

ROCHESTER REGULAR CITY COUNCIL MEETING
March 5, 2013
COUNCIL CHAMBERS
7:00 PM

MEMBERS PRESENT

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

OTHERS PRESENT

City Manager Fitzpatrick
Deputy City Manager Cox
Attorney Wensley
Mr. Laurion, Business Owner
Dr. Laurion, Resident

MEMBERS EXCUSED

Councilor Savoie

MINUTES

1. Call to Order

Mayor Jean called the Regular City Council Meeting to order at 7:00 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 overseas.

4. Roll Call

Kelly Walters, City Clerk, took a roll call. All Council members were present except for Councilor Savoie, who had been excused.

5. Acceptance of Minutes

5.1 February 5, 2013, Regular City Council Meeting

Councilor Walker **MOVED** to accept the Regular City Council meeting minutes of February 5, 2013. Councilor LaBranche seconded the motion. Councilor Larochelle stated that the appointment of the Arts and Cultural Commission member's expiration date should be corrected to *June 30, 2016*. The **MOTION CARRIED** to approve the minutes as amended by a unanimous voice vote.

5.2 February 19, 2013, Special City Council Meeting

Councilor Walker **MOVED** to accept the Special City Council meeting minutes of February 19, 2013. 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 Peter Nourse, Acting Public Works Director/City Engineer to come forward. City Manager Fitzpatrick stated that Mr. Nourse has stepped up to become the Acting Public Works Director during a difficult time. He has exceeded the City Manager's expectations of the task. City Manager Fitzpatrick awarded Mr. Nourse as the Employee of the Month for March and thanked him for his hard work.

6.2 City Manager's Report

City Manager Fitzpatrick reported that the Management Team meeting minutes of February 11, 2013, have been enclosed in the City Council's packet for review.

City Manager Fitzpatrick reported that an executed copy of the revised Memorandum of Understanding between the City of Rochester and the Rochester Police Commission has been enclosed in the City Council's packet for review.

City Manager Fitzpatrick reported that the Salmon Falls Road HSIP Project Contract Amendments I and II have been signed and enclosed in the City Council's packet for review.

City Manager Fitzpatrick reported that the following routine reports have been included in the City Council's packet for review:

- Personnel Action Report Summary
- Permission and Permits Issued

- City Council Request and Inquiry Report

Councilor Lachapelle said he drove his car past the Squanamagonic Recreation Park last week and noticed that the gate was still being left wide-open. City Manager Fitzpatrick agreed to check into the matter.

7. Communications from the Mayor

7.1 Discussion: Chapter 42 Timeline

Mayor Jean said the timeline relative to the adoption of the Chapter 42 revisions had been discussed at the Joint City Council/Planning Board meeting last week. The first proposed timeline relative to the adoption of Chapter 42 seemed too aggressive and a new timeline has been amended by Deputy City Manager Pollard. The new timeline has been enclosed in the City Council's packet for review. Mayor Jean gave a brief overview of the new timeline. He said this timeline outlines a slower approach to the adoption of Chapter 42 and seems to achieve what the City Council is seeking relative to the public interaction at the scheduled Ward meetings.

Mayor Jean said the new timeline would also allow the Planning Board ample time to make any additional revisions to the large document prior to sending the document back to the City Council. Mayor Jean explained that during the course of adopting the new proposed ordinance there will be a timeframe when both the old zoning ordinance and the new zoning ordinance are in effect at the same time. This is why the new proposed timeline purposely delays the first reading by the City Council until August 20, 2013, with the second reading and possible adoption on September 3, 2013.

Mayor Jean said it is important to have representation from the Planning Board and the Planning Department at the Ward Meetings in order to discuss Chapter 42. He requested that Council Members keep him updated regarding the Ward Meeting dates so that all meetings are properly posted. The following is a list of dates when Chapter 42 will be discussed at the Ward meetings:

- Ward One – March 11, 2013
- Ward Two – *April 22, 2013 **Tentative date*
- Ward Three – *To be announced*
- Ward Four – *To be announced*
- Ward Five – *To be announced*
- Ward Six – March 27, 2013

Councilor Hynes informed the Mayor that the proposed timeline is a little confusing because it lists meeting dates for *March* in the *May* heading. Mayor Jean agreed this should be corrected.

Councilor Torr reported that residents of Ward Five are not as affected by the zoning changes as some of the other wards, which could be the reason for low attendance at the ward meetings.

Mayor Jean stated that he would confirm the Ward Meeting dates with the Chair of the Planning Board to ensure there would be proper representation from both the Planning Board and Planning Department.

Mayor Jean stated that there is another Joint City Council/Planning Board meeting scheduled to finalize any last revisions on May 13, 2013.

Councilor Varney asked to have the proposed timeline updated with all the Ward Meeting dates. He added that a copy should be sent out to the City Council once it has been amended. Mayor Jean concurred.

7.2 House of Representatives Finance Committee Meeting

Mayor Jean announced that there would be a Regional meeting held on March 18, 2013, at 5:00 PM relative to the House of Representatives Finance Committee meeting. The event will be held at the Community Center. The public is welcome to attend.

Mayor Jean suggested that a discussion regarding the House of Representatives Finance Committee be added to the City's Finance Committee agenda in order to generate a list of concerns to address at the House of Representatives Finance meeting. Mayor Jean stated that the State legislators have been down-shifting cost onto the municipalities for the last several years. The State Representatives should be made aware of the impact this has had on local budgets. He added that the City Manager's secretary would be asked to send out reminders as the timeframe gets closer.

Mayor Jean invited Councilor Keans to give an update on some of the sporting events in Rochester.

Councilor Keans announced that the Spaulding High School Basketball team is presently participating in the play offs. This is the best basketball season ever in the history of Spaulding High School, with 16 wins to 3 losses.

Councilor Keans announced that tomorrow evening the Spaulding Hockey team would also be participating in the play offs. She said they have also had an outstanding season and they are to be congratulated.

Mayor Jean shared that he attended the Spaulding High School Hockey game last Saturday evening with his son. He said the team really fought hard for every point; it was a great game to see.

8. Presentation of Petitions and Council Correspondence

No discussion.

9. Nominations, Appointments, Resignations, and Elections

9.1 Resignation: Paul Famulari, Recreation Advisory Commission, Regular Member

Councilor Lachapelle **MOVED** to **ACCEPT** the resignation of Paul Famulari, Recreation Advisory Commission, and to send a letter of thanks for his service. Councilor Keans seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

9.2 Resignation: Laurie Beaulieu, School Board, Ward 1, Seat A

Councilor Lachapelle **MOVED** to **ACCEPT** the resignation of Laurie Beaulieu and declare the School Board Seat, Ward One, Seat A Vacant. Councilor LaBranche seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Mayor Jean said by virtue of accepting the resignation of Ms. Beaulieu, as the School Board member of Ward One, Seat A, the Seat is hereby declared vacant. Therefore, any individuals interested in applying for the vacant position should contact the City Clerk's office and submit a Statement of Interest no later than March 14, 2013, at 5:00 PM. These candidates will be asked to attend the March 19, 2013, City Council Workshop meeting to be interviewed by the City Council. The City Council could potentially elect a new School Board Member at the Regular City Council meeting on April 2, 2013. He asked that the City Clerk ensure that the Statement of Interest and back-up material be provided to the City Council in the Council's packet for the next Workshop meeting.

10. Reports of Committees – *Numbers have been revised to make room for the Community Development Committee Report not previously on the Agenda.*

10.1 Community Development

Mayor Jean stated that there were no minutes available yet; however, Councilor Lauterborn requested to give a Committee update.

Councilor Lauterborn stated that she was not present at the last Regular City Council meeting and wished to comment on the January Community Development Committee meeting minutes. She added that the Committee has been very busy the last two months.

Councilor Lauterborn reported that Chris Bowlen, Recreation and Arena Director, met with the Committee for a second time in order to give an update on performance objectives. This detailed report has been included in last months Community Development minutes as well as the packet. She said the performance objectives are on target for both the Arena and Recreation Departments. Mr. Bowlen will address new initiatives with this year's budget presentation.

Councilor Lauterborn said one objective that will not be met this year is the implementation of an electronics registration and payment system. Mr. Bowlen is working with the Finance Department on this matter; however, it is something that should be implemented Citywide. She briefed Council about proposed legislation that could potentially prohibit charging consumers the cost for using credit cards. If this bill passes, it would be highly unlikely that any municipality would be able to implement such services because the added cost of using the credit card would be paid by taxpayer money.

