

Codes and Ordinances Committee

Councilor Peter Lachapelle, Chair
Councilor Elaine Lauterborn, Vice Chair
Councilor Abbott
Councilor Donna Bogan
Councilor Robert Gates

**AGENDA****CODES AND ORDINANCES COMMITTEE**

Of the Rochester City Council

Thursday, August 4, 2016

City Council Chambers

31 Wakefield Street, Rochester, NH

7:00 PM

-
- 1. Call to Order**
 - 2. Public Input**
 - 3. Approval of the Codes and Ordinances Committee Minutes**
 - **May 5, 2016 P. 3**
 - 4. Amendment to Ordinances – Chapter 11.20 P. 11**
 - **Letter from the Chamber of Commerce P. 13**
 - 5. Leak Abatement Policy P. 17**
 - **Memorandum from John Storer, P.E. Director of City Services P. 19**
 - 6. City Charter Section 29: General Powers of the School Board P. 23**
 - **Codes and Ordinances Committee Meeting Minutes P. 6 [packet]**
 - 7. HB 1205 Libraries with Children’s Programming – Drug Free Zone P. 25**
 - **Codes and Ordinances Committee Meeting Minutes P. 7 [packet]**
 - 8. Amendment to Ordinances – Election Officials P. 27**
 - 9. Other**
 - 10. Adjournment**



This page has
been
intentionally left
blank.



CODES AND ORDINANCES COMMITTEE
Of the Rochester City Council
May 5, 2016
City Council Chambers
31 Wakefield Street, Rochester, NH
7:00 PM

Committee Members Present

Councilor Peter Lachapelle, Chair
Councilor Elaine Lauterborn, Vice Chair
Councilor Thomas Abbott
Councilor Robert Gates

Others Present

Kelly Walters, City Clerk
City Manager Fitzpatrick
Terence O'Rourke, City Attorney
Councilor James Gray

Members Excused

Councilor Donna Bogan

MINUTES

1. Call to Order

Councilor Lachapelle called the Committee meeting to order at 7:00 PM. All members were present, except for Councilor Bogan who had been excused.

2. Public Input

Councilor Lachapelle invited the public to come forward to speak about topics/issues which were not listed on the agenda. No member of the public came forward. Councilor Lachapelle closed public input at 7:01 PM.

3. Approval of the Codes and Ordinances Committee Minutes

• March 3, 2016

Councilor Lauterborn **MOVED** to **ACCEPT** the minutes of March 3, 2016. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

4. Chapter 63.2 Amendment

Councilor Lachapelle referred to the Amendment to Chapter 63.2 b (1) as follows:

Proposed Amendment

63.2 The Passing of Items to or from the Occupant of a Motor Vehicle on a Roadway.

(a) Definitions. For the purpose of this Section, the following definitions apply:

(1) **Pass/Passing.** Distributing any item to, receiving any item from, or exchanging any item with the occupant of a motor vehicle that is located in the roadway.

(2) **Roadway.** All ways within the City as that term is defined in RSA 259:125, II. This definition excludes privately owned property not open for public use or generally maintained for the benefit of the public, areas in which parking is permitted in the City, and property maintained specifically for drive-thru or drive-up transactions.

(3) **Item.** Any physical object.

(b) Prohibitions on Roadways. It shall be unlawful to violate any of the prohibitions set forth below in the City.

(1) No person shall knowingly pass any item with the occupant of any motor vehicle when the vehicle is located in the roadway, nor shall any occupant of any motor vehicle located in the roadway pass any item with a person located outside of the vehicle.

(2) This Section shall not apply to the distribution, receipt or exchange of any item with the occupant of a motor vehicle on privately owned property not open for public use or generally maintained for the benefit of the public, areas in which parking is permitted in the City, and property maintained specifically for drive-thru or drive-up transactions.

(3) This Section shall not apply to any law enforcement officer acting in the scope of his official duty.

(4) This Section shall not apply to the distribution, receipt or exchange of any item with the occupant of a motor vehicle located in the roadway in order to assist the occupant after a motor vehicle accident, with a disabled motor vehicle or where the occupant is experiencing a medical emergency.

(c) Penalty. A person found in violation of this Section shall be fined as follows:

- (1) 1st Offense: Not less than \$25.00.
- (2) 2nd Offense: Not less than \$250.00.
- (3) 3rd and subsequent Offenses: Not less than \$500.00; nor more than \$1,000.00.
- (d) Severability. If any provision of this section is declared invalid or unconstitutional by any Court of competent jurisdiction, the remaining provisions shall be severable and shall continue in full force and effect.

Attorney O'Rourke gave a brief overview of the proposed Amendment and explained that "any" occupant of a vehicle in the roadway would be prevented from passing items out of a vehicle located in a roadway. The Committee briefly discussed the amendment. Councilor Abbott **MOVED** to recommend this Amendment to the full City Council for approval. Councilor Lauterborn seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

5. Fireworks

Councilor Lachapelle said that Chapter 23.13 outlines regulations for the use of fireworks in the City. He invited anyone from the audience to come forward to address the Committee on this matter.

