

City of Keene
New Hampshire

FINANCE, ORGANIZATION AND PERSONNEL COMMITTEE
MEETING MINUTES

Thursday, July 25, 2019

6:30 PM

Council Chambers

Members Present:

Mitchell H. Greenwald, Chair
Carl B. Jacobs, Vice-Chair
Thomas F. Powers
Terry M. Clark
Bettina A. Chadbourne

Staff Present:

Acting City Manager, Beth Fox
City Attorney, Thomas Mullins
City Clerk, Patty Little
Parks Recreation and Facilities Director,
Andrew Bohannon
Asst. City Manager/IT Director, Rebecca
Landry
City Assessor, Dan Langille
Finance Director, Merri Howe
Asst. Public Works Director, Tom Morin
Operations Manager Wastewater
Treatment Plant, Aaron Costa

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

1) Bradford Todd - Request to Increase Veterans Tax Credit

Mr. Bradford Todd of 468 Marlboro Street addressed the Committee and stated the State of New Hampshire has voted to increase the 100% disabled veterans' property tax credit from \$2,000 to \$4,000. Mr. Todd noted 100% disabled veterans have less of an opportunity to supplement their income.

The Chairman asked for comments on this issue from the City Assessor. City Assessor Dan Langille reported that the City looks at all of the various exemptions and credits every 3 years. The State Legislature determines what the exemptions and credits are and what they City can offer. Mr. Todd is correct in that the State has recently approved an increase to veteran tax credits for up to \$4,000. The credit could be anywhere in the range between \$701 and \$4,000. He indicated previously communities could offer up to \$2,000. Keene currently offers a \$2,000 credit. Mr. Langille noted Keene has 39 disabled veterans, 32 are veterans and seven are surviving spouses. These veterans/surviving spouses are also eligible for the standard veteran's credit of \$225. Increasing the credit amount from \$2,000 to \$4,000 equals an additional \$78,000 in taxes that get shifted to other taxpayers. It takes \$2.1 million in assessed value to generate \$78,000 in taxes. On a \$200,000 home, the

\$4,000 credit would require an additional \$12 in taxes and a \$250,000 home would be an \$18 increase or \$6 in taxes for every \$100,000 in value

Councilor Clark asked when the \$2,000 credit was enacted. Mr. Langille stated it was prior to him joining the City's employment in 2011.

Mr. Bradford Hutchinson of 305 Marlboro Street stated he was not a veteran nor does he own property but he knows of many who have served. He felt anything the City can do for especially those disabled veterans would be prudent.

Councilor Clark clarified an individual can get both the standard exemption and the veterans exemption. Mr. Langille answered in the affirmative.

Councilor Powers asked if this item was voted in by Council next week when would it become effective. Mr. Langille stated he has to submit values to the State by September 1 and would need a decision by then.

Chair Greenwald felt this request was meaningful and deserving but keeping in mind any reduction would need to be spread out to the rest of the population.

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

On 5-0 vote, the Finance, Organization and Personnel Committee recommends increasing the optional property tax credit ceiling for veterans having total disability from \$2,000 to \$4,000.

Mr. Langille pointed out this item does have to be adopted also as a Resolution and asked for added clarification on this from the City Attorney or Acting City Manager. Ms. Fox agreed exemptions and tax credits have to be done in the form of a Resolution. The Attorney added it is understood from the background notes if the Finance Committee forwards this item to the City Council a Resolution would need to be ready in the event the Council wants to suspend its rules to act on it.

Councilor Powers asked whether a veteran has to apply to receive this tax credit. Mr. Langille stated those veterans who are receiving this credit would now get an increase to their credit amount but anyone new will have to apply.

2) Gate Replacement Project at the Wastewater Treatment Plant

Asst. Public Works Director Tom Moran and Operations Manager for the Wastewater Treatment Plant Aaron Costa were the next two speakers. Mr. Costa noted the wastewater treatment plant operates 24 hours a day seven days a week and handles close to three million gallons of water daily. He stated this project is to replace eight gates around the treatment plant, which are original to the plant and are at the end of their useful life.