Councilor Lauterborn reported that the Committee met with Elena Engle, Community Development Specialist. She outlined the CDBG program for this year. This timeline was included in with the January meeting minutes. The CDBG process was also discussed at the last Committee meeting with the applications and potential projects. The plan is to finalize the Committee recommendations at the March meeting. The Public Hearing is to be held prior to the Regular City Council meeting on April 2, 2013. The Committee is requesting to have a Special City Council meeting at the City Council Workshop held on April 16, 2013. It is anticipated this would be the evening for the final adoption. She urged City Council members to attend the Committee meeting on March 28, 2013, if they have any suggestions or concerns regarding the proposed CDBG plan for this year.

Councilor Lauterborn reported that the Community Development Committee is scheduled to meet with Mike Provost, Main Street Director, at the next meeting. She added that the Committee is scheduled to meet with the Conservation Commission in April.

Councilor Lauterborn confirmed that the Committee would be discussing the Route 11 Gate issue at some point soon. Mayor Jean thanked Councilor Lauterborn for her report.

10.2 Codes and Ordinances Committee

Councilor Lachapelle reported that the proposed ordinance relative to fireworks is listed on the agenda under "Old Business." He would request at that time that the proposed ordinance be sent to the City Council Workshop meeting on March 19, 2013, for a Public Hearing.

10.3 Finance Committee

Mayor Jean said Tom French, of French Engineering, gave a presentation regarding an update on the City Hall Annex Project.

Mayor Jean mentioned that the Committee briefly discussed the Methodist Church clock.

Mayor Jean reported that the Family Justice Center located at the Rochester Community Center is seeking to enter into another rental agreement with the City of Rochester. Mayor Jean invited Ann Sanok, Executive Director of the Family Justice Center for Strafford County to come forward and address the City Council.

Ms. Sanok stated that the Family Justice Center is located at the Community Center and it is the first of its kind for the State of New Hampshire. It is utilized in order to reduce domestic violence in communities throughout the United States. She credited former President Bush for recognizing the need for such a system back in 2003. There are now 80 Family Justice Centers throughout the United States. She extended her gratitude for allowing the current rental space at the Community Center, which is basically a donation. She explained that once again the Family Justice Center is seeking to use the facility for the next eighteen months; however, she specifically requested that the rental space be exclusive for the Family Justice Center. In the past year, some of the space had been utilized by outside agencies prior to the Family Justice Center; however, these rooms are no longer being used and it would make sense at this time to request an exclusive rental agreement.

Ms. Sanok presented a short video relating to the services and benefits of the program. Mayor Jean apologized for the technical difficulties which happened during the showing of the video.

Mayor Jean **MOVED** to **APPROVE** the proposed rental lease for the Family Justice Center for an eighteen month period for a total fee of \$1.00. Councilor Reed-Erickson seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Mayor Jean thanked Ms. Sanok for attending the meeting and displaying the video for viewers at home.

Mayor Jean reported that Becky Fecteau and Jennifer Laverdiere Perry requested permission to donate funding in order to purchase a park bench to be located at the Common in honor and memory of their father [John Laverdiere.] Councilor Keans informed the City Council that John Laverdiere was also a school employee for the City of Rochester.

Mayor Jean **MOVED** to **ACCEPT** the funding donation for a park bench to be located at the Common in honor and memory of John Laverdiere. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean said this would be processed through the Finance Department and the Public Buildings and Grounds Department. He added that one stipulation was made at the Finance Committee and that is that the final design of the bench would come back to the City Council for a final review.

Mayor Jean mentioned that Fire Chief Sanborn and Assistant Fire Chief Dupuis attended the Committee meeting to seek direction on applying for Fire Gear Grant. All other items have been kept in Committee.

10.4 Public Safety Committee

Councilor Walker **MOVED** to make Wellsweep Circle a one-way area moving counterclockwise from Olde Farm Lane. He added that the “no parking” signs must be moved to the inner circle. Councilor Lachapelle seconded the motion. Councilor Torr questioned if the Housing Authority was notified of the situation. Councilor Walker replied that members of the Housing Authority attended the Committee meeting and are aware of the situation. He added that the residents requested the change due to safety concerns. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Walker informed the City Council that the Police Department has been patrolling Brock Street in an effort to stop people from driving the wrong way down the road. This has been a problem since the start of the construction season when the road was blocked from having two-way traffic. He confirmed that 99% of the offenders are from out-of-town.

10.5 Public Works & Buildings Committee

Councilor Torr briefed the City Council about the Committee discussion regarding Bacon Felt.

Councilor Torr briefed the Committee about the request to extend the sewer line on Portland Street. He **MOVED** to direct the City Manager to have the DPW staff proceed with a change order to the existing Salmon Falls Road project in order to extend the sewer line on Portland Street. He added that funds were already available for this particular extension. Councilor Walker seconded the motion. Mayor Jean asked if the road would be paved following the sewer extension. Councilor Torr was not sure funding would be available for a “reclaim and pave”; however, he suggested having the Public Works Committee revisit the discussion relative to how the road should be paved once the sewer line has been installed. Councilor Varney pointed out that the funding would be drawn from a cash line-item. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Torr briefed the City Council about concerns with the traffic in the area of Strafford Square to the Union Street intersection. Councilor Torr **MOVED** to direct the City Manager to have DPW staff work with CMA Engineering to evaluate the design of the roundabout at Strafford Square. Councilor Varney clarified the motion which was made at the Committee level to include the Gap project. Mayor Jean stated there was no “second” to Councilor Torr’s motion. Councilor Varney **MOVED** to direct the City Manager to have DPW staff work with the CMA Engineers to evaluate the current roundabout design along with the Gap project, which is the traffic flow from the North Main Street Bridge to the Union Street intersection light timing. Councilor Lachapelle seconded the motion.

Councilor Keans gave reasons why she felt it makes the most sense to use a roundabout at Strafford Square. She opposed installing an expensive light system at Strafford Square. A light system would also be expensive to maintain over the long-term.

Councilor Walker gave reasons why he would only support hiring an independent engineering firm. Mayor Jean agreed that the City should seek an independent engineering firm in order to get a fresh opinion on the current design.

Councilor Reed-Erickson gave reasons and shared a story of why he would support a roundabout at Strafford Square.

Council debated using CMA Engineering. Councilor Walker **MOVED** to **AMEND** the main motion in order to specify the City hire an independent engineering firm to conduct the evaluation, specifically not CMA Engineering. Councilor Hervey seconded the motion. Council briefly discussed the motion. City Manager Fitzpatrick agreed that it would be best to hire an independent engineering firm. The **MOTION CARRIED** to **AMEND** the motion by a unanimous voice vote. Mayor Jean called for a motion on the main motion as amended. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Torr stated that the Committee discussed the renewal of the Waste Management Host Community Contract. He said it has been a number of years since the tipping fees have been increased and the fees should be reviewed. Councilor Torr **MOVED** to direct the City Manager to have the City Attorney review the Waste Management Contract and open negotiations. Councilor Walker seconded the motion. Councilor Walker recalled that the tipping fees have not been increased in over twenty years; however, the waste coming into the City from out of State has increased. It is a good time to bring the tipping fees up to a current level standard. Councilor Larochelle said that the tipping fees are not the same as the Host Community Fees; however, both fees should be discussed. Mayor Jean recalled the Host Community Fee is about sixty-five cents per ton.

Councilor Lachapelle wished to recuse himself from the discussion and the vote; however, he believed the contract has already expired. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Torr requested to have the barrels placed back in the parking spaces in front of the old Collins Sports shop. This recommendation was made by Councilor Varney at the Committee meeting. He said this area is dangerous without the barrels blocking traffic.

11. Old Business

Mayor Jean asked if any member of the City Council objected to allowing Mr. Laurion to address the City Council regarding his former request to place a directional sign at the end of Winter Street on the City's right-of-way. Councilor Torr **MOVED** to allow the Winter Street sign request to be placed on the Agenda. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Mayor Jean briefed the City Council about the request for a sign to be placed on the end of Winter Street and invited Mr. Laurion to address the City Council.

Mr. Laurion explained that he was seeking to install a directional sign at the end of Winter Street for the Professional Arts Center. The City Council has already approved the request; however, there were two stipulations attached to the approval. The first stipulation pertained to the placement of the sign, which is not an issue. The second request pertains to the illumination of the sign.

Mr. Laurion understood the City Council did not wish to have any flood lights installed at the location of the sign for a number of reasons. He sought another design for an illuminated sign from Barlo Signs. He clarified that the new design has a "lit case" with solid colors. He asked the City Council to reconsider the request. Councilor Walker questioned the specific times of operation for the Professional Arts Center. Mr. Laurion replied that hours of operation could start as early as 6:30 AM and end as late as 8:30 PM.

