

City of Keene
New Hampshire

FINANCE, ORGANIZATION AND PERSONNEL COMMITTEE
MEETING MINUTES

Thursday, May 13, 2021

6:30 PM

**Hybrid Meeting:
Council Chambers B/via Zoom**

Members Present:

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

Members Not Present:

All Present

George S. Hansel, Mayor

Staff Present:

Elizabeth A. Dragon, City Manager
Thomas P. Mullins, City Attorney
Don Lussier, City Engineer
Dan Langille, City Assessor
Merri Howe, Finance Director
Duncan Watson, Asst. Public Works
Director/Solid Waste Manager
David Hickling Airport Director
Steve Stewart, Police Captain
Mark Howard, Fire Chief
Andy Bohannon, Parks, Recreation and
Facilities Director

Chair Powers called the meeting to order at 5:30 PM.

1) 2018 Homeland Security Grant - Keene Police Department

Police Captain Steve Stewart addressed the committee first stated this item is regarding a grant from Homeland Security in the amount of \$4,501.01 for the purpose of purchasing search equipment.

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 Council authorizes the City Manager to do all things necessary to accept a 2018 Homeland Security Grant Program Award in the amount of \$4,501.01.

2) 2019 Homeland Security Grant - Keene Police Department

Captain Stewart stated the next item is another Homeland Security grant for the Police Department in the amount of \$30,515 used for the purchase of night vision equipment.

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 authorizes the City Manager to do all things necessary to accept a 2019 Homeland Security Grant Program Award in the amount of \$30,515.

- 3) **Acceptance of Donation – Keene Police Department**
- 4) **Acceptance of Donation – Keene Police Department**

Captain Stewart stated they have a pair of donations from Mr. Comerford, and Mr. Tim Russo who had positive experiences with Police Department and wanted to show their gratitude.

- 5) **Acceptance of Donations – Parks, Recreation and Facilities**
- 6) **Acceptance of Donations – Parks, Recreation and Facilities**

Parks, Recreation and Facilities Director Andy Bohannon addressed the committee next and stated the first donation is \$1,000 from Jennifer Alexander who would like to make sure the Keene International Festival is a successful event. In 2019, this was a very successful event. With collaboration of Parks and Recreation, the Human Rights Committee and the Keene Public Library. 1,200 people attended this event in 2019 but Mr. Bohannon wasn't sure this year's event will have the same participation. They are planning for a great event. Mr. Bohannon extended his appreciation for this donation.

The second donation is for 12 ice sculpture platforms used at the Ice and Snow Festival. In 2019, these platforms were built and the sculptures were placed on them so they could be lit up through the night. Mark Rebillard approached the city and had a discussion with the Public Works Director, Parks, Recreation Director and City Clerk and noted this is similar to what the Kiwanis Club has done for their initiative downtown. Mr. Bohannon noted there is space at 350-400 Marlboro Street behind the Michael Blastos community room where the platforms could be stored.

7) **Acceptance of Donation - Fire Department**

Fire Chief Mark Howard addressed the committee next. Chief Howard stated the Fire Department has a donation from a Larry and Miriam Lonard for services rendered on a call.

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 authorizes the City Manager to do all things necessary to accept the discussed donations by various departments.

8) **James Weatherly/SWRPC - CDBG Amendment- Shelter Facility Improvements**

Mr. James Weatherly of Southwest Regional Planning Commission (SWRPC) was the next speaker. Mr. Weatherly stated this item is for additional funds for an ongoing CDBG project in the city. He explained the city was awarded \$500,000 in CDBG funds, the majority of which was

granted to the Southwestern Community Services in March of 2020.

The overall purpose of this project is to acquire three shelter facilities in Keene that are operated by SCS and do major rehabilitation to two of those shelters.

Mr. Weatherly noted the cost of materials and construction overall have increased over the last year due to the pandemic, so a project budgeted for in 2020 is now experiencing cost overruns. The reason for this request is to request just over \$185,000 from the CDBG Gap Fund which has been released by the state. At the present time \$900,000 has been made available statewide to essentially allow for the project to retain some critical construction items.

Mr. Keith Tebo of Southwest Community Services extended his appreciation for the opportunity to try to make them whole on this project.

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 Council authorize the City Manager to do all things necessary to authorize CDBG funds in the amount of \$185,000 through an amendment and to support the application to move forward. The Committee also requests the Mayor set a public hearing on May 20 at 7 pm.

