

1City of Keene
New Hampshire

FINANCE, ORGANIZATION AND PERSONNEL COMMITTEE
MEETING MINUTES

Thursday, February 9, 2023

6:00 PM

**Council Chambers,
City Hall**

Members Present:

Thomas F. Powers, Chair
Michael J. Remy, Vice Chair
Bettina A. Chadbourne
Bryan J. Lake
Andrew M. Madison

Members Not Present:

All Present

Staff Present:

Elizabeth A. Dragon, City Manager
Thomas P. Mullins, City Attorney
Patty Little, City Clerk
Amanda Palmiera, Assistant City Attorney
Aaron Costa, Asst. Public Works
Manager/WWTP Operations Manager
Don Lussier, City Engineer
Andy Bohannon, Parks Recreation and
Facilities Director
City Assessor, Dan Langille
Police Captain, Steve Tenney
Asst. City Manager/HR Director Beth Fox

Chair Powers called the meeting to order at 6:00 PM.

**1) Donations - Transportation Heritage Trail - Parks, Recreation and Facilities
Director - Parks, Recreation and Facilities Director**

Parks, Recreation and Facilities Director Andy Bohannon stated there are two donations he will be talking about this evening. A donation of \$40,000.00 from Pathways for Keene and a \$12,000.00 donation from the Monadnock Conservancy. Mr. Bohannon stated these two organizations have assisted the City with the last two Rail Trail projects and are continuing to make sure Keene's rail system remains vibrant. This particular rail system will go from Eastern Avenue to Route 101. A portion of this money will be used as a match for grants. This project won't start until FY25 but the funding needs to be in place to ensure that the City is in sync with the State needs when the grant is eventually awarded.

Mr. Ted McGreer on behalf for Pathways for Keene stated he is addressing the Committee on behalf of all the runners and walkers who come out on July 4th every year. He indicated many businesses assist with the 4 on the 4th event and between \$40,000 to \$50,000 is raised each year. He added Pathways for Keene is a 100% volunteer organization and added they are thrilled to participate with the City on this project.

Regarding the \$12,000 donation, Mr. Ryan Owens, Executive Director of Monadnock Conservancy stated they are a Land Conservation Trust that seeks to preserve the natural

landscape of the greater Monadnock Region. He indicated they are looking forward to many more projects especially with the Transportation Heritage Trail.

Councilor Lake clarified in the Committee's Memorandum the donation amount from Pathways for Keene is indicated as \$30,000 in one spot and \$40,000 in another section and asked for clarification. Mr. McGreer clarified the amount should be \$40,000 – Mr. Bohannon agreed.

Councilor Lake made the following motion, which was seconded by Councilor Madison.

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept a donation of \$40,000.00 from Pathways for Keene, Inc. and \$12,000.00 from the Monadnock Conservancy and that the money be allocated for the Transportation Heritage Trail Phase 1 project.

2) Donation - Keene Rotary Club - Parks, Recreation and Facilities Director

Mr. Bohannon stated this item was in reference to a donation of \$35,000 from the Rotary Club that will be used for wayfinding signage for Keene's trails and parks. Mr. Bohannon stated the study done by UNH last year recommended wayfinding along the trails which was a prominent piece of that study. He noted this is Rotary Club's 100th anniversary and they see this donation as a great opportunity.

Councilor Madison noted between the first item and this item combined for nearly \$87,000 going into Keene's trail system. As a new member of the Bicycle, Pedestrian Path Advisory Committee, he felt this was a great amount to be donated to the trail system which will help improve the quality of life in Keene.

Councilor Madison made the following motion, which was seconded by Councilor Remy.

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept a donation of up to \$35,000.00 from the Keene Rotary Club and that the money is allocated for wayfinding for the trails and parks.

3) Acceptance of Federal Forfeiture Monies - Keene Police Captain

Police Captain Steve Tenney was the next to address the Committee. Captain Tenney stated this item is for acceptance of Federal forfeiture monies resulting from two cases the City worked on jointly with Homeland Security.

