

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

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

**Thursday, December 14, 2023**

**6:00 PM**

**Council Chambers,  
City Hall**

**Members Present:**

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

**Staff Present:**

Elizabeth A. Dragon, City Manager  
Thomas P. Mullins, City Attorney  
Amanda Palmeira, Assistant City Attorney  
Donald Farquhar, Fire Chief  
Andy Bohannon, Parks, Recreation and  
Facilities Director  
Mari Brunner, Senior Planner  
Beth Fox, Asst. City Manager/HR Director

**Members Not Present:**

*All Present*

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

**1) Allegation of Fraud or Misconduct in Connection with the Municipal Election Pursuant to Section 5 of the Keene City Charter - City Clerk and Explanation of Process to Consider Allegations – City Attorney**

As the applicant was not present this item was tabled to be discussed later in the agenda.

**2) Contract Award - Gear Extractor and Drying Equipment - Fire Chief**

Fire Chief Farquhar addressed the Committee and stated this item is a CIP line item for \$45,000. It is allotted through a competitive bidding process. The City has a bid from Daniel's equipment for \$39,825. This is for a Gear Extractor and Drying Equipment. The equipment comes with a five year service contract.

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

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to execute a contract with Daniels Equipment Co. Inc. for the purchase of a gear extractor and drying system.

**3) Acceptance of the Lieutenant Joseph DiBernardo Memorial Grant - Fire Chief**

The Fire Chief addressed the next item as well. This item is a grant from the Joseph DiBernardo Foundation. The department received a similar grant last year. The grant this year is for \$11,997.45.

Chief Farquhar explained that Lt. DiBernardo was one of those fire fighters involved in the Black Sunday Fire in 2005. The fire fighters who responded to the fire were trapped inside the building due to illegal renovations and trapped fire escapes. This causes fire fighters to jump out of the building, Mr. DiBernardo lived another five years before he succumbed to those injuries.

The Foundation is run by his family and other firefighters and have made it their mission to make the funds available for all active firefighters to be able to carry a rope bag, special heat resistant hook for anchoring to help fire fighters escape in situations like this. Last year's donation helped the City provide 20 fire fighters with these kits and another 20 will be provided this year which will help reach the mission of the foundation to help equip all fire fighters with these kits.

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

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept and expend the Lieutenant Joseph DiBernardo Memorial Foundation Grant for the purpose of outfitting department members with emergency rope escape systems.

**4) Lease Renewal Agreement 12 Gilbo Ave - Suite C - Parks, Recreation and Facilities Director**

Parks, Recreation and Facilities Director Andy Bohannon stated the lease utilized at Suite C at 12 Gilbo Avenue is coming to an end on January 3, 2024. Staff is looking to extend the lease through the Senator's term in 2027. Mr. Bohannon stated in this case the lease conditions are provided by the Sargent of Arms of the United States Senate, reviewed by the City Attorney, and the new lease agreement is then executed. He added they have been a tenant since 2011 and are in good standing.

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

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to negotiate and execute a lease renewal with United States Senator Jeanne Shaheen for the office space located at 12 Gilbo Avenue - Suite C.

**5) Consultant Selection for Master Plan Update - Senior Planner**

Senior Planner Mari Brunner addressed the committee and stated this item is in reference to the master plan update for which the Council has already appropriated funding through the CIP. In preparation for the master plan update which is scheduled to happen in 2024, an RFP was released in October and the City received five responses. The selection committee interviewed all five

firms and came up with a three way tie. A second round of conversations were pursued and the committee have selected Future IQ as the consultant for the project and coming in at a very close second FHI Studio.

Ms. Brunner noted all five proposals came in above the project budget of \$90,000. The proposals came in between \$160,000 - \$175,000. Staff is recommending \$160,000. She added later in the agenda there is a Resolution to appropriate funding to get to this amount.

The City Manager suggested moving up Item 10 before awarding the contract because it is contingent on that funding.

**6) Relating to the Appropriation of Funds for the Master Plan Update Project  
Resolution R-2023-42**

Ms. Brunner explained Resolution R-2023-42 is asking for \$110,000 from the unallocated general fund balance. She added the \$90,000 was split between two years; in FY 24 it was \$50,000 and in FY25 it would be \$40,000. Another \$70,000 is required to get to the \$160,000. To complete the contract all at once, staff is requesting \$110,000 of which \$40,000 will be removed from the CIP.

