

**Rochester Regular City Council Meeting
June 3, 2014
COUNCIL CHAMBERS
7:04 PM**

COUNCILORS PRESENT

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

OTHERS PRESENT

City Manager Fitzpatrick
Deputy City Manager Cox
Attorney Wensley
Commissioner Nourse
Roland Connors, Deputy
Finance Director
Mark Sullivan, Assistant
Finance Director
Justin L. Pasay, Esq
Donahue, Tucker & Ciandella, PLLC
Laura Miller, Department of
Public Works
Lisa Clark, Office Manager,
Department of Public Works

MINUTES

1. Call to Order

Mayor Jean called the Regular City Council meeting to order at 7:04 PM. All Council members were present except for Councilor Keans who arrived at 7:14 PM.

2. Pledge of Allegiance

Mayor Jean led the Pledge of Allegiance.

3. Opening Prayer

Mayor Jean called for a moment of silence for all military troops fighting for our freedom.

4. Roll Call

Kelly Walters, City Clerk, took a roll call. All Council members were present, except for Councilor Keans, who arrived at 7:14 PM.

5. Acceptance of Minutes

Mayor Jean announced that it is Councilor Lachapelle's birthday this evening.

5.1. [May 6, 2014, Regular City Council Meeting Minutes](#)

Councilor Walker **MOVED** to **ACCEPT** the Regular City Council meeting minutes of May 6, 2014. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

5.2. [May 20, 2014, Special City Council Minutes](#)

Councilor Walker **MOVED** to **ACCEPT** the Special City Council meeting minutes of May 20, 2014. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

5.3. [May 27, 2014, Special City Council Minutes](#)

Councilor Walker **MOVED** to **ACCEPT** the Special City Council meeting minutes of May 27, 2014. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

6. Communications from the City Manager

6.1. Employee of the Month Award

City Manager Fitzpatrick invited Commissioner Nourse, Lisa Clark, Office Manager for the Department of Public Works, and Laura Miller, Secretary II for the Department of Public Works, to come forward. City Manager Fitzpatrick stated that he was impressed with the nomination letter written about Ms. Miller, which was signed by nineteen co-workers. He awarded Ms. Miller as the Employee of the Month of June.

6.2. City Manager's Report

City Manager Fitzpatrick read the following agenda items from the City Manager's Report:

Management Team Meeting Minutes:

- May 12, 2014
- May 19, 2014

Contracts and Documents Executed:

- CDBG Agreements for FY14-15
- City Hall Annex- Oak Point Architect Contract
- Strafford County Commissioners response to Granite Ridge TIF notice – no opposition

Standard Reports:

- Personnel Action Report Summary
- Permission & Permits Issued
- City Council Request & Inquiry Report

7. Communications from the Mayor

No discussion.

8. Presentations of Petitions and Council Correspondence

No discussion.

9. Nominations, Appointments, Resignations, and Elections

No discussion.

10. Reports of Committee

10.1. Appointment Review Committee

Councilor Larochelle stated that the Appointment Review Committee unanimously recommended that Nancy Morneault be reappointed to the Welfare Appeals Board with a term to expire in January, 2017. Mayor Jean nominated Nancy Morneault to be reappointed to the Welfare Appeals Board with a term to expire in January, 2017. Councilor Walker seconded the nomination. Councilor Walker **MOVED** that nominations cease and the Clerk cast one ballot for Ms. Morneault. Councilor Lauterborn seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Larochelle stated that the Appointment Review Committee unanimously recommended Mark Hourihane be appointed to the Rochester Economic Development Commission with a term to expire in January, 2017. Mayor Jean nominated Mark Hourihane to be appointed to the Rochester Economic Development Commission with a term to expire in January, 2017. Councilor Walker seconded the nomination. Councilor Walker **MOVED** that

nominations cease and the Clerk cast one ballot for Mr. Hourihane. Councilor Hamann seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Larochelle stated that the Appointment Review Committee unanimously recommended Ron Poulin to be reappointed to the Rochester Economic Development Commission with a term to expire in January, 2017. Mayor Jean nominated Ron Poulin to be reappointed to the Rochester Economic Development Commission with a term to expire in January, 2017. Councilor Lachapelle seconded the nomination. Councilor Lachapelle **MOVED** that nominations cease and the Clerk cast one ballot for Mr. Poulin. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Walker suggested that the City Council take action upon the Statement of Interest, submitted by Tom Willis, to be appointed as a Regular Member of the Planning Board. Mayor Jean stated that only one application has been received by the City for this vacant Planning Board position and if there were no objections from the City Council, he would encourage action at this time.

Mayor Jean nominated Tom Willis to serve on the Planning Board as a Regular Member with a term to expire in January, 2017. Councilor Lachapelle seconded the nomination. Councilor Lachapelle **MOVED** that nominations cease and the Clerk cast one ballot for Mr. Willis. Councilor Lauterborn seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

10.2. Codes and Ordinances Committee

Councilor Lachapelle stated that there is one action item to be dealt with under New Business, which is the Amendment to Chapter 17. He noted that the date of the Codes and Ordinances recent minutes should be corrected to reflect "2014".

10.3. Finance Monthly Statements – *No Committee Meeting*

No discussion.

10.4. Joint Building Committee

Mayor Jean stated that the official ground breaking ceremony recently took place and work has begun on the East Rochester School Project.

10.5. Public Safety Committee

Councilor Walker **MOVED** to install two additional speed limit signs on Pickering Road at the discretion of the Department of Public Works; a request to be written to the State seeking to reduce the speed limit from 40 mph to 35 mph located on the State's portion of Pickering Road; and the City staff to replace the two existing 30 mph signs with two 35 mph signs, located on the City's portion of Pickering Road. This would result in the entire road being consistent up through Dover, New Hampshire. Councilor Gates seconded the motion.