Dennis Hancock, resident, addressed the Committee concerning the permitted fireworks activity in the City and its effects on children, elderly, pets, and war veterans. He stated that this is a quality of life issue and he requested that fireworks be banned from the City all together.

Margie Hancock, resident, addressed the Committee with the same concerns and stated that her granddaughter seeks shelter in the garage when the fireworks are being lit off. She also requested that the fireworks be banned from the City all together.

Bob Hersom, resident, indicated that he did not wish to speak publicly on the matter; however, he attended the meeting to support the last two speakers and their comments.

Councilor Lauterborn said that Mr. Hancock indicated that he has attended the Neighborhood Ward Four meeting. She asked if any police officers were present at the meeting and heard his complaint. Mr. Hancock replied yes. It was also noted that Mr. Hancock should report any violation of

this ordinance directly to the Police Department, Fire Department, and Building Zoning, and Licensing Services.

Councilor Abbott asked how often fireworks were being lit off in Mr. Hancock's neighborhood. Mr. Hancock replied the July 4th Holiday and New Years Eve.

The Committee briefly discussed the matter. Councilor Gray stated it seemed this is more of an enforcement issue and requested that a letter be sent to the Police Commission and Police Chief. The Committee discussed the enforcement issue. Councilor Gates **MOVED** to have such a letter sent. Councilor Abbott seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Councilor Lachapelle requested that the City Clerk draft the letter.

6. Section 29: General Powers of the School Board – Discussion

Councilor Lachapelle referred to the proposed change to Chapter 29 of the City Charter as follows:

Section 29: GENERAL POWERS OF THE SCHOOL BOARD

The policy-making body for the School Department of the City of Rochester shall be a School Board of the City of Rochester, consisting of thirteen (13) members. Except for the City Council's exclusive right to determine and appropriate the total amount of money to be spent by the School Department, the administration of all fiscal and prudential affairs of the City of Rochester School District, the general management and control of its schools ~~and properties,~~ and all powers prescribed by law shall be vested in the School Board. *All school properties shall be maintained by the City of Rochester.* The Superintendent of schools shall serve as Clerk of the School Board.

Text highlight part is to be struck out.

The red italicized is to be added to the City Charter.

Councilor Gates said there is no need for two building and maintenance department in the City. He recommended that the School Department's building and maintenance be shifted under the City's building and maintenance Department. He added this would allow the School Department to focus their attention solely on education.

Councilor Lauterborn questioned the legalities of this issue. She asked if any other "city" in New Hampshire operates under one building and maintenance department.

Attorney O'Rourke confirmed that this action is permissible under the State RSA's. He added that the City of Manchester is currently operating in this manner. Councilor Lauterborn recommended that Attorney O'Rourke confer with the City Attorney of Manchester and report back to the Committee with a recommendation of how this would work under the City of Rochester's Tax Cap obligations.

The Committee discussed the matter further. It was noted that this was not an urgent matter since the Charter question could not be on a ballot until the Municipal Election to be held on November 7, 2017. It was determined that the City Clerk would reach out to Superintendent Hopkins to request that Mr. Bickford, Buildings and Maintenance Supervisor for the School Department, be available to attend the August 4, 2016, Codes and Ordinances Committee. It was further noted that this would give ample time for the City Attorney to gather input from Commissioner Storer and Mike Riley of the Buildings and Grounds Department, who would also be invited to the August 4, 2016, Codes and Ordinances Committee. This matter will stay in Committee until August 4, 2016.

7. HB1205 Libraries with Children's Programming- Drug-free School Zone

Councilor Lachapelle referred to the House Bill as follows:

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Sixteen

AN ACT including libraries that provide children's programming in the definition of drug-free school zone.

**Be it enacted by the Senate and House of Representatives
in General Court convened:**

1 Drug-Free School Zone. Amend RSA 193-B:I, II to read as follows:
II. "Drug-free school zone" means an area inclusive of any property used for school purposes by any school, *or a library facilitating programming for children*, whether or not owned by such school, within 1,000 feet of any such property, and within or immediately adjacent to school buses.

2 Effective Date. This act shall take effect 60 days after its passage.

Councilor Gray gave reasons why he has proposed this legislation at the State level. It was determined that this item would stay in Committee until more information could be provided. This will be on the August 4, 2016, Codes and Ordinances Committee Agenda.

8. Chapter 42 - Manufactured Housing

Attorney O'Rourke stated that the following Amendment is being proposed in order to keep the City of Rochester in compliance with the State and Federal guidelines. This has been reviewed by the Planning Board. Councilor Abbott **MOVED** to recommend that the full City Council accept the proposed changes to the definition of Manufactured Housing and to be consistent with State Statute by deleting size restrictions located outside of the definitions of Chapter 42 as outlined below:

Chapter 42.2 Definitions

161. **Manufactured Housing:** Any structure, meeting the federal Manufactured Home Construction and Safety Standards Act, commonly known as HUD Code, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, ~~is a minimal of 13 feet in overall width~~ and have at least ~~700~~ **320** square feet of habitable space, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical systems contained therein . Manufactured Housing as defined here does not include pre-site built housing as defined in RSA 674:31-a.

