

City of Keene
New Hampshire

FINANCE, ORGANIZATION AND PERSONNEL COMMITTEE
MEETING MINUTES

Thursday, June 23, 2016

6:30 PM

Council Chambers

Members Present:

Mitchell H. Greenwald, Chair
Carl B. Jacobs, Vice-Chair
Terry M. Clark
Jay V. Kahn

Members Not Present:

Thomas F. Powers

Staff Present:

City Manager, Medard Kopczynski
City Attorney, Thomas Mullins
City Clerk, Patty Little
Assistant City Manager/IT Director,
Rebecca Landry
Public Works Director, Kurt Blomquist
Finance Director, Steve Thornton

Councilors Present:

Bettina Chadbourne
George Hansel
Robert O'Connor

Kendall W. Lane, Mayor

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

1) COMMUNICATION: Councilor Hansel – Proposed Amendment to City Charter – Council Compensation

Councilor Hansel read the following into the record:

Thank you Mr. Chairman, members of the committee. I'm here tonight to propose a reasonable amendment to the Keene City Charter that will allow future Councils to have a meaningful and honest dialog about council compensation by removing the albatross of perceived self-interest for the majority of councilors during the next debate, whenever that may be. Additionally, this action will bring Keene more in line with the current practices of a majority of NH cities, and many other legislative bodies all the way up to the United States Congress.

I wish to impress upon you at the outset that this change will have no effect on the most recent pay increase that was voted on several weeks ago.

This would be an amendment to the Keene City Charter. RSA 49B:5 requires that once the Council determines to move ahead with the Charter amendment, it is submitted to the NH Secretary of State, The Attorney General, and the commissioner of the Department of Revenue Administration for their approval. Once approved, the city would have 7 days to

provide notice for a public hearing. This process must take place at least 60 days before the election in which the measure would be on the ballot. Following the adequate completion of the aforementioned steps, the amendment would be placed on the 2017 municipal ballot. It's my understanding that the State reviews these proposed amendments to ensure the language is clear, legal, limited to a single subject, and the measure would not adversely affect State revenues.

Seeing as the State will not allow for a Charter amendment to be voted on during a presidential election year, I request that the committee consider a motion to instruct staff to begin the official Charter amendment process in May of 2017 (after the November 2016 election) as to allow the amendment to be added to the November 2017 municipal ballot.

As you can see from my initial memo, I am proposing to add language to Section 24 of the Keene City Charter which deals with Council compensation. After consulting with the City Attorney, the following language is recommended: "Any increase or decrease in City Council compensation shall not become effective until the first secular day of January following the next regular municipal election."

I've also provided a supplemental memo that you should all have in front of you. There are a total of 13 cities in New Hampshire. Of the thirteen, the majority (seven) have restrictions on the implementation of pay raises for elected officials. This document outlines the approaches that each seven city uses, as they vary slightly.

I would draw the committee's attention to two of the examples. The City of Concord, similar to Keene, has councilor's with both 2-year and 4-year terms. While the language in the Concord Charter does not specifically say that a change in Council pay "only be applied after the next election", their Charter sets up an biannual review of the compensation ordinance and specifies that any changes only go into effect on January 1st of even numbered years. While the language here is different (opting to establish a set schedule) the result is the same as the language I'm proposing for Keene.

The second example I would draw the committee's attention to is the City of Rochester NH's Charter language. This was the model I looked at when crafting this proposed amendment for Keene. The language I'm proposing is very similar to Rochester's, but matches the existing terms established in our Charter to the same effect.

So, this line of thinking...that it is best to remove, as much as possible, the opportunity for elected officials to vote themselves a pay increase, without the courtesy of an election before the change is put in place...is not a new idea. In fact, this concept is a common practice among municipal bodies, but also on the federal level. The 27th Amendment to the US Constitution prohibits any law that increases or decreases the salary for members of Congress from taking effect until the start of the next set of terms of office. Now, members of Congress are eligible to receive the same annual cost of living increase given to other federal employees, if any. The COLA raise takes effect automatically on January 1 of each year unless Congress, through passage of a joint resolution, votes to decline it.

It's important to note that Congress has voted to decline the COLA since 2009. The 27th amendment still applies if there were to be any significant changes to congressional pay.

Why a Charter amendment? There are other roads we could go down. We could craft a Council policy resolution to deal with the implementation of raises. I believe we could also craft an ordinance to that same effect (potentially adding language to Article II, Division 2).