Councilor Remy asked to see a copy of the two proposals before this item got before Council so the committee can review what the City is getting for \$160,000.

Councilor Lake asked whether this would be a one or two year contract. Ms. Brunner stated it would be a two year contract, but staff's goal is to get it completed in 18 months.

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

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends adoption of Resolution R-2023-42.

Councilor Lake stated this is a large sum of morning that is being spent and felt it was prudent that the item be referred to Council for further discussion to clarify what the City will be getting for the \$160,000. Councilor Remy felt this issue needs to be hi-lited to the Councilor for next week.

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

On a 5-0 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 Future IQ for master plan consulting services for an amount not to exceed \$160,000.00. In the event that negotiations with the preferred vendor are not successful, the City Manager is authorized to do all things necessary to negotiate and execute a professional services contract with FHI Studio for an amount not to exceed \$160,000.00.

7) **Relating to Life Safety Permit an Inspection Fees Ordinance O-2023-20**

Fire Chief Farquhar addressed the committee again and stated this item is centered around the discussion that happened on November 9 regarding the Fire Department's charge of \$70.00 for the inspection portion of the Assembly Permitting. He indicated the Fire Department traditionally charges a \$70 fee for the inspection of an assembly area. He indicated there is an RSA that strictly prohibits charging a fee for the permit. The discussion is whether the City is charging for the inspection or is it charging for the permit. He noted the department is charging for the inspection.

He stated the proposal before the Council is a change in ordinance that clarifies the permit fee schedule. The Permit Fee Schedule, Appendix B appears in City Code, and it formally indicates under Section 65.11.3 – Permit Requirements – under Life Safety Permits and Inspection Fees. The old language replaces Assembly Inspection Permits valid for one year. The proposed change is to remove the word permit in place of assembly inspection. The ordinance change is making a clearer statement that the \$70 fee is for the inspection and not the permit, and that is the ordinance before the committee today.

Councilor Lake asked whether this would be an annual inspection. The Chief answered in the affirmative. He added they perform about 120 inspections for approximately \$8,500 into the Fire Department budget.

Councilor Remy asked if this fee was removed whether the City could run into the issue of someone frivolously requesting inspections. The Chief stated he did not foresee that happening. The permit is good for one year and can be revoked at any time. The Councilor stated he wants more businesses to come to Keene, and if eliminating this fee is what would make that happen, he is in support of eliminating it.

The Chair asked for public comment.

Mr. Toby Tousley of 500 Washington Street addressed the Committee and asked that the committee not advance this proposal. He felt it would be irresponsible for the City Council to authorize the fire department to charge any new fees until a complete, comprehensive review of all fees and how those funds are spent is completed. He noted he has received several messages from community members and fire department personnel regarding the misuse of collected fees by the Fire Department; different fees for different individuals for the same permit.

He noted there are 400 master fire alarm boxes in the City of Keene and are required by City Code if a building has an occupancy of more than 300 people. The boxes are owned by fire department and are to be maintained by the fire department in accordance with NFPA 72. These master fire alarm boxes are important and critical to life safety in the City as they send a signal to fire dispatch automatically when a fire is detected at a building. If these boxes are not functioning properly, a fire can burn in a building without the fire department ever being notified. Mr. Tousley noted an annual fee of \$408 is charged to building owners for maintenance and inspection of these fire alarm boxes. He noted however, this inspection and maintenance has not been happening. Some have entire circuits that don't function, master alarm boxes disconnected.

He stated his box has not been maintained or inspected for at least two years. Prior to 2020, he had a third party monitor his system, and they inspected the system every six months for many years.

He felt this was a life safety concern. Mr. Tousley referred to an instant where a fire alarm system was activated at 1 Butler Court at Keene State College but the Fire Department never responded, students called 911 and when arriving at the scene it was discovered that the master alarm box for the building was non-functioning and was filled with insects.

