

City of Keene
New Hampshire

CITY COUNCIL FEES AND CHARGES WORKSHOP
MEETING MINUTES

Tuesday, September 20, 2016

6:30 PM

Council Chambers

Members Present:

David Richards
Philip Jones
Stephen Hooper
Gary Lamoureux
Carl Jacobs
Jan Manwaring
Robert O'Connor
Terry Clark
Robert Sutherland
Mitchell Greenwald
George Hansel

Staff Present:

Medard Kopczynski, City Manager
Elizabeth Fox, ACM/Human Resources
Director
Rebecca Landry, ACM/IT Director
Merri Howe, Assistant Finance Director

Members Not Present:

Thomas Powers
Randy Filiault
Bettina Chadbourne
Jay Kahn

Kendall W. Lane, Mayor

At 6:30 PM, the City Manager welcomed City Council members to the Fees and Charges Workshop. The City Manager explained that this workshop is an opportunity- to review the recently passed Fiscal Policies Resolution so that the City Council and the staff share in their understanding of City goals and they have a coordinated philosophy.

The Manager continued the City of Keene charges for a number of services ranging from permits, to leases, to water and sewer usage. The largest percentage of “fees and charges” is those outside of the policy as they are part of the enterprise funds. Fees and charges that are related to these enterprise funds have an in-depth annual review. A small minority of fees, that is those related to General Fund’s services, would be the subject of this workshop. The City Manager presented a chart which showed that fees, charges, permits, and fines are a very small part of the income stream for the City. These fees, charges, and permits are those that can affect the amount of property taxes that need to be collected. In other words, if the fees go up the service is less dependent on taxes, if fees are reduced then the shortfall would be made up with a property tax increase.

The City Manager continued by showing a chart related to revenues that are not part of these funds such as solid waste, water, and sewer, etc. Each of these enterprise funds is reviewed yearly as part of the budget and, if needed, the funds are adjusted so that the charges support the fund. These funds are not dependent on nor do they affect the tax rate.

The fiscal policy resolution was adopted on August 4, 2016 and the part of the policy to be reviewed at this workshop is Section G which talks about fees and charges. Section G states that “Fees and charges shall be reviewed in accordance with a schedule developed by the City Manager that has each fee reviewed biannually. Recommended changes will be reviewed and approved by the City Council.” The policy is modeled on the Government Finance Officers Association.

The City Manager continued by explaining fees and charges that would not be discussed as a part of this workshop include: special revenue, enterprise, or internal service funds such as parking, water, sewer, and transfer stations charges. Also not covered are revenue sources created by the State legislature, such as fees for dog licenses.

The City Manager continued by presenting a chart which showed the percentage of General Fund Revenues that are derived from sources other than taxes. When these charges do not cover the cost, the funding of the service comes from the general tax-payer. Revenues not included in department charges include: taxes (property, land-use change, dog licenses), intergovernmental (rooms and meals tax, Keene State College), state (aeronautical, flood control), ambulance detail charges, gross revenue percentage, fueling fees, court fines, trusts/grants, and use of surplus administrative charges.

98% of the General Fund revenue is made up by property taxes while 2% of revenue comes from department charges. The City Manager presented a chart which showed the revenues of each City department. The largest part of the 2% revenue comes from fees and permits, predominantly in code enforcement, fire, and health. There is not a lot of revenue generated by the other City departments.

Councilor Sutherland asked if the agreement with Keene State College (KSC) is a tax or fee. The City Manager replied that is an agreement between the City and KSC. The Human Resources Director added that the agreement with KSC is accounted for in intergovernmental revenues which were not documented in the respective chart. Councilor Sutherland continued by asking if there are other entities the City has similar agreements with and how those are accounted for. The City Manager replied that some of those entities are subject to Payments in Lieu of Taxes which they usually voluntarily agree to. The majority of non-profits do not pay taxes because of their 501-C3 status.

