

City of Keene
New Hampshire

FINANCE, ORGANIZATION AND PERSONNEL COMMITTEE
MEETING MINUTES

Thursday, July 12, 2018

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:

City Manager, Elizabeth Dragon
City Attorney, Thomas Mullins
City Clerk, Patty Little
Police Captain, Todd Lawrence
Parks Recreation and Facilities Director,
Andrew Bohannon
Senior Planner, Tara Kessler
Revenue Collector, Mary Alther
Deputy City Clerk, Bill Dow

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

1) Acceptance of Grant Funds – NH Division of Historical Resources Certified Local Government Grant for Heritage Commission Workshop Series - Planning Department

Senior Planner Tara Kessler stated she was before the Committee regarding a grant in the amount of \$2,950 from the NH Division of Historical Resources Certified Local Government Grant Program for the Heritage Commission's 2018 and 2019 Workshop Series. She noted as has been done in the past, this entity will be conducting three workshops starting in the fall focusing on Keene's agricultural heritage and will be conducting these workshops in partnership with local organizations.

This grant provides for 60% of the project funding and a 40% match of in-kind donations of their time.

Chair Greenwald noted in the background notes it is indicated that \$1,967 is from the Heritage Commission and asked whether this was the service and staff time or whether this was cash. Ms. Kessler stated \$1,967 is in-kind match and hence it is volunteer time.

Councilor Chadbourne asked whether the Heritage Commission has reached out to the Agriculture Commission. Ms. Kessler stated the Agriculture Commission is being looked at

as a partner as well as the Monadnock Farm to Community Coalition, the Historical Society of Cheshire County, Stonewall Farm, the Food Coop and the Farmer's Market.

Councilor Clark 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 accept and execute a \$2,950 grant award from the NH Division of Historical Resources Certified Local Government Grant Program for the Heritage Commission's 2018 and 2019 Workshop Series.

2) Acceptance of Donation - Maintenance - Maple Avenue/Court Street Roundabout - Parks, Recreation and Facilities Department

Parks, Recreation and Facilities Director Andrew Bohannon stated this donation is for services in the form of landscaping from the Savings Bank of Walpole to maintain the roundabout on upper Court Street which connects Old Walpole Road and Route 12A.

Councilor Jacobs asked whether any kind of public safety component will be put in place for this project by the city. Mr. Bohannon stated he drives by this location quite a few times a day and will be watching the quality of work and added they do hire a landscape architect to do the work and the plan has been reviewed and approved by Public Works.

Chair Greenwald encouraged the bank to get their employees to participate in this work.

Councilor Powers made the following motion which was seconded by Councilor Clarke.

On 5-0 vote, the Finance, Organization and Personnel Committee recommends the City Manager be authorized to do all things necessary to accept a donation of landscaping and maintenance of the Maple Avenue and Court Street roundabout by the Savings Bank of Walpole.

3) Acceptance of Law Enforcement Opioid Abuse Reduction Grant - Police Department

Police Captain Todd Lawrence stated this is the third year the department has applied for this grant through the Department of Safety. The goal of the grant is to reduce opioid use and sale and thus reducing opioid overdoses as well as serious crimes associated with drug use. Captain Lawrence stated the Police Department so far has been given \$30,000 in grant funding which will be utilized for overtime funding.

Councilor Jacobs asked whether this grant has helped in this area. Captain Lawrence stated in 2017 the department had 104 investigations resulting in 86 arrests and so far in 2018 there have been 71 investigations resulting in 50 arrests and taking away 265 grams of heroin and fentanyl off the streets and 106 grams of crack cocaine.

Councilor Jacobs 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 accept the NH Department of Safety 2018/2019 Law Enforcement Opioid Abuse Reduction Grant in the amount of \$30,000.

4) Repurchase of 344-346 West Street - Finance Department

Revenue Collector Mary Alther stated on May 8 the city deeded 344-346 West Street to the city and the owner was given the opportunity to repurchase the property. The owner would like to pay all back taxes, interest and costs by July 6, 2018. Staff is recommending the re-conveyance of this property back to the former owner subject to the conditions outlined in the motion.

