

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

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

**Thursday, October 26, 2023**

**6:00 PM**

**Council Chambers,  
City Hall**

**Members Present:**

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

**Members Not Present:**

Bettina A. Chadbourne

**Staff Present:**

Thomas P. Mullins, City Attorney  
Merri Howe Finance Director  
Rebecca Landry, Asst. City  
Manager/Communications & Marketing  
Director  
Beth Fox, Asst. City Manager/Human  
Resources Director  
Donald Farquhar, Fire Chief  
Don Lussier, City Engineer  
Andy Bohannon, Parks, Recreation and  
Facilities Director

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

**1) Acceptance of Donations - Holiday Family Sponsorship - Human Services Manager -Natalie Darcy, Human Services Manager**

Finance Director Merri Howe was the first to address the committee on behalf of Human Services. Ms. Howe stated she was before the committee to authorize the Manager to accept gift donations associated with the City's 2023 Holiday Sponsorship Program.

She indicated annually Human Services staff contacts sponsors throughout the community who provide gifts and holiday items for families and older adults, who have received services from the City for the past year. These are families who have children with special needs and people who are struggling to make ends meet. Ms. Howe stated the purpose of the program is to provide gifts so they can focus on utilizing their funds to pay for rent, food and other such essential items.

Asst. City Manager City Manager Rebecca Landry stated this program has been wonderful over the past years and it is overwhelming to see the amount of donations that come into City Hall.

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

On a 4-0 vote, the Finance, Organization and Personnel Committee recommends that the City

Manager be authorized to do all things necessary to accept donations associated with the City's 2023 Holiday Sponsorship Program.

- 2) **2021 Homeland Security Grant Program - Hazmat Frisker Equipment - Fire Chief Donald Farquhar, Fire Chief**
- 3) **2023 Homeland Security Grant Program - Hazmat Equipment - Fire Chief Donald Farquhar, Fire Chief**
- 4) **2023 Homeland Security Grant Program - CBRNE Equipment - Fire Chief Donald Farquhar, Fire Chief**

As background for the next three agenda items, all of which relate to hazardous materials grants, Fire Chief Donald Farquhar stated the City of Keene operates one of the nine hazard materials teams that exist in the State of New Hampshire. The City covers 36 towns in the region. Most recently the City team travelled to Vermont due to their flooding event.

The Chief went on to say about two years ago the department was awarded a Hazardous Materials Program grant for \$34,000. The funds were used to hire a subject matter expert in hazardous materials to perform a complete overview of the Hazardous Materials Program. One of the outcomes was a robust emergency response plan for the team to deploy. Another part of that process was a thorough review of the department's equipment. It was discovered that the department's metering and materials management equipment was outdated and had limited capabilities, and there were operational costs to support this outdated equipment.

In 2022, the department used the homeland security grant to purchase a meter referred to as an ARX Meter which is exceptional in metering solids. The cost of that meter was \$60,000. The Chief noted the items being represented today include a Relational Meter; a replacement for an off road vehicle and two other meters to go along with that allotment of money.

The Chief continued that is being presented tonight is about six or seven different grants to round out the Hazardous Materials Program. He noted the equipment brought on board has zero tax dollar impact to the Keene taxpayer while reducing yearly operational costs to maintain the equipment.

These grants will allow the City to replace the previously noted off-road vehicle that was purchased in 2005 and has passed its service life. The grants will also allow the City to purchase two additional meters. In addition, there will be funds to replace RAD frisker detection equipment (Radiation Detector).

Finally, a third grant in the amount of \$22,000 is for a gas specific meter, to allow the department to monitor gases with a great deal of accuracy and replaces an older system which was costing a lot to keep in place.

The next item is a Red Wave Meter for \$50,000, which would replace an older system. The AP4 meter at a cost of \$70,000 helps with biologics and toxics. The training to use this meter will be at a cost of \$37,000 to cover overtime for training. An outside consultant will be brought on to help with this.

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

On a 4-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to apply, accept, and expend the 2021 Homeland Security Grant Program - Hazmat Frisker Equipment grant in the amount of \$2,000.00.

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

On a 4-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept and expend the 2023 Homeland Security Grant Program - Hazmat Equipment grant in the amount of \$60,715.00.

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

On a 4-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept and expend the 2023 Homeland Security Grant Program - CBRNE Equipment grant in the amount of \$157,920.00.

5) **Jared Goodell - Place of Assembly Permits - Recent Charge by Fire Department – Bender’s Bar & Grill Jared Goodell**

Chief Farquhar addressed the committee again and stated there was an inquiry from a local business owner regarding a recent charge from the Fire Department for a Place of Assembly permit. The Chief explained the RSA states that you cannot be charged for an Assembly Permit. He continued that the Fire Department charges is for the inspection that would be required before an Assembly Permit is issued. He noted several cities and towns manage this charge in the same manner.

