

City of Keene
New Hampshire

FINANCE, ORGANIZATION AND PERSONNEL COMMITTEE
MEETING MINUTES

Thursday, July 11, 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

Mayor Kendall W. Lane

Councilors Present:

Councilor George Hansel

Staff Present:

Acting City Manager, Beth Fox
City Attorney, Thomas Mullins
Senior Planner, Tara Kessler
Asst. City Manager/IT Director, Rebecca Landry
Asst. City Manager/Community Development Director, Rhett Lamb
City Clerk, Patty Little

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 Historic Barn Inventory - Community Development Department**

Senior Planner Tara Kessler stated she is before the Committee regarding a grant from the NH Division of Historical Resources for use by the Heritage Commission to conduct a historic resources inventory of barns and carriage houses between the area of Washington Street and Court Street. She noted this work coincides with the Heritage Commission's work with raising awareness of Keene's agricultural heritage.

Ms. Kessler went on to say the \$15,000 grant is for the purpose of hiring a professional consultant and added this grant has a zero match requirement. The work will start as soon as the grant is obtained and will go through September 2020.

Councilor Jacobs asked why this neighborhood was chosen. Ms. Kessler stated currently this area is part of a barn tour educational workshop series and this neighborhood was chosen because it has a number of distinctive carriage houses and barns. Originally, they wanted it to be city-wide but the guidance the state provided felt that might be too broad. If the current chosen area is successful, they will move on to other areas in the city.

Councilor Chadbourne asked whether other grant opportunities would be available for future work. Ms. Kessler stated this grant opportunity has been available for a while and felt the city could apply for it again in the future.

Chair Greenwald asked whether this inventory would have any impact on the owner's ability to remove the barn or modify the barn. Ms. Kessler answered in the negative and stated the intent is to gather information about the historic resources in the area and to create a database to share with the property owners and share ideas of how to preserve these barns but it does not restrict private rights.

Councilor Clark felt this was a great opportunity to identify these resources and provide owners with alternatives instead of having to tear them down.

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 Council authorize the City Manager to do all things necessary to accept and execute a \$15,000 grant award from the NH Division of Historical Resources Certified Local Government Grant Program for the Heritage Commission's Inventory of Historic Barn and Agricultural Structures.

2) Terry Johnson/Southwest Region Planning Commission - Proposed Application for CDBG Funds - Shelter Rehabilitation

Terry Johnson, Senior Project Manager for Southwest Region Planning Commission stated that he provides community development block grant writing and administrative services to the City of Keene. He noted these grant funds are awarded to towns and cities on a competitive basis and can be used for housing and economic development projects, which primarily support low and moderate income people.

Mr. Johnson stated the project before the committee tonight would provide up to \$500,000 to be sub-granted to Southwest Community Services for renovations to two of its homeless shelter facilities. The grant application is due by July 29; a public hearing has been scheduled for July 18.

Mr. Keith Thibault of Southwest Community Services stated for the past 30 years Southwest Community Services has been operating homeless shelter facilities in Keene (men's shelter, women's/family shelter and a transitional shelter). He noted they work in collaboration with Keene Housing and Cheshire Housing Trust to help maintain these facilities. Mr. Thibault stated these facilities are usually at full capacity. Mr. Thibault went on to say what they are looking to do is to transfer these facilities from either Keene Housing or the Housing Trust to Southwest Community Services. Mr. Thibault noted the men's shelter was fully rehabilitated only recently and hence needs no work at all; however, the other two are in need of energy savings upgrades and structural upgrades.

Councilor Jacobs asked whether residents who use these facilities would be relocated to other facilities during construction period. Mr. Thibault stated under federal rules they are required to provide alternate facilities and they will be provided with alternative housing options.

Ms. Linda Mangones representing Keene Housing and Cheshire Housing Trust stated she has been part of this collaboration for the past 30 years and noted Southwest Community Services has done an outstanding job with the shelter program. She added they have done a good job protecting the privacy of the facilities and the residents and have been able to integrate well into neighborhoods.

The Chairman asked what action was required of the committee tonight. City Attorney Mullins asked the committee to accept this item as informational as no action can be taken on it until the public hearing.

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

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

3) **Municipal Services Agreement with Keene State College - City Manager**

Acting City Manager Beth Fox stated the city has had a five-year agreement with Keene State College related to municipal services. For a variety of reasons, the re-negotiation process has been delayed and the Manager and the President of the college have agreed to a one-year extension to take the agreement through this fiscal year. She noted the last agreement had a component for fire, police and judicial investigative services and the city has been able to move the bar significantly.