Councilor Clark asked if they would discuss those fees paid by non-residents of Keene. The City Manager replied he did not break things down to that depth; as he was hoping for more of a philosophical direction from the Council so when the fees schedule is brought forward, the Council is familiar with fees. Although the majority of fees do not discern between residents and non-residents; fees from the library or parks services do make that distinction. Councilor Clark continued that he was thinking about the number of services Keene provides

for non-residents. He stated that he would like to better understand the fees paid by residents and non-residents because he thinks that services like water and sewer used by non-residents should be paid by non-residents and not Keene taxpayers. The City Manager clarified that sewer and water fees are part of the enterprise funds and are not the subject of the workshop. Councilor Clark stated he does not think any fee should be excluded and whenever possible to staff, there should be a difference in charges for residents versus non-residents.

The City Manager reminded the Council of the policy which states: “Certain services provided by the City of Keene will be assigned a fee or charge for the users of the service, dependent upon how the community benefits from the provision of those services. 1) In the event that the benefit is community-wide, there will be no user fee or charge assessed. 2) In the event that the service benefits a finite and definable sector of the community, then that group will be assessed a fee or charge for provision of the service.” For example, the fee currently charged for a Zoning Variance application is \$25 plus reimbursement for the advertisement. That \$25 is not close to equivalent to the staff effort involved in those services. Additionally, some charges for services inequitably place hardships on lower income citizens and could be considered discriminatory. The City Manager said that some of this discussion will relate to the level of return the Council wants to see when a service is charged for and how much the City should get back for that service.

The Policy states that, “Cost recovery goals should be based on the total cost of delivering the service, including direct costs, departmental administration costs, and organization-wide support costs (e.g. accounting, human resources, data processing, insurance, vehicle maintenance, etc.)” The City Manager said cost recovery is the second prong of the recovery section and is related to how much of the fee should be recovered. This is the portion of the policy that staff would like to discuss and receive guidance from the City Council. Most of the present fees have not had a recent review of the fees compared to the service cost. A complete review can be time consuming and likely would not add greatly to the income stream. In fact, in some cases the effort to determine the cost could exceed the benefit. However, it is clear that categories such as permit fees, development fees, and fees when the only beneficiary would be the applicant, should be reviewed and adjusted. He asked if the City Council understands what is meant by the total cost to deliver a service. He said when we examine a service we can look at the service discretely for the cost; that is, take apart each element of the service, price it based on staff effort and attendant costs to arrive at a unit cost and then charge per unit, or we can look at the “cost” in terms of the overall goal of funding the “fund.” While unit costs may be more accurate, they can also cause aberrations where the “cost” can exceed the value of the service in the minds of those served. While a costing for the “fund” may smooth out the cost so that relative to supporting the fund the extremes are less.

The City Manager continued discussing factors to consider when setting user fees and cost recovery levels:

- **Community-Wide Versus Special Benefit** – the level of user fee cost recovery should consider the *community-wide* versus *special service* nature of the program or activity. The use of general-purpose revenues is appropriate for community-wide

services, while user fees are appropriate for services that are of special benefit to easily identified individuals or groups.

- **Service Recipient Versus Service Driver** – After considering community-wide versus special benefit of the service, the concept of *service recipient* versus *service driver* should also be considered. For example, it could be argued that the applicant is not the beneficiary of the City's development review efforts: the community is the primary beneficiary. However, the applicant is the *driver* of development review costs, and as such, cost recovery from the applicant is appropriate.
- **Effect of Pricing on the Demand for Services** – The level of cost recovery and related pricing of services can significantly affect the demand and subsequent level of services provided. At full cost recovery, this has the specific advantage of ensuring that the City is providing services for which there is genuinely a market that is not overly-stimulated by artificially low prices. Conversely, high levels of cost recovery will negatively impact the delivery of services to lower income groups. This negative feature is especially pronounced, and works against public policy, if the services are specifically targeted to low income groups.
- **Feasibility of Collection and Recovery** – Although it may be determined that a high level of cost recovery may be appropriate for specific services, it may be impractical or too costly to establish a system to identify and charge the user. Accordingly, the feasibility of assessing and collecting charges should also be considered in developing user fees, especially if significant program costs are intended to be financed from that source. One example is penalties. Many fees have penalties but trying to collect those penalties could cost more than gained from collecting the penalty. You do not want to build a budget based on penalties.

