

City of Keene
New Hampshire

FINANCE, ORGANIZATION AND PERSONNEL COMMITTEE
MEETING MINUTES

Thursday, July 25, 2024

6:00 PM

**Council Chamber,
City Hall**

Members Present:

Thomas F. Powers, Chair
Bettina A. Chadbourne
Bryan J. Lake
Kris E. Roberts

Members Not Present:

Michael J. Remy, Vice Chair

Staff Present:

Elizabeth A. Dragon, City Manager
Thomas P. Mullins, City Attorney
Jason Martin, Acting Fire Chief
Don Lussier, Public Works Director
Beth Fox, Asst. City Manager/HR Director
Asst. Public Works Director/Solid Waste
Manager, Duncan Watson

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

1) Contract Award - Fire Department - Spec Rescue International - Fire Chief Jason Martin, Acting Fire Chief

Acting Fire Chief Jason Martin addressed the committee first and stated this item is a request for the City Manager to execute a contract with SpecRescue International to provide specialty trench rescue technician training. Chief Martin indicated the Fire Department was awarded funding from the 2022 AFG grant for this training. An RFP was sent out and after review, the Fire Department recommends the award of the RFP to SpecRescue International in the amount of \$80,001.00. He indicated SpecRescue International is a reputable company and the department has used them for training in the past,

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

On a 4-0 vote, the Finance, Organization and Personnel Committee recommends that the City Council authorize the City Manager to execute a contract with SpecRescue International to provide specialty Trench Rescue Technician Training. The funding source is account #40G00222 (FD2022AFG Trench Rescue.)

2) State Homeland Security Program Award - DHS Approved Training for Locals - Fire Chief Jason Martin, Acting Fire Chief

Chief Martin addressed the next item as well. He stated in June 2024 the Fire Department was notified that it was awarded \$2,925 for members to attend overtime and backfill training in specialized disciplines. The Chief stated the grant reimburses personnel salaries and benefits to

send students to the training and will also backfill on duty numbers to go to the training. There is no match required by the City.

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

On a 4-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept and expend the State Homeland Security Program Award - DHS Approved Training for Locals in the amount of up to \$2,925.00. The funding source is account #40G00224 (FDY2024FSTEMS-Hazmat Training).

3) Professional Services Contract for Final Design of the Downtown Infrastructure Project - Public Works Director Don Lussier, Public Works Director

Public Works Director Don Lussier addressed the committee and stated that this is the third contract with Stantec for the downtown infrastructure project. They were originally selected through a qualifications-based process for the concept phase project. The City Council has now selected the hybrid option for the downtown.

The city completed the preliminary design contract last year. During this time, the city engaged in extensive public engagement, workshops, and meetings, refining the plan. The process culminated on July 18th, when the City Council voted for the preliminary design plan.

Mr. Lussier stated the contract before the committee tonight is the final design; this is when the plan is turned into buildable construction documents with detailed specifications for the three-year construction project. He indicated there more work needs to be done such as geotechnical investigations, permitting requirements, which is included in the cost of the contract.

Mr. Lussier noted the preliminary design contract will be about \$400,000 under budget. One of the reasons for this is that \$200,000 of the work that was initially planned to happen during preliminary design is getting pushed forward into the contract, which is before the committee tonight. He added the estimate the committee has tonight is still under negotiation. For example, the consultant has estimated about \$200,000 of their effort for public engagement and outreach during the final design, which will happen. However, there has already been a lot of public engagement at this point, and the city has received a good community consensus. Public engagement in the future is a twofold fit and includes “finished type” aspects, such as choosing the light poles, trash receptacles, etc. The second is to get additional information about specific properties.

Also, as part of that public engagement is the construction management and construction communication portion. This effort has already been completed with meetings at the Public Library a few weeks ago; this process is to make the construction phase tolerable for people who live and work within the project limits. Mr. Lussier added that there was going to be public engagement but did not feel that \$200,000 was needed for this component.

