

City of Keene
New Hampshire

FINANCE, ORGANIZATION AND PERSONNEL COMMITTEE
MEETING MINUTES

Thursday, April 8, 2021

6:30 PM

**Hybrid Meeting –
Council Chambers/Remote via Zoom**

Members Present:

Thomas F. Powers, Chair
Stephen L. Hooper, Vice Chair
Bettina Chadbourne
Michael J. Remy
Raleigh C. Ormerod

Staff Present:

Elizabeth A. Dragon, City Manager
Thomas P. Mullins, City Attorney
Public Works Director, Kürt Blomquist
Fire Captain, Jeff Chickering
Asst. City Manager/IT Director,
Rebecca Landry
Solid Works Manager, Aaron Costa
Police Chief, Steve Russo
Airport Director, David Hickling

Members Not Present:

Councilor Powers read the executive order authorizing a remote meeting: Emergency Order #12, issued by the Governor of the State of New Hampshire pursuant to Executive Order #2020-04. Pursuant to this Order, Chair Powers called the meeting to order at 6:30 PM and the Committee members stated their locations and whether alone.

**1. Dave Kirkpatrick/Cheshire TV - Requesting an Opportunity to Address
City Councilors Regarding the Current Situation with Cheshire TV**

Mr. Dave Kirkpatrick stated he is before the Committee to discuss the issue regarding Cheshire TV and the termination of its contract with the City. Mr. Kirkpatrick stated he was not before the Committee to negotiate the contract, but would like to discuss Cheshire TV and his relationship to that organization. He indicated Cheshire TV has been faithfully serving the community for over 15 years and he has been a member of Cheshire TV since 2008 and he has background in production. He talked about how he started his work with Cheshire TV as a volunteer. He stated his mission today is to save Cheshire TV; to preserve and protect the bylaws that guarantee serving people. He added the bylaws are slightly flawed and are in need of revision and he understands there are some disagreements between the bylaws and the articles of incorporation and this is something they plan to work on.

Mr. Kirkpatrick stated this is not something he was planning on doing, but he was approached by a City Councilor in late July inquiring as to what was going on with Cheshire TV. Lee Perkins was also contacted by members, including City Councilors to rescue Cheshire TV. He indicated he would like not to dig up the past, but to resolve things through open discussion.

He explained what transpired - the volunteer board members who are all members of Cheshire TV were replaced by new volunteers; there was not an election that happened. The owners of Cheshire TV noticed a problem and took the appropriate action. The action was democratic as provided in the bylaws for exactly this purpose. He added Cheshire TV had been without an executive director for a period of six months, which resulted in some serious problems and the Board felt it was critical to reestablish leadership. A meeting was held and the most qualified candidate was placed into the job.

Mr. Kirkpatrick stated he is here regarding the intent of the City to cancel the contract, which was presented as non-negotiable and he is asking for the opportunity to negotiate the intent to cancel.

He went on to say he would like to speak briefly to the uniqueness of Cheshire TV. He agreed their bylaws are a little interesting and their system of governance is not like other public access stations. However, this is what makes them what they are – all members are equal and have an equal voice and have not had an issue with this system for 15 years. This also gives them the opportunity to focus on the community and defend the rights and provide opportunity for those who would otherwise not be heard. He added keeping the doors open for the underserved is a big part of their mission.

He felt Cheshire TV runs the risk of any new administration not seeing the value in Cheshire TV. He felt they have a bright future ahead of them and can get past the current situation they are in. Mr. Kirkpatrick stated he would like to talk about some of his accomplishments. When he joined Cheshire TV they were not in compliance with the contract with the City, nor were they in compliance with State and Federal laws. They have been without qualified leadership for quite some time and in fact, the Cheshire TV corporation status had been dissolved by the State of New Hampshire. All of these issues have been resolved.

Mr. Kirkpatrick noted staff training is a lingering piece and there's not a lot to train these days. In the meantime, he indicated he has managed to reduce spending considerably; software costs were way too high, same with licenses and unnecessary hardware and software costs as well as payroll. He has decreased the cable bill through negotiations. He indicated he has established remote production using zoom to be able to function in this environment. He identified and purchased the additional equipment that will enhance remote capabilities. He completed the installation and currently training on the full use of the tri-caster system, which again incorporates zoom sessions without having to come into the studio. Cheshire TV is also working on live streaming similar to what people are doing with their phones. Cheshire TV has been living in the TV bubble for too long.

Looking towards the future, Cheshire TV is going to have more local TV shows because of the live capability. Cheshire TV now has a lighting and field production kit to be able to easily set up in any room anywhere and be able to stream as long as there is good internet connection. If somebody wants to use a phone for a hotspot, streaming, it can be done from any place in town with multi camera live production. He felt Cheshire TV is going to be faster and more available going forward. Mr. Kirkpatrick indicated they were going to take a look at their policies that were getting in the way of being able to get out and conduct events in the community.