He added this issue could be lack of staffing but noted previously there was a full time Lieutenant position allocated for the inspection and maintenance of these master alarm box systems, but this position was recently filled with a person with no training nor any knowledge of the master alarm system. He indicated there are people within the department who have the knowledge and capability to inspect and service the system, but they are only permitted to do so on an overtime basis, which can only be authorized by the Chief.

He indicated the fire department is collecting nearly \$200,000 annually from building owners like himself to inspect and maintain these system but neither inspections nor maintenance is occurring. He felt this sort of fee collecting without providing the service is the kind of behavior that breeds mistrust within the government. The fact that this is also tied to the maintenance of a life safety system further exasperates that mistrust. Mr. Tousley stated in his circumstance, he had a perfectly good working system with regular inspections and maintenance, yet was forced to change to the master box system. He is now paying for something he is not sure works.

Mr. Tousley stated tonight there is a request before the committee to authorize the fire department to charge a new fee. He felt it would be irresponsible to authorize this new fee when the department cannot demonstrate the responsible spending of fees it is currently collecting. He asked that this item be placed on more time and instruct the City Manager to investigate the issues he has brought to the committee's attention tonight. He indicated the City has the responsibility for public safety.

Mr. Jared Goodell of 39 Central Square was the next speaker. Mr. Goodell stated the item before the committee does not require the committee to consider much more than just the plain text of the law and in this case the law is clear in that Assembly Permits are to be issued without charge. He indicated before the committee considers revenue generated by the proposed fee, he felt the City first needs to consider the threshold issue of whether or not the law allows for the City to charge for the inspection required prior to the issuance of an assembly permit. He felt the committee needs to focus upon the statute as a whole and not isolated words or phrases. The City also cannot add words that the legislature did not include.

Mr. Goodell went on to say this legal principle is grounded in the 2001 New Hampshire Supreme Court case Crowley vs. Fraser, the controlling body of law here is RSA 155, and there are a few provisions of this chapter that he felt the City must consider when deciding if allowing this inspection fee is appropriate. The first is RSA 155:19, which states *"a permit shall be obtained from the licensing agency by the owner or operator of any place of assembly. Such permit shall be issued without charge for one year from date of issue. No permit shall be issued by the*

*licensing agency until the provisions of this chapter have been complied with.*” Mr. Goodell called the attention to some of the language, the first is that the assembly permit shall be issued without charge and second that the permit shall not be issued until the provisions of the chapter have been complied with. He noted the other provisions the committee needs to consider is RSA 155:34, which requires that the licensing agency to inspect or cause to be inspected each place of assembly.

He noted when the legislature prepared this body of law, it intended for assembly permits to be issued at no charge and everyone is in agreement with that. The legislature also made it a requirement that the licensing agency inspect the proposed assembly; you cannot obtain an assembly permit without an inspection – this is in the law. The legislature understood that an inspection was part and parcel to the issuance of an assembly permit, and they clearly intended that the issuance of the assembly permit would be at no charge. He felt if the City authorizes for the charge of an inspection fee in order to obtain an assembly permit, it will make it impossible to meet the legislative intent of RSA 155:19 – *“the issuance of an assembly permit at no charge.”*

Mr. Goodell asked if this ordinance passes, will there be any instance in which an assembly permit could be issued in the City of Keene at no charge – the answer would be no. He pointed out that New Hampshire is not a Home Rule state, which means as a general rule, municipalities in this state have the authority to only do what they are specifically authorized to do by a specific state law. He noted there is no state law authorizing the City to charge for inspections for assembly permits. He felt the law is clear and specific that you cannot charge for the issuance of an assembly permit or the inspection for the permit, as it is a requirement of the Chapter.

Mr. Goodell went on to say according to the Fire Chief’s testimony at an earlier hearing, the fee generated is less than \$10,000 per year in revenue for the City, which he noted was a de-minimus amount in the overall fire department budget, which is now the single most expensive department in the City. Passage of this ordinance will not have a noticeable economic impact to the City or the Fire Department. However, the \$70 fee could have a noticeable impact on occupancies that are required to obtain the assembly permit, which includes churches, community centers, youth organizations and restaurants. Many of these organizations are nonprofits or locally owned businesses. Mr. Goodell point out that the law requires assembly inspections to happen twice per year, even though the Chief stated it was required only once per year. He questioned whether this would mean the cost would then be \$140 per year. He felt because the City has been charging for this assembly permit for years, contrary to the law, perhaps the nonprofits and businesses could be given a break from having to pay this fee for an equal number of years.