Councilor Torr said this is a good looking sign designed by a recognized sign company. He **MOVED to APPROVE** the newest version of the sign including the lit case design. Councilor Lachapelle seconded the motion. City Manager Fitzpatrick asked to include one stipulation with the approval: the City would be held harmless through Mr. Laurion's insurance company. This would prevent any law suits due to the sign and its location. Councilor Torr and Councilor Lachapelle agreed to make this part of the motion. The **MOTION CARRIED** with the additional stipulation by a unanimous voice vote. Councilor Varney was under the impression that once the sign was pivoted back as requested by the

City Council that it would no longer be on the City's right-of-way. Mr. Laurion explained that even if the sign was pivoted back as the City Council directed it would still be on the City's right-of-way. Mayor Jean thanked Mr. Laurion and his father Dr. Laurion for attending the meeting.

11.1 Resolution Authorizing Acceptance of a Donation to the Rochester Public Library from Mary Kibbe in Memory of Jeannette Renaud Richard and Making a Supplemental Appropriation in Connection Therewith, And, In Accordance with the Provisions of RSA 202-A:4-c, Authorizing the Rochester Public Library to Accept Certain Unanticipated Moneys

- **Donation to Rochester Public Library in Memory of "Jeanette Renaud Richard" in the Amount of \$5,000. from Mary Kibbe**

Councilor Walker **MOVED** to read the Resolution by title only for the first time by title only. Councilor LaBranche 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 AUTHORIZING ACCEPTANCE OF DONATION TO THE ROCHESTER PUBLIC LIBRARY FROM MARY KIBBE IN MEMORY OF JEANNETTE RENAUD RICHARD AND MAKING A SUPPLEMENTAL APPROPRIATION IN CONNECTION THEREWITH AND, IN ACCORDANCE WITH THE PROVISIONS OF RSA 202-A:4-c, AUTHORIZING ROCHESTER LIBRARY TO ACCEPT CERTAIN UNANTICIPATED MONEYS

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

I. That a donation in the amount of Five Thousand Dollars (\$5,000.00) from Mary Kibbe to the City of Rochester, Rochester Public Library, in Memory of the late Jeannette Renaud Richard, the mother of Library Trustee Natalie Richard Wensley, for the purpose of acquiring DVDs, audio books and/or similar media to supplement and/or enhance the Rochester Public Library's holdings in such areas, is hereby accepted by the Mayor and City Council of the City of Rochester, and such funds shall be assigned to a non-lapsing account(s) to be established by the Finance Director in the 2012-2013 operating budget of the Rochester Public Library. Further, that the sum of Five Thousand Dollars (\$5,000.00) be, and hereby is, appropriated as a supplemental appropriation to the 2012-2013 operating budget for the City of Rochester, Rochester Public Library, such funds to be used for the purpose of acquiring DVDs, audio books and/or similar media to supplement

and/or enhance the Rochester Public Library's holdings in such areas. The source of the sums necessary to fund such appropriation shall be drawn, in their entirety, from the aforesaid donation to the City of Rochester, Rochester Public Library from Mary Kibbe for the aforesaid purpose.

II. That by adoption of this Resolution the Mayor and City Council of the City of Rochester, hereby accept the provisions of RSA 202-A:4-c providing that any municipality may authorize indefinitely, until specific rescission of such authority, the public library trustees to apply for, accept and expend, without further action by the City Council, unanticipated money from a state, federal or other governmental unit or a private source which becomes available during a fiscal year, provided, however, that the following restrictions shall apply to any such money so received by the said Trustees of the Rochester Public Library, to with:

(a) The above authorization shall only apply to unanticipated money from a state, federal or other governmental unit or a private source, in an amount of \$5,000.00 or less, which becomes available during a fiscal year;

(b) Such money shall be used only for legal purposes for which town may appropriate money;

(c) For unanticipated moneys in the amount of \$5,000, the Rochester Library Trustees shall hold a prior public hearing on the action to be taken. Notice of the time, place, and subject of such hearing shall be published in a newspaper of general circulation in the relevant municipality at least 7 days before the hearing is held.

(d) The public library trustees may establish the amount of unanticipated funds required for notice under this subparagraph, provided such amount is less than \$5,000. For unanticipated moneys in an amount less than \$5,000, the public library trustees shall post notice of the moneys in the agenda, if any, and shall include notice in the minutes of the public library trustees meeting in which such moneys are discussed. The acceptance of unanticipated moneys under this subparagraph shall be made in public session of any regular public library trustees meeting;

(e) Action to be taken under this section shall not require the expenditure of other City funds except those funds lawfully appropriated for the same purpose; and

(f) Action to be taken under this section shall be exempt from all provisions of RSA 32, relative to limitations and expenditures of City moneys.

III. 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 by title only for the second time. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the Resolution by title only for the second time.

Councilor Walker **MOVED** to **ADOPT** the resolution. Councilor Lachapelle seconded the motion. Mayor Jean mentioned that the late Jeanette Renaud Richard was the mother of Natalie Wensley who is one of our Library Trustees. The **MOTION CARRIED** by a unanimous voice vote.

11.1 Amendment to the City of Rochester Ordinances Relative to Regulation of Permissible Fireworks Chapter 23.13

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

AMENDMENT TO ORDINANCES REGARDING FIREWORKS

THE CITY OF ROCHESTER ORDAINS:

That Chapter 23 of the General Ordinances of the City of Rochester, entitled "Fire Safety Measures", as presently amended, be further amended by repealing Section 23:13, as presently amended, in its entirety, and by inserting in its stead the following Section, to be known as Section 23.13 of the General Ordinances of the City of Rochester:

"23.13 Regulation of Permissible Fireworks.

- A. In accordance with the provisions of RSA 160-C, it shall be illegal for any person, firm, partnership or corporation to offer for sale, expose for sale, sell at retail, purchase, possess, use, explode or display any permissible fireworks within the City of Rochester, except as specifically provided for in this ordinance.
- B. As used in this ordinance:
 - i. "Display" means the use, explosion, activation, ignition, discharge, firing or any other activity which is intended to cause or which causes a firework to do what it was manufactured to do.

- ii. "Permissible fireworks" means those consumer firework devices defined as "permissible fireworks" in RSA 160-C, as the same currently exists or as, from time to time, hereinafter amended.
 - iii. "Fire Chief" means the Fire Chief of the City of Rochester or his/her designee.
 - iv. "Police Chief" means the Police Chief of the City of Rochester or his/her designee.
- C. Subject to, and in accordance with the provisions of Chapter 160-C of the New Hampshire Revised Statutes Annotated it shall be lawful to possess and/or display permissible fireworks upon compliance with the following requirements:
- i. A person who is 21 years of age or older may display permissible fireworks on private property with the written consent of the owner or in the owner's presence, subject to the provisions of this ordinance and RSA Chapter 160-C, and any other applicable ordinance regulation or statute.
 - ii. No display of permissible fireworks shall be permitted within the City except between the hours of 6 PM and 11 PM on Saturdays in the months of June and July and between the hours of 6 PM and 10 PM on Saturdays between the months of August through May. Display of permissible fireworks shall be permitted on the following holidays; Labor Day, Fourth of July, or New Year's Eve (December 31st), provided, however, that on New Year's Eve such display shall be permitted to occur between the hours of 6 PM on December 31st and 1:00 AM on January 1st.
 - iii. The display of permissible fireworks shall be of such a character, and so located and conducted, that it shall not be hazardous to property or endanger any person. In accordance with the provisions of RSA Chapter 160-C, no permissible fireworks shall be permitted on public property and must be at least 50 feet from nearby buildings, nearby trees, electrical and telephone lines or other overhead obstructions, and the location of any nearby storage of flammable or combustible liquids or gases.
 - iv. No permissible fireworks may be used, discharged, exploded, or displayed during periods of very high or extreme fire danger as determined by the Fire Chief or the NH Division of Forests and Lands.