In closing, Mr. Kirkpatrick stated he wanted to talk about the danger they are seeing in what is being proposed. He felt this is a way for the government to take away or control people's access to public media, a tool with which they can exercise their constitutionally protected First Amendment right. He noted public access stations are being taken away everywhere. Cheshire TV is unique and making them compliant is not a healthy thing.

He agreed during budget time there are always proposed cuts being made, but those cuts always seem to affect the services that common folks really need and depend on and any administration can make it difficult for people to participate. Mr. Kirkpatrick stated what he is requesting of the FOP Committee is to recommend to the Council this action be suspended so that a proper dialogue can be undertaken with the City. He indicated Cheshire TV is also requesting a public hearing where the public can be heard. He felt a decision to cancel an organization like theirs should be made by the City Council after public discussion.

Councilor Ormerod asked whether Mr. Kirkpatrick has any viewership survey to share. He stated he was looking for public feedback from the viewership as he has not received anything by email or by phone. Mr. Kirkpatrick felt people mostly get in touch when they have a complaint and noted he would like to do more with the public and more with the membership to see how they can better serve the community. Councilor Ormerod stated he was asking about viewership surveys not membership surveys. Mr. Kirkpatrick stated about two years ago a phone survey was conducted and about 200 people were contacted to ask about public access. He felt most people are not too interested in learning about video production and felt cable keeps a tight rein on numbers.

Councilor Remy stated he too was equally surprised that he had not received any emails from viewers who are not related to the organization about the proposed contract cancellation. He asked whether the members within the organization contribute financially to the organization to be members.

Mr. Kirkpatrick stated membership is free for anyone from the participating municipalities. He indicated through the franchise agreement, they do their own fundraising. Members from outside the municipalities, pay a \$50 yearly membership fee, which he felt is a bargain for all the equipment and access they receive.

Jody Newell of 30 Leverett Street, Keene addressed the Committee next. Ms. Newell stated she was one of the new board members and serves as the treasurer. She indicated she joined Cheshire TV because of what was going on. She noted as of late they have made many improvements and things seemed to be going in the right direction. As to viewership, she did not feel this issue has necessarily been made public. She indicated what Cheshire TV is trying to do at this point is try to negotiate and she did not feel there was an opportunity to do so. She felt this conversation should be made public as she did not feel the viewership knows what exactly is happening at this time. Ms. Newell stated her request is for a public hearing to find out what people think is the right way to move forward with this issue.

City Manager, Elizabeth Dragon addressed the Committee and noted she wanted to clarify a few things. She indicated there was an ad in the paper today from Cheshire TV about tonight's meeting. There also has been several announcements at previous Council meetings, which have received quite a lot of attention in the newspaper. The Manager stated this item is being presented as an effort to cancel Cheshire TV; however, there is an opportunity for Cheshire TV to work with the City to address their articles of incorporation. The Manager stated they did have one meeting and in reading their minutes, it is stated Cheshire TV is not interested in negotiating. That meeting was held on March 4. On March 5 there was an email from their attorney Brad Cook suggesting compromised language, which the City then circulated and responded to. The City responded to that email but has yet to receive a response back. The Manager stated there has been an opportunity to come to the table and talk about compromise on language and this opportunity still exists.

Assistant City Manager/ IT Director Rebecca Landry addressed the Committee next and stated the Manager had requested she do some research as to how certain things work in other communities in New Hampshire. She indicated there are communities where the municipality is the sole member and where they nominate and approve all board members as well as approve the budget and any changes to the bylaws while the organization can operate as a successful community access television operation. In some communities, the community access television operation is a department of the municipality as well.

In response to Councilor Remy's question, the City Manager related Cheshire TV's budget is made up of three revenues - \$181,000 comes from the City of Keene, \$46,389 was coming from the Town of Swanzey (until they canceled their contract) and Cheshire TV raised \$9,506.

Councilor Chadbourne stated she received a communication regarding Cheshire TV and suggested that the citizen contact the City Manager. Ms. Dragon stated the question was how the revenue comes to the City of Keene and then how it goes to Cheshire TV. She explained the Cable TV franchising law, which is governed by Federal law which talks about the franchising authority, which is the City. In this case the City is collecting a fee for use of the public right-of-way and in this case the City is collecting three and a half percent which the cable company chooses to bill to the subscribers. This money comes to the City and is able to be used for any purpose. Keene has always chosen to invest this money in public access.