42.20 Standards for Specific Permitted Uses

b. Conditions for Particular Uses

9. Manufactured Housing Subdivision

A. Overall Development.

~~iii. Minimum Size. Every manufactured home shall be at least 23 feet in width and have at least 700 square feet of habitable living space.~~

10. Manufactured Housing Unit

~~C. Minimum Size. Every manufactured home shall be at least 23 feet in overall width and have at least 700 square feet of habitable living space.~~

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

9. Other

No discussion.

10. Adjournment

Councilor Abbott **MOVED** to **ADJOURN** the meeting at 7:51 PM. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Kelly Walters, CMC
City Clerk



This page has
been
intentionally left
blank.



Proposed Amendment

Chapter 11.20 is currently deleted. The proposed amendment would reinsert the deleted language and add the following changes below which are indicated with **bold red ink**.

CHAPTER 11

FINANCE

SECTION ANALYSIS

- 11.1 City Business Administrator
- 11.2 Claims Against City – Itemization
- 11.3 Claims Against City – Officers to Receive
- 11.4 Claims Against City – Payment by Check
- 11.5 City Funds – Deposited in Name of City
- 11.6 City Funds – When and Where Deposited
- 11.7 City Funds – Record of Receipts and Payments
- 11.8 City Funds – Expended Appropriations to be Reported
- 11.9 Collection of Motor Vehicle Permit Fees
- 11.10 Negotiation of Loans to City
- 11.11 Notes of City – Signatures Required
- 11.12 Notes of City – Form
- 11.13 Annual Report of City Receipts and Expenditures
- 11.14 Preparation of City Budget
- 11.15 Audit of City Accounts
- 11.16 Redemption of City Bonds
- 11.17 Fiscal Year
- 11.18 Contracts With City Officials Limited
- 11.19 Fund Balance Maintenance Fund
- 11.20 Economic Development Special Reserve Fund ~~{deleted}~~
- 11.21 Conservation Fund
- 11.22 Regulation and Limitation of Merit Plan
- 11.23 Implementation of Limitation on Budget Increase

*
*
*

11.20 City of Rochester Economic Development Special Reserve Fund.~~{deleted}~~

(a) City of Rochester Economic Development Special Reserve Fund – Statement of Purpose. The City of Rochester currently serves as the “Host Community” for the Turnkey Recycling and Environmental Enterprises Waste Disposal Facility (“TREE”) currently operated by Waste Management of New Hampshire, Inc., and located on the Rochester Neck Road. By virtue of its status as Host Community for TREE, the City of Rochester, in addition to incurring significant expenses in connection with such facility, receives significant financial benefits in the form of real property taxes, users fees (in the form of so-called “Host Community Fees”) and various other benefits relative to the cost to the City and its inhabitants of the disposal and/or recycling of various solid waste, including reduced and/or eliminated fees for the disposal and/or recycling of solid waste generated within the City of Rochester. It

is currently estimated that the permitted capacity of the TREE Waste Disposal Facility (TLR-III) will be reached in approximately the year 2023. When such facility is filled to its permitted capacity, it is anticipated that the City will experience a loss in revenues, and the City and its inhabitants will experience increased costs associated with the disposal and/or recycling of solid waste, particularly in the form of reduced and/or lost users fees and reduced property tax revenues, as well as increased costs associated with the disposal and/or recycling of solid waste. Therefore, in an effort to offset the expected loss of revenues and increased costs occurring to the City as a result of the anticipated filling of the TREE Waste Disposal Facility to its permitted capacity and to promote the general fiscal strength and well being of the City, it is necessary that economic development in the City of Rochester be promoted and/or maintained to insure the existence and/or expansion of a vibrant economic base for the City and its inhabitants. Therefore, the City Council of the City of Rochester, pursuant to the authority granted by RSA 47:1-b and RSA 47:1-c, hereby establishes a special revenue reserve fund from the specific source identified in subsection (b) of this Section 11.20 for **capital expenditures or expenditures for capital projects, transfers to capital projects, transfers to capital reserve, or for any other appropriation of a non-recurring nature in support of economic development as determined by the City Council.** ~~the specific purpose of paying expenditures associated with the promotion of new, and maintenance of current sources and levels of economic development within the City of Rochester.~~ The special reserve fund established in subsection (b) of this Section 11.20 shall be known as the “City of Rochester Economic Development Special Reserve Fund.” No expenditure from the said City of Rochester Economic Development Special Reserve Fund shall be made without an appropriation of such funds having been adopted by the Rochester City Council, which appropriation shall provide that such appropriation is for economic development purposes and shall contain a statement and/or finding by the City Council indicating the manner in which it is anticipated that such appropriation is related to the economic development of the City of Rochester.

(b) City of Rochester Economic Development Special Reserve Fund.