Mr. Lussier compared this project to the Winchester Street project. With preliminary design, right of way, final design – the city paid about 12% of the construction cost in engineering fees. For this project the city is looking at about 14.1% of the construction project in total, Mr. Lussier

stated he would like to negotiate this amount down to about 12.5%. This concluded Mr. Lussier's presentation.

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

That 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 agreement with Stantec Consulting Services, Inc. for an amount not to exceed \$1,230,000 for the final design phase of the Downtown Infrastructure Project. The funding source will be split between the General Fund, Water Fund and Sewer Fund through the following accounts: Downtown Infrastructure Improvement (75J0034A), Stormwater Resiliency Program (75M00623), Sewer Improvements Program (32MI0222), and Water Distribution Improvements Program (34ML0222).

Councilor Roberts stated what the Director is saying is that the city has a plan right now but as the work begins there is the possibility of making changes. Mr. Lussier agreed and stated the contract for final design includes a lot of precautionary type work that is being done in order to minimize those unexpected conditions. Over the next few months staff will be performing service investigations. For instance, excavating very small holes at critical locations where, for example, a drainage pipe and a sewer pipe cross. He stated undoubtedly, there will be things that will be discovered as the process moves forward.

The motion made by Councilor Roberts was unanimously approved.

4) Fire Damage Repair at Keene Transfer Station - Assistant Public Works Director Duncan Watson, Assistant Public Works Director Don Lussier, Public Works Director

Asst. Public Works Director Duncan Watson addressed the committee. Mr. Watson stated that in May, the transfer station experienced a series of three fires at the facility. One of those fires damaged the transfer station to the point where it needed to be repaired. He stated that staff is before the committee tonight to ask for authority to negotiate and execute a sole-source contract with Project Resource Group.

Mr. Watson stated that Project Resource Group was the firm that repaired the transfer station the last time it burned. He would like to move forward with this firm because they are available and don't have to wait until spring to start construction. He stated they did a great job the last time around. The city has a professional services contract with an engineering firm that originally designed the facility to complete plans and specifications for the repair work.

Mr. Watson stated the funding would be from the insurance payment, less the deductible the city would need to pay. He went on to say that the staff is trying to ensure this doesn't happen again and felt that it most likely happened because of spontaneous combustion of incompatibles mixed into the waste stream. He noted the facility is in a difficult position because they are at the end of the pipe, and the problem starts at the beginning of the pipe. Lithium batteries, which they are particularly concerned about, can be tiny and mixed in with a load of waste. Mr. Watson stated

they installed a deluge system the last time they had a fire to help fight future fires. He indicated they are trying to figure out ways to prevent this from happening in the future and are working on a series of public service announcements to inform the public about proper ways to get rid of waste. They are also working on operational steps to fight the fuel of the fire.

The Mayor asked for safe ways to get rid of batteries. Mr. Watson stated the rule of thumb is that if it is a rechargeable style of battery, those are the batteries that they are concerned about. The station has locations to get rid of nickel, cadmium, lithium-ion, and other locations around the city. Household batteries such as AAA's AA's D cells are no longer considered hazardous. They have been reformulated over the years to remove the mercury in them.

Councilor Roberts pointed out that the battery packaging would also tell you if it is acceptable to dispose of. Mr. Watson stated that the lithium battery is where the issue is. He added it is not the battery itself but the casing of the battery that gets compromised and exposed, which causes a chemical reaction.

Councilor Haas addressed the committee and stated he reinforces everything Mr. Watson says but emphasized that lithium batteries, such as those in phones and small devices, aren't necessarily hazardous. However, everything that is larger should not be left plugged in overnight in your house.

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

On a 4-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to negotiate and execute a contract with Project Resource Group for repair of the fire damage at the Keene Transfer Station for an amount not to exceed four hundred forty thousand dollars (\$440,000). The funding source is the insurance proceeds, less the \$1,000 deductible.

5) Relating to Board Memberships Ordinance O-2024-05-A Tom Mullins, City Attorney

City Attorney Mullins addressed the committee regarding the Ordinance. He stated that most of the amendments are intended as clarifications.

The Attorney reviewed the various amendments.