The first case dates back to 2015 for which the City's portion was \$4,129.17. The second case was from 2022 for \$9,267.80 for a total of \$13,396.97 for both cases.

David Crawford of Marlboro Street Keene addressed the Committee and asked them to reject this money as they are spoils of a failed war on drugs. He felt it was a small amount of money compared to the message that it will send to the community. Councilor Chadbourne asked what Mr. Crawford suggests should be done with the money if it is rejected. Mr. Crawford stated he it would be returned to the agency that gave the City the forfeiture funds.

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

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept Federal forfeiture monies in the amount of \$13,396.97.

4) Acceptance of Local Source Water Protection Grant - Assistant Public Works Director/Operations Manager

Asst. Public Works Director/Operations Manager Aaron Costa stated he was before the Committee to discuss acceptance of a Source Water Protection grant from the New Hampshire Department of Environmental Services in the amount of \$14,200 to perform a property survey around the West Street wellfield.

Mr. Costa stated the City has utilized this grant in the past to install security fencing around the Court Street well facility as well as the surface water location in Roxbury.

Mr. Costa noted the West Street well is a valuable water source located on approximately five acres of city-owned property that abuts a horse farm. Recent farm activities in the area are of concern within the 400 foot sanitary protective radius of the well. These funds will be used to perform a detailed property survey of the City-owned parcel. Once a detailed land survey is completed, the City may want to pursue the installation of a fence along the property boundary in an effort to protect the water source and comply with the New Hampshire Rules as it pertains to Sanitary Protective Area.

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

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept, execute, and expend a Local Source Water Protection grant from the New Hampshire Department of Environmental Services (NHDES) in the amount of \$14,200 to perform a property survey around the West Street wellfield.

5) Discussion - Councilor Filiault's Recommendation - City Charter Amendment regarding the Municipal Primary

Councilor Filiault addressed the Committee and stated his request is to ask Council to look at the municipal primary to see if it needs to be changed in any way or perhaps even eliminated. Regardless of what is decided it would ultimately go to the voters as a City Charter amendment.

City Attorney Tom Mullins explained the City Charter should be viewed as the constitution of the City. It lays out a lot of responsibilities as to how the City operates. Changes to the Charter are not something that can be done easily and are not something that should not be done lightly. He stated what is being discussed tonight is a change to the Charter provision in Section 11, which deals with Primaries.

City Clerk Patty Little was the next to address the Committee. Ms. Little stated she surveyed 13 cities, of which nine do not have primaries at all. Of the four cities with primaries, their charter language is similar language to Keene; with language in their charters that say a primary may be triggered by a particular number of candidates for a particular office.

She continued that in the City of Nashua, there is only a primary held if more than two candidates file for the Office of Mayor. In Manchester, a primary is held if more than two candidates file for any elected office, or if more than four candidates file for any at-large office. She noted that if a primary was needed for a Ward Council position, the primary is only held in the specific ward which has the contest. If the primary was needed for the at-large positions or the Mayor's position, then the primary is city wide. The Clerk added that – unlike Keene that has all candidates for all offices on the primary ballot, in Manchester the primary ballot only contains the offices where the number of candidates has triggered the primary.

Ms. Little continued that in Laconia a primary is held if more than two candidates file for the office of Mayor or Ward Councilor. If the primary was for the office of Mayor then the primary was held citywide. In the case of Ward Councilor, the primary election is only in that ward and only for that office. All other elected offices, such as moderators, selectmen, checklist supervisors, automatically bypass a primary and go right to the general election.

Keene's Charter was amended in 2011 and it provided that if more than two candidates file for the office of Mayor, or two candidates file for the office of Ward Councilor or if more than 10 candidates file for at-large, a primary would be held. Unlike other cities, traditionally Keene has placed all candidates for all offices on the primary ballot. Ms. Little felt this practice should be reviewed. She felt that limiting the number of offices on the primary ballot to only the office that has the contest would save money and would reduce the amount of record keeping, which needs to occur after the election.