In the case of a Council policy resolution, this is basically a guideline and is suspendable. This works against the intent of the change, which is to permanently modify the Council's ability to vote for and immediately benefit from a pay adjustment. It really wouldn't have any teeth. An ordinance may also be an option, but most ordinances deal with things like maintaining public safety, health, and general welfare. Noise ordinances, Zoning ordinances, etc.

In my opinion, the nature of my recommendation would fit best in the City Charter. The precedent from around State and throughout New England also clearly supports putting this type of guidance in a Charter document. I could not find any examples of ordinances in other communities that placed this type of restriction on Council pay. It always seems to fall in the Charter.

One of the primary functions of a City Charter is to dictate how much power elected officials have to regulate actions within the city. This proposed amendment represents a restriction on the Council's ability to impose an immediate pay adjustment. That falls directly in the purview and purpose of the Charter document. I prefer the committee consider the Charter route for this legislation as a first option.

I bring this amendment forward because I believe that the timing is right to improve the process for future councils. While none of us are likely to face another council salary debate in our tenure, this amendment will allow for an honest and rational debate of this important issue in the future. More than two-thirds of councilors will be freed from the appearance of self-interest.

In this way, we can hope that future councils will be able to make a justifiable and reasonable decision, and the process for addressing this inherently awkward issue will be improved.

I thank the committee for their time and urge them to craft a motion for staff to move forward with the Charter amendment process in May 2017.

Councilor Clark questioned the reason Councilor Hansel was bringing this forward and asked if the Councilor felt the process in place was not honest. Councilor Hansel stated the process could be set up in a way where it could avoid the process being perceived as dishonest and self-motivating. Councilor Clark noted the process the Committee went through was in the City Charter and was recommended by staff. He felt when the Council makes constitutional amendments and Charter amendments they are not done lightly and he did not see a reason and the need for use of staff time to undertake this task. The Councilor went on to say he did not understand why there was so much contention over

this item and he almost took offense to the implication that the Council taking any type of stipend was somehow dishonest. He stated City Councilors work very hard for their constituents and he felt if the constituents did not like the stipend they could say so at the ballot box.

Councilor Jacobs stated he understood Councilor Hansel's intention and he did not feel it was a question of honesty, but more about appearances. He stated he did not see the great urgency to this, but was also not opposed to it.

Councilor Kahn stated he finds himself in closer alignment with Councilor Hansel on this item. He referenced the fact that he had made the motion during the budget adoption to remove the increase. The Councilor stated Councilor Hansel is coming forward with good intent to try and deal with public perception regarding compensation. He stated he disagrees that this matter would not come back next year as it was in the City Manager's proposal for a step progression to get to a goal. This year's vote was a step towards something and that is something the Council should consider. Councilor Kahn noted he wonders if this is the right Charter change and perhaps the Council should consider the overall cost of City government and how does 15 Councilors relate to a population of 25,000.

The Councilor continued he finds himself going in a direction where he would like to talk to the Attorney General's office and Secretary of State about Charter changes and the wording for one change or several changes. He added voters haven't seen Charter Changes often and hence he felt it should be done cautiously. The Councilor stated he was looking for a well-considered process and a timeline.

Mayor Lane stated there were a couple of issues that need to be looked at here. The first issue is whether there is a problem that needs to be addressed when the last increase in compensation was 17 years ago. He stated he hoped the Council did not start using the City Charter to address issues that are contentious in nature. He cautioned the Committee about making changes to the Charter without giving more thought to it.

The Mayor stated he was also concerned about this proposal as he felt the Council was moving the responsibility on to someone else and thereby avoiding responsibility for the actions the Council takes. He noted the Council votes on salary changes every year and the public body that made the decision should take the responsibility for that decision. The Mayor offered a word of caution to look at this carefully as the results might not be what is intended.

In response, Councilor Hansel stated he sees a problem with the method in which compensation was addressed. The solution as far as he was concerned was to place the item in the City Charter – he noted there was a reason seven of 13 cities has similar language in their Charters. He did not feel this was passing the responsibility on, but rather it was just the opposite; it allows the Council to have a proper debate on what the compensation should be without any perceived self-interest.

Chair Greenwald felt the Council needed to take responsibility for what it does. He stated any time during the budget process someone could have suggested this item be moved to next year. The Chair stated anytime the Council discusses its compensation it is uncomfortable and there was a solid reason why this compensation increase was put in place. He went on to say he could assure citizens that this Council or the Mayor would not see a pay increase anytime again in their tenure. He stated if the matter gets pushed off then it becomes an election issue. He added as was stated by the Mayor and Councilor Clark, he takes Charter amendments very seriously.

Councilor Hansel stated he did not feel the Charter was such a sacred entity. He questioned what the fear of taking this issue to the voters was.