Councilor Clark asked if the agreement has to run with the fiscal year. Ms. Fox stated the budget was written with the idea the agreement will run as it is currently written and the new agreement will go into effect as of FY21.

Chair Greenwald stated he is glad to see Keene State College recognize the cost of services.

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

On 5-0 vote, the Finance, Organization and Personnel Committee recommends the First Amendment to Municipal Services Agreement between the City of Keene and Keene State College be forwarded to the City Council with a recommendation to extend the term of the agreement for one additional year.

4) **Charles McIntyre - NH Lottery Commission - Keno on 2019 Municipal Ballot**

Mr. Charles McIntyre addressed the Committee next. He indicated he was before the Committee two years ago requesting this item be placed on the ballot – he noted this item did not pass the first time. Mr. McIntyre went on to explain this is an adult bingo type product played on a monitor located in a tavern or bar. The price of a game could average between \$2 to \$8 and the average per customer is about \$10 per time. He added the significant sale is around 2 pm not 10 pm so this is mostly a game played while people are having their evening meal. Mr. McIntyre noted Keno has been a good revenue source for many communities - \$1,100 per child attending kindergarten and noted the majority of this money has been derived from Keno. He added this past year the lottery transferred 100 million dollars towards its educational obligation.

Chair Greenwald asked what surrounding towns participate in Keno. Mr. McIntyre stated 84 local towns have Keno and named Hinsdale and Jaffrey as two of those towns and added a number of local retailers have requested keno. The Chairman clarified keno has to be located in the bar area in a restaurant. Mr. McIntyre agreed and added in a study conducted by University of New Hampshire, a majority of the bars that sold keno have seen an increase in their other business (close to 30%).

Mayor Lane asked whether anything has changed which is likely to get voter support this time around. Mr. McIntyre stated there was fear of unseemly behavior if keno was brought into a community but stated they have seen none of that – that type of behavior has been virtually non-existent. He added there were also some bars that had the “wait and see” approach who have now come forward and want to participate in it.

Councilor Powers clarified the economic impacts and asked whether Keene will receive \$1,100 from the Lottery Commission for each student attending kindergarten regardless of whether there is keno in the community or not. Mr. McIntyre agreed and added each bar and tavern would see \$14,000 in profit from keno sales and added a significant advantage to bars and taverns is that they sell other items as well (power ball, mega millions etc.) so there will be added sales. Furthermore, the added time a patron plays keno in a bar or tavern brings in more revenue to that establishment.

Councilor Chadbourne felt the public should be allowed to decide.

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

On 4-1 vote, the Finance, Organization and Personnel Committee recommends that the ballot question to allow the operation of Keno games in Keene be placed on the Municipal Ballot on November 8th and that a Public Hearing be scheduled for October 17.

Councilor Clark voted in opposition.

5) Relating to Rules of Operation Ordinance O-2019-10

Mayor Lane stated this is an Ordinance that has been suggested to make the Rules of Operation for committees established by Council to be consistent. At the present time, some committees are required to have a quorum membership equal to the majority of members eligible to be appointed. Others are set up just to make it based upon the number that has actually been appointed. This has created some inconsistencies and this is an attempt to bring consistency. What this does is that it puts a burden on the Mayor's office and the Council to make sure all the seats are filled.

Councilor Clark asked why the process could not go the other way. Mayor Lane explained that some Boards are controlled by state statute which calls for a quorum to be 50% of the eligible membership – for example the required membership for the Planning Board is seven, and the quorum requirement is four, and hence if there are three that Body could not meet. Councilor Clark asked whether there was any compelling reason to make the two scenarios the same – the Mayor stated the only compelling reason is to bring consistency. He outlined some of the issues that have arisen, such as the Heritage Commission, the Martin Luther King Committee and the Agriculture Commission only have three members and only two were eligible. The Agriculture Commission, which is a statutory body, could not as a result conduct any business.

Councilor Clark asked when this would become effective. Attorney Mullins stated it would be effective as of adoption.

Councilor Clark stated there is one body that could be negatively affected. The Energy and Climate Committee expanded its membership and are in the process of including new members which has not gone through the Council process yet. He noted they have met the quorum most of the time but have a substantial charge and don't want to be hindered by this change and asked whether this change could be made effective September 1. Attorney Mullins advised if the committee was going to pick a date to pick a date after a council meeting as the council is going to be on a break soon.

