

CITY COUNCIL WORKSHOP
April 21, 2015
COUNCIL CHAMBERS
7:02 PM

COUNCILORS PRESENT

Councilor Bogan
Councilor Collins
Councilor Gates
Councilor Gray
Councilor Hamann
Councilor Keans
Councilor Lachapelle
Councilor Larochelle
Councilor Lauterborn
Councilor Torr
Councilor Varney
Councilor Walker
Mayor Jean

OTHERS PRESENT

City Manager Daniel Fitzpatrick
Deputy City Manager Blaine Cox
Terence O'Rourke, City Attorney
Molly Meulenbroeck, Resident
Kristin Ebbeson, Resident
Nicholas Kanelos, Resident
Susan Page, Resident
Fred Leonard, Resident
Peter Bruckner, Resident
Janet Pelley, Resident
Jody Keravich, Resident
Tom Kaczynski, Resident and State Rep.
Gregg DeNobile, Resident
Lisa Stanley, Resident
Cliff Newton, Resident
Mac Kittredge, Resident
Kathy MacLeod, Resident
Patrick Cyr, Resident
Sharon Reed-Erickson, Resident
Carl Branco, Business Owner
Michael Allen, Police Chief
Ken Weston, Oak Point Architects

MINUTES

1. Call to Order

Mayor Jean called the City Council Workshop to order at 7:02 PM. Marcia Roddy, Deputy City Clerk, took a silent roll call. All members were present.

2. Public Input

Mayor Jean invited anyone from the public who wished to speak to come forward.

Molly Meulenbroeck, resident, business owner, and Chair of the Historic District Commission, spoke on the historic appeal of the downtown area and the need to maintain its cohesiveness. She said it would be regrettable if the City Council voted to remove a significant building in the downtown.

Kristin Ebbeson, resident and business owner, said she located her new business in the downtown area in an older building that she restored for her business. She is in favor of renovating the City Hall Annex and retaining its historic appeal.

Nicholas Kanelos, resident and Vice President of the Board of Directors of the Rochester Opera House, said that he supports the renovation of the City Hall Annex. He believes it is important to keep all City offices within the City center.

Susan Page, resident and Publicist for the Rochester Opera House, said that there is great historical value to the City Hall Annex. She said that some years ago there was a trend in tearing down old buildings and constructing new ones. The old buildings will never be able to "tell their story" again. She shared several pictures of old buildings that have either been torn down or preserved, pointing out their historical significance to the City of Rochester.

Fred Leonard, resident, asked why the Council was considering a resolution for "Citizens United" and said that he disagrees with the idea that just a few people can petition the Council for a resolution for any topic. Mayor Jean told Mr. Leonard that the people who were at the meeting to speak on "Citizens United" were not there seeking a resolution from the Council.

Mr. Leonard opposed the proposed salary increases for the City Council and Mayor. He said that the City's money would be better spent for other things in the city, such as roads, new DPW barn, etc..

Peter Bruckner, resident and former member of the Historic District Commission, said that the Annex is an historic building that deserves to be saved. He added that on May 16, 2015, Skyhaven Airport will be celebrating the new surface on the runway and encouraged all to attend.

Janet Pelley, resident and former City Councilor, spoke of her support to preserve the City Hall Annex. She talked about the Emily Cross house and the fact that at one time the City Council wanted to tear the building down. Because many people fought to keep the building and restore it the home is still here. A private owner bought it and restored it and as of today the home is on the National Register of Historic Places.

Jody Keravich, resident of 35 Shaw Drive, told the Council that on March 3 he had a fire at his home that destroyed the whole house. He was very disturbed by the activity of the Fire Department at the fire. He was hospitalized and while in the hospital the Fire Marshall came to the hospital to speak with Mr. Keravich as part of the investigation of the fire. He was upset that someone from the Fire Department would come from a fire scene to the hospital and cause a commotion and threaten to bring charges of arson.

Mr. Keravich went on to complain about the Fire Department's treatment of his property (scratches on his truck that was parked in the yard, damage to his boat), and that someone from the Fire Department came to the property the next day and walked around looking for a tarp that was purportedly left behind. He was upset that anyone could just feel free to show up and walk around his property. He urged the City Council to look into this matter.