9) Repurpose of Completed Airport Capital Project Funds - Airport Director

Airport Director David Hickling addressed the committee and stated in this year's Capital Improvement Program for the airport there is a project to replace the aviation fuel farm. The project was designed and bid in the spring. When the bids came in along with the engineering costs the project was over budget by about \$235,000. The Finance Department was able to identify some funds left over in some airport projects that have been completed. By repurposing these funds towards the fuel farm project, the airport would be able to make a significant progress towards closing this gap in funding.

Mr. Hickling went on to say, the airport was able to negotiate with the winning bidder to reuse some of the existing equipment rather than replacing all items, which will allow for some surplus funds for other expenses that might come up; the tank will still be replaced.

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 authorize the City Manager to repurpose funds remaining in completed airport capital projects to be used to fund a portion of the airport fuel farm replacement project.

10) Envirotrac Change Order for Landfill Monitoring - Asst. Public Works Director/Solid Waste Manager

Asst. Public Works Director/Solid Waste Manager Duncan Watson was the next speaker. Mr. Watson stated this item is in reference to a change order with the current landfill monitoring contractor. Back in 1999 when the landfill was closed, the City was required to do 30 years of post-closure monitoring which is being done several times a year and submitting the results to the state. The city changed contractors in 2018 and went with Envirotrac based on the bids that were received at that time. Since that time, the state decided they were going to add a testing criteria to the landfill monitoring to try to characterize the Pfas situation. He explained these are chemicals that are ubiquitous in the environment and have been represented to have a human hazard. Because of the change to the testing limits, the city was able to use 70 parts per trillion water, that number has now been reduced to 20 parts.

When the first round of testing was completed, it was discovered outside of the City's groundwater management zone an area just to the south of the landfill, a stream that feeds into Black Brook tested positive for Pfas. Even though this area was not the City's groundwater monitoring management zone, the state has requested the City to do some further testing. The change order that is before the committee tonight is reflective of the expanded scope to do that testing.

Councilor Hooper stated his priority has always been about safety and to make sure the city is on top of any type of chemical that could exist in the water and stated he was in support of this request.

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 authorize the City Manager to do all things necessary to negotiate and execute Change Order 1 for Envirotrac for technical services associated with additional monitoring services for an amount not to exceed \$15,277 for a revised contract total of \$38,952.

11) Capital Project Transfer for Financial Software Package - Finance Director

Finance Director Merri Howe stated she is happy to put forward a proposal for funding of a software package that has been discussed in the recent past. If the City moved forward with this it would be in the CIP for FY 24 and 26.

Ms. Howe provided a brief history – Keene is the only remaining Pentamation software customer in the State of New Hampshire. This company has been purchased several times and Central Square Technology is the current parent company and their customer support is basically nonexistent.

Staff has found a way to fund this project through funds available in FY21. For the first year, the total the project would be \$516,180, of which the majority is setup and training, the rest is for annual software as a service fee.

Funding sources identified are New Hampshire Inter-Local Trust, the City is getting a return for FY18 HRA funding in the amount of \$133,000; Health Trust did a return of premium for FY20

in the amount of \$174,000; and Human Services budgetary savings due to Covid this year is \$213,000. Hence, \$520,000 in funds have been identified for funding this \$516,000 project. This is a long project and is going to take probably up to three years for the city to migrate from the current financial software and cloud based software other departments are using. The new software company being considered is Tyler Technologies, they are based out of Texas. They also have an office in Falmouth Maine and multiple offices throughout the United States. They are staffed by 1,028 union employees and 201 support employees.

The cost savings in software licensing fees are estimated to be \$35,740 in FY23 and \$100,750 in FY24. This does not include any maintenance or service fee charges or increases in mandatory upgrades with our current Pentamation software provider.

City Manager, Elizabeth Dragon noted, two nights ago, IT Director Rebecca Landry talked about the financial software and the reason the city needs to update this right now and this is because of the inability for the city to update its tax software. The City will be in an unsupported situation in a year and it takes quite a bit of time for the City to migrate into a new system and hence felt it is crucial to address this issue now.

She further stated there are several features of the software the City has not been able to successfully integrate, such as the HR function with finance, and this has created a lot of work in various departments.