Councilor Keans stated that this is an old country road and the speed limit of 35 mph is used for streets closer to the City. She asked what the reason for this change is. Councilor Walker explained that there is a known speeding problem on this road and the recommendation from the Police Department is to be consistent with 35 mph on the entire road for enforcement reasons. Councilor Varney requested that no signs be purchased until the State agrees to change its speed limit signs. Councilor Walker agreed, that should be the case. The **MOTION CARRIED** by a majority voice vote.

Councilor Walker **MOVED** to **DENY** a request for a handicap parking spot at the location of 107 North Main Street. Councilor Lachapelle seconded the motion. Councilor Walker explained that the handicap parking spot area does not meet the ADA requirements. The **MOTION CARRIED** by a majority voice vote.

10.6. Public Works Committee

Councilor Torr stated that there are no action items this evening. He said the Dewey Street/Hanson Pines – Pedestrian Bridge is in need of repair. This would be kept in Committee for now.

11. Old Business

No discussion.

12. New Business

12.1. **AB 41** Amendment to Chapter 17 of the General Ordinances of the City of Rochester Regarding Water Leakage Prevention and Mitigation Procedures and Responsibilities – **Second Reading and Adoption**

Councilor Walker **MOVED** to read the resolution for a second time by title only. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the resolution by title only as follows:

**AMENDMENTS TO CHAPTER 17 OF THE
GENERAL ORDINANCES OF THE CITY OF ROCHESTER
REGARDING WATER LEAKAGE PREVENTION AND
MITIGATION PROCEDURES AND RESPONSIBILITIES**

THE CITY OF ROCHESTER ORDAINS:

That Chapter 17 of the General Ordinances of the City of Rochester, entitled "Water", as presently amended, be further amended as follows:

I. That Section 17.2 of the General Ordinances of the City of Rochester, as presently amended, and entitled "Definitions", be further amended, by adding to said Section 17.2, the following provision, to be known as Section 17.2 (g) of the General Ordinances of the City of Rochester, to wit:

17.2 Definitions.

"(q) Water Leakage. The loss of City water on the private property (or on other private property(s) over which the customer's water service must pass) of a City water customer due to a compromise of the customer's interior or exterior plumbing."

II. That Section 17.3 of the General Ordinances of the City of Rochester, as presently amended, and entitled "Definitions", be further amended, by adding to said Section 17.3, the following provision, to be known as Section 17.2 (q) of the General Ordinances of the City of Rochester, to wit:

17.3 Policy Statement.

"(g) Treated drinking water produced by City facilities and distributed through the City distribution system is a valuable public resource, funded by water rate payers. It is the obligation of all water customers to correct any leakages which occur on their property in a timely and effective manner. Customer failure to correct leakages on their property (or to have repaired leakage occurring on other private property(s) over which the customer's water service extends) is, after notification of the customer pursuant to the provisions of Section 17.20-A of this Chapter, for purposes of this Chapter, considered willful waste of water."

III. That Chapter 17 of the General Ordinances of the City of Rochester, entitled "Water", as presently amended, be further amended, by adding to said Chapter the following new provision, to be known as Section 17.20-A of the General Ordinances of the City of Rochester, to wit:

"17.20-A Prevention and Enforcement of Willful Water Waste.

Treated drinking water produced by City facilities and distributed through the City distribution system is a valuable public resource, funded by water rate payers. It is the obligation of all water customers to correct any leakages which occur on their property (or to have repaired leakage occurring on private property(s) over which the customer's water service extends) in a timely and effective manner. Customer failure to correct leakages on such property is, for purposes of this Chapter, considered willful waste of water. The Department of Public Works shall utilize the following procedures to alert customers experiencing atypical variation increases in water consumption to alert customers to the possibility of leakage in their (or a master reader's) water service.

(a) **Mobile/Manufactured Home Parks and other similar accounts, with Individual Unit Meters and a Master Meter(s).** Such accounts will have summed, by the Department of Public Works, or by its agent(s), the total consumption value of individual unit meters for each regular billing cycle. This summed value will be compared to the master meter consumption value, or in the event of multiple master meters, the sum value of the master meters. A variation of 10% or more between the sum value of the individual unit meter readings and the master meter value, or sum value of multiple master meter readings, will create/establish the obligation of the customer to investigate and, if necessary, report and correct, at customer's expense, water leakage on their property (or on other private property(s) over which their water service extends). Such variations when identified will be documented by the Department of Public Works and a written notice shall be sent by certified mail, return receipt requested, to customer. Upon receipt of notification, customer will have 90 days to correct any water leakage and report completion of such repairs back to the Department of Public Works. In cases where no leakage is determined to exist, or to have existed, but increased consumption does occur, or is occurring, the customer has the obligation to communicate a credible explanation for the increased consumption to the Department, and to assume responsibility, in writing if requested by the Department of Public Works, for payment responsibility for such increased consumption. Failure of the customer to respond to such notice by communicating to the Department of Public Works the actions needed, and being taken to correct water leakage, and credible explanation

for the increased consumption to the Department the time reasonably required to implement repairs, or by communicating a credible explanation for the increased consumption to the Department and indicating the customer's assumption of responsibility for payment responsibility for such increased consumption will constitute grounds for termination of water service following the expiration of the 90 day repair period, until such leakage is corrected or explanation received. In such cases, an appeal to the Utility Advisory Board for abatement of fees during the 90 day period will not be heard.

(b) **Accounts of Individual Unit Meters without Master Meters**. The Department of Public Works monitors average quarterly water consumption reflected by customer's account(s), and such consumption is communicated to the customer in its monthly, quarterly or other regular bill. When monitoring, if above normal consumption, or a situation indicating a potential leakage of water on the customer's property (or on other private property over which the customer's water service extends) is identified, the Department will issue a written advisory to the customer.