Chair Greenwald asked the City Attorney what happens if the owner pays the back taxes but does not keep to the Housing and Behavior Standards. Attorney Mullins stated the deed has a reverter clause and if there was an investigation conducted by the city which shows the property owner has not kept up to the standards the property can be taken back by the city. The Chairman asked whether there could be an issue with gaining entry to the property to conduct such investigation. Attorney Mullins stated the city would have a fairly good idea of the condition of the property based on the view from the street but stated no language can be included regarding access in the deed.

Councilor Powers asked whether the amount the owner is paying would include all taxes to date. Ms. Alther answered in the affirmative and the cleanup costs are also included in the amount. The Chairman asked for the amount the owner will be responsible for; \$63,652.05.

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

On 5-0 vote, the Finance, Organization and Personnel Committee recommends the City Manager be authorized to convey 344-346 West Street to the former owner upon payment per RSA 80:90 and with the condition the former owner continues to comply with City Code Chapter 18, Article III, Division 2, Property Standards; section 18-241, Division 3, Housing Standards, sections 18-250 through 18-264: and with the prohibition on maintaining a nuisance under RSA 318-B: 16.

5) Councilor Clark - Process for a City Councilor to Request Information from Staff

Councilor Clark began by saying in an effort to be transparent he wanted it noted he has filed a motion with the Public Utilities Commission regarding Liberty Utilities' intention to build a frack gas pipe line under the Ashuelot River to convert Keene's propane system to frack gas. He stated this letter originates from his request to staff regarding Liberty Utilities Petition to construct this pipe line. He indicated during his filing, he learned the city would be requested to approve two easements. He noted the manner in which this project has been explained to him is not true and is contradictory to Liberty's own PUC filings.

Attorney Mullins cautioned the Committee that they have not been publicly noticed any discussion relative to Liberty Utilities and they are not present today and it would be appropriate for this entity to be present should the Committee wish to discuss them further.

Councilor Clark stated his inquiry was about what the process was going to be about how the Liberty Utilities matter was going to move forward and the city's opinion regarding this matter. He added he felt it was necessary that the Council has ample time to review this item, and hence asked staff for certain communications to share with fellow Councilors. He also noted when a Councilor requests information, the rest of the Council is copied on such response but he was advised a legal determination needed to be made before any information was provided to him relative to his request, and when questioned why he was refused he was told a Right to Know request needed to be filed because the item was not on the agenda and staff would need to reach out to multiple departments to obtain this information.

Councilor Clark stated as a result he was challenging this policy and did not feel a City Councilor needed to file a Right to Know request to obtain public information. He added he was advised that information is open to councilors only if an item is on the agenda. However Councilor Clark feels that councilors should have a longer period of discovery especially when it is acknowledged by everyone this item will be before the Council soon. He felt this policy discourages councilors from doing their job. In addition to being the healthiest community he felt this community should also be open and transparent.

City Manager Elizabeth Dragon addressed the Committee and reviewed the questions in the letter submitted by the Councilor:

What is the proper procedure for a city councilor to request information from city staff?

She stated questions like this would come to her office and she will distribute same and added she had no problem with councilors requesting information from staff, even though she would like to be copied on such requests so she can be sure the response is happening and the information provided is accurate.

Under what circumstances is city staff justified to require a city councilor to file a right to know request for public information concerning a matter coming before the council, and when has this happened in the past?

Ms. Dragon stated there is no circumstance where this has happened in the past. However, the tricky part is when an item being requested is not part of an agenda or will never be part of an agenda or if a councilor has an interest in that item or if a response requires a search be done on digital files which then become a Right to Know request. Ms. Dragon noted this particular request was turned around fast but there is a fee attached to it; in this case it was a dollar.

She noted when she consulted with the City Attorney and City Clerk it was to determine precedence and both of those individuals advised this would be a Right to Know request. The Manager stated there has been such a request made in the past; one did not follow through and the other paid the fee for the information. Ms. Dragon stated there is some reasonableness applied to such a request and she often likes to err on the side as being as open as possible but at the same time looks at things which might be of a personal nature. She felt the information requested was provided in a timely fashion even though it was referred to as a Right to Know request.