The IT Director also talked about the need for her Department to provide an excessive amount of support for Pentamation because Pentamation was not providing the support to the City. She indicated this software is well known in the State of New Hampshire and used by other cities such as Concord and has a good reputation in the State of New Hampshire.

Councilor Ormerod stated he would like to speak in support of this because it does three things for the City. (1) It is necessary for compliance (2) It will reduce the cost of future of support, and other integrations, (3) It is going to provide much better service to the people.

Councilor Chadbourne stated she also supports this request.

The Manager asked the Finance Director to speak about the selection process.

Ms. Howe stated staff reached out to other communities and different companies and had brief demonstrations. What staff learned was that Tyler Technology was the only company that offered a software for tax and financial for the State of New Hampshire. Other companies' staff spoke to have a tax package but not a financial package to integrate with. Ms. Howe stated she also met with one of the IT employees for SAU 29 who also uses the Tyler Technology who highly recommended this software package.

Chair Powers felt this is the right thing to do. He indicated there is no question the software the City is currently using is old and recalled going through this process 25 years ago. He felt this software has been around a long time so they have proven their ability to do the job and likes the fact they are located in Falmouth and it is a company that has been purchased by a larger

company so they have support. He felt staff has done the job that needs to be done.

With reference to financing, taxes are not being raised instead appropriated money is being used in this fiscal year to be able to do this project without sacrificing any other services.

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 authorizes the capital transfer of \$520,000 from the 2020-2021 operating budget to the Financial Software capital project #90008. In addition, that the City Manager be authorized to do all things necessary to negotiate and execute an agreement with Tyler Technologies for the purchase of a financial software package and conversion of the City's current financial system.

12) Property Tax Exemptions and Credits - City Assessor

City Assessor Dan Langille addressed the Committee next and stated he was before them to go over the property tax exemptions and credits the City offers. Mr. Langille explained exemption is a certain amount of reduction on the assessed value of a property. On a \$200,000 home if someone gets a \$30,000 exemption they are going to be taxed on \$170,000.

The Council as part of its fiscal policies wanted to review these every five years. The last revaluation was done in 2016 and 2021 is when the next one is due to be completed. Mr. Langille noted because of the current trend, the City is certainly expecting some increases in value especially on the residential side. If the City was to look at its sales to assessment ratio which we did last year in collaboration with the Department of Revenue, at that time the City was at about 12% below market – this means sales are selling higher than assessments. In recent sales that number has likely increased even more - this doesn't mean anyone's taxes are going up by that amount. Typically what that means is as assessed value goes up, tax goes down but the City is certainly expecting an increase in valuation at least on the residential side.

The goal tonight is to go over the exemptions and the goal is to offer the same assistance to taxpayers that is being offered now.

Mr. Langille went over a spreadsheet included in the Committee packet and explained, the first thing staff did was to look at the average median assessed value of a home that receives an exemption today; the average value of such a home is about \$126,000 and the median value is about \$132,000. If you look at about 12% increase and what that would do to those values it would be about a \$15,000 increase in value for those individuals receiving exemptions.

Mr. Langille called the Committee's attention to all the exemptions and the credits the City offers. Staff looked at the county average medians for each of these exemptions which gives you an idea of what other communities in this area are offering for the same exemptions and credits. The spreadsheet shows how many of these exemptions the City currently has. For example, four deaf exemptions, 16 blind exemptions. In some cases, the amount will be higher than the 12%, specifically for the older populations, 75 to 79 age group and 80 plus age group. Staff decided to increase those levels even more, to tie them into what the other communities are offering in the

area, and with the understanding that as this age group continues to age their income levels are going down, and they may need more assistance.

The proposed increases in the exemption, the overall value difference is over one million, in tax dollars it would be nearly \$41,888 tax dollars.

For solar, staff is not recommending any changes. Solar is a complete exemption on the assessed value of the solar system. If someone has a \$20,000 home with a \$10,000 Solar System attached to the house. What the City does is, it assesses that solar for 10,000, then we offer exemption so it really negates it - so that number seems high, but it is not a reduction necessarily in the assessed value, it's just eliminating the value placed on it. Wood heating system is the same idea, but exemptions are not offered for fire places or wood stoves, instead for a pellet stove that has forced hot air or forced hot water system. There is no change in value or changing the credit for those.