He concluded by stressing that the City needs to focus on the State Statute as a whole not isolated words or phrases and words cannot be added to the legislature either. He felt a legal challenge to this ordinance would cost taxpayers far more than would be generated by the fee over the next few years. He asked that the committee vote no on this ordinance.

Attorney Joe Hoppock representing Mr. Goodell addressed the committee and began by referring RSA 155-19 which indicates *“such permits shall be issued”* - Attorney Hoppock explained to issue this permit an inspection is required and it needs to comply with the fire code and felt Mr. Goodell is correct about the statutory interpretation language provided and hence felt this

ordinance should not be adopted.

The City Manager addressed the committee and stated some of the prior comments were directed at the Fire Chief and stressed Chief Farquhar did not put these original fees in place, he is not advocating for it and the City is cleaning up some language that was brought forward to the City. She felt it was a relatively small fee. The Manager noted there were comments made tonight that were a little bit disturbing and the comments that were directed at the Chief were unfair as he is not the one forwarding this to the council. It is something that has been in place for quite some time.

Councilor Lake asked whether there are inspections the City performs, Fire Department or otherwise where there isn't a fee charged. The Manager stated she was not aware of any.

Attorney Mullins stated both parties have made their comments previously and the City has a different position from that of Mr. Goodell and Mr. Hoppock and felt the position the City set forward before should stand. He indicated the fire code incorporated into this title gives the committee the answer. He added most cities in New Hampshire charge a fee for inspection. The Attorney felt this is a legal question and a judge could tell what the language perhaps states.

Councilor Remy clarified if the Council did not want to charge this fee, it would not be to vote this ordinance down, it would be to amend this ordinance to strike the \$70 fee. The Attorney agreed it would be better to amend the ordinance, as striking it down would leave the City in the same spot it originally was.

Councilor Remy stated he does not have any challenge on whether the City is permitted to charge this fee or not. He felt the City was allowed to charge for the inspection, but at this point, given the fact that it is very gray in how it is defined at the state level and it is also a de-minius amount it probably is not worth entering into a dispute. He felt it would be good to incentivize more people to open businesses and restaurants, and this could be one of those items that could assist in that effort.

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

That the Finance, Organization and Personnel Committee amend the Ordinance to strike the \$70 fee and make it zero and to amend the language to say there is no charge for an assembly permit or inspection.

Councilor Lake noted if the City is not going to charge for this inspection (under the assumption that that the City could charge for this inspection), he felt the City would lose any leverage for charging for any other in inspection at that point. He stated it is his understanding the charge is to recoup staff time for performing these inspections. He stated he intends to vote against the amendment.

Attorney Mullins added not charging for this inspection would not have an effect on any other inspections, he felt this item was an "oddity". He indicated this is an issue that needs to be rectified by the legislature – the State Fire Marshall is not taking a clear position on this issue.

The motion to amend failed on a 2-3 vote with Councilors Powers, Chadbourne and Lake voting in opposition.

Councilor Remy stated the language being proposed is much clearer than the prior language of this ordinance. Councilor Madison felt it is time for the City to reach out to the legislature for clarification. He further stated following up on the Manager's comments, he has known Chief Farquhar for sometime and has had the pleasure of working with him and felt he has done a great job for the Fire Department and does not agree with some of the personal attacks made again him tonight.

Mr. Goodell addressed the committee again and stated the way in which the ordinance is written, it feels a business owner would be charged for each inspection. He noted RSA155:34, second sentence, ... "*such inspection shall be at least semiannually...*" and hence the opinion of the fire department that that it is once might be incorrect. He felt there should clarification if the Council intends for this to be \$70 per inspection or \$35 per inspection - he stressed the language says "*at least semiannually.*"

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

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends adoption of Ordinance O-2023-20.

**8) Relating to Class Allocation and Salary Schedules Ordinance O-2023-19**

Asst. City Manager/Human Resources Director Beth Fox addressed the committee next regarding O-2023-19, non-union class allocation. The adjustments are proposed to consider a compression, equity and current market conditions as well as advance the City's ability to recruit and retain organizational leaders. She stated in addition, due to a vacancy created in the Utilities Division, the City has decided to complete a restructuring and add additional divisions under the position of Water, Sewer Manager to help manage the utility operations.