There is hereby created a non-lapsing budgetary account within the City of Rochester, pursuant to the authority granted to the City by the provisions of RSA 47:1-b, such special reserve fund to be known as the ‘City of Rochester Economic Development Special Reserve Fund’. Such fund shall be funded on an annual basis by the appropriation by the City Council to such special reserve fund of an amount not less than \$100,000 from the funds annually payable to the City of Rochester by Waste Management of New Hampshire, Inc. from the so-called “Host Community Fees” payable to the City pursuant to the provisions of the “Host Agreement” between the City and Waste Management of New Hampshire, Inc., or of any successor to such Agreement. In addition to such minimum funding level, the City Manager may, during any fiscal year of the City, upon written notification to, and appropriation by, the City Council, transfer to said ‘City of Rochester Economic Development Special Reserve Fund’ unappropriated ‘Host Community Fees’ in an amount not to exceed the difference between the total amount of Host Community Fees received from Waste Management of New Hampshire, Inc. during such fiscal year and the amount of such ‘Host Community Fees’ previously appropriated by the Rochester City Council during such fiscal year (having in mind the minimum funding/appropriation requirement provided for herein and any other appropriation of such fiscal year’s ‘Host Community Fees’ by the City Council during such fiscal year). The ‘City of Rochester Economic Development Special Reserve Fund’ shall, upon appropriation by the City Council to such fund, include funds currently in Account #1501-324400, in the amount of \$1,537,613.54, as of the date of adoption of this ordinance, and such funds shall be expended only for the specific purpose set forth in subsection (a) of this Section 11.20 and shall be expended only in accordance with the provisions of subsection (a) of such Section.

...it's good for business!

July 26, 2016

Codes and Ordinances Committee
City of Rochester
31 Wakefield Street
Rochester, NH 03867

Dear Codes and Ordinances Committee Members:

On behalf of the Board of Directors and Governmental Affairs Council of the Greater Rochester Chamber of Commerce, we are providing this letter in support of maintaining the City of Rochester's Economic Development Special Reserve Fund.

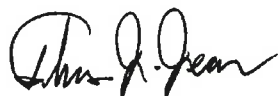
We believe it is crucial to the City's future for the Rochester City Council to make significant annual investments into this Economic Development Special Reserve fund to enhance the City as a business destination, expand the tax base and have funds available for its existing and future projects. This fund provides a beneficial tool to market the City, showing that Rochester makes an investment in economic development efforts including valuable capital projects, purchase land and buildings, and other efforts that are of strategic value to our future.

Over the past couple of months, members of the Chamber's Governmental Affairs Council along with members of the REDC have met with a few City Councilors to discuss the existing Economic Development Special Reserve Fund ordinance, Chapter 11.20, and have agreed that it not eliminated. We believe that overall, Chapter 11.20 provides good language in addressing the purpose of the ordinance, its funding requirements and appropriations. Based on these discussions, we found there appears to be an issue that the existing ordinance allows for recurring expenditures. Therefore, we offer an amendment to the ordinance that addresses utilizing the ED Fund for "non-recurring" expenditures as outlined on the attached document.

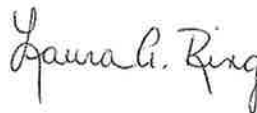
Your consideration of maintaining and amending the existing ordinance for the City of Rochester's Economic Development Special Reserve Fund is greatly appreciated.

Should you have any questions, please do not hesitate to contact us.

Sincerely,



T.J. Jean
Chairman of the Board



Laura A. Ring
President/CEO

Enclosure

11.20 City of Rochester Economic Development Special Reserve Fund.

(a) City of Rochester Economic Development Special Reserve Fund – Statement of Purpose. The City of Rochester currently serves as the “Host Community” for the Turnkey Recycling and Environmental Enterprises Waste Disposal Facility (“TREE”) currently operated by Waste Management of New Hampshire, Inc., and located on the Rochester Neck Road. By virtue of its status as Host Community for TREE, the City of Rochester, in addition to incurring significant expenses in connection with such facility, receives significant financial benefits in the form of real property taxes, users fees (in the form of so-called “Host Community Fees”) and various other benefits relative to the cost to the City and its inhabitants of the disposal and/or recycling of various solid waste, including reduced and/or eliminated fees for the disposal and/or recycling of solid waste generated within the City of Rochester. It is currently estimated that the permitted capacity of the TREE Waste Disposal Facility (TLR-III) will be reached in approximately the year 2023. When such facility is filled to its permitted capacity, it is anticipated that the City will experience a loss in revenues, and the City and its inhabitants will experience increased costs associated with the disposal and/or recycling of solid waste, particularly in the form of reduced and/or lost users fees and reduced property tax revenues, as well as increased costs associated with the disposal and/or recycling of solid waste. Therefore, in an effort to offset the expected loss of revenues and increased costs occurring to the City as a result of the anticipated filling of the TREE Waste Disposal Facility to its permitted capacity and to promote the general fiscal strength and well-being of the City, it is necessary that economic development in the City of Rochester be promoted and/or maintained to insure the existence and/or expansion of a vibrant economic base for the City and its inhabitants. Therefore, the City Council of the City of Rochester, pursuant to the authority granted by RSA 47:1-b and RSA 47:1-c, hereby establishes a special revenue reserve fund from the specific source identified in subsection (b) of this Section 11.20 for capital expenditures or expenditures for capital projects, transfers to capital projects, transfers to capital reserve, or for any other appropriation of a non-recurring nature in support of economic development as determined by the City Council. ~~the specific purpose of paying expenditures associated with the promotion of new, and maintenance of current sources and levels of economic development within the City of Rochester.~~ The special reserve fund established in subsection (b) of this Section 11.20 shall be known as the “City of Rochester Economic Development Special Reserve Fund.” No expenditure from the said City of Rochester Economic Development Special Reserve Fund shall be made without an appropriation of such funds having been adopted by the Rochester City Council, which appropriation shall provide that such appropriation is for economic development purposes and shall contain a statement and/or finding by the City Council indicating the manner in which it is anticipated that such appropriation is related to the economic development of the City of Rochester. [2]