Mr. Langille then explained the credits. Veteran credit is for anyone serving during a qualifying war or that served in the military for no less than 90 days but didn't have to serve during the war time. There is a requirement that whatever the city offers to one it has to offer to the other as well. Surviving spouse and disabled is already at its maximum, so those cannot be increased. It has been a number of years since veteran credits were increased. Staff's proposal is for a \$25 change which would have an overall impact of about \$15,000 in taxes. Combination of both would be \$57,000 in tax dollars and \$1.5 million in value or equivalent. Each one of these on their own is not much but collectively the city is giving credits upwards of \$669,000 in taxes which is about \$17 million in value.

Mr. Langille noted for some of these exemptions you have to be under a certain threshold. For the elderly and disabled exemption, you have to make under a certain amount. Once again the City did the same process and looked at the county average for income and county average for assets. Income limits being suggested are \$32,000 for single and \$43,000 for married. For assets \$61,000 for a single and \$87,000 for married. Mr. Langille stated he is unaware how many more will qualify for these exemptions but from the applications received this year, everyone would have been under these requirements or at these requirements.

Councilor Remy clarified for the City to get the veteran amount in line with the county median, it would cost the city an additional \$30,000 beyond what is outlined on the spreadsheet. He indicated he would be supportive of being more in line with the county median for the veterans. Mr. Langille noted every \$25 is about a \$15,000 impact. Councilor Ormerod and Councilor Hooper were also in support that.

Councilor Remy made a motion to recommend the veteran tax credit with bottom line with the county median at \$300. The motion was seconded by Councilor Ormerod.

Mr. Langille explained how this works is that the Finance Committee would direct him or the City Manager to come back with Resolutions for every one of these. Those Resolutions would come back before this committee for a vote.

Councilor Remy withdrew his motion and Councilor Ormerod withdrew his second but left it as a recommendation.

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 direct the City Manager to prepare Resolutions updating the exemptions for the Elderly, Deaf, Disabled, and Blind, and resolutions for both the Veteran and All Veteran tax credits.

13) Power and Duties of the Assessors Board - City Assessor

Mr. Langille addressed the Committee again with reference to Ordinance O-2021-05 Related to the Powers and Duties of the Assessors Board. This board consists of three individuals who are either certified or experience assessors, and typically individuals who at least have some experience with real estate or appraisal and live in Keene. The main responsibility is to review abatements applications that are submitted to the Department. They look at what the applicant is submitting and look at the Assessing Department's recommendation. They provide a level of transparency and give an opportunity for the public to weigh in and explain why they are seeking abatement.

The Board meets a few times a year; typically as needed so it could be anywhere from one to two times a year. This is a board that is created by City Council and dates back to at least the 1970's with the same exact powers and duties that are in the ordinance today. There is no requirement for a city to have this type of board.

There is little guidance in the statute as to what the board should or shouldn't be doing. It is not for instance like a zoning board which has very defined statutory responsibilities. This was the main reason staff is bringing this up as the kind of outdated and archaic; to be aligned with the City Code.

The NH Department of Revenue has strict oversight over the Assessing Department and over the Assessor's Certification. There is also a statewide Assessing Standards Board. This is a board that looks over assessing practices, and it is made up of public members, legislative members and members of the assessing community. All aspects of the Department's assessing practices are reviewed and there is a process for this. In addition, all the assessments are verified and certified annually after a certain statistical standards.

If any taxpayer disagrees with their assessment there are a number of appeal options; there is the appeal option at the local level, there is also appeal options to the Board of Tax and Land Appeals as well as through the courts. If you look at the current rules, many of the current responsibilities belong to the City Manager. The Assessor reports directly to the city manager, she oversees this department, the same way she oversees the finance department or any other city department. This is not unique to Keene, this is the way, and communities handle this process throughout the state.

Mr. Langille stated he would be concerned that the board really isn't qualified or doesn't have the experience to do some things that are being outlined. The City funds an Assessing Department with qualified staff to do the job they need to do. The new language being added is trying to keep the main function in place which is for the board to act in an advisory manner; for the public to bring their abatement and their concerns to a public process, and continue to provide transparency and update the board of the current practices.

Councilor Ormerod stated his question is about specific language about public appeals responsibility for the board and that language seems to have been sanitized a little bit and made a little vague in the new ordinance. This is the only concern he would have. The Councilor asked for the City's Attorney's input.