Tom Kaczynski, resident and NH Representative from District 22, said he was honored to have been elected to serve as a State Representative. He noted that serving as a representative takes up close to 24 hours a week and is challenging for him to continue to run his business. He said he knew what the job would entail, but representing his community is a commitment that is done from the heart. He said he is disturbed by the proposal to raise the stipends paid to the City Councilors and Mayor. Mr. Kaczynski said that with budget season coming up that consideration should be made to not going up to the tax cap and keep spending down.

Gregg DeNobile, resident, spoke about a topic he had discussed at a previous meeting. He talked about the fact that the City budget has gone up from around Six Million Dollars in the 1980's and is now approximately One Hundred Million Dollars. He said that is an increase of about 1600%. He also suggested that nothing be done to the City Hall Annex as there does not seem to be any money available for the project.

Lisa Stanley, resident and member of the Ad Hoc Committee to review the salaries of the mayor and city councilors. She clarified certain items that had been reported and provided figures for the stipends received by the councilors and mayor. She pointed out that the salaries currently paid to Rochester's mayor and councilors are significantly higher than those of neighboring communities. She said that the Finance Committee recommended an increase in the councilors' stipend, but rather an increase in the "per meeting" pay. Per the City Charter, the city councilors are to be paid the same as members of the School Board. She gave examples of how the stipends would increase if there is a raise of the pay rate. She urged the City Council to vote down the pay increase, saying that serving the City should be thought of as community service with little compensation.

Cliff Newton, resident, spoke on the upcoming budget season and the proposed salary increases for the mayor and councilors. He cited his experience in civil service and reiterated that it is a matter of serving the community voluntarily, with compensation not being a factor. He urged the City Council to vote against a pay increase.

Mac Kittredge, resident and former City Councilor, spoke on his time serving on the City Council. He said it was a privilege to serve the community and he was proud to do so. He said he is supportive of renovating the City Hall Annex, saying that he had toured the building when a Councilor and that he found the building to be very sound and ideal for adding work space for certain City departments. He said that by renovating the building it would be less disruptive to the City during construction.

Mayor Jean closed the general public input portion of the meeting and invited those who were in attendance to speak on the revocation of the Citizens United amendment due to come before Congress.

2.1 Petition: Revoke Citizens United

Kathy MacLeod, resident, said that she, Roger Burkhart, Sharon Reed-Erickson, and Patrick Cyr got together to work on a resolution to declare their support for a constitutional amendment to overturn the Citizens United decision. They used language based on resolutions passed in 68 towns in New Hampshire. There are other cities working on similar resolutions. The intention of this "grass roots" movement is to raise awareness of how money is being spent on campaigns and to urge Congress to pass a constitutional amendment to revoke Citizens United.

Patrick Cyr, resident, said he supports the resolution as presented by Ms. MacLeod and urged the City Council to give it consideration.

Sharon Reed-Erickson, resident, urged the Council to stand with the 68 other communities in New Hampshire, 16 state governments, all of the other New England states, and 600 communities nationwide in this endeavor. The movement is to keep businesses and corporations from contributing large sums of money to political campaigns.

Mayor Jean closed public input at 8:03 PM.

3. Appeal: Carl A. Branco, Second Hand Dealer Renewal

Mayor Jean said that the Licensing Board for the City is comprised of the Police Chief, City Manager, and Fire Chief. The Licensing Board has decided not to renew the Second Hand Dealer license for Mr. Branco for his business located on Wakefield Street known as Rochester Pawn. He said there is no formal mechanism in the Ordinances to allow for relief of an appeal; however, all second hand dealer licenses done within the City of Rochester must be done with the affirmative vote of the City Council. Therefore, the only natural progression for appeal would be to the City Council.

Carl Branco said he established his pawn business in Rochester approximately four and one-half years ago. He said he has been in the jewelry business for about 29 years. He briefly explained the function of the pawn shop and the challenges presented. He admitted that he can make mistakes and has taken steps to put certain tools in place to make sure he can be accountable for all transactions. He said he has cameras in place in his store that record all activity.

Mr. Branco said he has had an adversarial relationship with the Rochester Police Department. He said that whatever data he provides to the Police Department and no matter how complete and detailed it is never seems to be enough. He cited instances

where he documented instances where he processed transactions with great detail, yet there were items that were found to be stolen and the Police Department issued citations to him for receiving stolen goods. He has met with the Police Department several times and feels that whatever information he provides never seems to be enough. He said that there have been many occasions when he has called or e-mailed the Police Department and the response has been very slow in coming.