Mr. Costa stated request for proposals were sent out and the City received one response and it was over budget by \$18,000. Mr. Costa stated he reached out to contractors to see why they had not bid on this project and their response was that this project was too small and most of the firms he deals with are from out of town. He then contacted Underwood Engineering which the City has worked with in the past. Underwood made a presentation and bid on the project. Underwood's proposal came in at \$23,000 under budget so at this time staff is requesting the Council waive its rules to do a sole source for Underwood Engineering to be offered this project.

Councilor Jacobs noted this might be a sole source but the project was originally sent out to bid.

Councilor Powers noted this was for engineering oversight and asked whether a bid has been sent out for the construction. Mr. Costa stated the construction phase is something Underwood would help the City put a bid together for.

Councilor Powers made the following motion, which was seconded by Councilor Chadbourne.

On 5-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to execute a sole source professional services contract with Underwood Engineers for engineering and technical services for the Gate Replacement Project at the wastewater treatment plant for an amount not to exceed \$40,400.

3) Library Campus Development Project - Parks, Recreation and Facilities Director

Parks, Recreation and Facilities Director Andrew Bohannon addressed the Committee and went over some of the pertinent points from the memo in the committee's packet. He noted in 2017 the City entered into a public-private partnership with Monadnock Economic Development Corporation (MEDC) to develop a Library Campus for a cost of \$8,442,230. This was a project that was worked on by the Trustees of the Library, the Friends of the Library and the City. He noted the Friends raised over \$5,100,000.00 in donations and added it was a complicated project based on all these nuances.

Mr. Bohannon went on to say they were also working on a building, which dated back to 1928 with many "unknowns." The initial project anticipated a 12-month construction cycle but this was delayed with bad weather during the early spring of 2018. The delay specifically had an impact on the construction of the elevator shaft, which was a critical component of the project, which caused the price of the project to increase. He noted to the dewatering work that was necessary required four pumps operating 24 hours a day for four months to manage conditions. This halted much of the project's progress.

Once the dewatering stopped the project moved into colder months, which also added to the cost of the project. It was always the decision that the new construction would have a

new HVAC system. The library however, had the HVAC system that was installed as part of the 1999 renovation project. It was necessary for these two systems to connect to gain some economical and efficiency issues for the City for the long term. Mr. Bohannon further noted the impacts from required lead abatement and dewatering created a ripple effect impacting the project schedule extending it from 12 months to 20 months. Because of the schedule shift, contractors were being met with multiple obligations, and not able to meet the demands of revised deadlines further impacting project costs. Excesses in allowances and contingency expenses equaled \$110,707 and included fuel costs for the dewatering pumps, winter heaters, additional electric cost, general conditions, insurance, bonding, and additional lead abatement requirements. In the end, the original construction contract of \$8,442,230, increased to \$8,626,436, creating a project cash shortfall of \$184,206 including the full Library Campus HVAC system. In all, this difference is 2.14% of the total construction contract, and 1.4% of project's overall budget.

Mr. Bohannon stated closing out the project's finances is critical at this time particularly for the New Market Tax Credit financing portion of the project. He added in order to provide the cash required to close out the project, a proposal sharing 50/50 of this responsibility is recommended. The City will provide the initial \$186,204, and then enter into a loan agreement securing repayment by MEDC of its 50% share totaling \$92,103 to be at a rate of \$3,000 monthly until repaid in approximately 2 ½ years. Mr. Bohannon stated the net fiscal impact of the cost to the City will be \$92,103 which is mitigated by \$89,000 remaining in unexpended funds allocated in the FY19 budget, which was expected to be directed to library campus operations if the facility had been completed within its original construction timeline. This concluded Mr. Bohannon's presentation.