This year the City received \$206,000 and \$181,000 of that went to Cheshire TV through an operating agreement and a monthly payment. The question is what happens if Cheshire TV is no longer in operation - the money will still come to the City and the City will decide how it wishes to spend that money. The City can do a combination of things with those funds. The Manager stated it is her hope the City will come to agreement with Cheshire TV and work with them on an amendment to the articles of incorporation and then there would be very little operational changes in terms of running Cheshire TV, which was important to understand. The Manager noted the money would still come to the City but if the contract were in fact cancelled, Cheshire TV would not get those funds.

Chair Powers stated he was under the impression Marlborough was involved at some point in this agreement with Cheshire TV. Ms. Landry agreed Marlborough was originally part of a four-

way agreement with Swanzey, Marlborough, Keene and Cheshire TV, but when the franchise fee was increased to cover expenses for Cheshire TV the Town of Marlborough decided to part ways.

Mr. Kirkpatrick stated they would very much like to negotiate this item and noted he is new at this job and new at dealing with attorneys. He indicated he has seen different versions of the same agreement – he noted what is problematic to them is placing City appointees in control and removing their board. He indicated he will get in touch with the Manager.

Mr. Kirkpatrick with respect to fundraising, he agreed they could be doing a better job at it but always felt they had enough to do what they needed to do without being out in the community competing with organizations who really needed funding like the 100 Nights or the Community Kitchen. He indicated they now have a brand new board with involved community members who can do a better job fundraising.

Councilor Hooper made the following motion, which was seconded by Councilor Ormerod.

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Council accept Mr. Kirkpatrick's Cheshire TV presentation as informational.

2. Report - Ad Hoc Racial Justice and Community Safety Committee

As the staff support for the ad hoc Racial Justice and Community Safety Committee, Ms. Landry stated the Committee started meeting during the July - August timeframe until March of 2021. They met from a weekly basis to every three weeks and had three public input forums. Ms. Landry identified the members on the Committee as Councilor Workman, Julia Atkins, Tia Hockett, Pierre Morton, Sheriff Eli Rivera, Gail Sommers and Police Lieutenant Maxfield.

Ms. Landry stated their final report has been posted on the City website. She noted a few of the key observations: Racism does exist in Keene even though thankfully some of the violent events witnessed in other parts of the nation have not happened in Keene. She noted the members did a deep dive into police reports, practices, and manuals. The Committee also thoroughly reviewed how our Police Department functioned in various situations. Ms. Landry continued the Police Department website provides a lot of information on this. But racism does exist and referred to this first sentence *“Based on the lived experiences spoken by people of color in Keene, the Committee concludes that racism exists in Keene. The public is calling for community leaders to immediately take a clear anti-racism position by addressing systemic, cultural and individual manifestation of racism.”*

That is one of the key observations that the Committee came to. It was also noticed that there is implicit bias and that this is one of the keys to moving forward is to identify implicit bias. Ms. Landry stated she finds herself being much more cognizant of her own implicit bias. This should not be something that is negative, but it needs to be identified and changed. The Committee recognizes open dialog as important as well. It is not only about scheduling and holding opportunities for dialogue, but also making people feel safe to participate in the

dialogue. Finally, community education is going to be essential to making progress. There are a number of recommendations regarding community education in the report.

Ms. Landry stated the Committee understands that this is a report to the City Council and the City Council can only make motions that affect City government. However, the hope is that the community as a whole will engage in some of these recommendations because it is going to take the entire community to make a difference.

Dottie Morris Co-Chair of this Committee addressed the Finance Committee. She stated she appreciates all the input that was given in order to come up with the report. Dr. Morris extended her appreciation to Ms. Landry for supporting the Committee. She noted she sees this report as a start of something great. She indicated the Committee is willing to help the City government in any way it can.

Councilor Hooper thanked the Committee for coming up with these recommendations and felt it was extremely important to start having an open dialogue on this matter.

Councilor Ormerod asked if Dr. Morris has a plan to train people on how to constructively deal with things like racist language and implicit bias training. Dr. Morris stated part of their recommendations is to engage in that type of training. Many members of the Committee spoke to their desire to continue to work and she knows of at least two other members who have experienced that type of training. She indicated there are also people within the City of Keene who are very good at doing this type of work and could do it in a way that could add some richness to the community.

Mayor George Hansel thanked the co-chairs for leading this Committee and indicated this is exactly what this community needed. He also extended his appreciation to Rebecca Landry. The Mayor noted there so many angles to this process. There are things the City of Keene needs to look at and make adjustments, there are things the greater community needs to take on, and there are things that the school district needs to take on. This implementation plan is something that needs to be done together and this is a start of a conversation. In closing, he stated this report has his wholehearted endorsement.

The City Manager extended her appreciation to the Committee and echoed the Mayor's comments and added she is looking forward to engaging the broader public. She hoped Keene could do some things to lead the way for others in our region.

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

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Council accept the Ad Hoc Racial Justice and Community Safety Committee Report as informational.

