

ROCHESTER REGULAR CITY COUNCIL MEETING
January 8, 2013
COUNCIL CHAMBERS
7:00 PM

MEMBERS PRESENT

Councilor Hervey
Councilor Hynes
Councilor Keans
Councilor Lachapelle
Councilor LaBranche
Councilor Lauterborn
Councilor Larochelle
Councilor Reed-Erickson
Councilor Savoie
Councilor Torr
Councilor Varney
Councilor Walker
Mayor Jean

OTHERS PRESENT

City Manager Fitzpatrick
Deputy City Manager Cox
Attorney Wensley

MINUTES

1. Call to Order

Mayor Jean called the Regular City Council meeting to order at 7:00 PM.

2. Pledge of Allegiance

Councilor LaBranche led the Pledge of Allegiance.

3. Opening Prayer

Mayor Jean called for a moment of silence in honor of our military troops serving overseas.

4. Roll Call

Kelly Walters, City Clerk, took a roll call. All Councilor Members were present.

5. Acceptance of Minutes

5.1 December 4, 2012, Regular City Council Meeting

5.2 December 18, 2012, Special City Council Meeting

Councilor Walker **MOVED** to **ACCEPT** the Regular City Council minutes of December 4, 2012. Councilor LaBranche seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Walker **MOVED** to **ACCEPT** the Special City Council minutes of December 18, 2012. Councilor LaBranche 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 Police Chief Allen and Jason Cole, Rochester Police Department to come forward. Mr. Fitzpatrick read the nomination letter nominating Mr. Cole with the Employee of the Month award for January. He added that Mr. Cole has saved the City a lot of money by becoming a CPR instructor for City employees. He awarded Mr. Cole with the Employee of the Month Award for January.

6.2 City Manager's Report

City Manager Fitzpatrick stated that the following Management Team Meeting minutes have been included in the City Council packet for review:

- November 26, 2012
- December 3, 2012
- December 10, 2012
- December 17, 2012

City Manager Fitzpatrick stated that Robert Frechette and Matthew Flatters have both been approved for the Computer Lease Program. He added that Lieutenant Jason Thomas has been approved for two tuition reimbursements.

City Manager Fitzpatrick stated that the City has received notice of approval for State funding of the following police grants:

- Rochester Pedestrian Patrols
- Rochester Red Light Running Patrols
- Rochester Enforcement Patrols
- Rochester DWI/DUI Patrols

City Manager Fitzpatrick stated that the following contracts have been signed since his last report:

1. Pine Street Change Order #3
2. Wrecker Service Agreements with Bob's Auto; Dave's Tri City; Matt Scott's Auto; and Rochester Truck Towing Services
3. Rental Agreement with Arts Rochester

City Manager Fitzpatrick stated that the Visiting Nurses Association has officially changed its name and will now be known as Cornerstone VNA.

City Manager Fitzpatrick stated that PSNH has a service request for two streetlights.

City Manager Fitzpatrick stated that the following standard reports have been provided with the City Council Packet:

- Permissions/Permit granted
- Personnel Actions for December
- City Council Request - Inquiry Report

City Manager Fitzpatrick stated that the City Council Inquiry Report should be updated for the following information:

- Item # 3 – Assessor Mullin is submitting a draft ordinance to the Codes and Ordinances Committee.
- Item # 4 – This item has been sent to the February Finance Committee.
- Item # 5 – This item has been closed.

Councilor Varney questioned an item in the November 26, 2012, Management Team meeting minutes. What is meant by "the Police Furnace warranty has been taken care of through the CIP?" City Manager Fitzpatrick agreed to get back to Council with an answer.

Councilor Varney questioned the Personnel Actions Report. What does "working out of classification," mean? City Manager Fitzpatrick replied this allows an employee to work on a temporary basis out of their normal classification.

7. Communications from the Mayor

7.1 Barrington Gravel Operation Update [re-cap of 12/20/12 Meeting with Constituents]

Mayor Jean stated that he attended a meeting along with Councilors Lachapelle and Larochelle relating to the Barrington Gravel Operation on December 20, 2012. This meeting was an informational meeting regarding the City's response to the Barrington Gravel Operation, which gave the residents of

the Jessica Drive and Stillwater Circle area an opportunity to express their concerns. There seems to be a misconception that the City of Rochester could potentially influence the process one way or another for the Barrington Planning Board, which is not the case. Mayor Jean stated that he informed the residents at the meeting of the Planning Board process and how the abutters could participate in that process. Mayor Jean stated that the City of Rochester could possibly submit a formal resolution to the Barrington Planning Board if that is the will of the City Council.

Mayor Jean stated that the City of Rochester is listed as an abutter in this project and the residents have requested that they also receive any additional information that is sent to the City relating to this project. This seems like a reasonable request; however, it is important for the City Council to give clear direction to the City's administration and staff of how involved the City should be in the Barrington Gravel/Planning Board process. The constituents have also requested that a member from the City's Planning Department to attend the Planning Board meetings and to have the City provide legal representation. Mayor Jean cautioned the City Council about being too involved in this process; however, sending the City's Chief Planner seems like a reasonable request.