City Attorney Mullins addressed the committee next. He indicated under Chapter 155 of the State Statute – Title 12 which generally refers to Public Safety and Welfare. The specific section Mr. Goodell raises 155:19 deals with Permits for Assembly. On the face it does say “...*permit shall be obtained from the licensing agency and such permit shall be issued without charge for one year from the date of issue...*”

The Attorney indicated what happens in an area like this is that you have to engage in what is referred to as Rules of Statutory Construction and Interpretation. What the Courts say is that you cannot pick just you cannot pick out one part of the statute without considering the rest of what may apply. Rather, one has to look at all statutory processes that may surround it for context.

RSA 155:17, 155:18 and 155:19 arose in 1943. Other sections of the statute have been amended. However, 155:19 has not been amended. Two other sections that need to be considered are 155:17 (Definitions) and 155:18 (License Required). 155:17 provides for the Chief of the Fire Department the authority to issue a license under this statutory scheme. He indicated the Legislation is aware of the difference between a license and a permit and it comes from a case in New Hampshire – Cox Decision in 1940. A case which involved a religious organization and whether they required a permit to parade down City streets. The Supreme Court in that case

required that this entity obtain a permit but made a distinction between a license and a permit. The Court stated in this case “...*application for a permit gives the public authorities notice in advance, for which... licenses may be granted...*”

The Attorney noted the City has the authority to undertake licensing and also to charge fees associated with the licensing process. The Statute itself makes it clear that as part of this process the Fire Department can undertake investigation and review issues associated with the place of accommodation. It authorizes the Fire Department through the Fire Chief to inspect accommodation and in doing so it almost always authorizes a fee associated with that process.

The Attorney indicated it is the City’s position that the licensing process and the permitting process are two different things. The City can charge for the investigation that is associated with the licensing process. However, Mr. Goodell is correct in that the City cannot charge for the permit itself. The issue arose because the City Code was not clear on this issue. He indicated the City looked at other communities and there is an even split between the 12 communities they looked at – between those that charge for a permit and those who charge for the inspection. He added staff will be coming back before Council in the near future to make this distinction clear.

Councilor Madison asked when an Assembly Permit is required. Chief Farquhar stated it is for occupancy over 100. He added the Fire Department inspects close to 120 assemblies annually which is about \$8,400 in revenue each year.

Councilor Remy asked whether the City has had a conversation with Mr. Goodell since the last time he was before the Committee. Attorney Mullins stated the Clerk’s advises the applicant the matter is coming before the committee today and they are invited to attend.

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

On a 4-0 vote, the Finance, Organization and Personnel Committee recommends accepting the communication regarding assembly permits as informational.

**6) Downtown Infrastructure Improvement and Reconstruction Project - Professional Services Agreement Preliminary Design Donald Lussier, City Engineer**

City Engineer Don Lussier addressed the committee next. Mr. Lussier stated this item is looking at the contract for the next phase of design. He explained so far the City has undertaken the planning and engineering study phase. The goal of that phase is to determine what is going to be built. In July 2023, the Council voted on the broad outline for the Downtown Infrastructure project.

Mr. Lussier stated there was broad consensus that utility work was going to be undertaken. The other aspects that were agreed upon was that the current Central Square configuration will be retained with a new signal and optimized signal infrastructure. There will be two travel lanes in each direction on Main Street. The parking on the median of Main Street will be eliminated in order to free up space for wider sidewalks and other amenities. There will be multimodal facilities or bike lanes along the side of from Central Square to Water Street. At the Gilbo

Avenue and Railroad Square area, there will be a raised intersection to strengthen that connection. There will also be some traffic calming measures added to make a stronger connection across Main Street between those two areas. Gilbo Avenue will remain a two-way street.

Mr. Lussier indicated up to this point they have been working in sort of a “magic marker” realm of planning and design. The next iteration will flush out most of the broad concepts. The end goal of the preliminary design is to produce a set of construction plans and specifications that are at a sufficient level of detail to enable submission to a regulatory agency for permits. Mr. Lussier stated they are hoping for grant funding for this project and included in the scope of this contract is to have the consultant complete a substantial amount of environmental work that will be required to obtain Federal funding.

He explained any time there is Federal funding involved, the City has to comply with the National Environmental Policy Act (NEPA) which has a list of items that need to be addressed such as, groundwater, surface waters, wetlands, endangered and threatened species, invasive species, archaeological resources, historical resources, air quality etc. The consultant will also meet with regulatory agencies to get early feedback on the scope of the project.