- v. Permissible fireworks may be used, discharged, exploded, or displayed in a manner such that any all discharge debris shall remain within the property lines of the lot on which the display originates..
 - vi. Anyone using permissible fireworks shall be responsible for removing any debris accumulated due to the discharge of fireworks that fall onto the public way, public property, and any private property within twenty-four hours. Anyone failing to remove such debris shall be financially responsible for its clean up.
- D. A violation of this ordinance shall be subject to the penalties provided for in Chapter 23, Section 23.11, Penalty, of the City of Rochester General Ordinance.
- E. This ordinance shall be construed consistently with NH Code of Administrative Rules Saf c 2600, as made applicable by state statute and as adopted by reference in Section 23.1, of the General Ordinances of the City of Rochester, and is not meant to repeal any section thereof. Nothing in this ordinance shall be interpreted so as to conflict with the provisions of Chapters 160-B or 160-C of the New Hampshire Revised Statutes Annotated, as currently written, or as from time to time hereafter amended. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct independent provision and such holding shall not affect the validity of the remaining portions thereof.
- F. The Police Chief or Fire Chief may suspend the use of permissible fireworks for any of the following reasons:
- i Unfavorable weather conditions, including but not limited to, lightning storms or high wind conditions exceeding 20 miles per hour or higher.
 - ii. If any person under the age of 21 possesses, uses, discharges or explodes, used, discharged or exploded any permissible firework device.
 - iii. If any person who is using, discharging, exploding, or displaying the permissible fireworks appears to be under the influence of alcohol or drugs;
 - iv. If, in the opinion of the Police Chief or Fire Chief, the use, discharge, exploding, or display of permissible fireworks would create a threat to public safety.

- G. The Police Chief and/or Fire Chief are authorized to seize, take, remove or cause to be removed, at the expense of the owner, all firework devices that are being discharged in violation of this ordinance.”

Mayor Jean referred the Amendment Relative to Fireworks to a Public Hearing on March 19, 2013, *prior to the City Council workshop*. Councilor Lachapelle agreed that this public hearing should take place with the full City Council present; however, there really were not that many changes to the ordinance.

**11.2 Resolution Authorizing the Issuance of Refunding Bonds
dated as of March 5, 2013**

Councilor Walker **MOVED** to read the Resolution by title only for the first time by title only. Councilor LaBranche 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:

CITY OF ROCHESTER, NEW HAMPSHIRE
A Resolution
Authorizing the Issuance of Refunding Bonds
dated as of March 5, 2013

WHEREAS, the City of Rochester, New Hampshire (the “City”) has borrowed certain funds from the State of New Hampshire (the “State”) pursuant to a certain State Revolving Fund Loan #CS-330122-04, dated on or about October 24, 2001 (the “SRF Loan”), the principal amount of which was \$7,693,025.54 as of August 1, 2012; and

WHEREAS, the State has indicated that the City may refinance and refund the SRF Loan prior to its stated maturity date without any premium or penalty upon one week’s notice to the State; and

WHEREAS, the State has indicated that the State grant is currently applied against the principal and interest due on the SRF Loan will continue to be available to be applied against any bonds issued to refinance and refund the SRF Loan; and

WHEREAS, it appears likely that bonds issued today would have a net interest cost less than the net interest cost on the SRF Loan; and

WHEREAS, the City may be able to realize debt service savings by issuing certain refunding bonds (the “Refunding Bonds”), the proceeds of which would be utilized to refinance or refund the SRF Loan and to pay certain costs relating thereto;

NOW THEREFORE, BE IT RESOLVED, that the City, acting by and through its City Council, hereby authorize the issuance of Refunding Bonds pursuant to the provisions of RSA 33:3-d, the proceeds of which shall be utilized to refinance or refund or the SRF Loan, to pay the redemption premium, if any, applicable thereto, any principal and interest, if any, coming due on the SRF Loan prior to the redemption date, and to pay the costs of issuance of the Refunding Bonds, including any costs of credit enhancement; provided, however, that such refinancing or refunding is only authorized to the extent that the same will achieve a net present value debt service savings in an amount equal to at least three percent (3%) of the outstanding principal amount of the SRF Loan; and

IT IS FURTHER RESOLVED, that the City Treasurer, with the approval of the City Manager, is hereby authorized to issue the aforesaid Refunding Bonds by entering into a Bond Purchase Contract with a bond purchaser or underwriter in connection with the issuance of the Refunding Bonds to evidence the City's approval of the terms and conditions of the Refunding Bonds; and

IT IS FURTHER RESOLVED, that an Escrow Contract and such other documents as shall be required in connection with the issuance of the Refunding Bonds shall be signed on behalf of the City by the aforementioned individuals, or such other individuals, or such other individuals as may be required by state law or as may be specified by bond counsel; and

IT IS FURTHER RESOLVED, that the City is authorized to enter into such other documents, to engage such other professionals (including a Financial Advisor, Escrow Agent, Verification, Agent and Paying Agent), and to do such other things as are necessary to consummate the aforesaid refinancing and refunding; and

IT IS FURTHER RESOLVED, that all actions heretofore taken by the City consistent with the foregoing are hereby confirmed, ratified and approved.

Mayor Jean briefed the City Council about the refunding process. Deputy City Manager Cox added that this is the second resolution relative to the refunding process because the City was anticipating more information regarding SRF funding from the State prior to finalizing the resolution for the City Council. The City already receives SRF subsidy from the State and it was important to confirm with the State that the subsidy would continue under a refunding process. Deputy City Manager Cox confirmed that the City would continue to receive a subsidy from the State. Deputy City Manager Cox provided a memorandum for the City Council, which is included with the City Council packet. Councilor Walker **MOVED** to suspend the rules and read the Resolution by title only for the second time. Councilor Lauterborn seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Walker clarified that refunding is sort of the same thing as refinancing and it would save the City money in the process. Deputy City

Manager Cox confirmed that the City would save approximately \$860,000 from the interest associated with the two refunding resolutions during the course of the loans. Councilor Walker **MOVED** to **ADOPT** the resolution. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

12. New Business

12.1 Resolution Accepting and Adopting the “Rochester, New Hampshire All-Hazard Mitigation Plan Update – 2013”

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

**RESOLUTION ACCEPTING AND ADOPTING “ROCHESTER, NH ALL
HAZARD MITIGATION PLAN UPDATE 2013” FOR THE CITY OF
ROCHESTER**

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

That the Mayor and City Council of the City of Rochester, on behalf of the City of Rochester, New Hampshire, by adoption of this Resolution, hereby accept and adopt the City the “Rochester, NH, All Hazard Mitigation Plan Update 2013” dated January 22, 2013, and prepared by the Strafford Regional Planning Commission, working with, and with input from, the City of Rochester Hazard Mitigation Team, the purpose of such Plan being, among other things, to satisfy meeting statutory requirements and assisting the City in the reduction, and mitigation of future losses from natural and man-made hazardous events.

Mayor Jean briefed the City Council about the resolution. Councilor Walker **MOVED** to **ADOPT** the resolution. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

12.2 Resolution Authorizing Grant Application by the City of Rochester Fire Department for a Competitive New Hampshire Homeland Security Grant in the Amount of up to \$31,749

Councilor Lachapelle **MOVED** to read the Resolution by title only for the first time by title only. Councilor Walker 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 AUTHORIZING GRANT APPLICATION
BY THE CITY OF ROCHESTER FIRE DEPARTMENT
FOR NH DEPARTMENT OF SAFETY COMPETITIVE
HOMELAND SECURITY GRANT

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

That the Rochester City Council, by adoption of this resolution, hereby authorizes the City of Rochester Fire Department to file a Competitive Grant application for a grant allocation from NH Department of Safety for a Department of Homeland Security/Federal Emergency Management Agency FY 2012 Homeland Security grant, in the amount of up to Thirty-One Thousand Seven Hundred Forty-Nine Dollars and Seven Cents (\$31,749.07), for the purpose of purchasing technical rescue equipment for the Rochester Fire Department. This grant, if awarded, does not require a City funding match.

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

12.3 Approval of the Secondhand Dealers and Pawnbrokers License

Councilor LaBranche wished to recuse himself from the vote and discussion. Councilor Lachapelle **MOVED** to **APPROVE** the secondhand dealers and pawnbrokers license applications. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

12.4 Resolution Accepting Funds from the Sale of Granite State Business Park Lot 1 and Assigning such Funds to the So-Called Economic Development Fund

Councilor Lachapelle **MOVED** to read the Resolution by title only for the first time. Councilor Walker 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 FUNDS
FROM THE SALE OF
GRANITE STATE BUSINESS PARK LOT 1
AND ASSIGNING SUCH FUNDS TO THE SO-CALLED
ECONOMIC DEVELOPMENT FUND

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

That the Mayor and City Council of the City of Rochester, on behalf of the City of Rochester, New Hampshire, by adoption of this Resolution, and in accordance with the provisions of Paragraph D (3) of Granite State Business Park TIF District Plan, hereby accepts the net proceeds from the sale of Granite State Business Park Lot 1, located at the corner of Airport Drive and Innovation Drive, in the amount of Fifty-Five Thousand Forty Dollars (\$55,040), and further hereby directs the Finance Director to assign such funds to the so-called Rochester Economic Development Fund.