Attorney Mullins stated this was really a decision of the City Assessor with respect to how he operates, how the department operates, and how the board operates. As the City Assessor pointed out, there is very little guidance in state law with respect to the functions and duties of an Assessing Board and how those relate to the City Assessor and the board, even in the public process, so it really is a question for the City Assessor. However, if the Committee or the Council has some questions or concerns with respect to more specificity, he indicated he was happy to hear those and work with the City Assessor to see if those could be better defined. At the present time, it really does become a policy question as to how the Council wants to proceed based upon the recommendation of the Assessor.

Councilor Ormerod stated he understands eliminating overlapping duties with the City Manager and the Assessor, which was his only concern and that is why he might not support it as is.

Councilor Powers stated he understands the new duties as reviewing property tax abatement applications and Assessing Department recommendations and to advise the City Assessor whether to grant or approve abatement request and asked for clarification. Councilor Ormerod stated he was more concerned providing an opportunity for property owners to provide comments on the performance of the department, whereas the other language was specifically regarding providing comments and directly to address and intervene; it was less specific.

Mr. Langille stated as far as the appeal process, which is laid out in the state statutes - any property owner can file an abatement application. Staff would still take that abatement application to this board and the Assessing Department would still give their recommendation to this board; that process is not going away.

He noted Councilor Ormerod's concerns with reference citizens being able to provide comments on the performance of the Department of Assessment. He noted performance of a department falls under the purview of the City Manager; if anyone has a complaint about the work being done by the department those comments need to be directed to the City Manager. Hence the reason for the removal of that language.

Council Chadbourne stated when she reads this, she questions the necessity of a board if the decision ultimately is going to be up to the Assessor. She indicated her understanding was that the purpose of the board was to be able to act independently with guidance, but to still be a

separate source for property owners to challenge their assessments. She questioned the purpose of the board based on this language.

Mr. Langille felt that was a valid question – he stated he has worked in communities where there wasn't a board and felt having a board at times creates a lot more work and often times takes a lot more time to get an answer to the public. He felt it would be a lot more efficient not having a board. However, if the Council feels otherwise, he is certainly happy to continue to work with the board. He talked about the vast experience one needs to become certified assessor in the state.

He stated it is not possible if someone with just statistics or real estate background to understand the mass appraisal process. He stated his concern having members from the public step into this process and have an impact on property values when they may not understand how an assessment is put into place. He felt it was valuable to have their perspective and valuable to hear the concerns of the public. Even if they disagree with the end decision, there is still an additional appeal process through the Board of Tax and Land Appeals and then to Superior Court.

He stated he was concerned with accuracy and fairness of everyone when someone gets an abatement, those same adjustments are carried out equally to everyone else in their neighborhood. The whole purpose of evaluation of assessment is to spread the tax burden out, equally amongst everybody.

Chair Powers noted if you read the minutes of the Board of Assessor, every year they deny a certain number and approve a certain number, but there has never been an action where the board has done one thing and the assessor has done something different; it is a pretty open dialogue. If the assessor board ceased to exist and someone disagreed with the assessor, the next step would be to going to before the Board of Tax and Land Appeals and then and then to Superior Court.

Councilor Chadbourne stated she is concerned about the public process; she agreed the Assessor has immense background, experience, education that a layman doesn't have. She compared the Board to the City Council who is there to represent to the public and the Council is comprised of people who have experience and those who don't and staff is always there to advise the Council. She felt this takes away part of a public process and felt it is an important step without having to go to Superior Court etc. which is time consuming and a complicated process that costs money as well. She felt if this is approved it cuts the board off at the knees and it doesn't have any substance.

Attorney Mullins stated he would like to point out a legal conundrum the City is in with respect to the assessing process. There are certain aspects of the assessment process that operate as assessor pointed out, require a high degree of skill and competency. Those issues really arise in the context of exemptions, especially the charitable exemptions etc.

The problem can occur when the board takes an action that isn't necessarily in compliance with the law and when that happens the city is stuck with it. Unlike the zoning board, planning board or land use boards, the city doesn't have an independent right to challenge the decision of the board of assessors. When this happens, there can be inconsistencies especially on the exemption side of the house. This is one of the things the assessor is trying to avoid.