(c) **Water Leaks on Customer Property (or other Private Property over which a Customer's Water Service Extends) Known to Exist by Department of Public Works**. In such cases where it is apparent from the street, or the Department of Public Works otherwise knows of water leakage on the customer's property (or on other private property over which the customer's water service extends), the Department will advise the customer in writing of their obligation to investigate and respond to such leakage at their expense. Failure of the customer to respond to such leakages and inform the Department of their response within 7 days of receipt will constitute grounds for termination of water service until such leakage is addressed by response. In the event of a known leak of significant volume on customer property (or on other private property over which the customer's water service extends) which cannot be isolated on the property, the Department of Public Works will immediately terminate service to the property. Customer shall be responsible for repairs to the leakage prior to resumption of City water service."

CC FY 14 04-

01 AB 41

Councilor Walker **MOVED** to **ADOPT** the resolution. Councilor Varney seconded the motion.

Councilor Larochelle asked where this Amendment originated from. Commissioner Nourse replied that City staff drafted the ordinance and it is similar to some of the surrounding communities in New Hampshire. Councilor Larochelle cited reasons why the City should not be penalizing

water users if they are paying their water bills. He said Rochester has an abundance of water and there is an ordinance in place if a drought should occur in the City.

Councilor Larochelle asked if the intent of this amendment is to require a customer to fix a leak if it occurs prior to entering their water meter, or if it is intended to require a customer to fix a water leak after the water runs through the meter. Commissioner Nourse replied that the intention is to have a customer fix the leak after the water runs through the meter. He listed some of the issues of why this ordinance is being presented to the City Council. He said this ordinance is intended to address leakage problems with commercial accounts, mobile home parks, master meters, and the collections of individual meters. He said for many years some of the master meters were reading more than the sum of the individual meter readings, which means water leakage is occurring. This ordinance is an attempt to reduce water leakage and it should reduce the amount of money owed by the customers, as well.

Councilor Larochelle cited reasons he is in opposition to this amendment, including the financial burden of the City and the idea of terminating the customer's water use, if found in violation. Councilor Gates agreed and asked how a customer would find a water leak if the water was turned off. Commissioner Nourse stated that the original writing of the ordinance was "to repair such leaks" and now it is written "to respond to such leaks." This change was made at the request of the Utility Advisory Board. He explained that there are a lot of water leaks occurring in the City and the City ought to address the issue before it becomes a greater problem. He added that the City staff currently tracks water use and staff routinely gives courtesy calls to customers if a leak is suspected.

Councilor Gates suggested addressing the water leaks occurring in the water lines under the streets prior to implementing a program which could result in the termination of an individual customer having his/her water shut completely off. Commissioner Nourse replied that the City staff has been proactive in reducing leakage under the streets and has reduced water leakage in the water lines significantly over the last four years.

Councilor Gates agreed that customers should not be wasting water; however, if the customer is current on their water bill, than they are in a sense already being penalized. The City should not be involved after that point. He added that the routine courtesy calls, for suspected leaks, are a good practice of the City.

Councilor Walker asked if this amendment would also apply to individual home owners. Commissioner Nourse replied yes, under part (b) of this ordinance, individual meters are monitored, as well, which would require the City staff to provide a written "advisory" letter to the customer. Councilor Larochelle stated that if this amendment was to be implemented, then the customer would have the "obligation" to communicate the "credible" explanation of the water increase to the City, which seems rather extreme, and could result in an individual home owner's termination of water use.

Councilor Kittredge acknowledged that a growing City does have to be concerned with water leakage and he appreciated the fact that the City gives courtesy calls of suspected water leaks to individual customers. He supported the idea of having such an ordinance in place.

Councilor Larochelle asked what percentage of the City's water capacity is being used. Commissioner Nourse replied that the Water Plant is designed to use an estimated five million gallons of water per day and is currently using about half of that per day.

Councilor Keans **MOVED** to **AMEND** the proposed Amendment to Chapter 17 by removing the following paragraph under the proposed Chapter 17 III (a) as follows:

(b) **Mobile/Manufactured Home Parks and other similar accounts, with Individual Unit Meters and a Master Meter(s).** Such accounts will have summed, by the Department of Public Works, or by its agent(s), the total consumption value of individual unit meters for each regular billing cycle. This summed value will be compared to the master meter consumption value, or in the event of multiple master meters, the sum value of the master meters. A variation of 10% or more between the sum value of the individual unit meter readings and the master meter value, or sum value of multiple master meter readings, will create/establish the obligation of the customer to investigate and, if necessary, report and correct, at customer's expense, water leakage on their property (or on other private property(s) over which their water service extends). Such variations when identified will be documented by the Department of Public Works and a written notice shall be sent by certified mail, return receipt requested, to customer. Upon receipt of notification, customer will have 90 days to correct any water leakage and report completion of such repairs back to the Department of Public Works. ~~In cases where no leakage is determined to exist, or to have existed, but increased consumption does occur, or is occurring, the customer has the obligation to communicate a credible explanation for the increased consumption to the Department, and to assume responsibility, in writing if~~

~~requested by the Department of Public Works, for payment responsibility for such increased consumption. Failure of the customer to respond to such notice by communicating to the Department of Public Works the actions needed, and being taken to correct water leakage, and credible explanation for the increased consumption to the Department the time reasonably required to implement repairs, or by communicating a credible explanation for the increased consumption to the Department and indicating the customer's assumption of responsibility for payment responsibility for such increased consumption will constitute grounds for termination of water service following the expiration of the 90 day repair period, until such leakage is corrected or explanation received. In such cases, an appeal to the Utility Advisory Board for abatement of fees during the 90 day period will not be heard.~~

Councilor Gates seconded the motion. Councilor Lachapelle inquired if this would trigger the need for another public hearing. Attorney Wensley replied no. Councilor Varney suggested sending the matter back to the Committee level for review or to table the matter for now. Councilor Lauterborn agreed and hoped that any Councilors who oppose this ordinance would attend the meeting to discuss why.