Chair Powers stated just because this motion from the Committee is to accept the report as informational; this is an action plan and he felt the Finance Committee is going to vote unanimously to move it forward and so will the City Council. He felt that after next Thursday

somebody is going to get some assignments because there is a lot of good work within the report needing implementation.

3. Acceptance of Donations - Parks, Recreation and Facilities Director

Chair Powers stated the Parks and Recreation Department received a \$200 anonymous donation after the Easter egg hunt this year. The donation will be used to purchase supplies and prizes given out during that Easter egg hunt. The person who gave the money was very appreciative of what the Parks and Recreation Department does and they wanted to reward them for their good work.

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

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept a donation of \$200 and that the money be used by the Parks, Recreation and Facilities Department.

4. Acceptance of the 2017 Homeland Security Grand Award - HazMat Allocation - Fire Chief

Deputy Chief Jeff Chickering stated that the Fire Department is requesting approval to accept funding to purchase a FLIR identifier which is a 25 radiation isotope identifier. This unit will provide the Fire Department hazardous materials response team with the capability to locate a radiation source and identify any isotopes. He indicated that the hazmat team continues to work as a member of the New Hampshire Hazardous Materials Collaborative Council. This grant is part of a statewide equipment purchase that outfits each team with the same equipment. The cost of the floor identifier is \$13,185.40, a day of training for \$3,522.60 and the cost of shipping is \$30.

Councilor Hooper made the following motion, which was seconded by Councilor Ormerod.

On 4-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept a grant in the amount of \$16,738 from the 2017 State of New Hampshire Homeland Security Program (SHSP) - HazMat allocation.

5. PANJUNDRUM Foundation Grant - Police Chief

Police Chief Steve Russo stated this item is in reference to a \$5,000 grant from the PANJUNDRUM Foundation to fund Ethics and Implicit Bias training for the department. The Chief indicated this came out of a discussion where it was decided the need for the Department to update its ethics and bias based patrol and training. The Department worked with the Cohen Center for Holocaust studies, and they developed a very unique training program. The training program they built has been approved by Police Training and Standards Council to meet those standards and requirements. The increased requirements come with a cost and this grant

helps mitigate those costs. The training is scheduled for May 11. The Chief noted he hopes this will be the first step to increasing collaboration with the Cohen Center.

The City Manager recognized the Police Chief who has worked on reaching out to the Cohen Center and others to find a way to meet the need for the ethics training in the Department and she felt this was a creative solution. The Manager felt this was a much better solution compared to what the State offered. Ms. Dragon stated this is just an example of the work that is being done here in the City of Keene and the work the Chief has been doing with the Police Department; in identifying very innovative, creative solutions, and partnerships for the future.

Councilor Hooper reiterated what the City Manager said, and noted speaking from the perspective of a photo journalist for the last 25 years, a lot of times the good news does not get out to the public and he hoped that the public becomes aware of all the good work the City is doing in the Police Department is doing in trying to get these grants and trying to improve training.

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

On 4-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept a grant from the PANJUNDRUM Foundation in the amount of \$5,000 to fund Ethics and Implicit Bias training for the Department.

6. FAA Coronavirus Response and Relief Supplemental Appropriation Act (CRRSAA) Grant for Airport - Airport Director

Airport Director David Hickling was the next speaker. Mr. Hickling stated this item is the Coronavirus Response Relief Supplemental Appropriation Act, which has funds available for economic relief for eligible airports. As a public use airport, the Keene Dillant Hopkins airport is eligible for this funding. The airport applied for and received a grant offer for \$23,000. Mr. Hickling noted much like the Cares Act, the airport grant received last year as well as the funds from this grant can be used for many different operational expenses. There is no local match and the grant does not have the obligations that is usually seen under the grant assurance of the FAA IP program, which gives the airport a lot of flexibility.

Councilor Chadbourne asked what this money is going to be used for. Mr. Hickling stated he would defer to the City Manager and Finance Director to come up with the best use for these monies. The Manager stated there are a couple of different grants that are coming to the airport through this funding source of this grant opportunity. Some are tied to personnel expenses, in order to utilize the grants fully and the opportunity to utilize those additional dollars, staff will be coming back before Finance Committee. There are some purchases the City needs to accomplish and this will provide that opportunity to do so. She noted details of those purchases will be forthcoming.

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

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that City Manager be authorized to do all things necessary to accept and execute a grant for the amount of \$23,000 from the Federal Aviation Administration as part of the FAA Coronavirus Response and Relief Supplemental Appropriation Act.