Ms. Fox explained the changes proposed deal with some position adjustments, organizational structure and an adjustment to the position of Parks, Recreation and Cemeteries Superintendent to Recreation Facilities Manager.

Councilor Remy stated he had a difficult time approving this item before the next item that deals with Classification and Total Compensation Project Resolution R-2023-40 is addressed. The Manager stated she would have like to wait on addressing this item until the Classification and Total Compensation item is discussed. She noted this is however, a six to eight month study and she is completing department head hiring due to retirement. She indicated most department heads are moving up one grade and this is based on salary information the City obtained from the NH Municipal Association. She explained since Covid salaries have changed drastically and hence the work needs to be done to look at the City's salary ranges. In addition, the City needs room for people to grow.

The Manager stated in the midst of recruitment she felt it was important to address department head grades and at the same time move forward with the compensation study which could take up to eight months.

Ms. Fox stated the City's timetable is longer than the FY25 budget cycle. The City will have the benefit of a study Manchester is currently in the process of completing by spring.

The Chairman felt this is a long time coming. He felt Covid has changed the market and felt all communities are having a difficult time recruiting senior staff.

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

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends adoption of Ordinance O-2023-19.

**9) Relating to the Appropriation of Funds for the Purpose of Funding the Classification and Total Compensation Project Resolution R-2023-40**

Ms. Fox stated as mentioned previously the City is planning on completing a compensation study.

Councilor Remy stated he will be voting against this item, as he would rather give employees raises than spend money on finding out on how the City is not paying employees. He stated he was in support of using Manchester's information to use it as a percentage for Keene.

The Manager stated the reason this study needs to be done is because there has been a lot of compression that has happened over time in many departments; responsibilities have grown but their grade has not changed. It will give opportunity to promote people within their departments absent someone retiring from that department. She added Manchester might not have the same positions Keene does. Hence, mimicking them might not solve the issue. She stated by completing this work the council is committing to implementing a better system for City employees and that salary range and benefits are what is needed to retain and recruit employees.

Councilor Chadbourne felt this was a responsible task which would provide the City with a roadmap.

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

On a 4-1 vote, the Finance, Organization and Personnel Committee recommends adoption of Resolution R-2023-40. Councilor Remy was opposed.

**10) Relating to the Acceptance and Appropriation of Unanticipated Highway Revenue Resolution R-2023-41**

Asst. City Manager/Public Works Director, Kurt Blomquist stated with respect to the prior discussion; he was hired as the Public Works Director in 1994 and he “topped” out in 1999. His duties now are greatly different to what he was hired to do in 1994. He encouraged council’s support of what is being requested by the Manager and HR Director.

Mr. Blomquist went on to say the item before the committee tonight is a resolution to accept some unanticipated revenue as part of the state budget. The state combined several bills dealing with highways. The state has approximately \$10 million in extra funding which is being provided to municipalities as their portion of distribution for the gas tax. Keene is receiving approximately 12.5% of that number after the state retains 35%. The City will be receiving about \$190,000 in revenue for performing road work. The only restriction is that it cannot be used for locally budgeted and approved funds for road maintenance. The intent is to place these funds in the road and sidewalk capital reserve to fund future road projects.

Councilor Madison asked whether these funds could be used for lighted crosswalks in areas like Washington Street and Court Street. Mr. Blomquist stated it could be, but suggested the funds be placed in the capital reserve first and in FY26 the council can determine how to utilize the funds.

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

On a 5-0 vote, the Finance, Organization and Personnel Committee recommends adoption of Resolution R-2023-41.

Mr. Blomquist thanked the committee for support of his position.

Continuation of Item 1:

The City Attorney stated he just received a message from the City Clerk. The Clerk’s office did reach out to Mr. Hutchinson a number of times and the Memorandum was also sent to him. He felt the proper action at this time would be to accept the communication as informational.

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

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

There being no further business, Chair Powers adjourned the meeting at 7:11 PM.

Respectfully submitted by,  
Krishni Pahl, Minute Taker

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