

**City Council Workshop Meeting
February 18, 2020
Council Chambers
7:12 PM**

COUNCILORS PRESENT

Councilor Abbott
Councilor Belken
Councilor Bogan
Councilor Gray
Councilor Hainey
Councilor Hamman
Councilor Hutchinson
Councilor Lachance
Councilor Lachapelle
Councilor Rice
Councilor Walker
Deputy Mayor Lauterborn
Mayor McCarley

OTHERS PRESENT

Blaine Cox, City Manager
Katie Ambrose, Deputy City Manager
Terence O'Rourke, City Attorney
Lisa Stanley, Resident

Minutes

1. Call to Order

Mayor McCarley called the City Council Workshop to order at 7:12PM. Deputy City Clerk Cassie Givara took a silent roll call. All Councilors were present.

2. Public Input

Tim Sheehan, resident, stated he was attending the meeting to hear more information on the EPA draft permit from the City's consultants and was interested to learn their view on the science behind the proposal.

Lisa Stanley, resident, stated she was also present to learn more about the EPA draft permit. She asked if there would be opportunity after the consultants presented for the public to ask more questions. Mayor McCarley answered that although it is not the normal format of a workshop meeting, the public would be allowed to make additional inquiries regarding the EPA permit later in the meeting.

3. Communications from the City Manager

City Manager Blaine Cox stated that he had received a resignation from the Board of Health, leaving one opening. He asked that all interested parties send him an email or call the City Manager's office for more information.

4. Communications from the Mayor

Mayor McCarley reminded the Council and City residents that the census was being conducted in the near future. She emphasized the importance of participating in the census and stated how the numbers gathered by the census directly affect local funding, education and services. Mayor McCarley advised that there were multiple methods of taking part on the census and urged all residents to participate as required.

5. Department Reports

No discussion.

6. FY2019 Annual Audit Presentation – Melanson Heath

Pat Mohan, Auditor with Melanson Heath, went over the highlights of the financial statements for FY2019 and gave Council an overview of the audit process.

Mr. Mohan reported that the bond rating for Rochester has been favorable for many years and the major rating agencies, including Moody's, looked at the City as a whole very favorably. Mr. Mohan detailed the various funds which are reviewed and how they differed from one year to the next and the criteria which effects these numbers.

Mr. Mohan gave a brief overview of the management letter and stated that there are no current year findings. He explained the criteria being used to formulate this letter is standardized internal control testings; such as accounts payable, payroll, journal entries, cash receipts, and everything else which drives the numbers which go into the City's accounting system to ensure the data being used is true data.

Mayor McCarley asked if there was anything in the financial statements which bond rating agencies may question. Mr. Mohan responded that there is nothing in the City's financial statements which would raise any questions other than the "subsequent event" footnote related to the EPA draft permit.

7. US EPA Draft General Permit for Great Bay Estuary

Sherry Young, Attorney with Rath, Young & Pignatelli, gave an overview of her experience in Environmental Law as well as her history with the City of Rochester.

Attorney Young said that the EPA permit which the City currently has dates back to 1997. The permit expired in 2002, although the City had filed for renewal in a timely manner so the permit had been continued. This permit does not list any nitrogen or phosphorous limits.

The City was notified in 2012 of new limits which would likely be imposed in regards to these levels. Attorney Young stated that the City has been working with the EPA for the past 8 years with the understanding that there would be significant and costly upgrades to Wastewater Treatment if these limits were imposed.

Attorney Young stated that the EPA believes the nitrogen levels in Great Bay are too high and need to be reduced significantly. The DES issued a report stating that the levels had to remain at .3% to protect eelgrass (an indicator of good water quality). Attorney Young reported that experts on the City side refuted these levels. Legislation was then introduced through the state asking for this report to be submitted for peer review. The peer review was completed in 2013 and concluded that the nitrogen level in the report was not scientifically defensible. The DES agreed to pull back their criteria document.

Attorney Young spoke about the voluntary reductions to nitrogen levels taken on by the City which reduced the levels by 70% from their historic levels. She stated there have been ongoing discussions to try to determine what an appropriate nitrogen level should be for Great Bay. The City has asked for time to review the impact these reductions have had on the nitrogen level. The City has also asked for the EPA to further study other factors which may affect the eelgrass such as sediment and substrate, amongst others.

In January of 2020, the EPA issued a draft NPDES permit for waste water treatment plants requiring significant reductions in the nitrogen levels being discharged into Great Bay. Rochester is one of 12 Communities impacted by this permit.

John Coon, Attorney and PhD in Environmental Studies, addressed Council regarding the NPDES permit handed down by the EPA. He stated that the consultants and attorneys questioned whether or not these reductions were even achievable. The City as well as the public has an opportunity to direct comments to the EPA through March 9, 2020 regarding the draft permit and requirements. The EPA is then obligated to respond to all of the comments they receive, which may take until summer.