Councilor Clark asked whether the construction contingency fund has been expended. Mr. Bohannon stated as part of the dewatering work the contingency was used. The Councilor asked for the contingency fund amount based on the 8 million dollar project. Robert Elliot of MEDC stated there was approximately \$272,000 in the contingency fund (construction) and another \$300,000 (owner's side) and noted both of these amounts have been used. Councilor Jacobs clarified what the City is being asked to do is to lend MEDC money which they will pay back at \$3,000 per month. Chair Greenwald pointed to the role of MEDC which is a not a for profit organization, just a facilitator of the project.

Ms. Fox stated the City has participated in many complex projects but this has been at the very top of that list and added without the multitude of partners the project would not have got to this level. She recognized the many groups and individuals who have brought the project to this stage which is resulting in a great facility for this City, but unfortunately there is this one road block that we need to get past.

Chair Greenwald asked whether there is the chance the \$184,000 request might change. Attorney Mullins stated this is why the proposed motions refers to "up to \$184,000" but staff is comfortable with the \$184,206 as the required amount. The Chairman asked whether there is potential for added fund raising. Attorney Mullins stated the fund raising is for pledges that have been made and what is being requested today are monies that will not be available through the fund raising process, which has been allocated for

construction and other soft costs. Whether the Trustees continue fund raising would be up to them, but this money is not depended on that or that there is an expectation it will be paid back through that process.

Councilor Jacobs made the following motion, which was seconded by Councilor Powers.

On 5-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to negotiate and execute loan documents in a form acceptable to the City Attorney with Monadnock Economic Development Corporation or its assignee, for the repayment to the City by MEDC of an amount up to \$92,103.00 expended by the City for the completion of the construction of the Library Campus Development Project and further recommending the the memorandum be accepted as informational.

4) **Relating to the Library Campus Development Project Funding – Resolution R-2019-28**

Finance Director Merri Howe stated this Resolution is for the allocation of the money from fund balance for the payment of the construction of the library fund balance for which \$184,206 will be taken from the general fund. Councilor Jacobs noted part of FY19 operating funds are being used and asked whether this Resolution covers that.

Ms. Fox explained this is a FY20 Resolution, which will take unassigned fund balance from FY20 and won't affect the current operating funds.

Councilor Chadbourne made the following motion, which was seconded by Councilor Powers.

On 5-0 vote, the Finance, Organization and Personnel Committee recommends adoption of R-2019-28 to provide funding for the Library Campus Development Project.

5) **Continued Discussion - Campaign Finance Ordinance**

Chair Greenwald stated at the last meeting the Finance Committee made a recommendation to send this discussion to Council with the hope of getting some recommendations back. There were many questions raised at the Council meeting. He went over a few of the points including: whether this item should be adopted and if so, should it only be for the Mayor and Council? What should the threshold of contributions be? He noted it is not likely there will be any conclusion made tonight and turned the presentation over to the City Clerk.

City Clerk Patty Little stated she is glad this item is back before the Finance Committee because it is a complex issue and the more it is discussed the more it could be narrowed down to specifics. She noted staff will support the Council in any way it can.

Ms. Little stated the first item the committee recommended is that this item would apply to the Mayor only – to which Councilor Powers suggested it expand to include City Council candidates. It was agreed this would not include write-in candidates and to date there has also been no support for including political action committees, nor that it would be expanded to moderators, checklist supervisors, and ward clerks.

(1) Chair Greenwald asked for comment as to whether this should only be for the Mayor race or whether it should be for both Mayor and Council.

Councilor Clark noted it has been repeatedly stated the City needs to get this right, which in some ways indicates the four other ordinances from the other communities are somehow not right. He stated he wants an ordinance but it does not matter which one of the other communities' ordinance are used as the base for Keene's ordinance. Ms. Little in response stated the majority of the other cities don't have primary elections. Councilor Clark stated the reason he suggested this ordinance only be for the Mayor race is to keep it simple.

Councilor Clark indicated he would be supportive of both options.