The City Manager continued explaining when fees and charges can be set lower than the full cost recovery when:

- A high level of cost recovery will negatively impact the delivery of service to low-income groups.
- Collecting the fees and charges is not cost effective or will significantly impact the efficient delivery of the service.
- There is no intended relationship between the amount paid and the benefit received. Almost all “social service” programs fall in this category as it is expected that one group will subsidize another.
- There is no intent to limit the use of the service (e.g. access to parks and playgrounds). Again, most “social service” programs fit into this category as well as many public safety (police and fire) and emergency response services.
- Collecting the fee would discourage compliance with regulatory requirements and adherence to said requirements is self-identified, and as such, failure to comply would not be readily detected by the City of Keene. This includes many small scale licenses and permits.

The City Manager said there are two examples of how a fee could or should be modified that fits this criteria. One would be permits for minor projects. There are no criteria for this today, but it is clear that many permits are not obtained due to the hassle of obtaining one,

and the cost. Minor permits should be easily obtained and the added public safety would be a benefit. The fee for minor permits does not cover the cost and therefore would be in conformance with the fourth bullet above; however more work will need to be done with minor permits across the board to see if they need adjustment. Another could be applications for the ZBA. While clearly the beneficiary is the applicant, some actions of the board are in the general public interest. Fees should be set so that they do not discourage the exercise of this right. Another example would be the fees charged for Parks where the fee might not cover the cost, but it does provide for funding of programs with a general benefit for the public.

The City Manager continued by explaining that the Policy states that fees and charges will be set at, or above, full cost when:

- The service is also provided, or could be provided, by the private sector.
- The use of the service is discouraged (e.g. fire or police responses to false alarms).
- The service is regulator in nature and voluntary compliance is not expected (e.g. building permits, plans review, subdivisions).

The City Manager stated that he is trying to be clear that fees are not simple and just raising fees is not always the answer. Fees must be assessed in their totality based on what they are used for and what the City wants to get back from them. Councilor Sutherland asked in what circumstances the City would be providing services widely available in the private sector. The City Manager replied that he does not know of any services the City provides that are specifically duplicated by the private sector. The exception is the outsourcing of plans review for commercial projects.

Councilor Hansel asked if site plan review fees are allowed to be on a tiered system by square footage. The City Manager replied that the only requirement for pricing planning services is what is currently in the ordinance. Councilor Hansel said that then projects of a certain square footage could be assigned a specific fee. The City Manager replied that there might not be a clear one-to-one relationship there, but it is the good start of a conversation. He said the first step would be if the City Council wants to see 100% recovery for planning services it could be tiered based on approximation of effort; he said that would be helpful to Staff.

The City Manager continued on the topic of penalties. He said a penalty should be collectable, and should provide an incentive for someone to not take an action. Additionally, the City Council should have a clear idea of the steps required to assess a penalty and the likely hood that it can actually be collected. However, in charging high cost recovery levels, the City needs to clearly establish and articulate standards for its performance in reviewing developer applications to ensure that there is “value for cost.” In fact, some permit fees should not be assessed in order to encourage the use of City resources to assist in general goals related to safety.

The City Manager continued by explaining that the use of service charges as a major source of funding service levels is especially appropriate under the following circumstances:

- The service is similar to services provided through the private sector.
- Other private or public sector alternatives could or do exist for the delivery of the service.
- For equity or demand management purposes, it is intended that there be a direct relationship between the amount paid and the level and cost of the service received.
- The use of the service is specifically discouraged. Police responses to disturbances or false alarms might fall into this category.
- The service is regulatory in nature and voluntary compliance is not expected to be the primary method of detecting failure to meet regulatory requirements. Building permit, plan checks and subdivision review fees for large projects would fall into this category.