For the Ashuelot River Park Advisory Board, the membership is being adjusted to remove the City Council member and increase the representation from the Friends of the Ashuelot River Park.

For the Human Rights Committee, the current reference to "ex-officio" is being deleted as it is not an appropriate description of the staff member representing the Keene Public Library. In addition, the Ordinance would provide for a City Council as one of the nine regular members.

The Attorney stated the difficulty in this proposed ordinance arises under Division 18 - Historic District Commission, the language that is being proposed is in conflict with State Statute. He

would recommend that this amendment be removed from the proposed Ordinance so that staff could discuss it further.

For the Agricultural Commission, the proposed Ordinance eliminates that Commission as a public body. The Attorney noted that group has been dormant for many years.

The final change related to the Congregate Living and Social Services Licensing Board. The Ordinance adjusts the membership by removing the administrative official and increasing the membership from the general citizenry.

Attorney Mullins stated he would be proposing that the ordinance be amended in two places. The first is under the “be it ordained” clause. This text needs to be deleted and then the entire reference to Division 18, the Historic District Commission should be deleted as well.

Councilor Lake referred to the Human Rights Committee, which reads *one member shall be represent the Keene Public Library*. He identified a Scrivener’s error in this sentence.

Councilor Lake said this Section also indicated that members shall be appointed by the Mayor but since they are City Boards, Committees and Commissions, this is already granted by Charter, and felt it might be a little superfluous and asked for rationale. Attorney Mullins agreed this was a good point and under Charter Section 29, all members of Boards and Commissions, with the exception of certain ones, are appointed by the Mayor and that language is superfluous. This reference to appointments by the Mayor is also present in the Ashuelot River Park Advisory Board, and should be deleted from that section as well.

The next section of the Ordinance the Councilor referred to were the Ashuelot River Advisory Board and the Congregate Living Board. They are both changed to, say *may represent or one member may be a member of the Planning Board* on the Congregate Living Board. He felt this seems very ambiguous. He asked for clarification for the use of the word “may” and perhaps “shall” should be replace the “may.” Attorney Mullins stated the reason for this is at times staff will suggest to the Boards that they consider members from different places or different organizations. This was the reason for the “may” clause. The attorney noted for Board of Appeals, it states in that ordinance they should consider certain types of individuals to be placed on that Board with specific kinds of expertise. This would be the same for Congregate Living and the Ashuelot River Board.

Councilor Lake noted for the Historic District Commission, it does use the word “should” rather than “may” and he felt this gives very clear direction that the membership should include all of those. He suggested for those two adjustments to say *should represent*. That way, there is still some ambiguity if the mayor has some rationale to why an individual is not on that Board. Attorney Mullins stated from his perspective the use of the word “should” is more directed.

Mayor Kahn stated the Councilor is raising valid points. He stated for instance the legislation authorizes for instance the Historic District Commissions is very prescriptive and makes it almost impossible to fill positions to achieve a quorum. He stated what has worked its way into city code is language that resembles legislative intent. For example, the Planning Board requires

a city staff member which has been very difficult to fill. With the Congregate Living Board there are only five members who are serving on it and there is difficulty finding the conditional member which makes achieving a quorum difficult. For the Ashuelot River Park to not make it a condition that a Conservation Commission member has to fill the additional seat would be helpful in terms of securing memberships.

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

That the Finance, Organization and Personnel Committee recommends the adoption of Ordinance O-2024-05-A.

Councilor Lake made the following motion to amendment, which was seconded by Councilor Roberts.

On a 4-0 vote Finance, Organization and Personnel Committee moves to remove the stricken text and insert the bolded text in Division 18 Historic District Commission from the *be it ordained* clause as well as removing Division 18, HDC as well.

Councilor Lake made the following motion to amendment, which was seconded by Councilor Roberts.

On a 4-0 vote Finance, Organization and Personnel Committee moves to strike the phrase to the appointment by the Mayor pursuant to the Charter from Sec. 2-652 and Sec. 2-991.