Darryl Masterson, 44 Willow Street, agreed public perception is an important aspect for the Council. He stated the Mayor had a different perspective that he hadn't considered. He asked whether there was a possibility of furthering this conversation.

Councilor Jacobs stated he was impressed with the Mayor's argument especially with the point about moving the responsibility on to the next Council. He stated there will always be perceptions and including this in the Charter was not going to change that. He felt the Council was trying to solve a problem which was not a problem, but a fact of life. The Councilor stated he would not be voting in favor of this proposal.

Councilor Chadbourne stated the remarks from the Mayor and Chair resonated with her. She added it was the difference between being a seasoned Councilor and a brand new Councilor where you want to make substantial changes and have good intentions. The Councilor stated as a citizen when she had to vote on Charter amendments she always found them to be confusing. She indicated she was not saying the Charter should not be discussed, but questioned whether this was the time to be doing that.

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

That the Finance, Organization and Personnel Committee recommend accepting the proposed amendment to the City Charter as informational.

Chair Greenwald asked for the City Attorney's opinion on the motion. The Attorney stated the motion was acceptable.

Councilor Kahn stated he wanted to understand the nature of "informational" in this regard. He continued what was the opportunity to respond to what Councilor Chadbourne just stated; new Councilors do have fresh ideas and admits he was open to those kinds of things as a new Councilor. He also stated he values the training he received as a new Councilor six months ago, but some of the things he reviewed six months ago as an entering Councilor would be looked at differently today. He questioned whether there would be an opportunity to re-open the discussion on not only the Charter, but other documents that were shared during the orientation process.

Chair Greenwald felt the Council will be having a Goal Setting Workshop in the near future and perhaps this was an item which could be discussed at that time. As far as the motion was concerned, he stated he had mixed feelings as to whether the proposed motion should not be a motion the Committee could take a stand on.

Councilor Clark withdrew his motion and Councilor Jacobs withdrew his second.

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

On a vote of 0 - 4, the Finance, Organization and Personnel Committee failed to recommend moving forward on the proposed City Charter amendment relative to City Councilor's compensation as proposed by Councilor Hansel.

2) COMMUNICATION: Councilor Kahn – Encouraging a Discussion Regarding Level of Service – Television, Internet and Voice – Charter Communications (Spectrum Cable) TV Provider

Councilor Jacobs stated he was concerned about any discussion on an item where a party was not present. He stated his understanding before the start of the meeting was that Charter Communications had not been notified. Asst. City Manager/IT Director Rebecca Landry stated it was her understanding they were not going to be invited tonight. She stated the item can be discussed and the issue could be brought back at a later time. Chair Greenwald felt the Councilor could talk about his letter and then refer questions to staff for clarification for a later time.

Councilor Kahn explained this item was in reference to the change of ownership for Time Warner Cable Services bought by Charter Communications delivering services under the name of Spectrum Cable. Councilor Kahn stated customers of Time Warner had been notified of this change. Time Warner's website indicated more of a notice to customers as to who would be sending them their next bill, but the website also noted Charter Communications was developing a business plan, which would be unveiled in the future. Councilor Kahn stated he would like the City to be more involved before their business plan gets fully developed and provide some advice to Charter Communications as to the Council's perspective and the citizen's perspective. He stated he would like this company to be asked to come before the Finance Committee and/or the Council to make a presentation.

Councilor Kahn stated if such a request can happen with a motion for this item to be put on a future agenda, he would be willing to make that as a motion. Ms. Landry stated she had communicated with the Vice-President of Government Affairs, Melinda Poore as well as others in the company who she felt would be happy to come before the Council. She stated this fell outside of the Franchise Agreement as they are now talking about voice and internet. Staff could also prepare the representatives as to the questions the Council would like answered.

City Manager, Med Kopczynski stated staff was “up to their brim with work” and what he would like each Committee which assigns a task to be clear with its direction to staff and a timeframe put in place so it can be balanced within staff schedules.

Councilor Clark stated times like this is was when he wished the City had not disbanded the Cable Television Commission. He stated the Cable Television Commission’s responsibilities since it was disbanded were sent to the Planning, Licenses and Development Committee, but he questioned whether those responsibilities now lie with the Finance Committee. The Councilor stated the Commission used to meet monthly to discuss issues such as this and clarified now that the Commission was disbanded, whether issues were discussed whenever they came up. Ms. Landry stated the Commission was charged with managing the Franchise Agreement, however, this issue falls outside the purview of the Franchise Agreement and items are brought to the Council as necessary.