Moving forward, the City Manager said the Council should observe the following Policy guidelines for future review:

- The method of assessing and collecting fees should be made as simple as possible in order to reduce the administrative and support costs of collection.
- The City will periodically utilize the services of a collection agency when all other reasonable efforts to collect fees and fines have been exhausted; fees for such services to be paid from amounts collected.
- Rate structures should be sensitive to the market price for comparable services in the private sector or other public sector entities.
- All fees and charges shall be adopted by the City Council.
- Fees and charges shall be reviewed in accordance with a schedule developed by the City Manager that has each fee reviewed biannually. Recommended changes will be reviewed and approved by the City Council.

The City Manager said it would be his intent that permit fees (building, health, and fire) be reviewed and submitted as one block. Parks and Cemetery fees might be another block, and all others departmental charges would be the last block. Some of these fees today are not in a schedule adopted by City Council via ordinance. He would like to explore with the City Council the option of adopting fee annual via a resolution as part of the budget cycle after initial adjustment for recovery. He said the first few fees that will be brought before the City Council will help Staff and the Council to keep the policy in mind as fees are crafted and to keep fees up-to-date from here on. He said the methodology for pricing can be complex and is fairly simple in Keene but could be simpler.

The City Manager continued with an example from Portsmouth, NH. He said a lot of their systems are behind with regard to fees and charges. Portsmouth's mechanism for pricing fees is based on a model more than 15 years outdated. What they do well, however, is charging a fee per \$1,000 value and a separate charge for plumbing and electric. They calculate their fee based upon intended cost whereas Keene just charges 1%. Their method creates anomalies in looking at and comparing fees. Last year, Portsmouth had six times as many permits as Keene. If you translate that as best possible to compare to Keene, the best estimate is that in Keene we receive more revenue than Portsmouth does. The City

Manager shared Portsmouth's proposed fees schedule which is included each year as an appendix to their budget. He explained how Portsmouth proposes fee changes annually.

The City Manager welcomed questions from the City Council at the conclusion of his presentation.

Councilor Greenwald asked if the budget review process will happen another time. The City Manager replied that he suggests going through the bulk of fees separately before the budget review process in order to amend ordinances. The Council will have to decide whether to remove fees from the ordinance and adopt the fees via a resolution. He suggests, like Portsmouth, an appendix to the budget which would give all projections in one place as well as any proposed changes. Councilor Greenwald added that the Comprehensive Economic Development Committee recently discussed incentives. He said that conceivably, if it was the will of the Council to have more affordable housing, they could eliminate or lessen those permits. Additionally, if the Council wanted to incentivize new industry, they could discount planning and building fees. The City Manager said that incentives are a definite possibility if that is the will of the Council.

Councilor Hansel said he is concerned about putting the fee schedule as an appendix to the budget. He said he is afraid that more time will be spent on one or the other and adequate attention may not be given to both because they are separate issues. He thinks a separate time is more advantageous so that user fees are not adjusted to compensate for the operating budget.

Councilor Clark said he does not see a great difference between a \$150 and a \$500 fee as an incentive when talking about large projects. The City Manager said the fee he had mentioned for the middle school was \$150,000 not \$150. Councilor Sutherland also suggested incentivizing the payer of fees to reduce the cost of providing services; he provided the example of paying parking tickets online. Ms. Landry said that one misconception with online payments is that it is cheaper for the City; in reality, it is more of a convenience for citizens and does not lessen staff work. The City Manager added that the City has held off on a lot of modernizing technologies to allow the industry to catch up.

Councilor Hansel said he is in favor of incentives but thinks the Council should proceed with caution because they do not want fee changes to be political. The City Manager said it would be helpful to look at other examples of cities that provide incentives. He said unfortunately one mechanism suggested for incentives is permit fees. Permit fees are relatively cheap overall but there is not enough incentive built into them. He thinks permit incentives for building one or two homes do not get results whereas incentives for a \$20 million factory would have benefits. For example the City of Keene averages 19 new homes per year and a 1% permit fee can ensure homes built to a higher standard. He said the Council will need to compare risk to reward and look at other examples across the country.