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

Referring to the Ordinance, as amended, on a 4-0 vote the Finance, Organization and Personnel Committee recommends the adoption of Ordinance O-2024-05-B, as amended.

6) Relating to Class Allocation and Salary Schedule Ordinance O-2024-12 Elizabeth Fox, Human Resources Director/ACM

Asst. City Manager/Human Resources Director Beth Fox addressed the Committee and stated she is requesting the committee's support on Ordinance O-2024-12, an ordinance related to class allocation and salary schedules for non-union employees in the city.

What is being proposed is adding a job title to the schedule: Deputy Revenue Collector. She explained that the city is putting in place some restructuring of responsibilities in that department and creating this position. This position will be responsible for front-office customer-facing operations and supervising those personnel on a day-to-day basis, leaving the revenue collector to be able to focus on the larger operational issues of the department.

Chair Powers reiterated that this is not creating a new position – just changing classification to reflect responsibilities within the department.

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

On a 4-0 vote, the Finance, Organization and Personnel Committee recommends the adoption of Ordinance O-2024-12.

7) **Relating to the City Attorney Functions and Powers Ordinance O-2024-13 Elizabeth Fox, Human Resources Director/ACM**

Ms. Fox stated because of the retirement of the City Attorney the city has to move forward and initiate a recruitment process for this position. The first step in that process was to review components of City Code that addressed the functions and powers of the City Attorney. The last update was in 1998.

Attorney Mullins stated for all three charter officers, there is a functions and powers section in the City Code of Ordinances. These proposed changes are for insertion into a section already existing in the city code of ordinances; this is not new. He stated the one thing that he did want to refer to is item #9. The attorney said when he came on board, it was the practice he inherited as part of the general powers of the City Attorney to enter into settlement agreements, which have been fairly routine matters, debt collection matters, land use litigation, etc. He added a City Attorney should have the authority to enter into those settlement agreements because generally they happen fairly quickly and are relatively low risk from the city's perspective. However, if payment of funds is required, the City Attorney should bring this to the City Council for approval, which he stated he has always done. There are also settlement agreements that the outside legal counsel enters into through Primex. Those would not include what the attorney was referring to and there are also those settlement agreements with respect to tax abatement application and processes which becomes the purview of the City Assessor.

The attorney next referred to Section 11. It is sufficient to just put a period after departments. It would read "...*provide advice and assistance to the City Manager and departments.* This change was accepted as a Scribner amendment.

Ms. Fox addressed the committee again and stated assuming the committee moves this forward with a favorable recommendation, the hope is that the City Council would adopt this section of the code at its meeting. Staff will then move to the advertising process and begin to publish that the city is seeking candidates for the position. She indicated they are trying to meet the New Hampshire bar advertising date, the second week in August. Likely the position would be posted in the Massachusetts Bar Association publication with an advertising closing date around September 22nd. This would allow the Council to consider candidates at their first meeting in October and schedule interviews with candidates for the week of October 20th.

Attorney Mullins stated the Mayor and the three committee Chairs, together with the HR Director, would work through the administrative issues but wanted to make it clear that the three committee chairs and the Mayor will not be making decisions with respect to the applicant - this function is reserved for the City Council.

Councilor Lake referred to the proposed deleted Section 14, which reads: review and resolve any contradictions and inconsistencies in city ordinances during the process and as otherwise required. He asked if the attorney felt this was covered by Section 6 or if there was another rationale for removing that section. Attorney Mullins stated this was a request from the City

Clerk and agreed the Councilor was correct. This review did fall into drafting the ordinances, resolutions, etc., and appeared superfluous.

Mayor Kahn stated that the City Attorney is an appointee of the City Council, and he wanted to assure everyone that what is being presented tonight has been vetted with him and the three committee Chairs. They asked for the City Attorney's assistance to update this document before the advertising process began.

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

On a 4-0 vote, the Finance, Organization and Personnel Committee recommends the adoption of Ordinance O-2024-13.

There being no further business, Chair Powers adjourned the meeting at 6:55 PM.

Respectfully submitted by,
Krishni Pahl, Minute Taker

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