Ms. Little went on to say that since the amendment in 2011, the City has held a primary every two years. She went on to identify which offices triggered the primary from 2013 to 2021. She noted that the primary has never been triggered solely by a contest for a Ward Councilor.

Ms. Little went on to explain the statutory process to amend the Charter and noted it was very time sensitive. The Mayor would need to designate a committee to review this item. The Attorney would have to draft language for the ballot question, and she noted there are seven references to the primary in the Charter right now. The Charter amendment language would need to be reviewed by the Secretary of State, Department of Revenue and the Attorney General's Office. Once approval is received from the State, the City Council will need to direct her to place the ballot question before the voters. The General Election would occur on November 7 and the changes – if the ballot question was adopted - will be effective January 1. Ms. Little noted the City has until April 6 to schedule a Public Hearing which is one of the statutory steps. The end of the Council's process would conclude on July 23 which is when the Council would direct the question be placed on the ballot.

Ms. Little stated while preparing for this evening's meeting, she focused on the provision for a

Ward Councilor seat triggering a Primary and questioned exactly how that would occur. She reiterated that this office singularly had never triggered a Primary. She reviewed the final report of the ad hoc Committee to see if they addressed this situation. Their final report does have language indicating the Committee's belief that a contest in a single ward for a Ward Council seat would trigger a City-wide Primary – even though the contest was only in the single ward. Ms. Little stated she was not certain that this reference in the ad hoc Committee's final report could be interpreted as a directive from the Council that this should occur. She added she had reached out to the City Clerks with Primary and the general practice in those communities is to hold the Primary in the ward where the contest exists. She noted that she believed that would be the proper practice for Keene to follow as well. Ms. Little stated she had also reached out to Bud Fitch, former Attorney General and currently the legal counsel for the Secretary of State for advice regarding this question as well as others.

Ms. Little noted she reviewed election results since the 2011 charter amendment and noted the top five at large candidates from the primary election are identical to the top five candidates in the General Election.

Ms. Little stated there are benefits to a primary; the main benefit comes from the nomination process through acceptance of write-ins. A noteworthy example of this is was in 1999, when former At Large Councilor Mike Blastos accepted a write-in nomination for Mayor and become Keene's next Mayor.

She added for the last primary the cost was over \$10,600. Ms. Little added what would become problematic is if primaries become inconsistent – with a Primary being held one year and not the following year. She felt consistency was important especially for Keene's partners such as the School District whose school's calendar includes the dates when the City will be using their facilities. If the City starts skipping years to the point that host polling locations and even election workers haven't reserved the date that Keene may find itself without the resources to effectively run the Primary. She also added election laws and processes are very detailed with many steps for election workers responsible for. Having Primary elections give election staff the opportunity to refresh their knowledge of very detailed election procedures.

Acknowledging the practice in other cities in terms of holding primaries in a single ward, she noted that since Keene has always held its Primary elections City-wide it might start off be confusing to voters in Keene who are used to City-wide Primaries. Finally, Ms. Little stated the City is looking at significant changes to election laws and processes over the next few years – perhaps even before the next Presidential election and to the extent that elections can remain consistent, the better.

Attorney Mullins addressed the Committee next. Attorney Mullins referred to case law that came out in 1969 which indicate that there is some basic understanding of the process cities have control over. State law gives cities control over how they want to conduct their election. State law however, requires cities to follow statutes as it relates to pre-election processes (how a polling location is set up, how you let voters in and out). Otherwise, State Statute is fairly silent on the question of what a city wants to do with the primary process. The Attorney noted the amendment process is easier than a Charter revision.

Attorney Mullins then talked about majority and plurality voting. With the majority contest you are required to receive 50 % plus one to be elected. In a plurality contest for example with three candidates – the one who gets the highest number of votes gets elected. Another question that came up if the City conducted an election without a primary – and there were three candidates for Mayor and no one received a majority, could there be a runoff. To that question, the Secretary of State and Attorney General’s Office stated this was not an option. Attorney Mullins stated if a primary was eliminated for the Office of Mayor, and there was the situation where there were three or more candidates, you might have a Mayor in the City that does not have the majority support.