Councilor Manwaring asked for ideas on how to help those who do not know they need a permit or those who cannot afford the permit for home improvements. She also asked

about the costs of common permits. The City Manager replied that the permit requirements are listed in the Code of Ordinances. He said for many things like replacing windows or roofs, there is no permit you just have to meet code. However, average citizens are not aware of these things. Permitting services are a small charge; there is no charge for zoning, management of the floodplain ordinance, etc. He said the key is unraveling these layers of complexity so that average citizens are informed of how to do things correctly and safely. He said there is an additional problem of those citizens who cannot afford the necessary repairs to their homes. We have a significant need in the community of people who have houses but do not have the resources to keep them up and need help.

Councilor Jacobs said he sees this less as an opportunity to balance the budget and more of an opportunity to move the City forward in terms of public safety, ambiance, etc. He said there are different things which could be incentivized but the Council should think about the ultimate goal of those incentives not in terms of money but dealing with these questions.

The City Manager provided everyone with the fiscal policy from San Luis Obispo, CA. He said it is written clearly and they seek to recover 60-100% of costs. He provided this as a possible model for the Council to review.

Councilor Sutherland said the Council does not want to de-incentivize people either and suggested not just looking at examples of adjacent communities but similar communities across the country. The City Manager said that usually when comparing Keene to other cities for operations or services he normally looks outside New England because this region of the country is behind on a lot of things. Councilor Sutherland also suggested incentivizing more localized services, for example charging non-residents a fee to use Keene pools. He said it is a combination of understanding what other local municipalities offer and how to target the local market and competition. He said that can become a pricing strategy as well. The City Manager said that non-residents do currently pay additional fees for services, like pools.

Mayor Lane said that another area to consider is Keene's reputation as being a difficult regulatory community for development. He said that while that might not be true, it is the reputation. Fees, unfortunately, can become a mechanism for increasing those difficulties so the Council should be conscious of that when discussing fees. He said that one fee to do everything may be better than 10 different incentivized fees. Councilor Clark added that it is only difficult to do a bad project in Keene, not good projects. Mayor Lane added that it could be people are just not familiar with Keene's processes but a professional who does business in Keene should not find the process difficult.

Councilor Sutherland questioned the services the City provides without fees. The City Manager replied that zoning is an example. Councilor Sutherland continued that he was referring more to special benefits and service drivers, for example a researcher needing information from the City. He said the City should recover some costs for doing certain work. There are many inquiries that are not traditional inquiries which drive additional

service requirements; he asked how to encapsulate fees around that. The City Manager replied that part of the discussion will have to be with each City department to see where there are opportunities to charge.

Councilor Hansel said he does not think there should be a charge for zoning variances. The City Manager replied that the Zoning Board gives variances regularly and he thinks there are many in the community who would rather get a variance than rezone the property. When talking about a variance, the ZBA is essentially rezoning the property for a \$25 fee. Councilor Hansel said he sees that as the same as charging someone a court fee. The City Manager replied asking if citizens should be charged the amount it takes to do the work. Councilor Hansel said he thinks of it as a court fee determined based on actual cost. The City Manager replied that is a discussion the whole Council will need to have.

Councilor Clark said he thinks a zoning fee is fair. Councilor Sutherland said that there is also the goal to limit people unprepared for the zoning process. For that reason he thinks an application fee is reasonable for zoning.

Mayor Lane added that when talking about zoning and variances the Council has to make the distinction between use variances and dimensional variances. A use variance changes the use of the property for benefit of the specific individual or business requesting it. A dimensional variance is for a piece of land that has dimensional impediments. Use variances change how someone can use a piece of land contrary to the Zoning Ordinance for personal use. When talking about pricing applications for variances, Mayor Lane said he agrees with Councilor Hansel about dimensional variances but thinks there should be a much higher charge for use variances.

The City Manager said he will move forward bringing fees before the Council. He asked the Council to keep the policy in mind moving forward. He expects to revisit this conversation any time a fee comes up for review.

The City Manager thanked the Council for their participation and the Workshop ended at 7:58 PM.

Respectfully submitted by,
Katie Kibler, Minute Taker