He stated he hears the concern being expressed by Councilor Chadbourne and others with respect to the operation of the board and felt the City perhaps needs to be a little bit more precise in separating out those duties, but felt that would be up to the Assessor and the Council.

Mr. Langille agreed with the Attorney and added the goal wasn't to remove the public process that is an important process and bring a level of transparency and if something needs to be reworded that can be done. He stated he was trying to make sure there is consistency in the decisions that are made. He added he has a bigger concern with looking at exempt properties, which is a legal issue and is up to legal interpretation.

Councilor Chadbourne noted the Assessor is a participant in these meetings, and therefore, if there is concern it can be addressed. This is where his experience and his background would come into play. He could always pause the session to address an item with the City Attorney. She felt the City is overstepping and stated she does not support this.

Attorney Mullins in response stated under the current process the City Assessor does not vote. He is the chair without the authority. He added he had advised the board not to pursue a decision and the board did so anyway, this is one of the reasons for this item to be brought forward. He noted the abatement issue is one thing, but once you get into the charitable side of the house it gets very complicated, very quickly.

Councilor Chadbourne suggested a different approach; the Attorney focused on the charitable issue. She questioned why we need to go to the extreme where all the power from the board is given entirely to the Assessor without a public process. She suggested looking at this issue again, perhaps the Assessor can become a voting member, can there be some limitations, and can there be a different process for charitable exemptions. She felt there needs to be something other than what is currently being proposed.

Chair Powers stated he is reading this as the City still retaining the Assessor's Board. They are still going to review property tax, abatements, and they are going to make recommendations on how to advise the City Assessor on whether to grant or disapprove a request. He felt what is rewritten in bold seems to take care of the actions that they are taking and have for the last 25 years. He felt if something needs to be changed, perhaps an off-camera discussion needs to take place as to what points need to be looked at and developed.

The Manager felt the Committee and staff are struggling with a couple of different things; things have changed since the 1970s when this language was created. At that time, they did not have the level of professional assessors making these types of decisions and there wasn't this level of scrutiny of the state. There is now a process the City needs to go through, and we need to start by recognizing that. The second thing, the City Attorney is correct, this issue is being brought to the Committee because a decision was made that really should not have been made and the City had no alternative other than if it wanted to sue its own Assessing Board which would have put the City in a very precarious position, and this is what staff is trying to avoid in the future.

She stated if there is to be a rewrite of this language, she would strongly recommend leaving exemptions out of any sort of decision related to the assessing board and focus only on abatements.

Councilor Ormerod agreed with what the Manager stated. He stated what makes it seem like the City maybe taking power away, is the fact that you're going from 19 items down to four statements. Perhaps, it's the way it is formatted which could be improved as well.

Councilor Remy asked whether there could be a process where City staff could ask for an appeal to the Council, request council review these as an appeal process of the board. Attorney Mullins stated that cannot be done as there is a very precise statutory appeal process.

Councilor Chadbourne stated she could get behind what the City Manager suggested regarding abatements.

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 putting this item on more time.

14) Relating to the Duties of the City Attorney

Mayor George Hansel addressed the Committee and stated for reasons no one can remember the City built into this ordinance (dates back to 1957) that the City Attorney needs the direction of the City Council to testify before the state legislature on any legislative issues. This does not come up too often, but it has come up this year, where we wanted our City Attorney to weigh in on some legislation that was going through the state legislature and this requirement to come before the Council became a hindrance. It can slow up the process and can actually prevent our City Attorney from weighing in.

He stated for many years, people have complained how their voices are not been heard enough over in Concord and felt amending this ordinance and freeing the City Attorney up and letting our voices be heard is important.

The Mayor stated his suggestion would be to endorse this idea for removing this requirement for the City Attorney to obtain City Council approval before testifying.

Chair Powers asked for the Attorney's comments. He stated the Mayor is correct, there are items that need to be acted on quickly and what is in place right now prevents him from being able to act on items. He stated he appreciates the removal of this restriction.

Councilor Remy suggested that perhaps there should be some direction given to the City Attorney when testifying on legislation, and that maybe that should come from the Mayor rather than the Council in order to streamline things. Councilor Ormerod stated he would appreciate some accountability as well.

The City Manager pointed out the City Attorney is the only charter employee with this restriction and is not sure why it was created in this manner.

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 the adoption of Ordinance O-2021-06.