Mr. Lussier stated also during this phase they will be doing some additional investigation to fill in data gaps identified during the planning study, such as geo technical data which for example will provide for how much soil will need to be excavate when replacing utilities.

Other things that will happen will be refining of horizontal and vertical geometry of all individual utilities. Curbing and alignment of individual parking spaces and landscape islands.

Mr. Lussier stated the City does not, because of the age of its pipes, have good data, so included in their scope is more video inspection of the drainage and sewer lines. They will also be looking for where items are buried as City data is not clear on that issue as well. Other activities, will include public engagement during this next phase.

Another part of this next phase that the City is anxious to get started on is accommodating businesses during construction. This project will have a great impact on downtown businesses and residents. The City wants to make it tolerable for downtown businesses and residents. There is a budget for approximately eight stakeholder meetings during the next phase.

There will also be three separate meetings before the MSFI Committee to provide regular updates.

There will also be work involving grant applications for significant Federal grants. The ideal grant for this project would be the Federal Rise Grant – Rebuilding American Infrastructure with Sustainability and Equity. This is a transportation grant which funds “significantly sized” projects. The minimum project an entity can apply for would be five million dollars. He added these grant applications are significant and it will be important to demonstrate that this project benefits a community in terms of environmental benefits, traffic benefits, safety benefits,

economic development – all benefits that exceed the cost to the Federal government. Stantec will complete the grant application and the City plans to submit the application by February.

Mr. Lussier stated this contract will take the project through preliminary design through mid-summer 2024. This concluded Mr. Lussier's comments.

Councilor Lake asked when public engagement and committee meetings will start. Mr. Lussier the first public engagement is scheduled for the February/March 2024 timeframe but added the schedule is tentative. MSFI updates are planned to happen every other month and the first one is scheduled to start the second cycle in January 2024.

Councilor Remy suggested publication of the stakeholder list and a schedule of what is going to be covered at each meeting to make sure everyone is included. Mr. Lussier stated they have good list of property owners based on the planning study of those within the construction area. There will be a direct mailing so residents in the properties would also be notified not just the property owners. The Councilor felt this should be a reoccurring process so when there is a turnover of tenants, everyone could be properly notified.

Councilor Madison suggested stakeholder meetings not be scheduled during the workday so those who are working can also attend. He also stated he understands the sole source contract because Stantec has done a lot of work so far. He asked whether any other consultants were looked at. Mr. Lussier stated when they went through the consultant selection process for Stantec; that RFQ was written to comply with the Federal consultant selection guidelines. It was scoped with the assumption that whoever the City hired would be retained through the full design. He added the City has not negotiated with other consultants and suggested that would be fairly inefficient to switch the team at this point as the City would be paying someone else to learn what Stantec has already done.

Ms. Landry indicated in addition to all the notices Public Works will be putting out for their underground infrastructure and other elements of the project, she would encourage the public to subscribe to the City's email list serves. She suggested on the [keenenh.gov](http://keenenh.gov) website there is a downtown business list that people can subscribe to and there is also a general announcement and City meeting list.

Councilor Greenwald, Chair of the MSFI Committee stated the MSFI Committee is the committee charged to oversee projects such as this. He felt once again the MSFI Committee is being passed over. He indicated when he hears \$900,000 being proposed to take them through preliminary design, he is very concerned. He noted Stantec has already been paid \$350,000 for the last two years, which he referred to as mismanagement. He stated to date there is no MSFI approval of a design and he felt a firm design needs to be in place before anything more is moved forward. He also noted there is no funding in place.

The Councilor went on to say it has always been the understanding that underground work needs to done, but now he is hearing this work is very complex, which he stated makes him concerned. He stated he is very opposed to the sole source bid and expressed displeasure at Stantec and how the project has been handled so far. He asked the City Attorney whether the City owns the work

that has been done so far. The Attorney answered in the affirmative. In that case the Councilor felt another firm could be brought up to speed and in the least felt a competitive bid was necessary. He hoped the committee would not just push this project through.

Ms. Landry in response stated there are multiple ways the City funds projects, capital reserves, debt financing and grants. She indicated there are capital reserves that have been set aside for this work. The total cost of the project would determine how this project is finally funded and added the City has long had a practice of minimizing spikes on the tax rate by funding projects with the various options she mentioned earlier.