(b) City of Rochester Economic Development Special Reserve Fund.

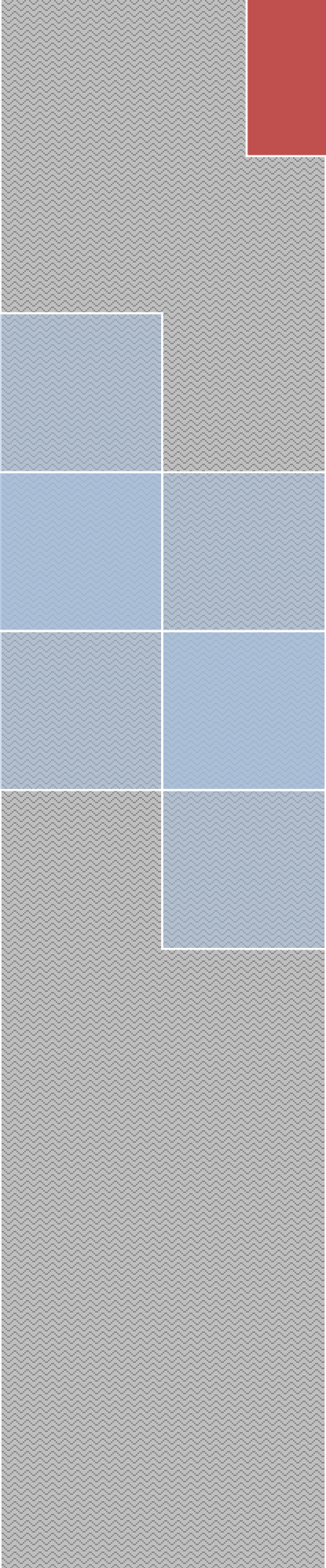
There is hereby created a non-lapsing budgetary account within the City of Rochester, pursuant to the authority granted to the City by the provisions of RSA 47:1-b, such special reserve fund to be known as the ‘City of Rochester Economic Development

Special Reserve Fund'. Such fund shall be funded on an annual basis by the appropriation by the City Council to such special reserve fund of an amount not less than \$100,000 from the funds annually payable to the City of Rochester by Waste Management of New Hampshire, Inc. from the so-called "Host Community Fees" payable to the City pursuant to the provisions of the "Host Agreement" between the City and Waste Management of New Hampshire, Inc., or of any successor to such Agreement. In addition to such minimum funding level, the City Manager may, during any fiscal year of the City, upon written notification to, and appropriation by, the City Council, transfer to said 'City of Rochester Economic Development Special Reserve Fund' unappropriated 'Host Community Fees' in an amount not to exceed the difference between the total amount of Host Community Fees received from Waste Management of New Hampshire, Inc. during such fiscal year and the amount of such 'Host Community Fees' previously appropriated by the Rochester City Council during such fiscal year (having in mind the minimum funding/appropriation requirement provided for herein and any other appropriation of such fiscal year's 'Host Community Fees' by the City Council during such fiscal year). The 'City of Rochester Economic Development Special Reserve Fund' shall, upon appropriation by the City Council to such fund, include funds currently in Account #1501-324400, in the amount of \$1,537,613.54, as of the date of adoption of this ordinance, and such funds shall be expended only for the specific purpose set forth in subsection (a) of this Section 11.20 and shall be expended only in accordance with the provisions of subsection (a) of such Section.