ADDITIONALLY, 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 **ADOPT** the resolution. Councilor Lachapelle seconded the motion. Council briefly discussed the resolution. Attorney Wensley stated that there was no reason for a second reading because there was no appropriation. The **MOTION CARRIED** by a unanimous voice vote.

**12.5 Amendment to Ordinances: Creation of Chapter 18
Regulation of Cross-Connections to Prevent Backflow
between Potable and Non-Potable Water Systems**

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

MUNICIPAL CROSS-CONNECTION ORDINANCE
CITY OF ROCHESTER, NEW HAMPSHIRE

ARTICLE I - GENERAL PROVISIONS

Section 1.1 Purpose

New Hampshire Code of Administrative Rules, Env-Ws 364, requires that the City of Rochester take appropriate actions to prevent the reverse flow of water previously delivered to customers. Each public water system serving 1,000 or more persons must have a written Cross-Connection Control Program Ordinance.

Cross-connections between water supplies and non-potable sources of contamination represent one of the most significant threats to health in the water supply industry. This program is designed to accomplish the following:

- A. To protect the City of Rochester, New Hampshire public potable water supply from contamination by isolating, within its customers' internal distribution systems, contaminants that could backflow or backsiphon into the public water system.
- B. To promote the elimination or control of existing cross-connections, actual or potential, between the customer's in-plant potable and non-potable water systems by isolating those contaminants that could backflow or backsiphon into the customers' internal distribution system.
- C. To provide for the maintenance of a continuing program of cross-connection control that will systematically and effectively prevent the contamination of potable water systems via cross connections.
- D. To supplement the regulations promulgated and revised by the New Hampshire Department of Environmental Services as listed in Section II.

Section 1.2 Authority

- A. New Hampshire Administrative Rules Env-Ws 364 *Backflow Prevention* Section 2.3 Responsibilities of the Water Treatment Chief Operator. The City of Rochester public water system rules and regulations, adopted.

Section 1.3 Responsibilities of the Department

- A. The Department is responsible for protecting the public potable water distributions system from contamination due to the backflow or backsiphon of contaminants through the water service connection.

Section 1.4 Definitions

- A. Air Gap (approved for both high and low hazard protection) An unobstructed vertical distance, through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle. Physically defined as a distance equal to twice the diameter of the supply side pipe, but never less than one inch.
- B. Approved Backflow Prevention Device: A backflow prevention device that is listed on the current "approved" list that is maintained by the State of New Hampshire.

- C. Approved Source: A source of water utilized by a public water system for distribution to the public for consumption purposes and which is approved by the NHDES Water Supply Division for said use following a required and/or approved treatment process.
- D. Auxiliary Water Supply: Any water supply on, or available to, a premises other than the Town's approved public potable water supply.
- E. Backflow: The flow of water or other liquids, mixtures, or substances into the distribution pipes of a potable water supply from any source or sources other than the intended source.
- F. Backflow Prevention Device: A device or means designed to prevent backflow or back siphonage. Most commonly categorized as air gap, reduced pressure principle device, double check valve assembly, pressure vacuum breaker, atmospheric vacuum breaker, hose bib vacuum breaker, residential dual check, double check with intermediate atmospheric vent, and barometric loop.
- G. Reduced Pressure Zone Principle Backflow Prevention Device or "RPZ" (approved for both high and low hazard protection) An assembly consisting of two (2) independently operating approved check valves together with a hydraulically operating, mechanically independent pressure differential relief valve located between the two (2) check valves and below the first check valve. These units are located between two tightly closing, resilient-seated shut off valves as an assembly and equipped with properly located resilient-seated test cocks for the testing of the check valves and the relief valve.
- H. Double Check Valve Assembly or "DCA" (approved for low hazard protection only): An assembly of two independently operating spring-loaded check valves with tightly closing shut off valves on each side of the check valves, plus properly located test cocks for the testing of each check valve.
- I. Pressure Vacuum Breaker or "PVB" (approved for low hazard protection only): A device containing one or two independently operating spring-loaded check valves and an independently operating spring-loaded air inlet valve located on the discharge side of the check or checks. The device includes tightly closing shut off valves on each side of the check valves plus properly located test cocks for the testing of each of the check valve(s).
- J. Atmospheric Vacuum Breaker (approved for low hazard protection only): A device which prevents back siphonage by creating an atmospheric vent when there is either a negative pressure or sub-atmospheric pressure in a water system.

- K. Hose Bibb Vacuum Breaker (approved for low hazard protection only): A device which is attached to a hose bib and which acts as an atmospheric permanently vacuum breaker.
- L. Residential #7 Dual Check (approved for low hazard protection only) An assembly of two independently operating, spring-loaded check valves without tightly closing shut off valves and test cocks. Generally employed immediately downstream of the water meter to act as a containment device. This is a non-testable device.
- M. Backflow presenter with Intermediate Atmospheric Vent (approved for low hazard protection only): A device having two (2) independently operating check valves separated by an intermediate chamber with a means for automatically venting it to the atmosphere. The check valves are force loaded to a normally closed position and the venting means is force loaded to abnormally open position.
- N. Barometric Loop of pipe rising at least 35 feet at its topmost point above the highest fixture it supplies. It is utilized in water supply systems to protect against back siphonage (only).
- O. Backflow Prevention Device Inspector - Certified: A person who has proven his competency to inspect and test backflow prevention devices by the possession of a valid backflow prevention device certification issued by the New England Water Works Association, or other equivalent certification approved by NHDES.
- P Back Pressure: Pressure created by mechanical means or other means causing water, liquids, or other substances to flow or move in a direction opposite of what is intended.
- Q. Back Siphonage: The flow of water or other liquids, mixtures, or substances into the distribution pipes of a potable water system from any source other than it's intended source, that is caused by negative or reduced pressure in the potable water system.
- R. Check Valve: A self-closing device which is designed to permit the flow of fluids in one direction and to close if there is a reversal flow.
- S. Containment Philosophy: The method and philosophy of backflow prevention which requires a backflow preventer at the service entrance which isolates the customer's facility from the public water supply.
- T. Fixture Isolation Philosophy: A more complex isolation approach whereby protective devices are placed at individual fixtures within a facility as well as

where cross connections exist at the last free flowing outlet to ensure occupants of a facility are protected within.

- U. Contaminant: As defined in RSA 485: I-a, II, any physical, chemical, biological or radiological substance or matter in water.
- V. Cross Connection: Any actual or potential physical connection or arrangement between two otherwise separate systems, one of which contains potable water and the other of which contains water of unknown or questionable safety and/or steam, chemicals, gasses, or other contaminants whereby there may be a flow of an unapproved water or other substance to a potable water system.
- W. Customer (Owner): Any person who has legal title to, or license to operate or habitat in a property at which a cross-connection Inspection is to be made or at which a cross-connection is present.
- X. Department: The City of Rochester Public Works Department.
- Y. Division: Division of Water, New Hampshire Department of Environmental Services.
- Z. Fixture Isolation: A method of backflow prevention in which a backflow preventer is located to correct a cross-connection at an in-plant location rather than at the water service entrance.
- AA. High Degree of Hazard: A condition where, if a backflow were to occur, the resulting effect on the water supply could cause injury, illness or death if consumed by humans. The foreign substance may be hazardous to humans from a chemical, biological, physical, or radiological standpoint. The effects of the contaminant may result from short- or long-term exposure.
- BB. Low Degree of Hazard: A condition where, if a backflow were to occur, the resulting effect on the water supply would be a change in aesthetic qualities. The foreign substance must be nontoxic and non-hazardous to humans.
- CCDevice Upgrade: The replacement of an existing backflow prevention device with another appropriate device designed for a higher hazard duty when the degree of hazard is increased.
- DD. Person: As defined in RSA 485:I-a, XIII, any individual, partnership, company, public or private corporation, political subdivision or agency of the state, department, agency or instrumentality of the United States, or any other legal entity.