Attorney Coon stated that after the comment period, the City can either choose to work with the EPA to meet the requirements of the draft permit by establishing a compliance schedule, or the City could appeal the permit; however an appeal will have challenges of its own.

Attorney Young outlined the steps which would need to be taken to meet the nitrogen limit requirements of the draft permit and the proposed costs of these changes. Per Attorney Young, the cost of the Water Treatment Plant upgrade would be between \$13 million and \$14 million plus \$800,000 to \$1 million in operating costs. Attorney Young also spoke about the phosphorous reductions which the EPA will require, which necessitate another \$15.5 million in upgrades.

Mayor McCarley inquired what the timeline would be on the upgrades if they are required. Attorney Young stated that there would need to be a compliance schedule to be completed over several years, or if an extension is needed, completed in 5- 10 years.

Councilor Rice ventured that there must be multiple other communities on the East Coast which are dealing with similar issues and inquired how these communities are dealing with the requirements. Attorney Young answered that the EPA has authority over NH and MA. In Maine, the Department of Environmental Protection issues permits, and per Attorney Young, Maine has not experienced anything similar to what local NH communities are dealing with regarding the draft EPA permit and limits this low.

Mark Sullivan, Deputy Finance Director, gave a presentation showing where and how the water and sewer lines are distributed throughout the City as well as the levels of usage, rates of shutoffs, and how it relates to median household income. Mr. Sullivan gave an overview of the current sewer fund debt and the impact on user rates if the EPA required upgrades are implemented; potentially increasing the rate from \$6.75 to \$21.75.

Attorney Young then addressed Council about the EPA's optional nitrogen reductions from non-point and storm water sources; not from the water plant but rather groundwater and storm runoff. These optional non-point reductions would involve a 45% reduction in the nitrogen level over 23 years. If these voluntary reductions are not taken, the EPA will then impose further reduction criteria on the wastewater side. Attorney Young stated that the non-point reduction was not achievable due to the greatest burden being placed on Rochester; a reduction of 42,000 pounds per year. The consultants had provided steps which could be taken to reduce the output by approximately 1/10 of what the EPA is requiring at a cost of \$15 million over 20 years. The additional upgrades, which would be extremely challenging and would require legislation changes, would total in excess of \$400 million.

Attorney Young stated that the EPA based their limits on research from 20 years prior. It is the lowest number set for any estuary throughout New England and is contrary to published guidelines. The consultants agree that it should not apply to Great Bay. There is currently a peer review being requested from EPA and DES.

Attorney Young announced that there is a Public Hearing at Pease Trade Port on Wednesday February 19, 2020 at 6:00 PM. All are welcome to attend and give comment and there will be governmental representatives from multiple effected communities attending.

Councilor Lauterborn stated that there is a conservation group which has been spreading information that the cost estimates are greatly exaggerated for the proposed upgrades and reaching the requirement. Attorney Young agreed that it can be challenging when there is conflicting information; however the costs of the waste water treatment plant cannot be disputed, and the non-point source estimates are accurate as well.

There was a brief discussion regarding the efficacy of peer review.

8. Other

Councilor Hamann inquired about the Government channel being included in the Comcast line-up and when this would be taking place. City Manager Cox answered that Comcast has outlined the steps they have taken to make this happen and they have met with City CIO Sonja Gonzalez to view the City's infrastructure and determine where lines and hardware needs to be placed in order to facilitate the City meetings being streamed.

9. Non-Public/Non-Meeting

9.1 Non-Public Session - Land, RSA 91-A: 3, II (d)

Councilor Lauterborn **MOVED** to enter in a non-public session at 8:46 PM under RSA 91-A:3, II (d). Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous roll call vote with Councilors Rice, Walker, Belken, Bogan, Lachapelle, Hamann, Lauterborn, Hainey, Abbott, Gray, Hutchinson, Lachance and Mayor McCarley all voting in favor.

Councilor Lachapelle **MOVED** to exit the non-public session at 9:36 PM. Councilor Lachance seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Lauterborn **MOVED** to seal the minutes of the non-public session because disclosure would render the proposed action ineffective. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous roll call vote with Councilors Rice, Bogan, Gray, Belken, Lachapelle, Lachance, Abbott, Walker, Hailey, Lauterborn, Hutchinson, Hamann and Mayor McCarley all voting in favor.

10. Adjournment

Councilor Lachapelle **MOVED** to **ADJOURN** the City Council Workshop at 9:38 PM. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully Submitted,

Cassie Givara
Deputy City Clerk