City Attorney Terence O'Rourke outlined the process for a second hand dealer's application for a license. He said the process begins with the person completing and filing an application with the Building, Zoning, and Licensing Services Department. That filing is then given to the Licensing Board (which consists of the City Manager, Police Chief, and Fire Chief) who then review the application and make a decision to either grant or deny a license.

Attorney O'Rourke said the process is in place in order to protect the public from crimes such as burglary, robbery, shoplifting, and common theft and to create a system to trace the property and return it to its rightful owner. To accomplish this, second hand dealer and pawnbroker licenses should only be issued to "suitable persons." The denial of a license is due to the information received by the Licensing Board that "shocks the conscience" or actions that are legally irrational and not sufficiently key to any legitimate state interest.

Attorney O'Rourke said that Mr. Branco submitted an application for a second hand dealer's license and one for a pawn broker's license. The application triggered an investigation by Sgt. Boudreau of the Police Department. There were many items in the police report of contact between the Police Department and Mr. Branco, such as warnings for failure to record serial numbers of property that is determined to be stolen; admissions from Mr. Branco that he continues to purchase items from customers even when he knows them to be stolen; as well as continuing to do business with customers who have been known thieves as warned by the Police Department. Attorney O'Rourke cited several more incidents of illegal buying and selling by Mr. Branco.

Attorney O'Rourke stated that In January of 2014, Mr. Branco was indicted in Hillsborough County for the felony crime of receiving stolen property. The gist of the investigation is that Mr. Branco was purchasing items that he know to be stolen and he made multiple purchases from the same people repeatedly. Some items that have been sold in his Nashua establishment were, in fact, items that came from his Rochester store. Due to the information contained in Sgt. Boudreau's report, it was determined by the Licensing Board that Mr. Branco is not a "suitable person" to be granted a second hand dealer's license or a pawnbroker's license and therefore denied his application.

Councilor Keans asked if the City's ordinance requires the recording of serial numbers. Chief Allen said it requires a "full and accurate description of the item," but does not require recording serial numbers. A serial number, he added, would be an identifying mark as a description.

Councilor Keans said that by changing the ordinance to require serial numbers could alleviate this problem. Chief Allen agreed.

Councilor Keans asked if Mr. Branco was given notice in writing as to what Rochester requires as a full and accurate description of an item. Attorney O'Rourke said that cannot be determined.

Councilor Keans asked if Mr. Branco has been convicted in court. Attorney O'Rourke said no.

Mayor Jean allowed Mr. Branco an opportunity for rebuttal. Mr. Branco said that upon the initial contact with Detective Rousseau from that instance on there was never an issue of a missing serial number. He said that when he found that a serial number had been missed he immediately sent an e-mail correcting that.

Mr. Branco detailed the transaction regarding an I-pad that he has purchased and which had turned out to be stolen. The tracking device in the I-pad led police to Mr. Branco's home in Litchfield. He added that there have been other items that he was suspicious of that he reported by e-mail to the Police Department, but he said that they were never followed up on and he was not contacted by the Police Department.

Councilor Keans asked Attorney O'Rourke what is the procedure for a store owner in removing goods from a particular pawn shop. Chief Allen answered by saying that the item *should* be kept at the retail property location. He said he did not think the ordinance would prohibit the store owner from taking the item home, but he would have to do some research on that

Councilor Lauterborn said she would like Mr. Branco to have the opportunity to answer the charge that he continues to purchase items from individuals that are known to be stolen.

Mr. Branco said if he knows that an item is stolen then he reports it immediately to the Police Department. He said that often goes nowhere.

Councilor Gates asked if during the hearing when the Licensing Board was determining whether or not to renew these two applications, was Mr. Branco present to defend himself. Attorney O'Rourke said no, he was not.

Councilor Lauterborn pointed out that in the minutes of the Licensing Board meeting on February 20, 2015, it is written that the meeting convened at 3:10 PM and concluded at 3:12 PM. She questioned the determination to deny the licenses so quickly and asked if the decision had been made prior to the meeting. She said that something as important as denying a license should have taken longer than a two minute meeting, something she believes to be inappropriate. Attorney O'Rourke said

that the Board had Sgt. Boudreau's report prior to the meeting for review and therefore did not require a longer meeting.

Councilor Varney said that it seems odd that once the licenses were denied why wasn't there an opportunity for the applicant to go back to the Licensing Board for a hearing. Attorney O'Rourke said that is correct; our ordinances do not have a provision for that like other communities have. This is going to be corrected.