Mayor Jean stated that the second matter, which should be discussed, is the possibility of restricting weight limits on Hansonville Road, Flagg Road, and Gear Road; which could be addressed further at the Public Works Committee. This would ensure that any excavation traffic flow is not tearing up the roadways.

Mayor Jean stated that the last issue that should be discussed is the monitoring of the project by the Isinglass River Authority and the Strafford Regional Planning Board Commission. He stated that the Strafford Regional Planning Commission has extensively reviewed this project and focused on many of the residents' concerns and has done a great job. Councilor Keans agreed. Mayor Jean requested that the City Council discuss what direction the City should take on this matter.

Councilor Walker felt that the City Council could at least send the Chief Planner to attend the meetings, which would also keep the City of Rochester in the loop of the project since the City is also an abutter.

Councilor Walker stated that setting up weight limits on the nearby roads could be discussed when/if the project is approved. Councilor Keans stated that it seemed logical that the excavation trucks would naturally travel on Route 125 and Route 202 instead of the backloads of Gonic. She also cautioned the Council against providing extra City staff services for a particular group of constituents; it becomes a slippery slope. She added that State statutes and the Barrington zoning regulations govern the Barrington Planning Board. Mayor Jean concurred; however, the City of Rochester is also an abutter to this project. He understood the City should not give special treatment to one particular group of constituents.

Councilor Keans briefed the Council about how upset the Gonic residents were when Waste Management moved into the City. The City stayed abreast of the project; however, they did not provide special treatment for the residents of Gonic. The City will continue to provide good balance and due diligence in the Barrington Gravel Planning Board project.

Councilor Lachapelle spoke in favor of having the Chief Planner attend the Barrington Planning Board meetings. He said the City is already an abutter to the project and these citizens are seeking some type of assistance in this process. He mentioned that the Green Hill Road Bridge is in need of repair. Councilor Keans recalled that the State has already tested this bridge and granted permission for vehicles to pass. She recalled only one truck would be permitted to pass at a time.

The City Council debated sending a City representative to the Barrington Planning Board meetings. Mayor Jean suggested supporting the Strafford Regional Planning Commission's comprehensive review of the project and calling attention to some of the areas in which the local residents expressed sensitivity especially to the buffer and setback. Several Councilors did not support taking up a position in favor of or against the project; however, the **Sense of Council** is to have the Chief Planner attend the Barrington Planning Board meetings relative to the Barrington Gravel project.

7.2 Mayoral Appointment of Committee/Commission Chairs for 2013

Mayor Jean made the following Mayoral appointments:

- David Anctil, Chair of the Arena Advisory Commission – *1-year term*
- Richard Lundborn, Chair of the Rochester Economic Development Commission [*contingent upon his reappointment later in the evening*] *1-year term*
- Deborah A. Shigo, Chair of the Conservation Commission – *3-year term*
- Sheila Colson, Chair of the Recreation Commission – *1-year term*

7.3 EPA Wastewater Permit Update

Mayor Jean understood that the City of Rochester has not yet received the draft permit from the EPA relative to the wastewater discharge limits; however, the City should be in receipt of this information in the near future. He indicated that Newmarket and Exeter have already received their draft permits. He gave a brief update on legislation in which the coalition has been working on relative to DES.

7.4 Introduction of Consent Calendar

Mayor Jean stated that the new Consent Calendar could be found under New Business. He said the purpose of creating the Consent Calendar is only for mundane housekeeping items. The Consent Calendar would not be used for supplemental appropriations or any other serious agenda items; however, any Councilor is permitted to pull an item off the Consent Calendar at any time. The item pulled off the Consent Calendar would be voted upon separately.

8. Presentation of Petitions and Council Correspondence

9. Nominations, Appointments, Resignations, and Elections

10. Reports of Committees

10.1 Appointments Committee

Councilor Larochele briefed the City Council about the Committee's recommendation regarding reappointing Richard Lundborn to the Rochester Economic Development Committee for a term to expire on January 2, 2016. Council briefly discussed voting by secret ballot after the Charter Amendment passed. Councilor Walker indicated that secret ballot voting is still permitted in most cases; however, it is no longer permitted for vacancies of other election/appointments such as Council Members, School Board Members, and Election Officials. Council briefly discussed the matter.

Mayor Jean nominated Richard Lundborn to be reappointed to the Rochester Economic Development Commission for a term to expire on January 2, 2016. Councilor Lachapelle seconded the nomination. Councilor Lachapelle **MOVED** that nominations cease. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean announced that Mr. Lundborn has been appointed to the Rochester Economic Development Commission with a term to expire on January 2, 2016 by a unanimous ballot vote.

Councilor Larochele briefed the City Council about the Committee's recommendation regarding the reappointment of Mark Jennings to serve on the Conservation Commission with a term to expire on January 2, 2016.

Mayor Jean nominated Mark Jennings to serve on the Conservation Commission with a term to expire on January 2, 2016. Councilor Lachapelle seconded the motion. Councilor Lachapelle **MOVED** that nominations cease. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean announced that Mark Jennings has been appointed to the Conservation Commission with a term to expire on January 2, 2016, by a unanimous ballot vote.

Mayor Jean stated that he attended the last Appointments Committee meeting and requested that the minutes be corrected to reflect his attendance.

