire Chief and whoever is going to be named the Police Chief are new to their positions, while they do have experience, the Manager would like to have someone who

has been in the Emergency Management Operation Center and has experience in that role. This would give the opportunity for the Fire Chief and the Police Chief to get the necessary experience in this role for the future.

Chair Greenwald clarified that according to the City Charter, the Council hires the City Manager, City Attorney and City Clerk and all other positions are hired by the City Manager. This is an anomaly from the State that the Council can hire the Emergency Management Director, which is option two. The Manager added the Council is the only authorizing entity and the Manager has no authority except for what the Council provides in this regard. He added that even though it seems like the Manager has authority over all other city positions, it is simply not that way, but theoretically they all report to the City Manager in some fashion.

Councilor Roberts stated that he supports option 2 and supports Mr. Blomquist as the Emergency Management Director. He felt that Mr. Blomquist is well qualified for this position and option 2 gives the Manager the option of making a recommendation and 99% of the time the Council is likely to go with the recommendation of the Manager.

Councilor Clark asked whether this position has a term. Mr. MacLean stated that Mr. Blomquist will serve at the pleasure of the Council or until it is such time as the position needs to be replaced.

Councilor Roberts noted that the Manager can always come to the City Council and ask that this person be replaced if the Manager felt this person wasn't fulfilling his duties.

Councilor Filiault made the following motion which was seconded by Councilor Powers.

On 5-0 vote, the Finance, Organization and Personnel Committee recommends the appointment of Kurt D. Blomquist to the position of Emergency Management Director in accordance with RSA 21-P:39, I.

**8. ORDINANCE: 0-2015-05: Partner City Committee**

City Attorney Mullins stated this request came from the Partner City Committee through the Mayor. For most Committees of the City, there is a membership requirement for no more than two consecutive term limits, but because this is a legislative body created by the City Council there is no requirement for term limits and the Council has the authority to exempt the Partner City Committee from the term limits.

The Attorney continued there are other bodies where people with expertise serve without a limitation on their terms such as the Building Board of Appeals. The Partner City Committee has people who have developed relationships with people on the "other side of the pond" and it is good to have those relationships grow.



Attorney Mullins noted that the amended language is referred to in bold, there is also language in the Ordinance to indicate that the City Manager's office provides staff support to this Committee.

Councilor Clark noted that this takes away the possibility of getting any new blood on this committee. Attorney Mullins stated the reason for term limits is to encourage people to come on board, but there is nothing here that says that if someone wanted to join the Committee or if someone wanted to bring an individual on board that they couldn't make that request to the City.

Councilor Clark made the following motion which was seconded by Councilor Powers.

On 5-0 vote, the Finance, Organization and Personnel Committee recommends the adoption of Ordinance 0-2015-05.

**9. RESOLUTION: R-2015-27: Reallocation of Funds 93rd Street & Norway Avenue Infrastructure Project**

Mr. Blomquist stated this project is part of the original Railroad property development. In 2011, the City identified several improvements to help with the redevelopment of the Railroad property. This included reconstruction of Railroad Street, Grove Street, Norway Avenue and 93<sup>rd</sup> Street. The City has completed the first two streets mentioned and is now ready to move forward with Norway Avenue and 93<sup>rd</sup> Street.

Mr. Blomquist stated that a bid of \$755,000 has been received for this work, but the available budget is \$730,000. The Railroad Street reconstruction work is completed and bonds were issued for this work and hence staff would like to reallocate the remaining funds to the Norway Avenue and 93<sup>rd</sup> Street. Because these are bond funds they need to be approved through a Resolution. There is \$30,000 left from the bonds that were originally issued.

He added that construction will begin late in June and will be completed by late September. Park Construction will be performing this work. Councilor Clark asked whether this is an extra \$30,000 or is this money that has been budgeted in the CIP. Mr. Blomquist stated that it is not extra money, but when funds were budgeted for in 2011 for all this work, money was allocated for each portion of the project. Railroad Street was funded through a bond, but the project was completed under budget. To be able to move those funds to cover 93<sup>rd</sup> Street a Resolution needs to be adopted. However, if cash was appropriated for this work, funds could have been allocated with a vote of the City Council through a Committee report.

Councilor Powers asked Mr. Blomquist to explain how Park Construction was awarded this contract. Mr. Blomquist explained that they were the lowest bidder, paperwork has been submitted by Park Construction, but the City has not yet sent them the Notice of Award because there is only \$730,000 available in the budget and their budget is \$754,000. Funds need to be transferred to this particular project so that there will be more funds than the

contract and the award notice can then be sent out. Councilor Powers asked whether the Council approves the contract. Mr. Blomquist stated that by adjusting the budget they are still within budget so Council approval is not necessary.

The Manager added that if the funds are in the budget the Council has technically approved the amount of money and staff moves forward with the project. If the money is not in the budget it will then come before the Council for approval. In 2011 this entire project was approved as a program, three projects were lumped in together.

Councilor Powers made the following motion which was seconded by Councilor Roberts.

On 5-0 vote, the Finance, Organization and Personnel Committee recommends the adoption of Resolution R-2015-27.

**10. RESOLUTION: R-2015-28: Appropriation of Funds - Municipal Complex Water Main**

Mr. Blomquist stated that this is for the Municipal Complex on Marlboro Street which includes the Fleet Services building, Public Works administration vehicle storage area, Police Department and the future home of Keene Ice. Currently there is an eight inch water main that goes under the site and connects to the pipe under the PC Connection parking lot. This water main provides service water and fire protection for this facility. This building is over 180,000 square feet so the requirement for protection is on the higher side.

This main has failed under the PC Connection site but this one of the sites that has porous concrete and it would be a challenge to dig through it. The City Engineer has managed to re-route the main. The work is out to bid and bids are expected back by June 11 and staff expects to spend no more than what is listed in the Resolution.

Chair Greenwald referred to an error in the Resolution, to read as "...purpose of looping a water main at Marlboro Street Municipal Complex".

Councilor Filiault made the following motion which was seconded by Councilor Roberts.

On 5-0 vote, the Finance, Organization and Personnel Committee recommends the adoption of Resolution R-2015-28.

The meeting adjourned at 7:35 PM.

Respectfully submitted by,  
Krishni Pahl, Minute Taker