Councilor Keans asked if there are consequences to whatever decision is made by the Council. Mayor Jean said that if the Council affirms the Licensing Board's decision then Mr. Branco's only source of relief would come from the court system.

Councilor Walker asked if this deals with both licenses applied for (second hand dealer and pawnbroker). Mayor Jean said yes.

Mayor Jean said if no further action is taken by the Council then the Licensing Board's decision stands. Councilor Lauterborn said she would like to see the matter on the agenda for the next regular Council meeting on May 5, 2015, where it could be voted on. Councilor Lachapelle agreed, adding that it will also be subject for discussion at the Codes and Ordinances Committee meeting on May 7, 2015.

Councilor Walker asked what kind of reasoning does the Licensing Board use for denial of an application. Mayor Jean said it is not like a judicial hearing where there has to be proof beyond a reasonable doubt, but there just needs to be cause as to whether or not the dealer is a suitable person to be holding the license. City Manager Fitzpatrick said that, in his experience, he generally goes by the recommendation of the Police Department as they tend to know their pawnbrokers well and are aware of their reputation and conduct.

Councilor Lauterborn questioned the fact that the Licensing Board consists of only three people and if the City Manager always goes along with the Police Chief then there are always going to be at least two out of three votes for each decision.

Mayor Jean asked Attorney O'Rourke if the City Council agrees to stay the appeal at that meeting, what will the dealer be able to do. Attorney O'Rourke said that Mr. Branco will be able to stay open under his previous year's license until there is a final determination as to whether or not it will be renewed.

There was a unanimous **SENSE OF COUNCIL** to continue the discussion at the May 5, 2015, regular City Council meeting, at which time it will be voted on.

4. Presentation: FY 2016 Capital Improvements Budget and Operating Budget

The budget books were passed out to the City Council members. City Manager narrated a PowerPoint presentation with an overview of the budget to be deliberated on by the City Council over the next several weeks.

The City Manager added one notable comment. He said that since April 1, 2015, the Building, Zoning, and Licensing Services department has issued building permits for \$2.5 million in construction. This is a record for that department. Mr. Fitzpatrick predicts the next year to be a record growth year for the city.

5. Communication from the Mayor

Mayor Jean wished his wife a happy 8th wedding anniversary.

5.1 Proclamation: National Public Works Week

Mayor Jean read and presented a proclamation to Acting Commissioner Michael Bezanson in recognition of National Public Works Week.

5.2 Proclamation: National Library Week

Mayor Jean pointed out that there is a proclamation to go over to the Library in recognition of National Library Week.

6. Communication from the City Manager

There was no discussion.

7. Discussion: City Hall Annex

Mayor Jean introduced Ken Weston of Oak Point Architects. He said that written questions had been submitted to Mr. Weston for clarification on some points regarding the City Hall Annex.

Councilor Varney asked Mr. Weston if the proposed location of the elevator in the building could be moved to the front of the building. Mr. Weston said yes. Councilor Varney said he was asking about this as it would mean that there would only be one public access to the building (in front) and thus only one person would be needed to monitor the access. Having the elevator in that area would make sense.

Councilor Varney said that there has been concern that the building is too small. He asked if the larger rest rooms could be moved to the second floor to make more room on the first floor. He said that some "shuffling around" could allow for more space available for the offices.

Councilor Lauterborn asked Councilor Varney if he saw the renovation being done without the addition that Oak Point has suggested. Councilor Varney said yes.

Mr. Weston clarified the question regarding the toilet facilities. He said that there are certain calculated code requirements based on the occupancy of the space. He

said that the number of occupants estimated for the building is probably higher than what it will eventually be and that there could be a modification of the toilet facility plans based on that.

Councilor Varney repeated his thoughts that sufficient office space would be possible through "shuffling things around" a bit.

Councilor Torr asked Mr. Weston if the plan is approved for renovation of the City Hall Annex, what will be done with the connector between the buildings. Mr. Weston said the recommendation is to remove it, particularly since it is in code violation in its present state. Councilor Torr asked what would be the way to go between the buildings. Mr. Weston said you would have to exit either building and go outside to walk to the other building.

Councilor Torr said that over the years quite a bit of money has been spent on the building as it has been converted from a fire station to a law office, courthouse, and police station, among other things. He said that part of the slate roof was replaced at one point with ice shield.

Mayor Jean said the building does not look the way it did many years ago and to preserve the historical look of the building it has to be restored to look like it once did. The doors, windows, finials on roof, etc., are some of the aspects that would need to be replaced in order to regain the look of the old building.