Mayor Jean distributed a letter from Nel Sylvain, Chair of the Planning Board, stating that the Planning Board unanimously voted to request that the City Council appoint Gregory Jeanson as a Regular Planning Board member. Mr. Jeanson has been serving as an Alternate Planning Board member. The letter indicated that Stephen Martineau is no longer seeking reappointment as a Regular Member of the Planning Board and that seat has become vacant. Mayor Jean questioned if any member of the City Council objected to the City Council resolving this issue at this time. Several Councilors felt strongly that this appointment was not included with the agenda and therefore should not be voted upon. Councilor Walker argued that it has become tradition that an alternate member with seniority is appointed to the next vacant regular seat. He gave the last appointment of Mr. Kozinski as an example. Several Council members agreed precedence has already been set.

Councilor Lauterborn stated that there would not be any problems if the Appointments Committee process is followed. She served as Chair of the Appointments Committee for many years and the Committee adopted its own policy regarding interviews. She indicated if the Committee had already interviewed an applicant in the past year or so, the Committee would not require that applicant to come in for another interview. Council discussed the process. It was determined that Gregory Jeanson had already been interviewed on December 12, 2011, and should not have to appear before the Committee for this particular appointment. Councilor Varney pointed out that a Planning Board Alternate Member could be elevated to the Regular Member position whenever necessary; there is no urgency to this request and it should follow the normal appointment process. Council debated the matter. It was determined that the appointment should be sent to the Appointments Committee for a recommendation keeping in mind that Mr. Jeanson does not have to follow through with the interview process since it has only been about a year since his last interview with the Committee.

Mayor Jean said that Deputy City Manager Cox mentioned to him that Sharon Parsley, Utility Advisory Aboard, has submitted a Statement of Interest; however, her term has already expired. He questioned if the City Council objected to taking up this appointment at this time since it a time sensitive issue. Deputy City Manager Cox replied that the City Clerk conducted a research of the State Law relative to reappointments of city/town boards and commissions. She found that any city/town appointed members of boards or commissions are permitted to continue serving on boards or commissions after their term expired until a successor has been appointed to that particular position. He explained that Ms. Parsley has submitted the proper paperwork to the City Clerk's office to continue serving on the Utility Advisory Board. He believed under the State statute 41:57 (a) she could continue to serve until her reappointment. He added

that because the Utility Advisory Board is already short a regular member, all three voting members would have to attend the meeting on January 13, 2013, in order to have a quorum. Council debated the State statute. Attorney Wensley believed the State statute was for the purpose of land use boards or commissions. Councilor Larochele requested to have a written legal opinion on the matter. Mayor Jean nominated Sharon Parsley to serve on the Utility Advisory Board with a term to expire on January 2, 2013. Councilor Walker questioned if this appointment had been listed on the agenda. Councilor Larochele questioned what represents an actual quorum. City Manager Fitzpatrick stated that a quorum is a majority of the legal number of members on such a board or commission. Mayor Jean withdrew his motion.

Councilor Hynes asked that now that the new Charter Amendment is in effect, have all the new board members of the Board of Assessors been appointed now. City Manager Fitzpatrick confirmed that all the appointments to the Assessing Board have been completed. Councilor Walker mentioned that Robert Goldstein has been appointed as the Chair of the Board of Assessors as of last evening.

10.2 Codes and Ordinances Committee

Councilor Lachapelle stated that the Committee voted to recommend to the full City Council to have the Mayor draft a letter of thanks to Home Depot and indicate that the City would appreciate continuing to utilize the Home Depot facility as a polling location. Mayor Jean replied that he would in fact write a letter of thanks to all six polling locations. Councilor Keans pointed out that Home Depot had to move a lot of merchandise in preparation for the two election days. Councilor Lachapelle stated that there were no other action items to be discussed at this time.

10.3 Finance Committee

Mayor Jean stated that Councilor Larochele is marked as absent under the Finance Committee meeting minutes. He requested to make a correction to these minutes as Councilor Larochele had been excused.

Mayor Jean briefly mentioned that the Finance Committee recommended to the full City Council that the resolution authorizing funds necessary to purchase the back-up camera system and lighting systems as added equipment on the new fire apparatus. He added that it should also include a heater, which was not in the bid process. This could be discussed under New Business.

Mayor Jean stated that the Finance Committee recommended to the full City Council that the proposed Fund Balance Policy brought forth by Deputy City Manager Cox be adopted. This would also be discussed under New Business.

Mayor Jean stated that the City of Rochester actually owns the clock in the Methodist Church clock tower in downtown Rochester, meaning that the City is responsible for fixing the clock, which is not working at this time. Council briefly discussed the matter. Mayor Jean indicated that this matter would be kept in Committee.

10.4 Public Works & Buildings Committee

Councilor Torr stated that the City Council had previously authorized \$500,000 towards the Berry River Dam Project in order to make appropriate repairs. Now, it seems the water level must be raised by at least 10 feet. The Acting Public Works Director is seeking up to \$105,000 of the \$500,000 to be designated in a separate account to use for the purpose of conducting a study of the impact this would have on Round Pond. The study would cost approximately \$105,000.