11.21 Conservation Fund.

(a) Purpose. The Rochester City Council recognizes that the proper utilization and protection of the City's natural resources and the protection of its watershed resources are important to the well being of the City of Rochester and its inhabitants, and to that end the City has adopted the provisions of Chapter 36-A of the New Hampshire Revised Statutes Annotated providing for the establishment of a Conservation Commission. The Rochester City Council further recognizes realizing the goals of properly utilizing and protecting its natural resources and protecting its watershed resources requires the development and implementation of a systematic program designed to maintain and care for such resources, which program implementation is enhanced when the Conservation Commission is provided with a regular source of revenue. Therefore, it is the purpose of the Rochester City Council in adopting this ordinance to establish a mechanism whereby the Conservation Commission is provided with a source of funding which can be utilized to aid in the accomplishment of the goals of properly utilizing and protecting the City of Rochester's natural resources and protecting its watershed resources. [1]

(b) Establishment of Conservation Fund. Pursuant to the provisions of RSA 36-A; 5, I. A conservation fund is established by the City of Rochester. Funds appropriated to said conservation fund by the Rochester City Council, and any gifts received pursuant to the provisions of RSA 36-A; 4, shall be placed in said fund allowed to accumulate from year to year. The City Treasurer shall have custody of all moneys in the conservation fund and shall pay out the same only upon the order of the Conservation Commission. Money may be expended from the conservation fund by the Conservation Commission for the



This page has
been
intentionally left
blank.



POLICY ON WATER & SEWER ADJUSTMENTS

It is the policy of the City of Rochester not to grant adjustments to water & sewer bills unless the problem rests within the City's system. However, the City recognizes that a high bill resulting from accidental, unpreventable water release can present financial hardship to a customer. While most water releases are preventable, there are certain circumstances when an accidental water release cannot be reasonably prevented. The intent of this policy is to establish a one-time abatement, during any ten-year period, for up to half of the excess water consumption above normal consumption, due to an accidental, unpreventable water release.

Adjustment Determination Procedure:

1. All customer requests to abate any portion of a metered water bill that is unusually high due to unpreventable leakage shall be reviewed by City staff on a case-by-case basis. In order to qualify for abatement, a customer's excess consumption must exceed the greater of 100% or 35,000 gallons above their normal average consumption. The customer must also prove that the deficiency responsible for leakage has been repaired or corrected. This policy only applies to leaks that have occurred within the previous six (6) months of the date of the abatement request.
2. In the event that a customer cannot determine the source or cause of the abnormally high consumption, the customer is required to hire a private licensed plumber to assist the customer in trying to determine said source or cause. If the plumber is unable to determine the source or cause of the abnormally high consumption, the City can only speculate that the customer has located and repaired or corrected said source. If the customer claims that said source never existed, the City shall test the meter and make an adjustment to the bill in accordance with NHPUC requirements for meters found to be over-recording. If the meter test reveals an accurate or under-recording meter, the customer shall be held responsible for the entire bill plus the cost of meter testing and shipping/handling.
3. In the event the source or cause of the abnormally high consumption is related to a leak due to customer negligence such as the failure to maintain internal (private) plumbing fixtures in good repair and/or protect plumbing from freezing, the customer shall be held responsible for the entire bill.
4. In the event the abnormally high consumption has occurred due to "unpredictable leakage" not caused by customer negligence, ignorance or unfortunate circumstances, as determined by City staff and the Utility Advisory Board, the City shall consider granting a one-time abatement, per account, during any ten-year period, up to half of the water consumption above normal consumption. The abatement calculation may consider compensation from any other sources, including insurance policy claims, etc. Normal consumption will be the average of at least the previous three years' consumption history, for similar billing periods, unless deemed otherwise by the City staff or the Board. The City staff and Utility Advisory Board reserve the right to grant adjustments on water use or sewer use or both.

5. The customer may be required to submit a written statement from their homeowner's insurance policy provider stating what portion, if any, of the leak is covered by insurance.
6. The City shall not disconnect service (for abnormally high consumption) provided the customer pays the entire amount due within the normal payment period or enters into payment arrangements for the excessive amount and is in good standing on all current billings.
7. Landlords will be responsible for tenant bills in accordance with this policy. Failure by a tenant to pay water and sewer charges will not excuse the landlord of any outstanding obligations.

The following example shows how the abatement is calculated based on rates in effect as of 5/1/16:

Water Impact – Rate \$4.81 per 1 unit of consumption

Note: 1 unit of consumption = 100 cu. ft. = 748 gallons

	Consumption	Dollar Amount
Total Usage (1 quarter)	70 units (52,360 gallons)	\$336.70
3 year average (quarterly average)	14 units (10,472 gallons)	\$67.34
Excess above average	56 units (41,888 gallons)	\$269.36
Half of excess abated	28 units (20,944 gallons)	\$134.68
Remaining excess - Customer responsibility	28 units (20,944 gallons)	\$134.68
3 year average (quarterly average)	14 units (10,472 gallons)	\$67.34
Total remaining bill due		\$202.02

Sewer Impact – Rate \$6.24 per 1 unit of consumption

Note: 1 unit of consumption = 100 cu. ft. = 748 gallons

	Consumption	Dollar Amount
Total Usage (1 quarter)	70 units (52,360 gallons)	\$436.80
3 year average (quarterly average)	14 units (10,472 gallons)	\$87.36
Excess above average	56 units (41,888 gallons)	\$349.44
Half of excess abated	28 units (20,944 gallons)	\$174.72
Remaining excess - Customer responsibility	28 units (20,944 gallons)	\$174.72
3 year average (quarterly average)	14 units (10,472 gallons)	\$87.36
Total remaining bill due		\$262.08

The above policy replaces all existing water and sewer adjustment policies.