Councilor Jacobs stated he was under the impression the reason for the change is when committee do not have a full complement they can still move forward with a quorum of the people appointed. Mayor Lane stated this is the rule at the present time for certain committees but for other bodies it requires a majority of the membership. If what is before the committee goes through, it would require all committees and boards to have a quorum of its eligible membership.

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

On 5-0 vote, the Finance, Organization and Personnel Committee recommends the adoption of Ordinance O-2019-10 with an effective date of September 6.

6) Relating to the College City Commission Ordinance O-2019-11

Mayor Lane stated this was a revision of an Ordinance to the College City Commission. He explained the College City Commission is an attempt to blend two cultures and there are a number of changes outlined in the ordinance in an attempt to do that. The first is the quorum requirements; the second is the requirement for two Keene State College staff members who are ex-officio members of the commission; the third is to reduce the requirement of two students to one student and one alternate (due to class schedule and calendar of the college); the term for Keene State representatives will be as of July when their fiscal year begins and ends; the next change is that it excludes term limitations for Keene State College representatives which the city follows.

Steve Fournier, Co-Chair of the Commission addressed the Committee next and stated the only other change is in the spirit of the creation of the committee, instead of a quorum, which could be seven city representatives and one Keene State individual on a commission of 14 – they suggest three from each group and two from either group to make up the eight required for a quorum.

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

On 5-0 vote, the Finance, Organization and Personnel Committee recommends the adoption of Ordinance O-2019-11

7) Continued Discussion - Campaign Finance Ordinance

City Clerk Patty Little was the next speaker. Ms. Little stated the City Attorney and the Clerk have concluded their research regarding campaign finance as it relates to other towns and cities. She indicated she was going to provide the committee with some options to consider. The underlying headings outlined in the document which was circulated to the committee contains the structural components of an ordinance. The cities staff looked at were Concord, Dover, Manchester, Nashua, and Portsmouth. Ms. Little noted among these cities there is not a single community that has the “ideal” campaign finance ordinance. The Clerk stated there are more variations than similarities between the five ordinances and suggested the council take the best portions from each of these ordinances.

The Clerk then addressed the following bulleted items:

Potential Reporting Entities Impacted by a Campaign Finance Ordinance

- Only Nashua specifically includes “write-in” candidates in the reporting requirements.
- Manchester, Concord and Portsmouth includes Political Action Committees as a reporting entity.
- All cities exclude election officials.
- All cities include Mayor, at-Large and Ward Councilors and in Manchester and Nashua an Alderman as well as ballot measures.

Contribution and Expenditure Thresholds

Ms. Little noted this is an important part of any ordinance and would impact the level of effort by a candidate or incumbent city councilor. She noted this item is listed in terms of effort needed by a candidate. She reminded the Committee of what the City Attorney had stated in reference to this item – the lower the monetary threshold reporting requirement the greater the burden becomes. Ms. Little added as the committee looks at the next set of bulleted items, they will notice the contribution and thresholds for the different cities are not the same.

- Dover requires all contributions and expenditures to be reported and itemized – regardless of amount.
- Nashua requires contributions over \$10 to be reported and itemized, and for contributions of \$10 or less, the receipt can be reported as to amount only.
- Nashua requires all expenditures to be reported/itemized – regardless of amount
- Nashua requires incumbents who receive items of value not a campaign receipt to file a statement.
- Concord requires contributions over \$25 to be reported and itemized.
- Concord requires all expenditures to be reported and itemized regardless of amount.
- Portsmouth only requires contributions over \$100 from a single source to be reported and itemized.
- Portsmouth only requires a cumulative total not itemized of expenditures equaling or exceeding a cumulative total of \$100.
- Manchester requires combined contributions of over \$500 to trigger the reporting requirements of all contributions.
- Manchester requires combined expenditures of over \$500 to trigger the reporting requirements of all expenditures.
- Manchester provides the opportunity for the candidate to state that they did not receive any contribution with a cumulative total of \$500.

Time Period Covered Within the Reporting Requirements

Ms. Little stated this is also an important element of an ordinance and impacts the level of effort of a candidate and the bulleted items below are listed starting with the one that has the highest burden.

- Only Nashua requires reporting until all surplus has been deleted or debt obligations settled. Ms. Little noted Nashua keeps this information active for a period of four years so the debts can be settled or surplus directed to a different purpose.
- Only Portsmouth and Concord require that the reporting period be from the date of the last municipal election. The Clerk noted these two cities are going back to the previous election –something similar is being done by Manchester and Nashua as well.