The Attorney stated the City Clerk and he would like to have the sense of the Council if this is a process they would like to pursue.

Councilor Chadbourne asked whether the cost of \$10,600 was a high cost to conduct a primary. Ms. Little stated she was surprised at that number as well, and recalls the number being at around \$6,000 but noted this is what inflation does. She added the types of expenses have remained the same – other than a nominal rental fee for one of the facilities. The Councilor asked whether it would be safe to assume this would be the same price for the general election as well. Ms. Little answered in the affirmative.

Councilor Remy stated his position would be to not make a change. He noted Councilor Giacomo got on Council through the write-in process and felt this happens a lot and would like the process to remain as is. He added he likes the Mayor’s position to have a mandate and having 50 % plus one vote. He stated he would like to accept the communication from Councilor Filiault as informational.

Councilor Filiault stated the reason he brought this item forward is because there are many unanswered questions. He added Keene has the best City Clerk and he agrees to anything recommended by her and whether anything is changed tonight or not, he felt the City should revisit this issue periodically.

Councilor Chadbourne stated she too would recommend the communication be accepted as informational and wait for the new changes that are coming from the State to see if the City wanted to re-visit the item in the future.

Councilor Madison agreed with Councilors Remy and Chadbourne. He indicated he does not say no but just not at this time due to the current workload of city staff. He stated with all the efforts nationally and statewide to restrict voting rights, he was reluctant to remove any opportunities of citizens in Keene to be able to vote.

Councilor Lake stated he too was leaning the same way. He felt a level of consistency was important. The Councilor also thanked city staff for all their work on this item.

Councilor Powers thanked Councilor Filiault for bringing this item forward and added the price of democracy at times is worth the price.

Councilor Madison stated he is too is very impressed with the City Clerk and also added we are coming up on one year of Russia's invasion of Ukraine and felt \$10,000 seems like a small price to pay for the right to vote.

Councilor Lake made the following motion, which was seconded by Councilor Madison.

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends accepting the communication from Councilor Filiault as informational.

6) Relating to Personnel Systems & Procedures - Ordinance O-2023-03

Asst. City Manager/HR Director Beth Fox was the next speaker. Ms. Fox stated she was before the Committee with amendments to a couple of sections of City Code. The first amendment is to the City Code relative to the family and medical leave policy. Currently City Code only allows for family and medical leave for the purposes of birth, placement, or bonding of a child to be taken in a continuous period which is the minimum requirement of Federal Law. Federal law does allow the employer to grant it on a reduced leave or a non-continuous period. However, City procedures do not.

Ms. Fox stated the proposal before the Committee will allow that process, giving consideration to reduced leave, or non-continuous leave for a period of time following the birth of a child. It is expected to give employees more flexibility as they deal with balancing new obligations in their household.

The next two amendments has to do with medical insurance provisions. The first relates to payment in lieu of taking the City's health benefit which is provided to nonunion employees. Ms. Fox noted this has not been adjusted in at least 10 years.

The final amendment has to do with the formula the City uses to calculate premium for employees entitled to insurance under the Affordable Care Act. The Affordable Care Act has variety of provisions; it has a different methodology for calculating employee insurance share. The City is looking to retain the attractiveness of its qualified part-time employee positions and proposing to reduce slightly the employee contribution towards premium (qualified part-time employees).

Councilor Remy asked what the cost was for going from nine percent to seven percent for qualified part-time employees. Ms. Fox stated it ranges as it is based on the employee's income and can be between \$12 - \$20 for five employees and is likely around \$5,000 annually.

Councilor Chadbourne noted to use of the more gender neutral term "employee" versus "his/her" and felt this was forward thinking.