Councilor Torr **MOVED** to designate \$105,000 of the \$500,000 [Berry River Dam authorization] for the purpose of conducting a study of the impact of raising the Berry River Dam by 10 feet would have on the Round Pond area, which would leave \$395,000 for the Berry River Dam project.

Councilor Walker confirmed that the intention of the Committee is to set up a separate account in order to track the actual cost of the study for Round Pond and to keep it separate from the Berry River Dam project for accounting purposes.

Councilor Torr spoke in favor of the motion. Mayor Jean indicated that Round Pond is used as one of the City's water supplies.

Councilor Keans questioned if Mr. Nourse has yet spoken to the Department of Environmental Services [DES]. Councilor Torr did not believe this had occurred as of yet because it was not indicated in the Public Works Committee minutes; however, Councilor Walker recalled that Mr. Nourse has mentioned DES relative to Round Pond discussions.

Councilor Varney briefed the City Council on the project. He said the City Council should approve the transfer of funds out of the Berry River Dam project and set up a separate account for the Round Pond study.

Mayor Jean called for a vote on the motion on the floor. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Torr stated that the Stillwater Circle Bridge is in need of repair. This bridge has serious structural deficiencies. He said Mr. Nourse, Acting Public Works Director, estimated the cost of repairs to be higher than originally thought. He added that Mr. Nourse is submitting a CIP request for FY14 in order to

resolve the issue. The repairs would extend the life of the bridge for another sixty years. Mayor Jean asked how old is the bridge. Councilor Walker believed the bridge was at least twenty years old. Council briefly discussed the matter.

Councilor Torr mentioned that there is a certain amount of funding which has been set aside in an account for the purpose of creating a ball field to the right of this bridge, he suggested the City Council should seek to utilize this funding for the repairs since the ball field is not likely to be built anytime soon.

Councilor Torr said that earlier in the meeting the City Council discussed the impact of the large excavation project would have on Stillwater Circle and Jessica Drive area.

Councilor Torr said that the Salmon Falls Road Project called Salmon Falls North has not yet received any federal funds for the project. Mayor Jean concurred. Councilor Torr stated that Mr. Nourse has indicated that it would cost approximately \$50,000 for the planning aspect of this project; otherwise, it will not likely be completed in 2013 as originally planned.

Councilor Varney said he was not sure where the \$50,000 could come from; however, without the federal funding this past fall the City missed the opportunity to conduct the topographic survey work. He briefed Council about the survey work completed by CMA, which only focused on the right-of-way, and there was insufficient topographic information provided in order to complete any design work in the area, particularly between Highland Street and Autumn Street where a sidewalk should be installed. He said since the topographic surveying was already missed this winter and no funding is in place, it seems likely a potential extended project could be expected.

Councilor Torr said that Anderson Lane is staying in Committee. There are still a few problems to work out.

Councilor Torr recalled that at the last City Council meeting [Special City Council meeting, December 18, 2012], the City Council voted to do away with the Public Works "message board" signs; however, the staff at Public Works felt strongly that this matter should be revisited. Councilor Torr spoke against using such signs for snow emergencies because all New Englanders should know to expect construction vehicles on the road after a snowstorm and should automatically remove their vehicles from the City parking lots. He did not feel it was a safety issue.

Councilor Lauterborn did not recall that the City Council voted to ban these signs. She recalled that the issue the City Council was concerned about was when a sign is left out past the time it was needed and it becomes an eyesore. These signs are used inappropriately at times for events instead of just construction related matters. She added that she has not seen these types of

sings used in other communities. Councilor Keans agreed that the issue has become that the signs basically stay in one location long after they are needed.

Councilor Torr said that the signs are not just left out, they are also neglected both in the winter and summer.

Mayor Jean suggested that other options could be sought relating to informing the public of emergencies. He briefed the City Council about how the City of Manchester has emergency signs that flash when there is a snow emergency. Councilor Varney concurred. These signs should not be just left outside all of the time. He added that the issue is not to notify the citizens that it is actually snowing; it is to inform them of the workers plowing and clearing the roads, which is the safety concern. He suggested posting signs at the major intersections of the City to warn them of hazardous situations.

Mayor Jean questioned if there was any further action that should be taken at this time. Councilor Keans asked about the message board signs at the foot of Rochester Hill Road. Mayor Jean agreed that the signs should be removed; however, some of the signs are buried in the snow at this point. Councilor Keans argued that a Public Works Department should be able to remove a sign from the snow.

City Manager Fitzpatrick gave a brief history of how this discussion came about in the first place. He stated that when he first came to the City of Rochester it seemed that these signs morphed into more than just construction notifications they became event notification message boards, which is not the appropriate use for such signs. He agreed to address the issue at the next Management Team Meeting.

Councilor Keans stated that there is currently a problem at the Franklin Street Intersection as there are no overhead lights in place and it has become dangerous at this point. Mayor Jean agreed it should be included with action items.