Chair Greenwald stated he recalls with Ms. Dragon's predecessors, such requests would have always gone through the Manager's Office. Councilor Clark clarified his request did go through the Manager's Office. The Chairman asked for the City Attorney's input on this item. Attorney Mullins stated there was no intention of trying to withhold information – he noted when a Councilor is acting as one member of the City Council you are not acting as the Council. He added non-public sessions and such happen within the context of the Council and it cannot happen within the context of individual members of the Council. He stated under 91-A he would not be able to disclose information that is not otherwise disclosable under 91-A. However, the entire Council could vote to obtain this information. Attorney Mullins stated staff tries to always be responsive to Councilors.

Councilor Clark stated he was not questioning the action of staff but the policy itself. He stressed he was not requesting correspondence that happened between city staff but correspondence that happened between PUC and the City. He added this is going to be a very complicated issue and the Council needs to fully understand an issue without having to accept what is out there. He felt if he requested this information the entire Council would be given access to it.

Councilor Jacobs stated he always tries to go through the Manager's Office with such requests. He stated he was confused about the Right to Know issue especially if communication with one councilor extends to the entire Council.

Ms. Dragon stated in an effort to have more information on this topic she reached out to other municipalities to see if anyone has a particular policy but no-one has a written policy. When such a request has been made elsewhere, the individual goes through the

Right to Know request process and this is because when a request as such is made it has been for personal reasons.

Ms. Dragon referred to language from Councilor Clark's email as follows:

Elizabeth, I would like to have copies of communication including emails to and from city employees and Liberty and their contractors concerning this issue.

Ms. Dragon stated this was a very broad request which required a computer search through the IT Department which was pursued. The question is whether a fee is charged for this request through the Right to Know process or is the information provided to the individual as a Councilor.

Chair Greenwald asked how the Committee should proceed with this item. Ms. Dragon stated because this is not something that happens often, creating a policy will create more harm than good because staff tries to be more helpful than not; it would be difficult to address every single scenario.

Councilor Clark felt this type of situation sometimes becomes a road block for Councilors and felt discussing the policy would be prudent, keeping in mind future issues that could arise. The Councilor used the Production Avenue closure as an example and felt if more councilors were notified the result might have been different.

Councilor Chadbourne felt it would be necessary to see if Council wants to create such a policy.

Councilor Clark made the following motion which was seconded by Chair Greenwald for the purpose of discussion.

That the Finance, Organization and Personnel Committee recommends the establishment of a policy for City Council information requests.

Chair Greenwald asked for the Attorney's input. Attorney Mullins stated part of his training is to get to the core of an issue and sometimes that could be uncomfortable. He stated ten years ago he was hired to advise the Council. He stated what the Council is being asked to do by a City Councilor is to provide a councilor an opportunity through a policy to circumvent a statute that is in place that provides the opportunity of the public to get information without being before the Council and the Council knowing about it. The Attorney stated he has concerns about this as no-one will know the real intent of this request. He stated it is difficult to write a policy outside of 91-A which provides one Councilor greater rights than the public.

Councilor Chadbourne felt this means what is being requested could be perceived as an abuse of power which could reflect badly on the entire Council.

Councilor Jacobs stated he would be voting against this policy and felt the information is available and all the Councilor has to do was to bring the item before the Council.

Councilor Clark stated he is not asking for the information just to be provided to him but what he asked for is through his request is that the information be sent to the entire Council. The Councilor took offense to the term “abuse of power”. Councilor Chadbourne stated she had stated it could be interpreted as such and also in the email the Manager read she did not hear the Councilor asking for this information to be shared with the entire Council.

Councilor Clark referred to the meeting between the charter employees and the Mayor where it was very clear the information was to be sent to the entire Council. Councilor Powers noted not all information between a Councilor and staff goes before the entire Council and hoped that was not the case and referred to an example with a street light issue.

Councilor Clark withdrew his motion, and the Chairman withdrew his second.

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

On 5-0 vote, the Finance, Organization and Personnel Committee recommends accepting this item as informational.

The meeting adjourned at 7:33 PM.

Respectfully submitted by,
Krishni Pahl, Minute Taker

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