Councilor Kahn stated what he had heard citizens’ say that they pay a high tariff for the services they receive. The second issue was since broadband access and speed have been brought to the attention of the City, there has been heightened interest in addressing these issues. He felt the City owed it to the franchise holder to come forward and provide the City their vision. Ms. Landry noted this was the type of discussion staff has been having on an ongoing basis.

Councilor Clark stated in the past Time Warner had been reticent to discuss things like broadband and asked how the City was going to bring them to the table for this type of discussion. He added the City had dealt with Time Warner Cable in the past and many attempts never came to fruition and he hoped it works this time with the new company. Ms. Landry stated recent experiences had shown that it is in Charter Communication’s best interest to do so because they have more and more competitors than they have had in the past.

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

On a vote of 4 – 0, the Finance, Organization and Personnel Committee recommend staff work with Charter Communications to prepare a presentation to occur at a FOP meeting prior to September 30, 2016.

3) REPORT: Removal of Granite Curbing – West Side of Central Square

Chair Greenwald stated this item was discussed at length at the MSFI Committee and it was voted at the Council level to refer the issue to the Finance Committee for funding. He stressed this discussion was about money and whether it is in the public’s interest to fund this modification for the sidewalk area in the front of Pedraza’s Restaurant, Ingenuity Country Store and Pour House.

Ms. Dorrie Faulkner Masten owner of Pedraza's, Pour House, and the Ingenuity Country Store addressed the Committee and stated she wanted to clarify some things she had read in the newspaper as well as heard in the community. It is being implied that this modification will only benefit her personally. She noted she wanted it to be clear there was a backup tenant for the restaurant space who will pay the same amount of rent to her for this space. Ms. Faulkner Masten stated these improvements will benefit the City and the community by bringing jobs to the area and she felt the restaurant would be a great addition to the downtown. She encouraged the Committee to spend this money and felt this was an important project for the City.

Chair Greenwald asked the Manager for the estimate for this project. Mr. Kopczynski stated the City Engineer had looked at this area and to remove some curbing, take out some planter beds and fill in the planter bed with concrete paving came to an approximate estimate of \$15,000 - \$16,000. The engineer had also consulted with a local contractor, Frank Lucius. The Public Works Director confirmed the estimate was \$16,600 which did not include staff time. Mr. Blomquist went on to say at the present time the City Engineer's time was in the general fund and he did the work on straight time. Chair Greenwald noted if the City Engineer was doing this work something else would be sacrificed and asked what he was looking for was the cost for staff time. Mr. Blomquist stated he unfortunately did not have that number. He stated an amount not to exceed \$20,000 would cover most of the cost for this project.

Councilor Clark asked whether \$20,000 would be for most of it or for all of it. Mr. Blomquist stated what still needed to be completed are specifications, which would be done through a contract, there was also inspection time. He felt \$4,000 would be in the range for this work. Since this was not a capital project it will be covered by base pay. Councilor Clark indicated to Mr. Blomquist when staff was directed to work with the petitioner, the MSFI Committee had asked staff about discussing with the petitioner the possibility of participating in this project and asked what happened with that discussion. Mr. Blomquist stated the petitioner at this time had indicated she would not be participating in the cost of construction but had agreed to contribute funds towards maintenance.

Mr. Kopczynski stated what the Public Works Director seemed to indicate was that most of the work for this project had been completed, but there was still specification and inspections work which needs to be completed, which the Manager did not feel was too complicated.

The Chair asked where the money would come from for this project. Mr. Kopczynski stated he would need to talk to the Public Works Director to see if there were any lapsed projects. He noted the budget which was passed was tight and added the \$22,000 cut in the budget was distributed among various departments.

Ms. Faulkner Masten stated she will not participating in the costs for this project because this is not a project which will benefit her; however, she is willing to contribute \$1,000 a year for maintenance of that part on Central Square. Chair Greenwald asked the

individuals who handle Spirit of Place contact Ms. Faulkner Masten about this maintenance.

Councilor Kahn asked whether there had been other requests for modification on Main Street. Mr. Blomquist stated in his 22 years the only modification he recalls was next to Piazza Ice Cream where a request was made to install brick in the grass area, the petitioner paid for that. On Railroad Square, Scores did some additional work outside their restaurant and they paid for it. Handicap ramps were located near the Chamber of Commerce and EF Lane Hotel, and again the petitioners paid for this work.