11. Old Business

11.1 Amendment to City Ordinances Relative to Political Signs

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

AMENDMENT TO ORDINANCES RELATIVE TO
POLITICAL ADVERTISING

THE CITY OF ROCHESTER ORDAINS:

That Chapter 42 of the General Ordinances of the City of Rochester, entitled "Zoning" as presently amended, be further amended by deleting from Section 42.8 (f) as presently amended, subsection (9) thereof in its entirety, and by inserting in its stead the following subsection, such subsection to be known as Section 42.8(f)(9) of the General Ordinances of the City of Rochester:

9. Political Advertising. The following provisions are in addition to the political advertising controls established under RSA 664:14, 664.17, and 664:2, as amended:

- a. Political advertising shall be as defined in RSA 664:2, as amended.
- b. Political signs may not exceed 32 square feet per side in area nor 8 feet in height.
- c. Placement of advertising - No political advertising shall be placed on or affixed to any public property including City rights-of-way or private property without the owner's consent. All political advertising shall be removed by the candidate no later than the second Friday following the election unless the election is a primary and the advertising concerns a candidate who is a winner in the primary. Signs shall not be placed on or affixed to utility poles or highway signs. Political advertising may be placed within City-owned rights-of-way as long as the advertising does not obstruct the safe flow of traffic and the advertising is placed with the consent of the owner of land over which the right-of-way passes.
- d. Signature, Identification, Lack of Authorization shall be in accordance with RSA 664:14, as amended.
- e. Political signs shall not be erected in the City Adopt-A-Spots or the Rochester Common.
- f. Removal of signs shall be in accordance with RSA 664:17, as amended.
- g. City of Rochester Adopt-A-Spots are situated in the following locations:
 - Granite State Business Park
 - Christmas Tree Island Granite State Business Park
 - Strafford Square
 - Corner of Portland Street/Olsen Way
 - The Common
 - Duval Park
 - Merrill Park @ City Hall & Front of City Hall
 - Tax Revenue Office
 - Library (Front Entrance)
 - Public Works Department
 - Stairs & Front – RPD/Museum Way & City Hall Island

- Rochester Fire Department Flagpoles
- Rochester Community Center/Flagpole
- Columbus Avenue
 - Irrigation – A (Upham)
 - Irrigation – B (2nd from Upham)
 - Irrigation – C (3rd from Upham)
 - Irrigation – D (Lowell)
 - Columbus Avenue/Wakefield Intersection
- Gonic Center Square
- General Wolfe Tavern Barrels
- Welcome to Rochester/Route 125
- Union/Wakefield Street
- Ten Rod Road Industrial Park
- Airport Welcome Sign
- Route 125/Flagg Road
- East Rochester Square
- Elks Lodge
- Woodman Square Park/Charles Street
- Torr Park @ Spaulding & Urn @ Wading Pool”

Councilor Varney **MOVED** to **ADOPT** the amendment to Political Advertising. Councilor LaBranche seconded the motion.

Councilor Savoie stated that he is a member of the Codes and Ordinances Committee and he is requesting to have sub-section (d) removed from the proposed ordinance, which requires a signature and address written on the sign itself. This requirement has been deemed unconstitutional by the United States Supreme Court per the McIntyre v. Ohio Elections Commissions case, which he supplied to the City Council at the last City Council Workshop meeting. He expressed concern that this one sub-section could be challenged and cause the City unnecessary legal expenses. There is no reason for the City of Rochester to mandate that people include their name and address on such signs.

Councilor Savoie **MOVED** to **AMEND** the proposed amendment to Political Advertising by deleting sub-section (d). Councilor Walker seconded the motion.

Councilor Varney urged the motion to be defeated as the entire proposal is an exact copy of the State Law. The State RSA pertaining to political advertising have not changed significantly over the past number of years and seems to be upheld by the State with no problem.

Councilor Savoie argued that although this proposal is taken from the State Law it is not part of the State Constitution and therefore it has not yet been challenged up until now because it has not been enforced; however, the City Council members took an Oath of Office to uphold the United States Constitution

as the first legal document sworn to uphold. The United States Constitution has declared this requirement to be unconstitutional, which is the highest law of the land.

Councilor Keans understood that the court case to which Councilor Savoie is referring has been generated by another state and is not legally binding for New Hampshire. She added that the election process and laws are individualized in each state. She gave a few examples.

Councilor Walker said that it seems the entire ordinance is being proposed for one purpose only and that is to prevent the large message signs from being posted around election season. He did not feel that this ordinance would even prevent this from happening. He did not approve of the large message signs; however, it is a person's constitutional right to express himself. It is an infringement on person's First Amendment rights. He said this ordinance, if adopted, would lead to selective enforcement. He added that there still would be no control over the State and Federal electioneering within the City limits.

Councilor Walker said that passing this ordinance would place an undue burden on the Code Enforcement Department or whatever department responsible for enforcing the ordinance.

Councilor Savoie said that the fact that this proposed ordinance mimics the State Laws is irrelevant because the United States Supreme Court has declared this requirement of posting a signature and address on political signs as being unconstitutional and it is the highest law of the land, which means the topic is not up for debate.

Councilor Larochele asked Attorney Wensley if the City chose to adopt this ordinance without sub-section (d), would that mean that State RSA 664:14 would not be applicable for the citizens of Rochester. Attorney Wensley replied that it would depend upon the sign. He believed that a sign being used during State elections would be covered by State statutes and enforcement would be made in light of that provision; however, he would assume that local elections would be bound to whatever ordinance is in place at the time of such election and enforcement would be made in accordance to whatever is mandated by the City through its ordinances.