15) Construction Oversight Change Order - Woodward Dam Improvements - City Engineer

Mr. Lussier addressed the Committee next. Mr. Lussier stated the first item he is going to be discussing is the Woodward Dam Improvements project. This is a request to approve a change order with the engineering consultant on the project to increase the amount of their contract for oversight services. He noted the bottom line is that this change order will not end up costing the City more money – it is all within the existing budget.

He explained this contract began last spring. The contractor worked on it all through the summer. Their original contract had them being completed by the fall. Unfortunately, the contractor did not accomplish their contract requirements of completing in the fall. As of December 11, they ran out of contract time. Mr. Lussier stated, unfortunately the City has to keep its engineering consultants on site because the project is operating under a dam safety permit, and the state requires the City have competent dam safety engineers on site to make sure the safety of the system is protected. Hence, the City has to pay for these services. Ordinarily contracts include something called liquidated damages. This is a clause in the contract that says if the contractor doesn't complete the work on time, they will pay a penalty and have a certain amount determined in advance, in order to reimburse the City for the costs for this delay. In this contract was no different, the City did have a penalty clause that liquidated damages would be \$1,200 dollars a day to cover construction administration. On the other hand, construction contractors will go to great lengths to avoid having liquidated damages imposed upon them. It affects their bond rating, meaning their ability to get an insurance company or surety to guarantee that they are going to perform their next project. Without that bond rating it limits their ability to bid on large public infrastructure projects.

Hence, this contractor approached the City and made an offer. The offer they are proposing is to give the City credit in the form of the cost for rock excavation; part of the contract included excavating a new channel for the outlet of the dam which will require excavating quite a bit of that rock, so they are giving this as a credit.

Mr. Lussier stated staff feels this is a good outcome and a good alternative. The value of the credit is a little less than what the engineer is budgeting for additional contract time. However, without this arrangement in place, the construction contractor is very likely to have second thoughts and have problems completing the project, which would result in delays and lawsuits. Staff feels this is a fair compromise and would recommend that it be approved.

Attorney Mullins felt the skill with which the City Engineer negotiated this outcome will benefit the City and felt this is a good compromise.

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 Manager be authorized to do all things necessary to negotiate and execute a change order with Gannett-Fleming, Inc. for professional services associated with the Woodward Dam Improvements Project, in an amount not to exceed \$79,000.

16) Cheshire Rail Trail Phase III – Appropriation of Funds – City Engineer

17) Cheshire Rail Trail Phase III – Reallocation of Project Balance – City Engineer

Mr. Lussier addressed the Committee again. He indicated the Cheshire Rail Trail phase three project has been in the works for quite some time. This is the next project on the continuing evolution of the City's Rail Trail system. This one specifically will improve the rail trail from Hurricane Road to a right onto Amie Brown Trail near Summit Ridge Road and then up to the Surry line. It will include road features on Summit Ridge and on Park Avenue. Eventually, bringing the user back to West Street and on to North Bridge. When it is completed, users will be able to run, walk, or ride a 7.1 mile loop.

This project began in 2016 and was funded through a grant through the Federal Highway Transportation Alternatives Program Grant. It allows for federal money to pay for 80% of non-motorized transportation improvements, with the City matching 20% through either City funds or private donations.

This project needed property permissions and rights of way of acquisition. That was part of this process and negotiating with the property owners and all that took quite a bit of time, but the project is ready to go and was advertised last fall. However, the bids came in very high, and staff recommends that all the bids be rejected and rebuilt in the spring, which has now been done. Bids came in earlier in April which are still high but considerably lower than they were in the fall for approximately \$700,000 at 20% match that means the City has to come up with \$140,000.

Back in 2016, the City appropriated \$50,000 of City money from the Transportation Improvements Capital Reserve. The City also received a donation from Pathways for Keene for \$30,000, and the Monadnock Conservancy donated another \$15,000 for this project. So, in all the City has raised \$95,000 from City and charitable donations. That means that as of today the City has to raise another \$45,000 to match a total project cost of \$700,000.

The next item number 17 is the remaining \$23,500. This is the accumulated balance of previously completed Rail Trail projects that were completed under budget so right now there is approximately \$23,591 left in project balances that has not been spent. But when the Council appropriated that money originally it was specifically for Cheshire Rail Trail phase two and phase three. So as a matter of housekeeping staff would like you to make clear that the Committee approves the movement of that from one phase of the project to the next.