Councilor Jacobs noted the agenda this evening also had an item dealing with crosswalk improvements on West Street, which was a shared cost between the City and the petitioner.. Councilor Jacobs asked if precedent has already been set with the crosswalk improvements. Mr. Blomquist stated there is more history with this; NGM Insurance came to the City and requested this work to be done. The Council agreed to add some signage; however, after a year NGM came back and stated the signage had not rectified the problem at 55 West Street.

The City Council reconsidered this request and even though most of the improvement would benefit NGM employees the Council also felt this crosswalk would be used by the general public and hence a shared cost was suggested.

Councilor Jacobs made the following motion:

That the Finance, Organization and Personnel Committee recommend the City provides 50% of funding not to exceed \$20,000 to facilitate the sidewalk planting modification as requested by Dorrie Faulkner Masten. The motion died for lack of second.

Councilor Jacobs made the following which was seconded by Councilor Kahn.

That the Finance, Organization and Personnel Committee recommends providing funding up to \$20,000 to facilitate the sidewalk planting modification as requested by Dorrie Faulkner Masten.

Chair Greenwald asked if the City Attorney wished to make any comments on this item. Attorney Mullins stated he had already commented on the underlying issues and the City Council by its motion to send it on to the Finance Committee implicitly found there was a public benefit to this project.

Councilor Chadbourne asked whether the question as to where the money came from was answered and noted there was a motion being made without addressing that issue and asked whether this was left to the discretion of the City Manager.

The City Manager stated the Finance Committee could direct as to where the money should come from or the Manager could be directed to work with the Public Works Director to find the money. It was decided this language will not be part of the motion as

it was just implied the Manager could work with the Public Works Director to find the money.

Councilor Kahn stated even though he seconded the motion he will be voting against this motion. He further stated there were a number of downtown planning issues which need to be considered and he would hate to set precedent without proper guidelines as to what the changes were for the downtown which would be identified through the planning process.

Darryl Masterson, of 44 Willow Street, clarified this project would not change the City budget. The Chair agreed it will come out of a department's budget or surplus funds will be used.

On a vote of 0 – 4, the Finance, Organization and Personnel Committee failed to recommend providing funding up to \$20,000 to facilitate the sidewalk planting modification.

4) DISCUSSION: UPDATE OF MORE TIME ITEMS

- **Donation of Land – Off Pearl Street**
- **Relinquishment of Easement to Parking Spaces on Railroad Property on Behalf of Monadnock Food Co-op**

Donation of Land - Mr. Blomquist stated staff had met with the property owner and was recommending the City not accept this donation of land. He stated the City had more protection if the property was taken by tax deed rather than a donation where there could be liability issues. The other complicated issue was that this property was in an estate. The property owner was going back to talk to abutters to see if there was any interest in this property.

The Manager explained if the Committee wanted to take this item off more time there would need to be a vote to not accept the donation. It was decided the item will be left on more time until the City had a response from the property owner as to the status of the property.

Relinquishment of Easement to Parking Spaces on Railroad Property on Behalf of Monadnock Food Co-op – Mr. Blomquist stated the Co-op was asked to look at parking demands on their property which they have done. Staff has not had the opportunity to sit down with the Co-op and go over the study and will come back with a report of that meeting.

Councilor Clark asked what the value of those easements was to the City of Keene. Mr. Blomquist stated this was a determination the City Assessor would need to make.

The Chair asked when staff would be able to resolve these two items. Mr. Blomquist stated for the next Finance meeting staff should be able to give the Committee an update

on Pearl Street and an update regarding the Co-op should be ready before the Committee goes on break.

Mr. Kopczynski added with reference to the study there probably needs to be a conversation between the owners of the Condominium Association which had parking on that site. He felt the best option would not be for this parking to come out of City spaces. As far as Mr. Kapiloff's property, the City had no use for the property and no city departments had expressed any interest in this property.

Councilor Kahn made the following motion which was seconded by Councilor Jacobs.

On 4-0 vote, the Finance, Organization and Personnel Committee recommend accepting this report as informational.

**5) RESOLUTION: R-2016-22: Appropriation for the Flashing
Crosswalk System on West Street**

Mr. Blomquist stated he had mistakenly submitted this resolution as he had forgotten that the Council had taken a position on the funding for the flashing crosswalk system in September of 2015. The Director continued that the Council had voted that staff be directed to identifying a funding source for the current operating budget and that the funds not be taken out of fund balance. He is currently looking to identifying the cost centers. Resolution R-2016-22 was not necessary and could be defeated.

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

On a vote of 0 – 4, the Finance, Organization and Personnel Committee failed to recommend adoption of Resolution R-2016-22.

The meeting adjourned 7:55 pm.

Respectfully submitted by,
Krishni Pahl, Minute Taker