Councilor Gray **MOVED** to send the matter back to the Codes and Ordinances Committee for review. Councilor Gates seconded the motion. The **MOTION CARRIED** by a majority voice vote.

12.2. AB 98 Presentation of Dog Warrant to City Council

Councilor Lachapelle **MOVED** to **ACCEPT** the Dog Warrant from the City Clerk and forward it to the Police Department for appropriate action. Councilor Lauterborn seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

12.3. AB 99 Land Use Change Tax [LUCT] Revenue

Councilor Walker **MOVED** to read the resolution by title only for the first time. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the resolution as follows by title only:

**RESOLUTION FOR SUPPLEMENTAL APPROPRIATIONS TO THE
CONSERVATION FUND FOR FISCAL YEAR 2013-2014
PURSUANT TO THE PROVISIONS OF SECTION 11.21(c) OF THE
GENERAL ORDINANCES OF THE CITY OF ROCHESTER**

BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF ROCHESTER, AS FOLLOWS:

I. **WHEREAS**, Section 11.21(c) of the General Ordinances of the City of Rochester provides that, after the first Twenty-Five Thousand Dollars (\$25,000.00) in so-called land use change tax revenues received by the City during a fiscal year, an amount equal to the amount of additional "land use change tax revenues", projected in such budget to be received by the City during such fiscal year shall be appropriated to the so-called Conservation Fund, and that the source of funds to fund such appropriation be drawn in their entirety from land use change taxes projected and budgeted to be received by the City during such fiscal year; and

WHEREAS, Section 11.21(c) of the General Ordinances of the City of Rochester further provides that, prior to the close of each fiscal year, the City Manager shall present to the City Council a supplemental appropriation to the so-called Conservation Fund in an amount equal to the amount of current use change tax revenues received by the City of Rochester during such fiscal year in excess of the current use change tax revenue that had been projected to be received in such year's budget as prepared and submitted to, and adopted by, the City Council annually, and the amount of such land use change tax funds actually received during such fiscal year (hereinafter the "annual excess land use change tax"); and

WHEREAS, for fiscal year 2012-2013, the City of Rochester has received annual excess land use change tax funds in the amount of Twenty-Seven Thousand Seven Hundred Five Dollars (\$27,705.00);

NOW, THEREFORE, the Mayor and City Council of the City of Rochester hereby appropriate, as a supplemental appropriation to the 2013-2014 fiscal year operating budget of the City of Rochester, the sum of Twenty-Seven Thousand Seven Hundred Five Dollars (\$27,705.00); from annual excess land use change tax funds for fiscal year 2013-2014 (account number to be designated/determined by the Finance Director) to the City of Rochester Conservation Fund (account number to be designated/determined by the Finance Director), the sums necessary to fund such supplemental appropriation to be drawn in their entirety from the aforesaid annual excess land use change tax revenues received during fiscal year 2013-2014

II. To the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to designate and/or establish such accounts and/or account numbers as necessary to implement the transactions contemplated by this Resolution. CC FY14 06-03 AB 99

Councilor Lachapelle **MOVED** to suspend the rules and read the resolution by title only for the second time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Walker **MOVED** to **ADOPT** the resolution. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

12.4. Tax Deed Eligible Properties

12.4.1. MEMO Tax Deed Eligible Properties

Deputy City Manager Cox stated that over the last several months, the Finance Department, has begun the implementation process of a Tax Deeding Program, in order to address the large number of properties for which property taxes are not regularly paid. He said pursuant to RSA 80:76, Doreen Jones, Tax Collector, has an obligation to execute to the City a deed of any property with unredeemed tax year 2011 tax lien executed pursuant to RSA 80:61 unless the City Council notifies the Tax Collector that it refuses to accept a tax deed on behalf of the City. He cited reasons for not accepting a tax deed. He presented five properties which have been chosen to follow through and take the deeds.

Councilor Torr **MOVED** to direct the Tax Collector to take the deeds on the following properties:

1. 20 Periwinkle Drive (Donald Nutter & KA Lambert)
Map 2050213-0009
2. 96 Riverview Drive (Cristy Wiggin)
Map 222-0004-0096
3. 4 D'Amours Avenue (Carol Trask)
Map 259-0016-0018
4. 4 Manatee Drive (John A. Patch & Camille N. Ralph)
Map 205-0213-0075
5. 76 Gooseberry Circle (Patricia M. Gray)
Map 253-0065-0294

Councilor Gates seconded the motion. Councilor Keans spoke against the motion. She listed financial reasons of why the City ought not to take over the deeds at this time, including paying for demolition of the properties and the possibility of paying for the monthly park fees associated with the mobile homes. Deputy City Manager Cox recalled that according to the City Assessor the cost of demolition would be about \$1,500 per property.

Councilor Torr disagreed with that estimate, citing it would be much higher, about \$2,500.

Councilor Keans asked about the financial cost of removing families from their homes. Deputy City Manager Cox invited Justin Pasay, Esq, Donahue, Tucker, & Ciancella, PLLC, to speak to the City Council. Attorney Pasay said if the City Council voted in favor of this motion, then the City would become the owner of such properties and would be financially responsible to evict any persons currently living on the property and the cost of demolition or the possible resale of the property. A discussion ensued about the criminal action of some mobile home park owners that rent out the abandon mobile homes, which is illegal.

Councilor Walker recalled that the City designed a program to work with the mobile park owners, in which case the City would take the deed and the park owner would dispose of the mobile home. Deputy City Manager Cox did not recall such a program existed at this time; however, the City Council could seek out such a program.