Councilor Filiault Vice-Chair of the MSFI Committee stated he agrees with Councilor Greenwald and felt the MSFI Committee process is yet again being circumvented. He stated when the concept design was presented there were many questions that were raised and the answer at that time was before anything is finalized it will come back to the MSFI Committee. He felt before any more money is spent the item should be returned to the MSFI Committee and explained in detail what the design is going to be and then be sent back to the Finance Committee.

Councilor Remy felt to from a conceptual design to a final design, money will need to be spent and he felt that is what this proposal is. The Engineer agreed and went on to say at the moment the City is looking at the broad outline of the project. During the next phase is when decisions will need to be made about lighting, which trees are going to be saved, etc. He stated if staff did not communicate that, he apologizes. He added the funding for this project has already been appropriated by Council; between water, sewer and general fund a total of \$1.69 million for the design. \$580,000 of those funds have been spent with the previous contract. Mr. Lussier added they will continue to go before the MSFI Committee to get their continual approval as the plan gets refined.

Chair Powers clarified this item cannot be brought before MSFI until there is a plan and an engineer. Mr. Lussier stated staff can always bring the plan that is in place and it can be discussed more and a consultant will not be needed for that. However, if the City wants to move forward and get more of a definite plan, a consultant needs to be in place.

The Chair asked for public comment next.

Mr. Joe Marazoff of 641 Park Avenue addressed the Committee. Mr. Marazoff stated he is questioning the cost of this project. When the project started it was to be seven million dollars and now the project is estimated to be fourteen million dollars. He questioned if there was any upper limit to this project. With regards to grants, if the City is successful in getting Federal funds, the City will have obligations to the Federal government, which often has solutions and ideas which are counterproductive and potentially corrupt. He felt if the public were consulted, they will not be in favor of what is being proposed tonight.

Mr. Jay Kahn of Darling Road stated no one wants to see a scope change once a contract is signed and asked whether there will be request in this to present a utility replacement project without any further changes. Mr. Lussier stated what was discussed in the past is just replacing

the utilities, which was 70% of the total project cost. He stated his concern has always been because the utility repair is so extensive, the City might not want to just replace the utilities and trench patch the downtown back together. He added if the utilities were just to be replaced and nothing else done the project cost would be nearly the same. Mr. Lussier added all sidewalks will be replaced when the utilities are redone as they would need to be dug up.

Mr. Lussier stated the cost estimate presented in July was for 14.1 million for the utility work and to put it back together as it exists now. 14.9 million is for the addition of the five legged intersection, signalized intersection and extending Central Square. Mr. Kahn asked whether there will be a request to the consultant for a scope for a utility replacement project as a base project. Mr. Lussier questioned whether this would include a patched sidewalk or a finished sidewalk. For a finished sidewalk project would be at a cost 14.1 million dollars.

The Chair felt this is an unfair question to staff; he felt this is a question MSFI Committee should be posing to the consultants. The Chair went on to say there is a lot of time built into this contract so we can finally come back with a project to be voted on by Council and then funded.

Mr. Kahn stated the concern most citizens have expressed to him is to replace the utilities and get the project completed. He stated people want to know what the price for this work is. Mr. Kahn asked whether in this contract there will be a detailed analysis for the price mentioned with the contract being proposed today.

Councilor Remy offered what he understood to be Mr. Kahn's question which could the consultants be asked, as part of the project, can there be a cost "control estimate" as a basis of comparison to put downtown back to the current condition. Mr. Kahn agreed that that was what he was requesting.

Mr. Lussier responded this wouldn't add to the cost because that work has essentially been done. He added the consultant's work presumes that the plan adopted by the Council in July is what is being advanced. The purpose of the engineering and planning phase was to figure out in broad terms what the City wants to build. What Council directed staff to look at was to keep the existing configuration, new signalized intersection, two lanes on either side of Main Street, get rid of parking on the median, add bike lanes, keep Gilbo Avenue as a two-way traffic, improve intersection treatment between Gilbo Avenue and Railroad Street. Mr. Kahn felt the City is working with a plan the public still has questions about.

Mr. Lussier stated a lot of the items included in this contract such as environmental studies, geo technical investigation would be applicable regardless of which plan the City chose to go with. He stated it is important to decide whether the City was going to build what the Council approved in July or not. If that is the case, the consultant would need to be advised not to do some of the tasks because the City will be revisiting the plan. He also advised if that was the case the City would not be in a position to submit a grant application in February.

Councilor Remy stated the Council voted in July and this would be the position of the Council.

Ms. Landry noted if the project is delayed the cost does increase.



Mr. Dwight Bowie of Hurricane Road Keene addressed the committee and stated he attended between five to ten infrastructure meetings. He stated he found the material online to be confusing and ended up having to talk to the City Engineer for details on the project. He stated he also contacted the Manager's office who indicated to him he would not be able to find any information, because the information is not available.