7. Airport Restaurant Lease - Airport Director

The Airport Director reported that last month the restaurant space at the airport expired and City was not able to successfully negotiate a lease renewal with the Flight Deck Restaurant. As a result, an RFP was sent out last month to solicit proposals for a new tenant to fill that space. The City sent the RFP to several stakeholders that have an interest in the airport together with questionnaire that was developed from the selection criteria. The City received two proposals. The stakeholders unanimously approved Mama McDonough's Irish Pub as the best choice for the airport. That proposal mentioned being part of the airport which was not mentioned by the other proposal. The other positive item from this proposal is the multiple revenue streams that will come from this lease. This applicant plans on running a catering business and a food truck that will also support the success of his business. Additionally, he is initially looking to be open six days a week for lunch and dinner and also three meals a day on the weekends. The other proposal was a subs venue, which is great, but felt the pub would be more attractive to bring people in.

Councilor Chadbourne asked whether this owner has operated a business prior to this; either as a restaurant, a food truck or a catering business. Mr. Hickling stated they currently have a restaurant in Hillsboro and they are looking to relocate and they also own a food truck.

Chair Powers commended this option and asked when they plan to open. Mr. Hickling stated they would like to open as soon as possible.

Councilor Hooper made the following motion, which was seconded by Councilor Ormerod.

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that City Manager be authorized to do all things necessary to negotiate and execute a lease with Mama McDonough's Irish Pub to operate a restaurant in the airport terminal.

8. Continued Discussion: Water and Sewer Methodology and Rates

Public Works Director Kurt Blomquist stated this is a follow up from the presentation the council had last week regarding the work completed in early 2020 on water and sewer rates. Mr. Blomquist thanked everyone who participated in this work; Chair Powers, Finance staff and the City's consultant. This evening the proposed rate structure will be discussed again and the potential impacts on several of the customer types described in further details. The new rate structure will go into effect in July, 2021.

The City Manager noted this was a two-step process for the City. Tonight, staff is looking for the Committee's recommendation for the adoption of the actual rate structure. However, the

Committee is not setting the rates for water and sewer, this will happen later when the budget is discussed, and when the Council makes decisions based on revenues and expenditures.

Mr. David Fox, Consultant was the next speaker. Mr. Fox stated this study started at the end of 2019. He indicated there was a lot of participation from City staff on this study. Mr. Fox reiterated what had been presented last week; this is a multi-stage process of developing revenue requirements understanding how much revenue needs to be generated on an annual basis for both the water and sewer funds, for things like operating expenses, existing debt service, capital infrastructure, new debt service and then determining how much money needs to be generated.

Mr. Fox stated what was discovered is that water costs are increasing significantly in the short term to deal with critical necessary capital improvements, things like well field upgrades, storage tank repairs, and distribution improvements. Mr. Fox noted Keene is not alone in such a process, any municipality in the northeast with aging infrastructure has similar issues. Sewer costs are also increasing, albeit not in the rapid pace as seen on the water side, but there is obviously some capital infrastructure necessary on the sewer side as well.

He noted the City has some negative financial pressures working against it; the vast majority of the City's revenue comes from user charges and the vast majority of those users charges come from the amount of water consumption that customers use. Similar to the rest of the industry, the City has seen a declining consumption over the past number of years that translates directly into declining revenues. Mr. Fox noted these additional cost pressures are due to increase regulations and compliance costs that the City does not have much control over.

In order to establish a financial plan, the consultants have developed a comprehensive financial plan, the correct model for the City's use which has been delivered to finance staff (10 year window) focusing on the first five years. Making sure the City is mitigating any sharp fluctuations and changes to its customers.

The most important thing is to establish a financial plan that ensures there is sufficient revenue for both the water and sewer funds in order to make sure bills are paid and make sure the City is doing what it needs to do in terms of capital reinvestment. In addition, the financial plan needs to make certain the both the water and sewer funds remain financially viable by maintaining appropriate cash reserves. However, as the City sees a decline in consumption whether it be due to the pandemic or whether it is because of a cool, wet spring and summer or whether people curve their consumption, the City revenues will decline and it is prudent to have a reserve fund to be able to mitigate such volatility. In doing so it is important to maintain the idea of supporting affordability for customers and make sure not to overburden customers. Mr. Fox stated their focus right now is the impact for fiscal year 2022 for implementation this July 1.

What the City is looking at for fiscal year 2022 is approximately a 20% increase in the water fund and about 6% more revenue on the sewer fund. He referred to a chart which explained that in 2021 the revenues were below cost and the revenue needs to be increased. On the sewer side, the City is at a better cash position in terms of how much cash it has on hand in reserve fund and hence the recommendation for a 6% increase on sewer. In terms of what this means for rates and then ultimately what does that mean for customers; Mr. Fox continued at the present time,

customers are assessed on their water and sewer bills on a quarterly basis. The vast majority of customers use 5/8th inch meters and they are assessed a quarterly fixed charge of \$7.29. Those charges increase based on the size of the meter for the customers which is in line with industry best practices. This also coincides with cost of service and there's a strong rationale for doing that. There is then the volumetric piece and this completely depends on the amount of water consumption a customer uses – which is \$4.78 cents per CCF, which stands for 100 cubic feet. 100 cubic feet is approximately 748 gallons so for every 748 gallons a customer uses they pay \$4.78. This price is regardless of whether they are smallest customer in the system or the largest customer in the system.