- EE. Permit: A document issued by the Department that allows the use of a backflow preventer.
- FF. Potable Water: Water from a source that has been approved by the Division for human Consumption.
- GG. Public Water System: As defined by RSA 485:1-a, XV, a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. Such term includes any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Any water system which meets all of the following conditions is not a public water system: (a) Consists only of distribution and storage facilities (and does not have any collection and treatment facilities); (b) Obtains all of its water from, but is not owned or operated by, a public water system; and (c) Does not sell water to any person.
- HH. Supplier: Any person who controls, owns, or generally manages a public water supply system.
- II. Water Service Entrance: The point in the customer's water system beyond the sanitary control of the Department; generally considered to be the outlet end of the water meter and always before unprotected branch.
- JJ. Water Treatment Chief Operator: The Water Treatment Chief Operator of the City of Rochester, New Hampshire Water Treatment Facility, Department of Public Works, or his designated representative, who is vested with the authority and responsibility for implementation of a cross-connection control program and for enforcement of the provisions of the Municipal Water System Ordinance and these regulations.
- KK. Water Utility: The suppliers of water.
- LL. Site Surveys: Initial site Surveys of existing commercial and industrial properties are required to determine degree of compliance with the regulations herein. Such activities shall be executed by the Department either using its own resources or contracted resources. Activities shall include on site surveys of commercial and industrial users of the public water supply which in the judgment of the Department may present risk of cross contamination.
- MM Premises: The industrial, commercial or residential facility or dwelling subject connected to the public water supply.

Section 2.3 Administration

- A. The Department will operate a cross-connection control program, to include keeping of necessary records, which fulfills the requirements of the Division's Backflow Prevention Regulations and is approved by the Division.
- B. Philosophy. The City will administer the program on the theory of Containment, the approach of which utilizes a minimum of backflow devices and isolates the customer from the public water supply so that contamination of the public water system does not occur. If they so desire, the owner may utilize public health officials or private consultants to assist in the survey of their facilities and to assist in the selection of proper fixture isolation devices and the proper installation of these devices.
- C. The Owner shall allow their property to be inspected for possible cross-connections and shall follow the provisions of the Department's program and the Division's regulations if a cross connection is required.

ARTICLE II - REQUIREMENTS

Section 2.1 Department

- A. The Department will determine if an approved backflow prevention device is required at the City's water service connection to any customer's premises.
- B. The Department may, directly or through a designated representative, give notice in writing to any such customer to install an approved backflow prevention device at each water service connection to their premises.
- C. The Department will issue permits for all new backflow prevention devices and amended permits for any upgrades to such devices for higher hazard duty. No permit will be issued by the Department without an application from the Owner.
- D. Permits shall have a duration based upon degree of hazard for the protective device. High hazard device permits shall have a duration of 6 months to coincide with semi-annual inspection and testing requirements. Low hazard device permits shall have a duration of 12 months to coincide with annual inspection and testing requirements. All permits shall automatically renew following certification from Owner that periodic inspection and testing has been completed on schedule.
- E. There will be no fees for permits issued.

- F. Existing commercial and industrial properties at the time of the issuance of this ordinance shall be the subject of site surveys conducted by the Department to determine the need for backflow prevention devices.
- G. The department will not allow any cross-connection to remain unless it is protected by an approved backflow preventer for which a permit has been issued and which will be regularly tested per required schedule to ensure satisfactory operation.
- H. If the Department determines at any time that a serious threat to the public health exists, the water service will be terminated immediately.
- I. The Department will maintain records to include all applications for backflow prevention devices, installation, inspection and testing certification forms, notices of inspection/test requirement and permits.
- J. The Department will monitor for permit compliance. Permits shall lapse and become void if inspection and testing are not certified on schedule. A void permit shall constitute grounds for discontinuation of water.
- K. The Department will inform the Owner by letter of any failure to comply with scheduled inspection and testing and resulting permit violation. The Department will allow an additional 14 days past the original due date for completion of inspection and testing and Owner certification. In the event that the Owner fails to provide the certification within the additional 14 days, the Department will inform the Owner by letter, that the water service to the Owner's premises will be terminated. In the event that the Owner informs the Department of extenuating circumstances as to why the certification has not been made on schedule, a time extension may be granted by the Department, but in no case will exceed an additional thirty (30) days.
- L. All new residential water services will be required to install a residential #7 dual check device immediately downstream of the water meter.
- M. Installation of a residential dual check valve results in a potential closed plumbing system within the residence. As such, provisions shall be made by the Owner to provide for thermal expansion within the closed loop system, i.e., the installation of thermal expansion devices and/or pressure relief valves.
- N. New and retrofit installations of reduced pressure zone principle devices and double check valve backflow preventer include the installation of strainers located immediately upstream of the backflow device. The installation of strainers will preclude fouling of backflow devices due to both foreseen and unforeseen circumstances occurring to the water supply system such as water main repairs, water main breaks, fires, periodic flushing and cleaning of

mains, etc. These occurrences may stir up debris within the water main that will cause fouling of backflow devices installed without the benefit of strainers.

Section 2.2 Owner

NOTE: Homeowners are permitted to work on their own residential plumbing. A licensed plumber with a valid New Hampshire license is required for work on all industrial, commercial, and rental properties.

- A. The Owner shall be responsible for the elimination or protection of all cross-connections on their premises.
- B. The Owner shall ensure the protection of the water supply within their premises by the installation of approved backflow prevention devices, where necessary, or by Fixture Isolation techniques. All testing inspection and maintenance shall be the responsibility of the Owner. These devices internal to the facility will not be regulated by the Department.
- C. The Owner, after having been informed by letter from the Department, shall at their expense install, maintain, and test, or have tested, any and all backflow preventers on their premises.
- D. On new commercial and industrial installations, the Owner or their qualified agent shall determine the type of backflow preventer, if any, that will be required. The Owner shall supply a complete application for the installation of a backflow prevention device and provide to the Department for permit issuance.
- E. The Owner shall inform the Department of any proposed or modified cross-connections and also of existing cross-connections of which the Owner is aware but may not be known by the Department.
- F. The Owner shall not install a by-pass around any backflow preventer unless there is a backflow preventer of the same type on the bypass. Owners who cannot shut down operation for testing of the device(s) must supply additional devices necessary for testing to take place.
- G. The Owner shall install backflow devices with the minimum requirements as provided herein in a manner approved by the Department, or its Designee and in accordance with approved plumbing regulations.
- H. The Owner shall install only a backflow preventer approved by the Department and the Division.
- I. Any Owner having a private well or other private water source shall not connect ("hard pipe") to the Department's system. The Owner may be

required to install a backflow preventer at the service entrance if a private water source is maintained, even if it is not cross-connected to the Department's system.

- J. In the event the Owner installs plumbing to provide potable water for domestic purposes which is on the Department's side of the backflow preventer, such plumbing must have its own backflow preventer installed.
- K. The Owner shall be responsible for the payment of all fees for device installation or replacement, annual or semi-annual device inspection and testing, re-testing in the case that the device fails to operate correctly, and second reinsertions for non-compliance with Department rules and regulations.
- L. Should a backflow prevention device be required or an upgraded device whether determined by the Department or otherwise the Owner, the Owner shall be responsible for submitting an application for such device to the Department.
- M. There will be no fee for applications submitted.
- N. Owners shall certify the installation of new or upgraded backflow prevention devices in writing to the Department within 90 days of issuance by the Department of the permit.
- O. Failure, refusal, or inability on the part of the Owner to install the required initial or upgrade device(s) and provide certification to the Department within 90 days shall constitute grounds for discontinuing water service to the premises until such time as the required certification of compliance is received by the Department.
- P. Owner shall be responsible for providing certification of inspection and testing to the Department within 14 days of regularly scheduled periodic inspection and testing, and re-testing following initial test failure if applicable. Failure to submit the certification within 14 days shall void the permit and constitute grounds for discontinuing water service to the premises.
- Q. The Owner shall correct at their cost any malfunction of the backflow preventer, which is revealed by periodic testing. Corrections that impact the required certification schedule above shall be communicated to the Department at the earliest possible time.

ARTICLE III - DEGREE OF HAZARD

The Department recognizes the threat to the public water system arising from cross-connections. These threats are classified as follows:

Section 3.1 Low-Hazard

If a backflow were to occur, the resulting effect on the water supply would, at the most, be a change in its aesthetic qualities. The foreign substance(s) must be non-toxic to humans. All threats classified as "low hazards" will require, at a minimum, the installation of approved double check valve assembly.

Section 3.2 High-Hazard

If a backflow were to occur, the resulting effect on the water supply could cause illness, injury or death if consumed by humans. The foreign substances may be hazardous to humans from a physical, chemical, biological, and/or radiological standpoint. The effects of the contaminants may result from short or long-term exposure. All threats classified as "high-hazard" will require the installation of approved reduced pressure zone principle backflow prevention devices or air gaps.