Councilor Remy referred to the medical insurance and felt it was unusual to encourage someone to not carry medical insurance. Ms. Fox stated this was not unusual in the public sector and added the City's priority is for all employees to be covered by insurance. However, to the extent they might have another option and is fiscally beneficial to them – it also is beneficial to the

City. Ms. Fox added the employee does have to prove they have other coverage before they can opt out.

Councilor Remy asked for the cost to the City for an employee to be covered by insurance. Ms. Fox stated for a single plan coverage it is approximately \$9,500 annually.

Councilor Madison made the following motion, which was seconded by Councilor Remy.

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends the adoption of Ordinance O-2023-03.

**7) Relating to the Acceptance and Appropriation of Unanticipated Revenue
Resolution R-2023-07**

City Engineer Don Lussier addressed the Committee next and stated this item is regarding Senate Bill 401 that was passed last year by the State Legislature where 36 million dollars was appropriated to the State for additional bridge aid to municipalities. The City has received \$724,612. Mr. Lussier noted the City of Keene owns the largest numbers of bridges in the State next to the Department of Transportation (DOT). The funds are for the purpose of maintenance, construction or reconstruction of municipally owned bridges.

Mr. Lussier stated the Resolution before the Committee requests acceptance of these funds and provides recommendation of where the funds should be utilized. The first recommendation is for the George Street Bridge construction scheduled for FY24. The funds set aside for this bridge is based on an estimate done by DOT staff in 2009 and did include a factor for inflation. However, based on the cost expended for the Roxbury Street Bridge, this estimate has not kept up with inflation and the estimate seems underfunded. As a result staff is suggesting appropriation of an additional \$175,000 into the George Street Bridge project.

The next item is the Sullivan Road Bridge over Ferry Brook (10 foot span), which is a small bridge and does not meet the State definition of bridges. It was damaged in 2021 during a rain storm. It was included in the State's damage assessment submitted to FEMA for reimbursement which is usually a 25/75 split between the State and City. However, for this emergency it was estimated to be reimbursed at 90%. Hence, staff's recommendation is to appropriate \$125,000 for repair and reconstruction of that bridge. The balance of the funds in the amount of \$424,612 – staff is recommending this amount be appropriated into the bridge capital reserve for future bridge maintenance.

Attorney Mullins referred to the Sullivan Road Bridge and clarified even though by definition this bridge does not meet the State's definition for a bridge, because it is a municipally owned bridge it would qualify for these funds. Mr. Lussier stated the reconstructed bridge will be more than ten foot span and hence would meet the bridge definition.

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

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends the adoption of Resolution R-2023-07.

Mr. Lussier stated on February 14 there will be a neighborhood meeting for the George Street Bridge replacement at the Recreation Center at 6 pm.

8) Relating to the Optional Veterans' Tax Credit and Relating to the All Veterans' Tax Credit - Resolution R-2023-08 & Resolution R-2023-09

City Assessor Dan Langille stated the two Resolutions deal with veterans credits. Mr. Langille explained a credit is a direct reduction in a tax bill. These Resolution are for \$300 each and a veteran can qualify for one or the other, but not both. Mr. Langille explained the difference. The optional veteran's credit is for veterans who served during wartime. All veterans' tax credit are for veterans who didn't serve during a wartime.

Mr. Langille stated tax credits are reviewed every five years to keep with the Council's fiscal policies. The reason this credit is being reviewed today is because there has been a change in State Law. The change is to the definition. In the past a veteran was someone who has served and has been honorably discharged. The new definition is being expanded to someone who has served a minimum of four years and continues to serve. If the City does not adopt the proposed Resolution the credit would drop down to \$50 and added staff does not recommend that.

Councilor Madison asked about medically discharged veterans before the minimum timeframe of four years. Mr. Langille stated it is four years, but if someone is honorably discharged prior to that, they would qualify.

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

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends the adoption of Resolution R-2023-08.

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

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends the adoption of Resolution R-2023-09.

There being no further business, Chair Powers adjourned the meeting at 7:05 PM.

Respectfully submitted by,
Krishni Pahl, Minute Taker

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