Mayor Jean spoke in favor of the motion. He stated that the City has to take a stand at some point to start this process of taking deeds for delinquent property owners, in order to send the message that home owners must pay for their property taxes, even if there is a financial cost involved.

Councilor Keans requested more information prior to making a decision. Councilor Collins **MOVED** to send the matter to the next Finance Committee for review. Councilor Keans seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

12.4.2. AB 100 Resolution Instructing Tax Collector Regarding Execution of Tax Deeds

Councilor Lachapelle **MOVED** to read the resolution by title only for a first time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the resolution by title only as follows:

RESOLUTION INSTRUCTING TAX COLLECTOR REGARDING EXECUTION OF TAX DEEDS

BE IT RESOLVED BY MAYOR AND CITY COUNCIL OF THE CITY OF ROCHESTER:

WHEREAS, Chapter 80 of the New Hampshire Revised Statutes Annotated provides a means for municipalities to secure the payment of overdue real estate taxes by the placing of a lien on the real property subject to such taxes; and

WHEREAS, such procedure (see RSA 80:58 through RSA 80:86) includes, among other things, the municipal tax collector annually providing the municipality with a list of real properties for which real property taxes remain unpaid immediately after the tax collector has executed a real estate tax lien on said property with respect to such year's unpaid real estate taxes; and

WHEREAS, the aforesaid Chapter 80 further provides that if after two (2) years subsequent to the execution of the aforesaid real estate tax lien taxes on the property subject to such lien continue to have unpaid real estate taxes, the municipal tax collector is authorized to issue a tax deed of such property to the municipality to satisfy the unredeemed tax liability with respect to such property, unless the governing body of the municipality notifies the tax collector that it will not accept a tax deed to such property because acceptance would subject the municipality to potential liability as an owner of property under federal and/or state environmental statutes such as those specified in RSA 80:76, II and any other federal or state environmental statute which imposes strict liability on owners for environmental impairment of the real estate involved, and/or for other reasons specified and/or alluded to in RSA 80:76, II-a; and

WHEREAS, the Rochester Tax Collector has delivered to the City Manager and the Mayor and City Council of the City of Rochester a list of Rochester real properties on which there remains unpaid real estate taxes thereby subjecting such properties to being subject to a tax deed to the City of Rochester pursuant to the provisions of RSA 80:76, which by adoption of this resolution the City of Rochester hereby accepts from the Tax Collector; and

WHEREAS, the Mayor and City Council for various reasons set forth in RSA 80:76, II and II-a, including but not limited to, reasons that would be contrary to the public interest such as the lowering of real estate property values, the promotion of blight and/or the increase in homelessness hereby notify the Rochester Tax Collector that the City of Rochester shall not accept, at the present time, a deed to properties contained on the above-referenced list provided to the City.

CC FY14 AB 100

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

12.5. Deputy City Manager Budget Report

Deputy City Manager reviewed the budget memo for the City Council. He stated an updated report of the Committee of the Whole action list had been sent out earlier that afternoon and again was replaced just prior to this evening's meeting. *This final list will be included as an Addendum to the City Council packet.*

12.6. City Council Budget Deliberations

The Budget Deliberations took place after the motion to adopt as stated below.

12.7. Resolution Approving 2014-2015 Operating Budget for the City of Rochester **Second Reading and Possible Adoption**

Councilor Lachapelle **MOVED** to read the resolution by title only for the second time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the resolution by title only for the second time as follows:

RESOLUTION APPROVING 2014-2015 OPERATING BUDGET FOR THE CITY OF ROCHESTER

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHESTER:

That a twelve (12) month operating budget for the City of Rochester be, and hereby is, approved and appropriated for the period beginning July 1, 2014 and ending June 30, 2015 in the amounts and for the purposes more particularly set forth in the City of Rochester, Proposed Budget, Fiscal Year 2015 (July 1, 2014 - June 30, 2015), as amended, the provisions of which are incorporated herein by reference thereto by attached **Exhibit A**.

This budget may be reconsidered before the tax rate is set if City, School and/or County revenues are changed by the State of New Hampshire or by the Federal Government. The budget appropriations contained in this Resolution are predicated upon projected revenues as more particularly set forth in the City of Rochester, Proposed Budget, Fiscal Year 2015 (July 1, 2014 - June 30, 2015), as amended, the provisions of which are incorporated herein by reference thereto.

Councilor Walker **MOVED** to **ADOPT** the resolution. Councilor Lachapelle seconded the motion.

Councilor Walker **MOVED** to incorporate all of the City Council action items [O&M] made by the Committee of the Whole as outlined by the Deputy City Manager just prior to this evening's meeting, into the Operating Budget Resolution. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Lachapelle **MOVED** to **TABLE** the motion to adopt the Operating Budget. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

The City Council discussed the Capital Budget and then returned to the discussion about the Operating Budget as follows:

Deputy City Manager Cox informed the City Council that the City Council is now \$223,929 under the Tax Cap.

Councilor Lachapelle **MOVED** to **REMOVE** the Operating Budget from the **TABLE**. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Walker **MOVED** to reduce the School Department's Capital Appropriation [Cash] by \$35,500. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Lachapelle **MOVED** to increase the School Department's Operating Budget by \$35,500. Councilor Lauterborn seconded the motion. Several Councilors expressed concern that these CIP items that were intentionally cut by the City Council could now be purchased. The City Council debated the motion. Attorney Wensley stated that this is a complicated matter. He said to the extent that the City Council is essentially placing cash into the School Department's Operating Budget, under the Rochester City Charter they could potentially spend the funds any way they see fit, without input from the City Council. Councilor Walker stated that the City Council wasted time cutting the School Department's CIP items if they can now obtain these items by using the excess funds in the Operating Budget.

Mayor Jean stated that the School Department made cuts in order to meet the Tax Cap. The City intends to budget funds up to the Tax Cap on the City side of the budget and it is only fair to treat the School Department in the same manner.