ARTICLE III-a –Auxiliary water supplies

Where a single or dual family residential customer served by public water supply system has or proposes to install an auxiliary water supply (i.e., well, cistern, spring , etc.), the supplier of the water shall protect the public water supply against backflow by requiring the customer to perform one of the following:

- A. Permanently disconnect the auxiliary water supply from any direct connection to the public water supply system. An inspection to determine compliance with this requirement shall be made by the supplier of the water, local plumbing or building code enforcement official, or his designee. The frequency of the inspections shall be at the time of the disconnection and at periodic intervals thereafter (i.e. every three to five years).
- B. Abandon the auxiliary water supply in a manner acceptable by the water supplier.
- C. Install an approved reduced pressure zone (RPZ) device at the public water supply service connection in accordance with Section 5-1.31 of the State Sanitary Code.
- D. The customer shall provide the water supplier with backflow prevention device test results biannually or the customer's water service from the water provider will be shut off until the data is supplied to the water supplier.

ARTICLE IV - PERMITS

The Department shall not permit a cross-connection within the public water supply system unless it is considered necessary and that it cannot be eliminated.

Section 4.1 Permits

- A. Cross-connection permits that are required for backflow prevention devices are obtained from the Department. A permit will be issued for each individual device. There will be no fees for initial permits and subsequent renewals. Permits shall be issued with a duration which coincides with the inspection and testing schedule of the device. High hazard devices shall have permits with durations of 6 months; low hazard devices shall have durations of 12 months. Failure of the Owner to provide certification of inspections and testing on required schedule shall void the permit and constitute grounds for discontinuation of water.
- B. Amended permits shall be issued for any premises whereby there are any increases in degree of hazard such as to supersede the effectiveness of the present backflow preventer. Owners are responsible for submitting applications for the amended permits.
- C. The permit shall contain the information required in Env-Ws 364, Backflow Prevention.
- D. Permits are subject to revocation for cause by the Department and become immediately revoked if the Owner should so change the type of cross-connection or degree of hazard associated with the service without proper notification to the Department.
- E. Fixture Isolation devices internal to a facility will not be regulated by the Department and permits are not required.

ARTICLE V - EXISTING IN-USE BACKFLOW PREVENTION DEVICES

Section 5.1 Existing Backflow Prevention Devices

Any existing backflow preventer shall be allowed by the Department to continue in service if in good working order unless the degree of hazard is such as to supersede the effectiveness of the present backflow preventer, or result in an unreasonable risk to the public health. Permits for existing devices shall be issued with durations to coincide with the required schedule of inspection and testing. Where the degree of hazard has increased, as in the case of a residential installation converting to a business establishment, an existing backflow preventer must be upgraded to a reduced pressure zone principle device, or a reduced pressure zone principle device must be installed in the event that no backflow device is present.

ARTICLE VI - INSTALLATION

Section 6.1 Installation Requirements

- A. Initial installations, replacements and upgrades shall be performed by a New Hampshire certified backflow prevention device technician.

Section 6.2 Reduced Pressure Zone Backflow Prevention Devices

- A. The reduced pressure zone backflow prevention device shall be installed on the Owner's side of the water meter on the potable water supply line.
- B. For "in-plant" protection, drinking and domestic water lines, lines for safety showers, and lines for eye-wash units must be taken off the upstream side of the reduced pressure zone backflow prevention device.
- C. The reduced pressure zone backflow prevention device shall be located so as to permit easy access and provide adequate and convenient space for maintenance, inspection, and testing. The device must be protected from freezing, flooding, and mechanical damage.
- D. The reduced pressure zone backflow prevention device and shut-off valves must be installed in a horizontal alignment between three and four feet from the floor to the bottom of the device and a minimum of 12 inches from any wall, unless the device is approved by the Water Department or its Designee, for vertical installations.
- E. Tightly closing valves must be installed at each end of the device and must be immediately accessible unless otherwise approved by the Water Department or its Designee.
- F. If a drain is to be provided for a relief valve port, there must be an approved air gap separation between the port and the drain line. To be approved, the air gap must be at least twice the internal diameter of the discharge line, or two (2) inches minimum.
- G. Pit installations shall be approved only as, but not limited to the requirements provided in Section X(C) below.

Section 6.3 Double Check Valve Assemblies

- A. The double check valve assembly shall be installed on the Owner's side of the water meter on the potable water supply line.
- B. For "in-plant" protection, drinking and domestic water lines, lines for safety showers, and lines for eye wash units must be taken off the upstream side of the double check valve assembly.

- C. The double check valve assembly shall be located so as to permit easy access and provide adequate and convenient space for maintenance, inspection, and testing. The device must be protected from freezing, flooding, and mechanical damage.
- D. The double check valve assembly and shut-off valves must be installed in a horizontal alignment and the top of the double check valve assembly must be between 30 inches and 53 inches from the floor to the bottom of the device and a minimum of 12 inches from any wall, unless the device is approved by the Water Treatment Department Chief Operator or his Designee.
- E. Tightly closing valves must be installed at each end of the device and be immediately accessible unless otherwise approved by the Water Treatment Department Chief Operator or His Designee.
- F. Double check valve assemblies must be provided with suitable connections and appurtenances for testing.
- G. Pit installations shall be approved only as, *but* not limited to the requirements provided in Section X(C) below.

Section 6.3 Pit Installations

No backflow prevention device shall be installed in pits except as specifically approved by the Water Department, or its Designee, and must comply with all OSHA standards where applicable for work in confined spaces and then only as follows:

- A. The pit interior shall be a minimum of ten (10) feet long, six (6) feet wide, and must have a clear height seven (7) feet high.
- B. The pit must be watertight.
- C. The pit opening and manhole cover must be at least 30 inches in diameter.
- D. The foothold inserts must be of steel, aluminum, or other material approved by the Water Department, or its Designee, must be a maximum of 12 inches apart, and must be installed so that the top foothold is within 12 inches of the manhole cover and the bottom opening is within 12 inches of the pit floor.
- E. An adequate drain must be installed and the drain line shall not be connected to a sewer. The drain must run to "daylight" and be easily located for inspection. The drain must have heavy a "rodent proof" mesh over the

outlet. If a drain cannot be run to daylight, a sump pump with audible/visible alarm must be used.

- F. The pit floor shall be pitched toward the drain.
- G. If build in a roadway, the pit shall be reinforced to meet AASHTO H-20 loading requirements.

ARTICLE VII - PERIODIC TESTING

- A. Backflow prevention devices shall be inspected and tested at least semi-annually for high hazard applications and at least annually for low hazard applications. Responsibility for ensuring inspections and testing and providing certification to the Department shall be the Owner's. Failure to certify inspections and testing on the required schedule shall void the permit and be grounds for discontinuation of water service.
- B. Testing and Inspection of all devices to include reduced pressure principle backflow devices, testable double check valve assemblies, and testable pressure vacuum breakers shall be performed by a New Hampshire certified backflow prevention device tester.
- C. Any backflow preventer, which fails during a periodic test, shall be repaired or replaced. When repairs are necessary, upon completion of the repair, the device shall be re-tested at Owner's expense to ensure correct operation. High hazard situations shall not be allowed to continue unprotected if the backflow preventer fails the test and cannot be repaired immediately. The Owner is responsible for spare parts, repair tools, or a replacement device. Parallel installation of two (2) devices is an effective means of ensuring that uninterrupted water service during testing and repair of devices is maintained; and is strongly recommended when the Owner desires such continuity.
- D. Backflow devices will be tested more frequently than specified in "A" above, in cases where there is a history of test failures and the Department feels that due to the degree of hazard involved, additional testing is warranted. Cost of the additional testing will be borne by the Owner.
- E. Failure to test a backflow prevention device as required, or failure to repair a device when needed shall result in termination of the water service.

ARTICLE VIII - RECORDS AND REPORTS

Section 8.1 Records

The Department will initiate and maintain the following:

- A. Master files on existing and new properties requiring backflow prevention devices.
- B. Master files on customer cross-connection tests and/or inspections for all applicable properties.
- C. Master files on cross-connection permits.
- D. Copies of permits and permit applications.
- E. Master files on backflow prevention device installation/inspection and testing certification forms.
- F. Copies of lists and summaries supplied to the Division.