Mr. Bowie stated the public meetings even though they were well intended they did not do the job it was intended to do. Even today there are different ways questions are being raised and he felt there needs to be more citizen information which is explained clearly as to what is going on. He stated there is a lot of concern in the City as to what is being planned. He stated he wants to be engaged with the City to get a better understanding but at the moment there are varied viewpoints. He asked what the term "concept" meant and stated he would like someone get back to him for added clarification and how he could become more fully engaged.

Councilor Greenwald addressed the committee again and asked the committee at the least to consider the sole source issue. He felt this item should be continued until January until the new Council comes on board and gets to weigh in on the plan. He stated he understands the deadline for grant application is February, but he asked the committee "to slow it down."

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

That the Finance, Organization and Personnel Committee recommends that the City Council per Section 2-1336. - Waiver of requirements, award a sole-source professional services contract to Stantec Consulting Services, Inc. for an amount not to exceed \$995,000 and that the City Manager be authorized to do all things necessary to negotiate and execute a professional services contract with Stantec Consulting Services, Inc. for the next phase of the Downtown Infrastructure Improvement and Reconstruction Project.

Councilor Remy stated he agrees, albeit it was a close vote, the Council voted to move forward with a preliminary design and he felt what is before the committee today is the next step in that process. He added the Council is not ready to weigh in on the design yet. As far as sole source he felt this was a technicality in the manner the City presents project to this committee. Sometimes it is looked at with other projects, and sometimes it is broken up. He felt it was bid as one project. He compared this project to a wastewater treatment plant project where items get broken into small pieces but in reality, it is part of the same project. Councilor Remy stated he was in support of the motion.

Chair Powers stated he too does not want to do sole source, but he did not feel this was a sole source contract. A contractor was selected by the City and changing mid-stream was not a good option. He stated there is no plan that everyone can understand because the City is not at the place yet. The Chair stated the final design will come through the MSFI Committee and a grant cannot be applied for until a design is put forth.

On a vote of 4 – 0, the Finance, Organization and Personnel Committee recommends that the City Council (per Section 2-1336. - Waiver of requirements), award a sole-source professional services contract to Stantec Consulting Services, Inc. for an amount not to exceed \$995,000 and that the

City Manager be authorized to do all things necessary to negotiate and execute a professional services contract with Stantec Consulting Services, Inc. for the next phase of the Downtown Infrastructure Improvement and Reconstruction Project.

7) **LWCF Grant Round 33 Acceptance - Skatepark - Parks, Recreation and Facilities Director Andy Bohannon, Parks, Recreation and Facilities Director**

Parks, Recreation and Facilities Director Andy Bohannon addressed the committee and stated a few weeks ago the City celebrated the opening of Pat Russell Park. During his speech during the opening of the park, Bill Geigas from the State of NH, Department of Recreation and Community Services, announced the City had received \$225,000 towards the skate park project. Mr. Bohannon stated the item before the committee tonight is to make sure that happens as the City needs to send the Agreement for expenditure of those funds to the Governor and Executive Council.

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

On a 4-0 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 Land and Water Conservation Fund Grant Round 33 award for \$225,000.00 for the Skate Park Project.

8) **LWCF Grant Round 33 Acceptance - Russell Park - Parks, Recreation and Facilities Director Andy Bohannon, Parks, Recreation and Facilities Director**

Mr. Bohannon indicated this is for the \$500,000 the City applied for Russell Park. In total, the park received \$900,000 in LWCF funds. The \$500,000 would go towards the Boci Court which was cut out of the original project which the neighborhood wanted, the rest would be utilized to reimburse debt used from various sources to make this project happen.

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

On a 4-0 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 Land and Water Conservation Fund Grant Round 33 award for \$500,000.00 for the Russell Park Renovation Project.

9) **LWCF Grant Round 34 Notice of Intent - Robin Hood Park Parks, Recreation and Facilities Director Andy Bohannon, Parks, Recreation and Facilities Director**

Mr. Bohannon addressed item 9 as well. He indicated this item is for the application process for the Robin Hood Park renovations. A letter of intent was submitted in June. The City has been accepted into the grant round and the application is due December 15. Part of the process is to make sure the Manager has the authority from Council to apply for the grant. The application would be for the pool, bathrooms, and recreational play area. The City has three years to expend the funds.

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

On a 4-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to execute the submission of the application for LWCF Grant Round 34 for the Robin Hood Park renovation project.

There being no further business, Chair Powers adjourned the meeting at 8:23 PM.

Respectfully submitted by,  
Krishni Pahl, Minute Taker

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