Mayor Jean called for a vote on the amendment to delete sub-section (d) from the proposed Political Advertising ordinance. The **MOTION FAILED** by a majority voice vote.

Councilor Savoie stated that the fact the State has passed a statute does not mandate each city or town to adopt that statute as an ordinance. He asked if Attorney Wensley could disagree with that statement. Attorney Wensley did not disagree with that statement.

Councilor Varney **MOVED** to **AMEND** the proposed Amendment to Political Advertising by removing the following four descriptions from sub-section (g) Adopt-a-Spots:

- Irrigation – A (Upham)
- Irrigation – B (2nd from Upham)
- Irrigation – C (3rd from Upham)
- Irrigation – D (Lowell)

And replacing them with the following description:

- Columbus Avenue Right-of-Way between Hancock Street and South Main Street

Councilor LaBranche seconded the motion. Councilor Varney stated that the original intent of the Codes and Ordinances Committee was to prohibit political signage along Columbus Avenue, the same stretch as the bike path between Hancock Street and the China Palace. He urged support of this amendment because the Adopt-a-Spots in this area make up only a small portion of this section. This amendment would keep signage off this area of grass and clarify what is not acceptable on Columbus Avenue.

Mayor Jean called for a vote on the motion to amend. The **MOTION CARRIED** by a majority voice vote. Mayor Jean called for a vote on the motion to adopt as amended. The **MOTION CARRIED** by a majority voice vote.

12. New Business

12.1 Resolution to Increase the Current COPS Grant in the Amount of \$14,000.00

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

RESOLUTION ACCEPTING A SUPPLEMENTAL U.S. DEPARTMENT OF JUSTICE “COPS” GRANT FOR THE ROCHESTER POLICE DEPARTMENT AND MAKING A SUPPLEMENTAL APPROPRIATION IN CONNECTION THEREWITH

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

That a U.S. Department of Justice, Office of Community Oriented Policing Services (COPS) supplemental grant in the estimated amount of Fourteen

Thousand Dollars (\$14,000.00) to the City of Rochester, Rochester Police Department for the purpose of paying costs associated with 2009 hiring of three (3) additional police officers over a three-year period is hereby accepted by the City of Rochester. Furthermore, such grant funds shall be assigned to an account the number(s) of which are to be established by the Finance Director in the 2012-2013 operating budget of the Rochester Police Department. Further, that the sum of Fourteen Thousand Dollars (\$14,000.00) be, and hereby is, appropriated as a supplemental appropriation to the 2012-2013 operating budget for the City of Rochester, Police Department, such funds to be used for the purpose of paying costs associated with the 2009 hiring of three (3) additional police officers over a three-year period by the City of Rochester (account number of which is to be established by the Finance Director in the 2012-2013 operating budget of the Rochester Police Department). Such grant is accepted subject to the understanding that such grant requires that the level of sworn officers in the Rochester Police Department, including the three (3) officers to be hired as a result of the grant, may not be reduced during the three year life of the grant or for one year after the conclusion of the term of the grant. The source of the sums necessary to fund such appropriation shall be drawn, in their entirety, from the aforesaid U.S. Department of Justice supplemental grant to the City of Rochester.

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.

Councilor Lachapelle **MOVED** to suspend the rules and read the resolution for the second time by title only. Councilor LaBranche seconded the motion. Mayor Jean read the resolution for the second time by title only.

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

Mayor Jean stated that this resolution deals with an increase of the appropriation in the amount of \$14,000. This appropriation is made to the COPS Grant and it is for making an adjustment to the original appropriation of \$108,905. The total amount would now be \$122,905. He added that this action would not prolong the COPS Grant, which is due to expire in July 2013. This is simply taking funds that are already available in the Grant and making that correction due to a calculation, which should be adjusted. Council briefly discussed the matter. The **MOTION CARRIED** by a unanimous voice.

12.2 Resolution Accepting a PSNH Donation for the Conservation Fund in the Amount of Approximately \$115,000.00

Councilor Lachapelle **MOVED** to read the resolution for the first time by title only. Councilor Larochelle seconded the motion. The **MOTION CARRIED** by

a unanimous voice. Mayor Jean read the resolution for the first time by title only as follows:

**RESOLUTION ACCEPTING GRANT FROM PSNH TO CITY OF
ROCHESTER CONSERVATION FUND FOR MITIGATION PURPOSES
RELATED TO PSNH Y170 PROJECT**

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

WHEREAS, Public Service of New Hampshire (hereinafter "PSNH") is in the process of implementing a project known as Project Y170; and

WHEREAS, the New Hampshire Department of Environmental Services (hereinafter "DES") has required that certain mitigation of the environmental impacts of such project be mitigated by PSNH; and