Councilors Powers and Jacobs felt it should be for both Mayor and City Council, and the Chair agreed noting that would be fair across the board.

Councilor Chadbourne was supportive of this applying to the Mayor only.

(2) What is the threshold?

Ms. Little stated the threshold was suggested at \$1,000 for Mayor, noting most Council races are likely self-funded. She asked if \$1,000 seems too high or should there be a waiver if the candidate agreed to limit their spending. She added the State utilizes spending limits and waivers from the reporting requirements.

Councilor Powers commented that he would support a \$500 threshold for City Council races, and for donations that are \$50 or more there would need to be a detailed accounting. The Councilor added the threshold would not include personal funds.

Councilor Jacobs stated he is trying to understand the purpose of a threshold. Referencing the \$1000 threshold, the Councilor noted if the Council wants to be really transparent the amount should be kept low.

Councilor Chadbourne asked for clarification as to whether this was for money donated only, or also for spending one's own finances. She went on to say she understands the reasoning behind this ordinance but we are the City of Keene and we are small. The Councilor asked for a threshold of \$500.

The Chairman noted we don't want to construct something that will discourage people from running for office. Councilor Chadbourne stated this is her concern as well, and

added people run for office because they are committed to their community and she does not want to create something that is going to be a roadblock for someone wanting to run for office.

Councilor Jacobs questioned if the Council is planning on setting a threshold where no one would meet the threshold so there would not be a need to report.

Councilor Powers stated originally he was against any threshold, but he did not feel \$500 would discourage anyone who really wants to run for office.

Councilor Clark stated he did not feel this discussion should be about \$500 or \$1,000 and recalled an article in The Sentinel where someone who was running for Mayor had a mailer and that individual could not recall who paid for this mailer. He felt this particular mailer cost about \$8,000 to \$10,000 and stated this is his motivation behind this suggestion. There will be at times a group that wants to influence a race but they won't be able to do this without someone finding out. He felt the threshold should be high so that someone running a regular race does not need to worry about it. Chair Greenwald noted the Councilor referred to an unauthorized expenditure to support a candidate and asked how the City should deal with that.

Ms. Little suggested that Councilor Clark was referring to a political action committee and she felt this could be an organization that could be required to report their contributions and expenditures under this ordinance, which she noted many cities do. Chair Greenwald asked for the Attorney's comment. Attorney Mullins responded by saying the first item that was raised relative to this ordinance is that it be applied to the Mayor and Council race and the threshold for contributions and expenses for these races. Councilor Clark however, has now raised another issue, which is about an entity making a contribution in support or in opposition to a particular individual which is not contemplated under this ordinance. If that is to be taken under consideration it would need to be under a political action committee and those need to be identified and would be subject to a reporting requirement.

Chair Greenwald asked that the issue with the political action committee be left alone for now and asked what the committee was looking for, in terms of a threshold.

Councilor Jacobs noted he supported a threshold at zero with full reporting for all contributions.

Councilor Chadbourne stated she understands the point Councilor Clark was making and hence she would like to stay with \$500 for Council and \$1,000 for Mayor. Chair Greenwald agreed with the \$500 for Council and \$1,000 for Mayor

Councilor Powers clarified this does not include personal funds. The Clerk agreed that was her understanding and she wasn't sure how personal funds being used in a campaign

could be regulated.

Councilor Clark stated if one is giving to one's campaign then you are "making a contribution" to that campaign.

Attorney Mullins asked the Committee what issue they were trying to solve. He added Councilor Clark has just identified third party contributions and asked if this should be part of an ordinance draft. The Attorney added if you are spending your own money it is not an issue, the issue is an outside party trying to influence an election.

(3) Question regarding personal or non-personal for contributions

Both Councilor Jacobs and Chair Greenwald felt candidates should report both personal and non-personal contributions. Councilors Clark, Powers and Chadbourne felt candidates should only report non-personal contributions.