- Only Manchester and Nashua require all city officials once elected to report contributions throughout the year within 30 days of the end of each calendar quarter.
- Only Manchester requires incumbents to report financial holdings and employment once a year. The Chairman asked for added clarification on this item. Ms. Little explained this refers business relationships – similar to what state employees have to file.
- Manchester, Nashua and Portsmouth provide an opportunity for a candidate to state that they did not receive any monetary contributions.

Reporting Timelines

- Concord – 4 weeks before and 2 weeks after.
- Nashua – 20 days before, again on October 1 and again on December 1.
- Dover – 11 to 15 days before and 10 days after.
- Portsmouth – 7 days before and 14 days after.
- Manchester – 10 days before and 10 days after.

Ms. Little stated before she gets into the enforcement section, she wanted to note she and the City Attorney had had a discussion with Deputy Secretary of State Dave Scanlon where the issue was raised with the Clerk having to be the investigator or enforcer of any violation. Mr. Scanlon had responded by saying it was not appropriate for the City Clerk to be both the Chief Election Official in charge of the process and also assume the role of investigator and enforcer. She noted this is an open-ended question as to who is going to assume this role. She pointed out most communities are silent with regard to the issue of enforcement.

Enforcement

- Concord, Dover, Manchester and Nashua's ordinance is silent on the process of enforcement.
- Only Portsmouth has language regarding enforcement by a Board of Ethics (5 person Board: one member each from selected by lot from the City Council, the School Board, the Police Commission, and Fire Commission with the City Attorney or other legal counsel serving as an ex-officio member).

Penalties

- Portsmouth – Criminal Sanctions in addition to civil sanctions. Upon conviction in District Court the fine shall be \$1,000 for each offense.
- Concord – fined not less than \$50 nor more than \$1,000.
- Nashua – fined no more than \$100 for each day that lack of compliance exists.
- Dover – violation under State Law.
- Manchester – subject to penalty as provided by law.

Compliance with Reporting Requirements - Qualifications for Nomination or Election

- Concord, Dover and Manchester stipulate that no candidate shall be entitled to nomination or election until the reporting requirements have been met.

Ms. Little noted even though someone might have been the successful candidate at an election, if reporting is not done they do not get to assume the role as of January 1.

This concluded the Clerk's presentation; she then turned the presentation over to the City Attorney. Attorney Mullins stated the city is going to need to figure out which option it would like to pursue – he added what the city could also do was to place a voluntary cap on expenditures/contributions. He went on to say, as the Clerk had pointed, out except for Portsmouth the other ordinances don't have an investigation process – it is just stated. He added there needs to be an entity that investigates this process and it has to be the entity that enforces same. The Attorney added he has the similar concerns the Clerk has and his office is not staffed to be able to take on this task and the Council also happens to be his employer. Attorney Mullins went on to say there have been initial conversations that have taken place with the Police Department and there might be some willingness with this department – but this is still an open question.

Attorney Mullins stated the first question is whether the council wants to move forward with this ordinance. The committee could always recommend the council to adopt this ordinance and then have staff draft something up. He indicated their preference is for them to be advised which of these items they would like staff to focus on.

Councilor Clark thanked staff for putting this together and went over his preference as follows:

Potential Reporting – The Councilor would like to keep it to just the Mayor's race as well as any write-in candidates. He noted as a city councilor he has not spent more than \$400.

Contribution and Expenditure Thresholds – The Councilor stated he would like the trigger (contribution or expenditure) to be \$1,000 and once you have met the trigger of \$1,000 the reporting should be for anything over \$25.00.

Time Period Covered Within the Reporting Requirements – The Councilor felt it should be from the date of the last municipal election.

Reporting Timelines - The Councilor liked Nashua's timeline, which is 20 days before, again on October 1 and again on December 1. He felt this gives the public three opportunities to determine where the candidate stands.

Enforcement – The Councilor stated he would not have any enforcement or penalty and noted public exposure would be a candidate's penalty. He went on to say the only reason he is requesting this ordinance is so that the public could be made aware what a candidate is collecting and what they are spending it on.