Section 8.2 Reports

The Department will submit the following to the Division:

- A. Initial listing of low-hazard cross-connections on New Hampshire Department of Environmental Services, Water Supply Division Low-Hazard form X-1 (L).
- B. Initial listing of high-hazard cross-connections on New Hampshire Department of Environmental Services, Water Supply Division High-Hazard form X-1 (H).
- C. Annual update lists of Items 1 and 2, above.
- D. Annual summary of cross-connection inspections on New Hampshire Department of Environmental Services, Water Supply Division form X-2.

ARTICLE IX - VALIDITY

- A. If a provision of this Ordinance is found to be in conflict with any provision of zoning, building, safety or health or other Ordinance or code of the City of Rochester, or the State of New Hampshire, or the Federal government existing on or subsequent to the effective date of this Ordinance, that provision if in the judgment of the City of Rochester establishes the higher standard of safety and protection shall prevail.
- B. The validity of any article, section, clause, sentence, or provision of this Ordinance shall not affect the validity of any other part of this Ordinance that can be given effect without such invalid part or part.

ARTICLE X - INTERPRETATION OF REQUIREMENTS

Section 10.1 Interpretation

The provisions of this Ordinance with respect to the meaning of technical terms and phrases, the classification of different plumbing devices, the regulations with respect to installing, inspecting, or testing backflow prevention equipment, and other technical matters shall be interpreted and administered by the Department acting in and for the City of Rochester , New Hampshire .

Section 10.2 Appeals

Any party aggrieved by any decision, regulation or provision under this Ordinance, as amended, from time to time, shall have the right to appeal said decision to the Department who shall issue a decision within 30 calendar days of the appeal. If said appeal is denied by Department, then the aggrieved party shall have the right to appeal to the Utilities Advisory Board and then to the City Manager.

ARTICLE XI - MODIFICATIONS

The Town reserves the right to adopt, from time to time, additional rules and regulations as it shall deem necessary and proper relating to control and management of cross-connections, which additional rules and regulations, to the extent appropriate, shall be a part of these regulations.

ARTICLE XII - ORDINANCE IN FORCE

This Ordinance shall be in full force and effect immediately following its passage, approval, and Publication, as provided by law. The adoption of this Ordinance specifically repeals any previously adopted Cross Connection Ordinance or rules of the City of Rochester New Hampshire.

Mayor Jean briefed the City Council about the proposed Amendment. Councilor Lachapelle stated that the Codes and Ordinance Committee would conduct a Public Hearing on this topic at the Codes and Ordinances Committee meeting on March 7, 2013, at City Hall, at 7:00 PM.

Councilor Torr questioned who would be responsible to inspect these cross connectors. Mayor Jean suggested that the Acting Public Works Director be directed to look into this matter. Councilor Varney recalled that the customer would have to pay for the inspection. City Manager Fitzpatrick agreed that not all the details have been worked out as of yet. Councilor Laroche pointed out that “duel” was used incorrectly on page 97 of the City Council packet. The word should be corrected to “dual” meaning “double”. *This has been corrected in the proposed Amendment to the City Ordinances above.*

12.6 Resolution Authorizing the Rochester Police Department a Supplemental Appropriation Relative to Outside Details and Making a Supplemental Appropriation in Connection Therewith in the Amount of \$80,000

Councilor Lachapelle **MOVED** to read the Resolution by title only for the first time. Councilor Walker 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 AUTHORIZING
ROCHESTER POLICE DEPARTMENT
SUPPLEMENTAL APPROPRIATION
RELATIVE TO OUTSIDE DETAILS
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 the Mayor and City Council of the City of Rochester, by adoption of this Resolution, hereby appropriate the sum of Eighty Thousand Dollars (\$80,000.00) as a supplemental appropriation to the 2012-2013 operating budget of the City of Rochester, Police Department, such funds to be used for the purpose of outside duty police details, the account number(s) for which is/are to be established by the Finance Director in the 2012-2013 operating budget of the Rochester Police Department. Furthermore, the source of the sums necessary to fund such appropriation shall be drawn, in their entirety, from funds paid for such outside duty details to the Rochester Police Department.

ADDITIONALLY, 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 by title only for the second time. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the Resolution by title only for the second time. Councilor Walker **MOVED** to **ADOPT** the resolution. Councilor Lachapelle seconded the motion.

Councilor Keans questioned if the Police Department is charging an appropriate amount of money for outside detail. She added that the City's obligation to the retirement system has increased by 25% this year. Chief Allen explained that the cost of retirement is included in the fees; however, there has

not been an adjustment made to the fees in a few years now. He agreed to discuss the matter with Deputy City Manager Cox. Councilor Walker asked if the request for additional funding is for detail work that has not happened as of yet. Chief Allen explained that the funding would cover the cost of the deficit the Police Department is currently faced with and the additional funding should cover the Police Department for the rest of the fiscal year.

Councilor Torr gave several reasons he would not support the motion. He said there is no need for the Police Department to take away the “flagger” jobs and give them to the Police Department. Chief Allen stated that State Department requires specialized training in order to effectively direct traffic on high volume traffic roads. Councilor Varney stated that the Police Department only budgeted for \$220,000 for Police related detail and now that amount is up to \$300,000 for the current year. It seems the City should have a policy in place as to what qualifies a construction job to use a Police officer for construction work detail instead of a construction flagger. *The **MOTION CARRIED** by a majority voice vote.* Councilor Torr said this should have been a roll call vote. Councilor Lauterborn pointed out that she did not vote in favor of the motion. Mayor Jean **MOVED** to reconsider the motion. Councilor Lachapelle seconded the motion to reconsider the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean called for a final roll call vote on the motion on the floor, which is to approve the resolution. The **MOTION CARRIED** by a 10 to 2 roll call vote. Councilors Lachapelle, LaBranche, Hervey, Reed-Erickson, Varney, Hynes, Keans, Walker, Larochele, and Mayor Jean voted in favor of the motion. Councilors Torr and Lauterborn voted against the motion.

12.7 Resolution De-Authorization Fiscal Year Capital Improvement Funds for the Water Treatment Plant Flouridation Process Modifications

Councilor Lachapelle **MOVED** to read the Resolution by title only for the first time by title only. Councilor LaBranche 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
FISCAL YEAR 2013 CAPITAL IMPROVEMENT FUNDS
FOR WATER TREATMENT PLANT FLOURIDATION
PROCESS MODIFICATIONS**

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

WHEREAS, by virtue of a resolution adopted by the Mayor and City Council of the

City of Rochester in June 2012, the Mayor and City Council appropriated to the 2012- 2013 Capital Improvements budget of the City of Rochester, Public

Works Department, Water Works account the sum of Twenty Thousand Dollars (\$20,000.00), to pay for modifications to the water systems fluoridation process, said appropriation to be funded from the proceeds bonds to be issued by the City of Rochester, Public Works Department, Water Works; and

WHEREAS, it has been determined that such project is not necessary at this time, thereby leaving the above mentioned Twenty Thousand Dollars (\$20,000.00) appropriation, unexpended, unencumbered and unnecessary for its intended purpose;

NOW THEREFORE, in light of the fact that the City's Twenty Thousand Dollars (\$20,000.00), appropriation to pay for modifications to the water systems fluoridation process, to be funded from bond proceeds to be issued by the City of Rochester, Public Works Department, Water Works is no longer necessary and the funds to pay for such project have not yet been bonded, the Mayor and City Council of the City of Rochester, hereby withdraw and deauthorize the Twenty Thousand Dollars (\$20,000.00) of the previously referred to appropriation of funds from the 2012-2013 Capital Improvements budget of the City of Rochester, Public Works Department, Water Works for the above mentioned purpose, thereby reducing the remaining amount of the aforesaid appropriation to a total of Zero Dollars (\$0.00) and withdrawing, in its entirety the authority to issue bonds with respect to such project .

ADDITIONALLY, 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 by title only for the second time. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the Resolution by title only for the second time. Councilor Walker **MOVED** to **ADOPT** the resolution. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a majority voice vote

13. Other

14. Non-Public Session

14.1 Land, RSA 91-A:3 (d)

14.2 Personnel, RSA 91-A: 3 II (a)

Councilor Walker **MOVED** to enter a Non-Public Session under Land, RSA 91-A:3 (d) and Personnel, RSA 91-A :3 II (a) at 8:28 PM. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous roll call of 12 to 0. Councilors Walker, LaBranche, Varney, Hervey, Lachapelle, Larochelle, Torr, Hynes, Reed-Erickson, Keans, Lauterborn, and Mayor Jean voted in favor of the motion.

Councilor Lachapelle **MOVED** to exit non-public session and to seal the minutes indefinitely at 9:07 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 9:07 PM. Councilor Lauterborn seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Kelly Walters
City Clerk