Councilor Torr requested a roll call vote. Councilor Lachapelle seconded the request. The **MOTION CARRIED** by an 8 to 5 roll call vote. Councilors Gray, Laroche, Lauterborn, Keans, Varney, Collins, Lachapelle, Gates, and Mayor Jean voted in favor of the motion. Councilors Kittredge, Hamann, Torr, Gates, and Walker voted against the motion.

Deputy City Manager Cox advised the City Council that the City's entire Budget is now \$188,429 under the Tax Cap.

Councilor Varney said for the purpose of adding an IT Technician to the MIS Department, he **MOVED** to cut \$31,484 from the appropriate Police Department Part Time Salary and Benefit Line Items and to make a subsequent increase of \$61,300 to the appropriate MIS Department Salary and Benefit Line Items to fund one full time IT Technician. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Varney **MOVED** to add \$41,897 to the appropriate Police Department Part Time Salary and Benefit Line Items for the purpose of funding the part time Evidence Technician. Councilor Walker seconded the motion. Councilor Lauterborn said this is an expensive cost, which is only intended to be a part time position. Chief Allen replied that this is a specialized position dealing with a large amount of criminal evidence. The hope is to hire someone with specific qualifications and experience. Councilor Gates asked if this motion passes this evening, would it result in placing another uniformed officer back on the street once the technician is hired. Chief Allen replied yes. Councilor Keans asked how many hours is considered to be part-time, without the requirement of providing benefits. Deputy City Manager Cox replied up to 34 hours per week. The **MOTION CARRIED** by a majority voice vote.

Councilor Varney **MOVED** to add \$75,000 to the appropriate Fire Department Salary and Benefit Line Items for the purpose of funding an additional fire fighter. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a majority voice vote.

Councilor Varney **MOVED** to increase the appropriate Building, Zoning, and Licensing Services, Salary and Benefit Line Items by \$7,968 for the purpose of increasing the Compliance Officer's scheduled hours from 35 hours per week to 40 hours per week. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a 9 to 4 show-of-hands vote, the original voice vote was unclear.

Deputy City Manager Cox informed the City Council that the entire budget is now \$33,746 under the Tax Cap.

Councilor Walker **MOVED** to cut the Police Department's Salary [Overtime] by \$13,000 and any correlating benefit costs. Councilor Kittredge seconded the motion. Councilor Lauterborn recalled that the funding was not included according to the Issues and Options book. Councilor Walker replied that the Police Department's Operating Budget shows differently. City Manager Fitzpatrick stated that this type of mistake has occurred at least one other time with this year's budget process and the situation would be corrected in time for next year's budget process. Councilor Lauterborn encouraged the Police Department to payout the compensation for overtime from surplus salary or benefit lines as outlined in the Issues and Options booklet. The **MOTION CARRIED** by an 8 to 5 show-of-hands vote, the original voice vote was unclear.

Deputy City Manager Cox informed the City Council that the entire budget is now \$50,224 under the Tax Cap.

Councilor Lachapelle **MOVED** to **TABLE** the Operating Budget, in order to work on the Capital Budget. Councilor Lauterborn seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Deputy City Manager Cox informed the City Council that after the changes have been made to the Capital Budget the entire budget is now \$39,776 over the Tax Cap and the proposed Tax Rate is estimated at \$26.67, which is a \$0.314 cent increase over last year.

Councilor Walker **MOVED** to remove the Operating Budget from the **TABLE**. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Lauterborn **MOVED** to take \$39,776 from the Contingency Fund, which would bring the budget in line with the Tax Cap. Councilor Gray seconded the motion. The **MOTION CARRIED** by a 10 to 3 show-of-hands vote.

Mayor Jean called for a motion on the Operating Budget as amended. The **MOTION CARRIED** by a 13 to 0 roll call vote. Councilors Walker, Collins, Varney, Kittredge, Lachapelle, Gray, Larochelle, Torr, Hamann, Gates, Keans, Lauterborn, and Mayor Jean voted in favor of the motion.

12.8. Resolution Authorizing and Approving 2014-2015 Capital Budget for the City of Rochester and Authorizing Borrowing in Connection Therewith **Second Reading and Possible Adoption**

Councilor Lachapelle **MOVED** to read the resolution by title only for the second time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the resolution by title only for the second time as follows:

**RESOLUTION AUTHORIZING AND APPROVING 2014-2015 CAPITAL
BUDGET FOR THE CITY OF ROCHESTER AND AUTHORIZING
BORROWING IN CONNECTION THEREWITH**

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHESTER:

That the capital budget for the City of Rochester for the July 1, 2014 to June 30, 2015 fiscal year in the total amount specified in **Exhibit A** annexed hereto, be, and hereby is, authorized and appropriated, and, in accordance with the provisions of RSA 33:9, the City Treasurer, with the approval of the City Manager, is hereby authorized to issue bonds, notes and/or other forms of long term financing to finance a portion of said capital budget appropriation as identified on Exhibit A annexed hereto.

The aforementioned issuance of bonds, notes and/or other forms of long term financing is authorized subject to compliance with the provisions of RSA 33:9 and Section 45 of the Rochester City Charter. The useful lives of the capital projects for which bonds, notes and/or other forms of long term financing is authorized by this resolution shall be more particularly set forth in the "City of Rochester, New Hampshire, Proposed CIP Budget, Fiscal Year 2015 (July 1, 2014 – June 30, 2015), as amended.

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion.

Councilor Lachapelle **MOVED** to incorporate all of the City Council action items [CIP] made by the Committee of the Whole as outlined by the Deputy City Manager, just prior to this evening's meeting, and include such changes with the Capital Budget. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Lachapelle **MOVED** to **TABLE** the Capital Budget, in order to work on the Operating Budget. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Varney **MOVED** to remove the Capital Budget from the **TABLE**. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Deputy City Manager Cox informed the City Council that the entire budget is now \$50,224 under the Tax Cap.