Mr. Chuck Redfern of Colby Street stated during the 12 years of his service on the City Council he spent the \$2 filing fee when he filed his declaration for office. He indicated what he is afraid of is that this ordinance is going to scare potential candidates away. He felt a third party trying to influence 15 Councilors whose power is dispersed is rather remote. He stated he would not vote in favor of this ordinance but should they want to vote for it to make it as simple as possible. Mr. Redfern went on to say filling these positions are difficult, and people run for office because they have a civic duty to their community. He felt the barrier of burden should be low.

Mr. David Crawford of Keene stated this discussion places a veil of suspicion over the candidates running for office. He referred to a comment Councilor Clark made at the Council meeting regarding a contribution made which was reported by a credible source and felt this raises many questions. He felt trying to identify unreasonable spending practices in Keene is not difficult to figure out.

Mr. Bradford Hutchinson referred to the comment made by Councilor Clark at the last Council meeting and the body language he noticed from a fellow councilor during Councilor Clark's comments today. He felt if this ordinance is going to be for Mayor and Council, why it should not be for other elected officials as well. He also questioned instead of this ordinance causing more work for staff why it couldn't be a voluntary statement from candidates. Mr. Hutchinson felt if transparency was the reason for this, it should be across the board for all elected officials.

Councilor Filiault stated the first question is whether this is something the City needs. He added history has shown this is an ordinance that might be necessary. He added he does not have an issue with a \$500 or \$1000 threshold and agreed the City does not want to alienate anyone from running for city office. The Councilor further stated that historically there has not been an issue at the Council level and recommended this be applied to just the Mayor, but with the understanding the Council race could be added in should there

ever be that need. He agreed this needs to be done and he would be on board with whatever the Council decides.

Ms. Little asked about the political action committee. Chair Greenwald asked how the city would regulate an anonymous group. Ms. Little asked if they would be required to register. Attorney Mullins stated this does not mean if someone wanted to take out a full page ad in The Keene Sentinel and not advise anyone of this action, the City can do anything about it.

Councilor Chadbourne noted Mr. Hutchinson had alluded to other elected officials and stated the City does not have control over such positions as State Representatives. Attorney Mullins felt Mr. Hutchinson was likely referring to other elected positions within the City and added it is an agreed consensus, positions such as selectmen don't fall under this ordinance. Councilor Clark noted if there is a radio ad or a newspaper there is a requirement for a tag line which indicates who paid for this ad.

(4) Is there a need for to include political action committees?

Chair Greenwald, and Councilors Jacobs and Clark felt the Ordinance should apply to political action committees, while Councilors Chadbourne and Powers felt it should not.

(5) General Reporting

Ms. Little stated Manchester has a reporting obligation until all surplus contributions have been closed out for the year as well as expenditures.

The Committee agreed the timeline for reporting would be left the way it is.

(6) Spending Cap

Ms. Little asked about someone agreeing to sign a waiver at the time of declaration. She asked whether this is something the Council would want the ordinance to include. The Clerk verified from the Attorney this is acceptable – the Attorney agreed it was.

The Committee agreed to include a waiver with the threshold remaining the same.

(7) Timeline for Reporting

Ms. Little stated at the present time, if you are an incumbent you have an obligation to maintain reporting through your tenure as a Councilor (going back to the last municipal election).

Councilor Powers asked whether this would be the general or municipal election – Ms. Little stated it would be the last municipal election, but stated the Ordinance would need to clarify this point.

She suggested the city go with the Portsmouth model, which requires reporting 7 days before and 14 days after an election. This would mean that 7 days before the primary or general election and 14 days after you will be required to report out.

Councilor Powers raised concern about the short timeframe. The Committee agreed to leave the timeframe as originally proposed.

The Attorney clarified for detailed reporting the City was going to leave the number at \$50 or more.