The City also has fire protection charges which are there to recover the necessary infrastructure in the unfortunate case of a fire event. These are handled on a fixed quarterly basis as well.

The sewer rates are essentially set up exactly like the water rates - quarterly fixed charge with the volumetric charge based on water consumption. The vast majority of the source of revenue for water and sewer come from user charges. There are some miscellaneous revenue sources on the water side for things like fire fees, which are incredibly important as well as on the sewer side.

Mr. Fox stated the biggest deviation they are recommending from the existing rate structure is a “lifeline” rate for residential customers; providing all residential customers an essential level of water consumption on a quarterly basis, at a lower rate. As mentioned before, 100 cubic feet is about 748 gallons. What is being proposed is to allow for the first 4,500 or so 6 CCF - 600 cubic feet at a lower price per gallon, and once a residential customer gets above that threshold then they pay a little bit more. This helps with affordability, and it helps drive conservation while ensuring the City that its customers are using its resources efficiently. It also helps provide affordability for all residential customers, giving them the essential level of consumption at a lower volumetric rate.

Mr. Fox cautioned the Committee that these are no actual numbers, these are draft and preliminary fiscal year 2022 budget numbers. He noted the final rates may differ slightly from this, even though it might not be too much of a deviation.

He went on to say what is being recommended is that the water fixed charge be increased to \$23 per quarter for the 5/8-inch residential customer, which is the vast majority of the customers. The biggest deviation is for residential usage. Customers currently are paying \$4.78 per 100 cubic feet. What is being assumed is for the lifeline rate for the first 600 cubic feet, residential customers would be assessed \$3.38 and for 100 cubic feet above that 600 cubic feet customers would then be assessed \$5.07. This applies to only residential customers. Non-residential customers are going to maintain a uniform rate. He noted it is difficult to establish what the lifeline rate or what that tier would look like for non-residential customers. Non-residential customers are such a non-homogenous group in terms of the types of customers and the amount of water consumption that they use across the board. It is industry best practice to have a uniform non-residential rate.

On the sewer side the recommendation is about a \$34 fixed charge for 5/8 inch customers.

All customers will be paying \$7.19 and will have no lifeline rate on the sewer side, it is just a uniform rate.

Mr. Fox then referred to residential customer impacts. For a median usage residential customer using about 9,000 gallons per quarter at the 50th percentile, this group represents 30% of customers. This customer is currently paying about \$182 per quarter for water and sewer service combined. If the structure was to be left alone and not make any structural changes and not implement the “lifeline” rate that is being recommended and rates are increased for financial sufficiency that median and customer’s bill would go up by about \$20 to \$202 per quarter. However, if the City was to increase revenues for revenue sufficiency while at the same time, restructuring rates by having the “lifeline” rate, that customer’s bill would only go up by a little over \$11 to \$194 or so.

These options are revenue neutral in both of these scenarios. The City is getting the exact same amount of revenue for both water and the sewer funds for financial sufficiency purposes and it is being done in a way that it is not impacting the residential customers by much. The “lifeline” provides the essential amount of usage at a lower volumetric rate. However the lower usage customer, the one who use about 4500 gallons per quarter which makes up about 20% of customers, they are currently paying about \$122 per quarter. If there was an across the board increase; no structural changes just for financial sufficiency their bill would increase by little over \$12 to \$134. But at the same time if the “lifeline” rate was implemented, this customer’s bill would actually decline under this scenario by \$1.42. For the very high usage residential customers they would actually pay more under this scenario even with the “lifeline” rate but this is a minority group of customers.

Hence, for the median residential customer which is 30% of the customer base for water and sewer service, 24 hours a day 365 days a year, good clean safe service, will be about for \$775 per year, on a quarterly basis \$194 and on a monthly basis it will be \$65 a month for water and sewer service, or about \$2.15 cents per day.

Mr. Fox noted most customers receive water and sewer service for about two cents a gallon compared to what that would cost in a grocery store which would be over dollar for a gallon of water. Non-residential customers are the minority in terms of the total customer grouping. However, you still see the same kind of magnitude of impacts or directional shifts under these different scenarios.

In terms of an implementation plan, tonight’s discussion with the Committee and educating the Committee on the rate process is an important part of the implementation plan. Another part of the plan is to provide outreach to customers. Customers are more likely to accept those changes if they can understand why they are occurring. He referred to a handout the consultant can help the City put together and circulate to customers. This concluded Mr. Fox’s presentation.