Councilor Varney **MOVED** to reinsert the Granite State Business Park Water Loop Project into the CIP Projects, but specify for FY16, with the funding source listed generically as "grant" funding. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Varney **MOVED** to amend the Paving Plan to include the paving of Chamberlain Street in with the summer of 2014 Paving Projects. He said this can be done by removing Railroad Avenue and Brickyard Drive from the same list to be used as a funding source. Councilor Torr seconded the motion. Councilor Walker opposed the motion. After a lengthy discussion Councilor Varney offered to make a few subsequent motions to change some specific CIP items from cash to bond, in order to make up the amount needed, without cutting the two streets from the paving plan as previously mentioned.

The City Council discussed the drainage part of Chamberlain Street. Commissioner Nourse clarified that the paving estimates are conservative. He said that there are significant drainage problems on Chamberlain Street and it should be addressed this paving season. He stated that Chamberlain Street should not be reclaim/paved until the drainage issues are resolved, which he estimated at \$55,000. He added that there is an existing bonded CIP Project for Chamberlain Street. Councilor Varney asked if the Chamberlain Street drainage project would be completed prior to paving the road. Commissioner Nourse replied yes.

Councilor Varney asked what is the current use of Fund Balance. Deputy City Manager Cox replied that it is estimated at 1.7 million. Councilor Varney **amended** his motion to include the paving of Chamberlain Street, at the cost of \$300,000, into the Paving Plan [summer of 2014], without cutting Railroad Avenue and Brickyard Drive as previously stated. Councilor Torr [*second to the original motion*] concurred. Councilor Walker supported the amendment. Mayor Jean clarified the motion. The **MOTION CARRIED** as amended by a unanimous voice vote.

Councilor Varney **MOVED** to change the funding source of CIP Project #18 in the amount of \$50,000 from Cash to Fund Balance. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Varney **MOVED** to change the funding source of CIP Project #19 in the amount of \$55,000 from Cash to Fund Balance. Councilor

Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Torr requested that the minutes reflect that the City Council purposely cut one back line vehicle from the Police Department. He requested that it be known to the Police Department that the remaining back line vehicle is for the Animal Control Officer. Councilor Torr asked what would happen to the existing Animal Control Officer's vehicle. Commissioner Nourse stated that it would be sent back to the Department of Public Works to be prepared for auction.

Councilor Lachapelle **MOVED** to add \$20,000 to the Police Department's CIP Project # 26 to fund a back line vehicle, which was cut at the last City Council meeting in Councilor Lachapelle's absence. It was determined that the funding source would be funded from the City's contingency. Councilor Larochelle seconded the motion. Councilor Torr requested a roll call vote. Mayor Jean seconded the request. The **MOTION CARRIED** by an 8 to 5 roll call vote. Councilors Hamann, Larochelle, Gates, Varney, Torr, Lachapelle, Collins, and Mayor Jean voted in favor of the motion. Councilors Walker, Gray, Keans, Lauterborn, and Kittredge voted against the motion.

Councilor Varney stated that the Codes Software Program should be left as a bonded project.

Councilor Lachapelle **MOVED** to **TABLE** the Capital Budget, in order to allow the Finance Team more time to work out the financial figures and to enter a Non-Meeting Session. Councilor Lauterborn seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Walker **MOVED** to remove the Capital Budget from the **TABLE**. Councilor Lachapelle seconded the motion. This occurred after the Non-Meeting took place. The **MOTION CARRIED** by a unanimous voice vote.

Mayor Jean called for a vote on the Capital Budget as amended. The **MOTION CARRIED** by a 13 to 0 roll call vote. Councilors Gray, Larochelle, Lauterborn, Keans, Kittredge, Varney, Hamann, Torr, Collins, Lachapelle, Gates, Walker, and Mayor Jean voted in favor of the motion.

Mayor Jean stated that this is the first time in many years that the budget passed unanimously and so quickly. He thanked the City Manager, Department Heads, and the entire Finance Department for their hard work.

13. Other

Councilor Collins stated that Fred W. Hall had been admitted to Frisbie Memorial Hospital yesterday; however, he is recovering quickly and may be able to return home by tomorrow. He is a decorated veteran and wrote the battle plan for his battalion over 70 years ago and his battalion was one of the first to land on Omaha Beach. He said Mr. Hall should be honored this evening by remembering his many absent companions from that mission. Attorney Wensley mentioned that Mr. Hall is the most decorated World War II veteran. Councilor Torr stated that he is also one of the few veterans that hold two Silver Star Medals.

Mayor Jean thanked Councilor Collins for bringing this matter to the City Council's attention and sent his thoughts and prayers to the family through this difficult time. He added that Mr. Hall donated a book of his memoirs to the Rochester Public Library for display.

14. Non-Meeting/ Non-Public Session

14.1. Non-Meeting Consultation with Legal Counsel RSA 91 A

Councilor Lachapelle **MOVED** to enter a Non-Meeting Consultation with Legal Counsel RSA 91 A at 9:52 PM. Councilor Walker seconded the motion. The **MOTION CARRIED** by a 13 to 0 roll call vote. Councilors Gates, Keans, Lauterborn, Walker, Lachapelle, Gray, Larochelle, Torr, Hamann, Kittredge, Collins, Varney, and Mayor Jean voted in favor of the motion.