(8) Enforcement

Ms. Little stated Councilor Manwaring had raised the concern there should be enforcement and this is not something that should be voluntary. Ms. Little stated she went back to the 2008 ordinance which was defeated and added language from this ordinance regarding enforcement and replaced the City Clerk with the Police Chief and added she had discussed this issue with Chief Russo. Chief Russo is willing to accept this responsibility. The Ordinance could include language relative to complaints, cease and desist, investigations, violations, etc. This would apply if one does not file a report or files an inaccurate report. Ms. Little noted the complaint could be driven by a voter or another candidate.

Councilor Jacobs had concern about the complaint component. Councilor Clark felt the Police Department has triggers before they begin any type of investigation. Ms. Little noted none of the other towns have a provision for enforcement. Attorney Mullins stated the only issue he has with the enforcement component in the other ordinances are misdemeanor level offenses (no authority) and several other ordinances prevent a person from taking their duly elected seat, which he sees the City having no authority to prevent, and noted the Secretary of State agrees with this issue. Councilor Chadbourne equated this issue to political warfare and casting down on people's integrity.

Chair Greenwald and Councilors Chadbourne and Jacobs indicated they would not support language detailing an enforcement process. Councilor Powers stated he would support enforcement. Councilor Clark stated this is based on public opinion, noting this isn't about punishing people - this is information for the public to make up their minds.

(9) Penalty

Ms. Little stated she brought language from the 2008 Ordinance which calls for a \$25 fine for each day of non-compliance. She questioned if the committee wanted a fine or to just make reference to the general penalty provision of the code. Councilor Powers asked who would adjudicate this. Attorney Mullins stated this has always been his concern, who would adjudicate the process. The consensus of the Committee was not to include a penalty within the ordinance.

(10) Lack of Reporting

Ms. Little noted the Council had deemed lack of reporting would be disqualification for nomination or election. Ms. Little explained nomination is when the declaration of candidacy is filed or when the primary petition of 50 signatures are submitted as well as when sufficient write-in votes are submitted. Ms. Little felt this should any ordinance should not contain language that would restrict a candidate from holding office if their financial reporting was not completed. She noted the city charter indicates within five days the votes need to be canvassed by the City Council, which declares the winner. Ms. Little stated she had also discussed this issue with the Secretary of State recently who had indicated the City does not have any jurisdiction to withhold anyone from taking office who have been duly elected by the voters.

The committee agreed to the Clerk's recommendation to eliminating any language about withholding office for lack of filing any financial reports.

(11) Definition for Contribution

Ms. Little stated previously there was some discussion about what was a contribution. She prepared a draft definition which would provide that a contribution can be a payment, gift or loan to a candidate made for the purpose of influencing the election of a candidate. In addition, a contribution can be anything of value for influencing the election of a candidate. The clerk asked whether the committee wants to consider something of value as a contribution. Councilor Chadbourne asked whether a gift of a baseball hat with a company's logo be considered a gift of value. Attorney Mullins stated the committee has already agreed to a threshold of \$50 hence did not feel a baseball hat would be considered a gift of value.

Councilor Powers stated he did not agreed with the term "influence" and asked it be replaced with the term "support" in the definition.

This concluded the discussion.

The Chairman felt this item is not ready to be forwarded to Council and asked tht the Committee continue its review at their next meeting.

Councilor Powers felt people are not going to want to make a contribution as they would not want their names included in a public record. He also felt the trigger for this ordinance is the upcoming election. Councilor Chadbourne noted there is already a sitting Councilor who has publicly indicated he would not run for re-election if this is approved. She also asked the public to contact their Councilors and weigh in on this issue.

Chair Greenwald made the following motion, which was seconded by Councilor Powers.

On 5-0 vote, the Finance, Organization and Personnel Committee recommends more time to allow further discussion at their next regular meeting.

FOP Meeting Minutes
July 25, 2019

The meeting adjourned at 8:35 PM.

Respectfully submitted by,
Krishni Pahl, Minute Taker

Additional Edits by,
Terri M. Hood, Assistant City Clerk