Chair Greenwald stated he understands the logic of going back to the past election but this would mean that a candidate knew he or she was going to be running at the next election. Councilor Clark stated this is just to provide for a starting date. The Chairman asked if someone took him out for lunch whether this would be considered a contribution. Ms. Little stated the city would follow the state definition of contribution. Attorney Mullins added the Deputy Secretary had advised them not to follow the state regulations too closely. Ms. Little referred to the 2008 ordinance that was presented to the Council, noting it refers to contribution definition as *payment, gift, subscription, assessment, contract for services, and forbearance of a loan to a candidate made to a candidate, political committee or political party to influence the nomination or election.*

Councilor Jacobs felt if this was going to be put in place, the threshold should be set low and all contributions should be put out in the open. Ms. Little asked what the committee felt about the voluntary cap suggested by the Attorney. Councilor Jacobs asked for clarification on this. Attorney Mullins explained this would mean a candidate agrees not to raise or expend more than a certain dollar amount set by the city outlined in the ordinance – the candidate would be required to sign off on a form and there would be no reporting requirements. Ms. Little stated this is what state representatives are being required to do.

Chair Greenwald asked for clarification on what Manchester is requiring - incumbents to report financial holdings and employment. Ms. Little explained this refers to business relationships – similar to what state employees have to file. Attorney Mullins stated this is a reporting he has to do because he sits on the State Employment Security Appellate Board – he has to file with the Secretary of State on an annual basis as to who he is employed by, does he represent anyone else, is there other income, etc...so the state can check for conflicts of interest.

Councilor Powers asked what happens if someone does not accept donations but spends \$1,000 from personal funds if they have to file. Attorney Mullins stated if the ordinance exempts personal funds then reporting would not be necessary.

Chair Greenwald questioned what the council is trying to accomplish. Councilor Clark stated it is so that the public can be informed as to how much money a candidate is getting and how much is being spent. He did not feel the council race is big enough and felt that not much money is being spent on that race.

Councilor Filiault applauded staff for its efforts and Councilor Clark for bringing this item forward. He noted when it comes to campaign finance the doors are shut in Washington and the same thing seems to be happening in Concord as well. He felt Keene has always been progressive and wanted to get ahead of the curve with this item as well; he felt this would keep honest people honest.

The Chairman asked whether staff has sufficient information to go on. Ms. Little stated she knows what Councilor Clark was looking for but stated they would not be able to include write-in candidates as they would not know who would be included.

Councilor Powers felt it was time for Keene to do something but did not feel this should be just for the Mayor race.

Councilor Chadbourne stated she understands transparency but noted it is hard to get people to run and this feel like a large commitment for what a Councilor gets paid (\$2,500 a year) seems like an additional burden on people. She felt this could discourage people and stated she has mixed feelings about it. She went on to say there are many cities she could have chosen to live in but she chose Keene because of its strong sense of community and did not like what other cities are doing. Councilor Chadbourne went on to say if the city is going to do this there should be consequences in place.

Chair Greenwald felt if a candidate signs off on a document that should be sufficient and felt there has to be some honor. Ms. Little questioned how the city could have an ordinance and not have enforcement. Attorney Mullins stated there is a general provision in the RSA, which indicates that a violation of a code constitutes a violation. He stated the reason Councilor Clark made the suggestion because of the clear understanding when you have the enforcement some entity has to be responsible for following up on it. He added most city code violations are currently handled by the Police Department.

Councilor Jacobs questioned how this brings us better government. How does this help the voter? He stated providing transparency gives comparison to voters but felt there should be other factors voters should be able to use for comparison. He stated he preferred a low threshold or a voluntary disclosure. The Councilor added he does not come close to spending \$1000 and a \$1,000 trigger could cause some confusion for the voters; have it out there for everyone to see.

A motion was made by Councilor Clark, which was seconded by Councilor Powers that staff be directed to draft a Campaign Finance Ordinance for the mayor race with the threshold to be \$1,000, with a \$25 reporting, with the period covering from the last election, with the reporting timeline to be 20 days before, again on October 1 and again on December 1 and with a provision for enforcement.

Councilor Jacobs made an amendment to start the trigger at \$50. The amendment died for lack of second.

Relative to the main motion on the floor:

On a 3-2 vote, the Finance, Organization and Personnel Committee recommends that staff be directed to draft a Campaign Finance Ordinance for the mayor race with the threshold to be \$1,000, with a \$25 reporting, with the period covering from the last election, with the reporting timeline to be 20 days before, again on October 1 and again on December 1 and with a provision for enforcement.

Councilor Jacobs and Councilor Powers voting in opposition.

Ms. Little noted if the Council approves this item it will not be effective for this year.

Councilor Chadbourne stated she is voting in favor on this item be taken before the full council for a larger discussion – this does to guarantee she will ultimately vote in favor of it.

The meeting adjourned at 8:05 PM.

Respectfully submitted by,
Krishni Pahl, Minute Taker

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