City of Rochester Dept of Public Works

45 Old Dover Road
Rochester, NH 03867
Phone: (603) 332-4096
Fax: (603) 335-4352

Memo

To: Codes & Ordinances Committee
From: John B. Storer, P.E. Director of City Services
CC: Terence O'Rourke, City Attorney
Date: August 1, 2016
Re: **Leak Abatement Policy – Recommendations from Public Works and Utility Advisory**

General:

Rochester's Ordinances do not allow for any type of billing abatements for the water and sewer utility bills. If the water goes through the meter, the customer is responsible regardless of whether there was a leak or some other type of extenuating circumstance. Earlier this calendar year, a customer in Gonic was denied a bill appeal, which triggered some discussion of whether there should be a Bill Abatement Policy.

The topic was discussed at the Public Works Committee (PWC) in March, April and May; and was referred to the Utility Advisory Board (UAB). Both entities recommended a Leak Abatement Policy be considered by Codes & Ordinances for adoption. Some detailed information follows, along with copies of the minutes which reflect the recommendation from the PWC.

Background:

A Gonic resident raised a concern that quarterly utility billing doesn't provide timely information in the event that a leak occurs after a customer's water meter. In the specific case, a resident had a leak at a rental property and the tenant apparently did not report the issue in a timely fashion. Over a 3-month billing cycle the leak resulted in a high water and sewer bill in excess of \$1,000.

At a recent UAB meeting there were similar cases:

A couple had a single-unit rental property on Lambert Court. Extremely difficult tenant that ultimately had to be evicted. There was substantial property damage and water was left running one quarterly cycle that used over 250,000 gallons of water. Bill was about \$3,850 total when normally \$200 or \$300.

An owner of an apartment building on Walnut Street had a tenant whose hot water service in a shower failed. Hot water was running constantly. Due to tenant privacy rights, the landlord struggled to make contact to access the rental unit. Over 2 billing cycles the total went to \$4,000.

The UAB doesn't have the ability to grant relief if water passed through the meter and was returned to the sewer, which was the case in both situations.

Discussion:

Both PWC and UAB discussed the billing process and a potential Leak Abatement Policy during meetings of March, April & May. DPW staff researched what other municipal water & sewer systems were doing in terms of billing frequency (monthly, quarterly, other) and handling unusual high bills.

Neither the PWC nor UAB supported consideration of monthly billing. Costs were discussed and it would be a substantial capital cost to install radio-read technology (\$1.5 million+/-). Or if remaining with existing manual read system we would need to add an additional Meter Reader.

A high percentage of larger, New England-based communities converted to radio-read technology, which makes monthly billing much easier. In a quick review of policies, I could not find any municipality that had a Leak Abatement Policy where customers were billed monthly. Conversely, I did find a community, Wayland, Massachusetts, that only billed every 6 months. Perhaps as a concession to that practice they had a specific Abatement Board to hear requests for financial relief.

Some smaller municipalities would apparently consider abatement requests on a case-by-case basis, but I couldn't find any written policy to guide their decisions.

We did find written leak abatement policies from 3 communities: Exeter, NH; Hamilton, MA and Kennebunk, ME.

All three policies were nearly identical, but discussion focused on applying the guidelines of the Exeter policy. Exeter highlights: abatement will be considered for unusually high bill due to unpreventable leakage. High bill must be greater than 100% of normal bill or 35,000 gallons, whichever was greater. Customer would have to prove the deficiency existed and had subsequently been repaired or addressed. One request allowed in 10-year period. If successfully granted, would provide relief for 50% of amount over normal usage, based on customer's prior 3-year average.

Applying the methodology of the Exeter guidelines to the \$3,850 bill at Lambert Court, the following customer could qualify for a \$1,798 abatement and the City would still receive \$2,047.

High bill 348 units

348 units x \$4.81/unit Water = \$1,673.88
348 units x \$6.24/unit Sewer = \$2,171.52
 \$3,845.40 Total

Average quarterly use = 22.5 units

22.5 units x \$4.81/unit Water = \$108.23
22.5 units x \$6.24/unit Sewer = \$140.40
 \$248.63 Total

Half of excess abated = 348 units - 22.5 units = 325.5

325.5 units x \$4.81/unit Water = \$1,565.66 x 50% = \$782.83
325.5 units x \$6.24/unit Sewer = \$2,031.12 x 50% = \$1,015.56
 \$1,798.39

City abates \$1,798.39 of Total Bill of \$3,845.40.

Customer gets bill for Average Use (\$248.63) + 1/2 of excess abated (\$1,798.39) = \$2,047.01

Recommendations:

A draft policy is attached based on the Town of Exeter's. The final recommendation from the PWC was to have the proposed Leak Abatement Policy added as an Appendix to the Water & Sewer Ordinance Chapters. By adding the Leak Abatement Policy as an Appendix, the policy could be modified in the future without having to make duplicate changes in both City Ordinance Chapters 16 and 17.