Councilor Lauterborn asked why the fire doors would be put back. Mayor Jean said that the front of the building has been bricked over and the intention would be to remodel the facade by putting windows back and new doors. The Historic District Commission would like it to look more like it did when it was built.

Councilor Lauterborn asked if when the final report is prepared could there be an interior design without the addition that shows an efficient use of the space. Mr. Weston said yes. He said his firm could frame out a smaller project.

Councilor Gates asked if the HDC wants the building to look like it did when it was built. Councilor Keans said no, that it is a structurally sound building that is a companion building to the City Hall that retains the historical look to the area.

Mayor Jean asked Mr. Weston if he can do some value engineering and perhaps come up with an amount that fits more with the figure that has already been budgeted for the project. Mr. Weston said yes.

Councilor Varney added that if the project is to be done it should not be done cheaply as no one will be satisfied with a poorly constructed building. If it is to be done at all it should be done so as to last for many years.

Councilor Gates said he is concerned with what is left in the building and older buildings can often have many functional issues. Councilor Varney said that is why the building was gutted, so that everything could be checked out. He said experts have checked it out and know what is there so there would be no surprises.

Councilor Varney said that if another million dollars will be needed for the project that will have to be considered when reviewing the debt service during the budget process.

Councilor Torr asked Mr. Weston if the steel structure would have to be put in the building and what would be the cost. Mr. Weston said yes and that it was estimated at \$672,000.

Mayor Jean asked Mr. Weston to proceed with a final report so the Council can consider it for the next fiscal year and the potential debt service.

Mr. Weston added that he has noticed an increase in construction costs and that should be taken into consideration. Mayor Jean agreed, saying that at a meeting of the Joint Building Committee there was a discussion about the increase in construction costs. He said that the contract for the East Rochester School was in place just in time as the costs have now gone up significantly. He said the time to act on this would be very soon while debt service costs are still relatively low.

8. Department Reports

Councilor Varney questioned the Community & Economic Development Management Report regarding the Technical Review Group regarding an SOP for the Fairgrounds. He said this is not the appropriate way to look at zoning. He said non-conforming events should not continue to be planned for the facility without determining what the zoning should be.

Councilor Varney also pointed out that there should not be an application for a variance for a Farmer's Market on the Common. He said that is City property and should have City Council approval. This is under the auspices of the Recreation Department with a permit from the Licensing Board. City Manager Fitzpatrick said he will look into that.

9. Other

Councilor Varney asked Deputy Manager Blaine Cox to provide the cost amount for hiring the "Bridging the Gaps" coordinator full time or lease arrangement. Mr. Cox said it would be \$32,550 for a six month lease and \$28,980 for a six month hire with unemployment insurance to be considered. The **SENSE OF COUNCIL** is to employ the position.

Councilor Gray had been asked to provide information on the salaries for election officials. Upon determining what the hours worked at an election, he said if the officials' salaries are increased they would be as follows:

Ballot Clerks:	from \$85 to \$100
Ward Clerks/Selectmen:	from \$100 to \$115
Moderators/Supervisors:	from \$125 to \$130

Mayor Jean said this will be reviewed and discussed at the next Regular City Council meeting on May 5, 2015.

10. Non-Meeting/Public Session

10.1 Non-Meeting, Consultation with Legal Counsel, RSA 91-A:2 I (b)

10.2 Non-Public Session, Reputation, RSA 91-A: 3, II (c)

Councilor Lachapelle **MOVED** to enter a Non-Meeting under RSA 91-A:2, I (b) [Consultation with Legal Counsel] and Non-Public Session under RSA 91-A: 3, II (c) [Reputation] at 9:40 PM. Councilor Walker seconded the motion. The **MOTION CARRIED** by a roll call vote of 13-0. Councilors Gates, Keans, Lauterborn, Walker, Lachapelle, Gray, Larochele, Torr, Hamann, Bogan, Collins, Varney, and Mayor Jean all voted yes.

Councilor Lachapelle **MOVED** to exit the Non-Public session and seal the minutes indefinitely at 10:25 PM. Councilor Walker seconded the motion. The **MOTION CARRIED** by unanimous voice vote.

11. Adjournment

Councilor Gates **MOVED** to **ADJOURN** the meeting at 10:26 PM. Councilor Hamann seconded the motion. The **MOTION CARRIED** by unanimous voice vote.

Respectfully submitted,

Marcia H. Roddy

Marcia H. Roddy
Deputy City Clerk