WHEREAS, DES and PSNH have agreed that such mitigation requirement can be satisfied by the donation by PSNH to the Rochester Conservation Commission for deposit to the City of Rochester's so-called Conservation Fund (see Section 11.21(b) of the General Ordinances of the City of Rochester "GOCR") of the sum of One Hundred Fifteen Thousand Dollars (\$115,000.00), such sum to be used for the payment from, and/or reimbursement to, the Rochester Conservation Fund of a portion of the purchase price and/or related expenses for the purchase price and/or related expenses and acquisition costs related to obtaining a conservation easement from Jonathan W. Clement and Holly A. Clement, and in which the City is the holder of and executor interest, with respect to land situate off the so-called Bickford Road in Rochester; and

WHEREAS, RSA 36:4 provides that before a conservation commission, such as the Rochester Conservation Commission, may receive gifts of money and/or property, both real and personal, it must receive the approval of the Mayor and City Council, the same constituting the City's governing body;

NOW THEREFORE, by adoption of this resolution, the Mayor and City Council of the City of Rochester here by approve and, to the extent necessary, accept the aforementioned donation/gift to the Rochester Conservation Commission in the amount of One Hundred Fifteen Thousand Dollars (\$115,000.00) from PSNH for the use and purposes set forth above.

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.

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. Mayor Jean read the resolution for the second time by title only. Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion. Mayor Jean briefed the City Council about the resolution. Councilor Walker requested a roll call vote. Councilor Torr seconded the request. The **MOTION CARRIED** by a unanimous roll call vote of 13 to 0. Councilors Lauterborn, LaBranche, Hervey, Reed-Erickson, Varney, Hynes, Torr, Keans, Lachapelle, Savoie, Walker, Larochele, and Mayor Jean voted in favor of the motion.

12.3 Resolution Authorizing a Supplemental Appropriation in the Amount of \$2,695.00 for the Purpose of Additional Equipment for the New Pumper

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

RESOLUTION DEAUTHORIZING PORTION OF CERTAIN FY 2012-2013 ROCHESTER FIRE DEPARTMENT ("RFD") OPERATING ACCOUNT BUDGET APPROPRIATIONS, CHANGING THE PURPOSE OF SUCH DEAUTHORIZED FUNDS, AND TRANSFERRING SUCH FUNDS TO THE RFD FY 2012-2013 CAPITAL IMPROVEMENTS BUDGET FOR APPARATUS REPLACEMENT PURPOSES

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

WHEREAS, by resolution(s) previously adopted by the Mayor and City Council, the sum of Two Thousand Six Hundred Ninety-Five Dollars (\$2,695.00) was appropriated in the City of Rochester's Fire Department, FY 2012-2013 Operating Budget for various purposes, and some of the funds necessary for such purposes are no longer necessary and/or desired for their original appropriated purposes, such account numbers and amounts being more particularly set forth in EXHIBIT A annexed hereto; and

WHEREAS, in light of the fact that the sum of Two Thousand Six Hundred Ninety-Five Dollars (\$2,695.00) in the various FY 2012-2013 RFD operating accounts identified on EXHIBIT A are no longer necessary and/or desired for the

various purposes for which they were originally appropriated;

NOW, THEREFORE, the Mayor and City Council of the City of Rochester, by adoption of this Resolution, hereby take the following actions with respect to such previously appropriated funds and accounts detailed in EXHIBIT A annexed hereto:

- (a) Deauthorize the appropriations to the various line items of the Rochester Fire Department, FY 2012-2013 Operating Budget in the accounts, and to the extents, set forth in EXHIBIT A annexed hereto, in the total amount of Two Thousand Six Hundred Ninety-Five Dollars (\$2,695.00);
- (b) Transfer the previously appropriated Two Thousand Six Hundred Ninety-Five Dollars (\$2,695.00), referred to in subparagraph (a) above, to Rochester Fire Department, FY 2012-2013 Operating Budget account #17040051-593003 (transfer to capital improvement projects); and
- (c) Appropriate, as a supplemental appropriation to the FY 2012-2013 CIP Budget of the City of Rochester, Fire Department, the amount of Two Thousand Six Hundred Ninety-Five Dollars (\$2,695.00) for the purpose of paying for Apparatus Replacement costs (the Finance Director to establish and/or designated an appropriate account for such appropriation), such supplemental appropriation to be drawn in its entirety from the above mentioned transferred funds.

To the extent not otherwise provided for in the Resolution, the Finance Director is hereby authorized to designate and/or establish such accounts and/or account numbers as necessary to implement the transaction contemplated by this Resolution.

Councilor Walker **MOVED** to suspend the rules and read the resolution for the second time by title only. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice. Mayor Jean read the resolution for the second time by title only. Mayor Jean briefed the City Council about the resolution. Councilor Walker **MOVED** to **ADOPT** the resolution. Councilor Lachapelle seconded the motion.