Councilor Lachapelle **MOVED** to exit the Non-Meeting at 9:25 PM. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

15. Adjournment

Councilor Walker **MOVED** to **ADJOURN** the Regular City Council meeting at 9:28 PM. Councilor Torr seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Kelly Walters
City Clerk

City of Rochester Operating Budget Resolution-Exhibit A

Operations	FY15 Mgr Proposed
Operating Budgets	
City Operations	21,956,774
County Taxes	5,939,341
Debt Service	4,803,496
Capital Projects Transfers	<u>1,739,649</u>
Total City General Fund Operations	34,439,260
School Operating Budget	57,417,044
School State Education Tax	4,967,033
School Grants & Special Rev Funds	4,559,000
Community Center	756,856
City Grants & Special Rev Funds	505,000
Total Operating Budgets	<u>102,644,193</u>
Water Operating Budget	5,290,384
Sewer Operating Budget	7,041,263
Arena Operating Budget	538,624
Total Enterprise Operating Budgets	<u>12,870,271</u>
Total Operations all Funds	<u>115,514,464</u>

INFORMATION ONLY

Operations	FY14	FY15	\$ Change	% Change
	Revised Budget	Mgr Proposed		
General Fund				
City Operations	21,320,823	21,956,774	635,951	2.98%
County Taxes	5,739,529	5,939,341	199,812	3.48%
Debt Service	4,465,297	4,803,496	338,199	7.57%
Capital Projects Transfer	<u>4,646,964</u>	<u>1,739,649</u>	<u>-2,907,315</u>	<u>-62.56%</u>
Total City	36,172,613	34,439,260	-1,733,353	-4.79%
School	<u>57,173,652</u>	<u>57,417,044</u>	<u>243,392</u>	0.43%
Total General Fund	93,346,265	91,856,304	-1,489,961	-1.60%
City Grants & Special Rev Funds	490,505	505,000	14,495	2.96%
School Grants & Special Rev Funds	4,988,000	4,559,000	-429,000	-8.60%
Water Fund	4,929,646	5,290,384	360,738	7.32%
Sewer Fund	6,382,733	7,041,263	658,530	10.32%
Arena Fund	527,196	538,624	11,428	2.17%
Community Center	<u>743,668</u>	<u>756,856</u>	<u>13,188</u>	<u>1.77%</u>
Total Enterprise & Sp Rev Funds	18,061,748	18,691,127	629,379	3.48%
Total Operations all Funds	111,408,013	110,547,431	-860,582	-0.77%
CIP				
City	3,958,012	10,453,859	6,495,847	164.12%
School	15,700,046	2,205,900	-13,494,146	-85.95%
Water	2,836,500	3,873,000	1,036,500	36.54%
Sewer	3,221,500	4,139,000	917,500	28.48%
Arena	375,000	0	-375,000	-100.00%
Community Center	400,000	35,000	-365,000	-91.25%
Transfer to General Fund	400,000	0	-400,000	-100.00%
Transfer to Econ Devel Fund	<u>100,000</u>	<u>0</u>	<u>-100,000</u>	<u>-100.00%</u>
Total CIP all Funds	26,991,058	20,706,759	-6,284,299	-23.28%

Original Attachment as presented to the City Council on 5-6-2014

INFORMATION ONLY

CAPITAL IMPROVEMENTS PLAN- RESOLUTION EXHIBIT A

	PROJECT AMOUNT	BOND PROCEEDS	O&M CASH	FUND BAL RET EARN	DED REVENUE	OTHER SOURCES	GRANTS
<u>GENERAL FUND</u>							
CITY*	10,488,859	8,734,210	1,524,649	215,000	0	0	15,000
SCHOOL	2,205,900	2,096,400	109,500	0	0	0	0
TOTAL GENERAL FUND	12,694,759	10,830,610	1,634,149	215,000	0	0	15,000
<u>ENTERPRISE FUNDS</u>							
WATER	3,873,000	3,700,000	173,000	0	0	0	0
SEWER	4,139,000	3,400,000	739,000	0	0	0	0
TOTAL ENTERPRISE FUNDS	8,012,000	7,100,000	912,000	0	0	0	0
TOTAL ALL CIP	20,706,759	17,930,610	2,546,149	215,000	0	0	15,000

* Includes Community Center Cash CIP

As proposed on 5-6-2014

INFORMATION ONLY

City of Rochester Operating Budget Resolution-Exhibit A

EXHIBIT A ADOPTED

Operations		FY15 Adopted
Operating Budgets		
City Operations		21,986,774
County Taxes		5,939,341
Debt Service		4,803,496
Capital Projects Transfers		1,592,296
Total City General Fund Operations		34,321,907
School Operating Budget		57,345,083
School State Education Tax		4,967,033
School Grants & Special Rev Funds		4,559,000
Community Center		756,587
City Grants & Special Rev Funds		540,000
Total Operating Budgets		<u>102,489,610</u>
Water Operating Budget		5,188,845
Sewer Operating Budget		6,970,229
Arena Operating Budget		538,624
Total Enterprise Operating Budgets		<u>12,697,698</u>
Total Operations all Funds		<u>115,187,308</u>

ADOPTED

CAPITAL IMPROVEMENTS PLAN- RESOLUTION EXHIBIT A ADOPTED

	PROJECT AMOUNT	BORROWING PROCEEDS	O&M CASH	FUND BAL RET EARN	DED REVENUE	OTHER SOURCES	GRANTS
<u>GENERAL FUND</u>							
CITY	8,138,076	6,505,780	1,487,296	105,000	0	25,000	15,000
SCHOOL	1,516,400	1,442,400	74,000	0	0	0	0
TOTAL GENERAL FUND	9,654,476	7,948,180	1,561,296	105,000	0	25,000	15,000
<u>ENTERPRISE FUNDS</u>							
WATER	2,023,000	1,950,000	73,000	0	0	0	0
SEWER	3,139,000	2,450,000	679,000	0	0	10,000	0
TOTAL ENTERPRISE FUNDS	5,162,000	4,400,000	752,000	0	0	10,000	0
TOTAL ALL CIP	14,816,476	12,348,180	2,313,296	105,000	0	35,000	15,000

ADOPTED