Councilor Hooper stated this is great collaboration with local group and Rail Trail system is really truly a destination for the City and surrounding areas and brings interest in an economy into the City.

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 the adoption of Resolution R-2021-24.

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 the reallocation of unspent project funds from the Cheshire Rail Trail Phase II project to the Cheshire Rail Trail Phase III project.

18) Cheshire Rail Trail Phase III - Consultant Selection - City Engineer

Mr. Lussier stated he has been before the Committee on several occasions recommending that a contract with an engineering consultant that completed a design for a project be extended with a new contract to oversee the construction work. He stated he continues to believe that it is always in the best interest of the City to have the design engineer overseeing the work who is intimately familiar with the design because they understand the intent of what is being done.

Unfortunately, DOT and Federal Highway Administration don't share his opinion in that regard. The federal highway policy is that you should have different consultants performing construction oversight, but that policy has never really been enforced until recently. As of January 1, the DOT is no longer allowing the use of the same consultant for construction oversight as did the design.

Because this project fell into that category the City sent out a request for qualifications to a total of five different firms; all of them were well qualified. The City interviewed and based on that, Greenman-Pedersen was selected as the preferred firm. Staff recommends negotiating a contract with Greenman-Pedersen in an amount not to exceed \$80,000.

The Chair asked where this firm is located. Mr. Lussier stated they have a local office in New Hampshire and also in Massachusetts. They are a firm that specializes in construction administration; construction oversight. Mr. Lussier added the RFP was for both the Cheshire Rail Trail and Winchester Street oversight 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 negotiate and execute a professional services contract with Greenman-Pedersen, Inc., in an amount not to exceed \$80,000, for Construction Engineering Services required for the Cheshire Rail Trail Phase III project.

19) Petition to Acquire Property by Eminent Domain for Highway Purposes - City Engineer

Mr. Lussier stated this item is related to the Winchester Street Reconstruction Project. He reminded the Committee that last fall and winter the City went through a process whereby the City exercised its authority to acquire property by eminent domain; specifically portions of three parcels at the intersection of Key Road and Winchester Street. When the City began that process the City was operating under the assumption that the owners of Riverside Plaza were going to work with the City and sell it voluntarily. The City needs a total of about 525 square feet of their property to allow the sidewalks and roundabout to be constructed. Riverside Plaza and their management team has been very supportive of the project, they are looking forward to having continuous sidewalks into the plaza and a nice new intersection or entry way. This has not changed, but what has changed unfortunately is their lawyers looked at their lease agreements and their mortgage agreement and realized they weren't able to voluntarily sell a portion of the underlying asset for that mortgage and leases - without having to go through a legal process so they essentially requested the City use the eminent domain procedure, so that they didn't have to renegotiate leases and mortgages.

As a result, the Council received a petition signed by the Public Works Director to use its authority to acquire the property. The Mayor set the public hearing for June 17, and public hearing notices will be sent out in the next day or two. The Committee's role tonight is to consider it and offer its recommendation back to the Council. Then the item will be tabled until the public hearing can be held, public testimony received and then the full Council can vote on whether to exercise its eminent domain authorities.

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 a Petition to Acquire Property by Eminent Domain for Highway Purposes and that Resolution R-2021-19 be placed on more time for the site visit and public hearing to occur on June 17, 2021.

20) Relating to the FY 2021-2022 Operating Budget

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

That the Finance, Organization and Personnel Committee recommend placing R-2021-22 on more time to allow the public hearing to occur on June 3, 2021.

Councilor Ormerod asked why this item is coming up at today's meeting so that it can be placed on more time. Chair Power explained because the item came from the Council last week.

With reference to the motion on the floor:

On a 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends placing R-2021-22 on more time to allow the public hearing to occur on June 3, 2021.

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

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommend That Resolution R-2021-22 relating to the FY 2021-2022 budget be referred to the Finance, Organization & Personnel Committee for their review and recommendation, and that a public hearing be scheduled for Thursday, June 3, 2021.

The Chairman stated the next meeting will be on Monday, May 17 at 5:30 pm to review Public Works.

There being no further business, Chair Powers adjourned the meeting at 8:36 PM.

Respectfully submitted by,
Krishni Pahl, Minute Taker

Additional Edits by,
Patricia Little, City Clerk