12.4 Resolution Accepting a Grant to the Rochester Fire Department and Making a Supplemental Appropriation in the Amount of \$500

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

**RESOLUTION ACCEPTING GRANT FROM THE LOCAL
GOVERNMENT CENTERFOR HEALTH & SAFETY WELLNESS RELATED
PROGRAMS AND MAKING A SUPPLEMENTAL APPROPRIATION IN
CONNECTION THEREWITH**

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

That a grant in the amount of Five Hundred Dollars (\$500.00) from the Local Government Center made to the City of Rochester, for use in connection with the conduct of health and safety wellness programs to be provided to City employees, at, and under, the auspices and direction of the so-called Health & Safety Coordinator, is hereby accepted by the city of Rochester. Further, that the sum of Five Hundred Dollars (\$500.00) be, and hereby is, appropriated as a supplemental appropriation to the 2012-2013 operating budget (account number(s) of which account to be established by the Finance Director) of the City of Rochester, such funds to be used for the purpose of funding costs associated with the conduct of health and safety wellness programs to be provided to Fire Department employees at, and under, the auspices and direction of the so-called Health & Safety Coordinator. The source of the sums necessary to fund such appropriation shall be drawn, in their entirety, from the Local Government Center's aforesaid grant to the City of Rochester.

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.

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

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

12.5 Fund Balance Policy

Councilor Varney **MOVED** to **APPROVE** the proposed Fund Balance Policy submitted by Deputy City Manager Cox. Councilor Torr seconded the motion. Mayor Jean indicated that this is the policy in which the Finance Committee recommended the City Council approves. The **MOTION CARRIED** by a unanimous voice vote.

12.6 Channings Lane: Resolution Accepting Surety & Supplemental Appropriation

12.6.1 Acceptance of Channings Lane and acceptance of Surety Funds from Peter Rizzo, Ledgerock Construction, LLC

12.6.2 Channings Lane Road Construction – Supplemental Appropriation Accepting Offer of Channings Lane Surety and Creating a New CIP Account

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

**RESOLUTION ACCEPTING SO CALLED CHANNINGS LANE
AS A CITY STREET AND MAKING A SUPPLEMENTAL APPROPRIATION IN
CONNECTION THEREWITH**

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

That, by adoption of this Resolution, the Mayor and City Council of the City of Rochester hereby: (a) approves the Agreement, of recent date, entered into between the City and the Developer of the so-called Channings Lane Project relative, among other things, to the use and disposition of surety currently held by the City with respect to said Channings Lane Project; (b) accepts the deed provided to the City by the aforementioned Developer with respect to so-called Channings Lane and related matters; (c) accepts from the Developer of so-called Channings Lane Project the balance of the surety being held by the City, for development improvements within the said Project, in the sum of Seventy Thousand Twenty-One Dollars and Eighty-Five Cents (\$70,021.85), plus any and all accrued interest with respect to such sum, such sums to be utilized for the costs of development improvements within the aforesaid Channings Lane Project; and (d) accepts so-called Channings Lane, as a City street, the location of said Channings Lane having been previously approved by the Planning Board in accordance with the provisions of R.S.A. 674:40. Additionally, the Finance Director is hereby directed to establish and/or designate a capital account in the 2012-2013 Capital Budget of the City of Rochester, and/or such other fiscal year capital account of the City of Rochester as the Finance Director deems appropriate, in which to deposit the aforementioned funds to be provided to the City pursuant to the above referenced Agreement and for the abovementioned purpose.

Further, that the sum of Seventy Thousand Twenty-One Dollars and Eighty-Five Cents (\$70,021.85) be, and hereby is, appropriated as a supplemental appropriation to the 2012-2013 capital budget of the City of Rochester, Department of Public Works, such funds to be used for the purpose of paying costs associated with development improvements within the aforesaid Channings Lane Project (account number of which is to be established by the Finance Director in the 2012-2013 capital budget of the Rochester Public Works Department). The source of the sums necessary to fund such supplemental appropriation shall be drawn, in their entirety, from the aforesaid funds to be transferred to the City of Rochester by the Developer of the so-called Channings Lane Project.

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.

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

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion. Mayor Jean briefed the City Council about the proposed resolution. Attorney Wensley informed the City Council that this resolution includes a supplemental appropriation. The **MOTION CARRIED** by a unanimous voice vote.

12.7 Consent Agenda Items: *Note: If any Council member believes that any item on the consent agenda requires discussion or a separate vote, the Council member may request that the item be removed from the consent agenda and placed on the regular agenda for consideration.*

12.7.1 Resolution De-Authorization in the Amount of \$2,588.64 from the Drug Task Force Grant Account

12.7.2 Resolution De-Authorization Funds Left in the Hose Replacement CIP Project and Repurpose Those Funds in the Amount of \$7,124.00

Councilor Walker **MOVED** to **APPROVE** the items on the Consent Agenda. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

13. Other

14. Non-Public Session

14.1 Reputation, RSA 91-A:3, II(c)

Councilor Walker **MOVED** to enter into a Non-Public Session under Reputation, RSA 91-A:3, II (c) at 8:30 PM. Councilor LaBranche seconded the motion. The **MOTION CARRIED** by a unanimous roll call vote. Councilors Savoie, Hynes, Keans, Varney, Reed-Erickson, LaBranche, Hervey, Lauterborn, Larochelle, Walker, Lachapelle, and Mayor Jean voted in favor of the motion. *Councilor Torr was not in the Council Chambers at the time of the vote.*

Councilor Lachapelle **MOVED** to exit the Non-Public Session at 8:41 PM. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

15. Adjournment

Councilor Lachapelle **MOVED** to **ADJOURN** the Regular City Council meeting at 8:41 PM. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Kelly Walters

Kelly Walters, CDCCNH
City Clerk