Mr. Blomquist thanked the consultant’s on their outstanding work. Mr. Blomquist reiterated the value of water and sewer - .02 cents a gallon as was stated and compared that to what that would cost in a grocery store.

Councilor Hooper asked if water conservation would still be the big picture. Mr. Blomquist stated for the “lifeline” customers the less water they use certainly the more they will save. The customers that would see from a conservation standpoint are going to be those that are in that higher tier; the ones who have pools and are watering their lawns. Over the long term, conserving resources is a positive thing and this rate structure does provide an incentive for conservation but it is not an aggressive conservation rate. For example, if they install a rain barrel and utilize rain water on their gardens, they will see a drop in their average water and sewer bill compared to when they used a sprinkler system.

Councilor Remy asked for the percentage of revenue for residential versus commercial. Mr. Blomquist stated it was about what 80%. Councilor Remy clarified across the board, everyone was paying less under this plan than they would under a meet the minimum requirements plan. Mr. Fox stated there are some customers that are in that high usage category and are going to be paying more under the system as well. As for fire protection, this cost is going to be increased to coincide with cost of service. There is additional revenue and a significant amount more from fire protection to coincide with that cost of service which directly impacts all customers.

Councilor Remy inquired whether there is a way to encourage people to drink City water - as people continue to conserve the more we're going to charge. Mr. Blomquist stated they are going to be looking at what it would take for the City to potentially have a bottle water operation to potentially get in on that market. Water consumption is about 106 gallons per day per person; most of that is not in consumption - most of that is in flushing toilets, doing dishes, watering etc. We want people to start thinking about how they are using water for non-drinking purposes. Mr. Aaron Costa added consumption is a very small piece of what people use water for and things like showering dishwashing are what people are using water for.

Councilor Ormerod noted he heard mention many time about the cost of two cents per gallon versus going into the store to buy water - he noted that was drinking water. He felt this is never a valid comparison. He indicated he liked Councilor Remy's suggestion about selling this drinking water. He stated he was also concerned about how we look at the number of households. For instance, half the town is renting, there are many multifamily dwellings and in many cases there is a single meter going into these households. This is not a town of single family town and multi families are going to automatically be higher consumption. Mr. Blomquist stated with multi families - they start getting into the larger meter sizes. The way the City's data is maintained is based on meter size.

Councilor Ormerod stated multi-tiered rate is good intention, but he did not feel it would work well in our community. He stated he likes the fact that the City is going to balance the budget and water rates need to go up, but he did not feel it would hold unless analysis on the multi families have been done.

Councilor Chadbourne stated in the last several years, particularly during the summer months, citizens have been advised by City officials to reduce the amount of water we use for extra activities such as gardening because there was a drought and asked if it was accurate why there has been less consumption. She stated she agrees with Councilor Ormerod regarding using the

drinking water analogy and felt this was a loaded issue because Keene is focused very much on recycling and there has been discussions amongst Councilors in the past about even bringing water bottles with us and she did not feel that issues helps the presentation.

The Councilor asked how much water an average person uses for a shower. Mr. Costa stated the latest data he found was 17 gallons for an eight minute shower.

Mr. Blomquist stated the drop in consumptions has been going on for over eight years. These declines are also related to low flow fixtures that have now become part of the industry. Consumption has been going down and a lot of that is related to appliances getting more efficient or for instance Markem used to flood their roof for cooling - they don't do that anymore. The City has not seen any kind of large user come in from the commercial side. Hence, the majority of consumers are residential.

Councilor Chadbourne asked shower versus a bath how the usage compares. Mr. Costa stated a bath could use close to 40 gallons.

The City Manager addressed the “lifeline” rate and noted she understands the question related to a multi-family and having one meter and many families living in that house, such a household might not potentially benefit as much from a “lifetime” rate, but they still benefit because the first tier of water is at that lower rate. However, a single family home, a single individual or an elderly person trying to conserve water will benefit the most because they can work to only use what is absolutely necessary. She felt this strikes a good balance between affordability, and making sure the City was providing for the future of the system.

The numbers being used for this analysis are actually the City Manager’s budget numbers. So this is a real analysis of what the rate would look like without the change and then with the change in structure. She indicated she looked at each of those categories to see what would happen with the increases in the sewer and water budget under the structure and then comparing it to the current system. What she saw was a very small increase and then those users who are not using much water at all, a slight decrease in the quarterly cost for water and sewer. The Manager stated she was pleased with this analysis and felt this was a good way for the City to be able to shift to this new rate structure and still be able to afford the costs that are in the budget.

The other aspect with the new rate study is to have the ability to forecast into the future; to look at the future costs and mitigate for increases in the sewer and water rates in the future.

Councilor Ormerod stated he agreed this is particularly important for fixed income, elderly and single family and those with empty nesters and agreed he rather raise revenue through services than through taxes. However, he would like to see some education and incentives for these people to get the lower rates. He wasn’t sure how the City could handle multi-family dwellings but perhaps to make it clear to the landlords regarding water usage. He added he would like to get more commercial customers into town. If this is the first time the City has done this in 17 years, he felt it was a pretty good first step, but would like to see more data.

In response to Councilor Ormerod's comment, Mr. Costa stated the analogy for the price of water what staff is trying to show here is the value of the service. Every drop of water that the City produces and delivers to your house has to be fit for drinking, but only a small part of that is actually consumed but what is delivered is drinking water quality. What staff is trying to highlight is the value of the City's service.

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

That the Finance, Organization and Personnel Committee recommends that the City Council adopted the proposed sewer and water rate and charge structure for the users of the City's sewer and water systems and directs the City Manager to do all things necessary to implement them.

Councilor Ormerod stated he was not ready to support this item as he does not have sufficient information and stated he would like to have some added information.

The motion made by Councilor Hooper carried on a 4-1 vote with Councilor Ormerod voting in opposition.

9. Authorization to Provide Testimony - HB 111 - City Attorney

City Attorney Mullins stated he is required by ordinance to get authorization from the City Council to testify on any legislative actions. There is a request for him to represent the City and the City Council in opposition to House Bill 111. He explained what House Bill 111 does is to abrogate a doctrine called qualified immunity for employees of state, the state and local government. Qualified immunity is a little bit esoteric; it was a doctrine adopted by the US Supreme Court of Appeals back in the late 60's and modified again in 1982. What it means is that government officials performing discretionary functions generally are shielded from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights, of which a reasonable person would have known. Essentially, the courts rationale for adopting the defense of qualified immunity was because as things become more complex in the world, especially as legal issues become more complex in the world – it is a little unreasonable to expect that governmental actors, especially in the law enforcement community where this doctrine came from remember what does and doesn't apply and how the statutes apply and how the constitution may apply in any situation. The doctrine was developed to take a retrospective look at actions of governmental actors to determine whether or not their actions were reasonable or not.

There is justification for this, otherwise, if you make the wrong choice in the moment - you may be subject to personal liability under federal law or for civil damages and it's important to remember this relates to civil damages not criminal law though there may be a criminal component associated with whatever the action was.

In the recent years, there has been a movement in the context of police departments and police action and the law enforcement community. There is a high profile case running right now. There is a movement in place around the country and even in New Hampshire to abrogate that doctrine to eliminate the doctrine, and the proposed State law being referenced HB111 does that.

A common misconception is, the attorney noted he is not picking on the Police Department, but this issue did arise in the context of police activity. A lot of people, even in the State Legislature mistakenly believe that this only applies in the law enforcement context, but this statute applies to any state or local municipal employee in what they do.

The Attorney noted this applies to everybody that is a state or local municipal actor and it basically says is that it does not matter whether or not you thought you were acting reasonably or lawfully within the constitutional structure. He indicated it places everybody who works for the government to potential action under the Statute. It does not impose financial liability on those actors – on the individual employee – instead that liability is going to be imposed on the state or on the local municipality. However, if this individual gets tagged with a civil complaint and a civil lawsuit, taxpayers are going to have to pay for that. Also, the individual who is alleged to have committed that act still can be sued individually and personally. If it is determined this individual violated somebody's rights, even though they might have been acting reasonably they could be fired.

Attorney Mullins stated the solution is not to just throw out the doctrine, but to look at a reasonable basis for how you may satisfy the rights of an individual, while also not subjecting actors and employees to strict liability if they make a mistake.

The other legislation that the Council has taken a position on, referred to as sanctuary cities - requires our Police Department to enter into an agreement with the Federal Immigration and Customs Enforcement to detain people, where the Police Department doesn't otherwise have a lawful right to hold somebody, which is basically an arrest. That subjects that individual police officer in the Police Department and the City to work damages claims under something called section 1983 of the US Code.

This statute being discussed tonight raises this question if we're going to abrogate qualified immunity within the State, then we are also abrogating qualified immunity with respect to the State, our Police Department, when they are otherwise being told by our State Legislature to hold somebody unlawfully.

Attorney Mullins felt both of these items need to be read together and felt quite reasonably could dissuade people from wanting to work for government.

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

On 4-0 roll call vote, the Finance, Organization and Personnel Committee recommends that a letter of opposition to HB 111 relative to Establishing a Cause of Action Against the State to Protect Individual Rights be sent to the Keene Legislative Delegation and the Governor and that the City Attorney be authorized to speak and testify on the City Council's behalf.

There being no further business, Chair Powers adjourned the meeting at 8:53 PM.

Respectfully submitted by,
Krishni Pahl, Minute Taker