The Minutes of the May 2016 PWC are cut & pasted below.

Utility Billing Quarterly Invoicing – Referred from UAB

Mr. Storer stated that he had discussed the proposed abatement policy with this Committee last month. He stated that at the time he was unsure whether it should be a new policy or an ordinance change. Mr. Storer stated he had discussed this with the legal department and was informed that it could be done as a policy adopted by the UAB. He stated if done as an ordinance change we would need to amend both chapter 16 Sewer Ordinance and the chapter 17 Water Ordinance. The UAB supported the idea of a policy and was pleased that it would give them ability to offer some financial relief in catastrophic situations. Councilor Keans stated that unless it was added to the ordinances there is a chance that it may not be managed appropriately over the long term. She stated if the policy is used now and then not again for several years then it could be forgotten about or misplaced. She stated that between staffing and board member changes these types of things can happen. Mr. Storer stated that it could be added in as an appendix to the ordinances. Councilor Willis stated that the UAB supported the policy and if it is preferable to add it to the City Ordinances than that would work too. Councilor Varney stated that it should go to the Codes and Ordinance Committee.

Councilor Hamann made a motion to have the Leak Abatement Policy that was supported by the UAB an PWC be sent to the Codes and Ordinance Committee to be added as an appendix to chapters 16 & 17. The motion was seconded by Councilor Willis. The motion passed unanimously



This page has
been
intentionally left
blank.



Proposed City Charter change. Submitted by Councilor Robert Gates on 4/19/2016.

Rochester City Charter, amended January 1, 2013

Section 29: GENERAL POWERS OF THE SCHOOL BOARD

The policy-making body for the School Department of the City of Rochester shall be a School Board of the City of Rochester, consisting of thirteen (13) members. Except for the City Council's exclusive right to determine and appropriate the total amount of money to be spent by the School Department, the administration of all fiscal and prudential affairs of the City of Rochester School District, the general management and control of its schools ~~and properties,~~ and all powers prescribed by law shall be vested in the School Board. *All school properties shall be maintained by the City of Rochester.* The Superintendent of schools shall serve as Clerk of the School Board.

Text highlight part is to be struck out.

The red italicized is to be added to the City Charter.



This page has
been
intentionally left
blank.



HB 1205 - AS INTRODUCED

2016 SESSION

16-2080

08/09

HOUSE BILL *1205*

AN ACT including libraries that provide children's programming in the definition of drug-free school zone.

SPONSORS: Rep. Gray, Straf. 8

COMMITTEE: Education

ANALYSIS

This bill includes libraries with children's programming in the definition of "drug-free school zones."

Explanation: Matter added to current law appears in *bold italics*.

Matter removed from current law appears [ia raekele aail erYektkrewgk,]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

16-2080

08/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Sixteen

AN ACT including libraries that provide children's programming in the definition of drug-free school zone.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Drug-Free School Zone. Amend RSA 193-B:1, II to read as follows:

II. "Drug-free school zone" means an area inclusive of any property used for school purposes by any school, *or a library facilitating programming for children*, whether or not owned by such school, within 1,000 feet of any such property, and within or immediately adjacent to school buses.

2 Effective Date. This act shall take effect 60 days after its passage.



This page has
been
intentionally left
blank.



**AMENDMENTS TO CHAPTER 5 OF THE GENERAL ORDINANCES OF THE CITY
OF ROCHESTER**

THE CITY OF ROCHESTER ORDAINS:

That subsections 5.3 of Chapter 5 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows:

Chapter 5 Salaries

5.3 Elected Officials

*
*
*
*
*

(6) Election Officials

- A. Ward Moderator - \$150.00 per day
- B. Ward Clerk - \$125.00 per day
- C. Selectman - \$120.00 per day
- D. Checklist Supervisor - \$150.00 per election or session day
- E. Checklist Supervisor Chairman – ~~none~~ **\$300**
- F. Ballot Clerk - \$100.00 per day
- G. In the event that an election official shall perform duties and/or attend any election related activity approved by the City Clerk and lasting ~~four (4) or less hours~~, **at least (3) hours** the election official(s) in question shall receive a per diem payment for the performance of such duties or attending such activity at a rate one-half that is provided for in subparagraphs 6 (A), (B), (C), **(D)**, and (F) above. **Furthermore, In the event that the Checklist Supervisor Chairman shall perform duties and/or attend any election related activity approved by the City Clerk and lasting at least (3) hours the election official in question shall receive a per diem payment for the performance of such duties or attending such activity at a rate one-fourth that is provided for in subparagraphs 6 (E).**

The effective date of these amendments shall be upon passage.



This page has
been
intentionally left
blank.





8/1/16

City of Rochester Formal Council Meeting**AGENDA BILL****NOTE: Agenda Bills are due by 10 AM on the Monday the week before the City Council Meeting.**

AGENDA SUBJECT

Chairman of the Supervisors of the Checklist

COUNCIL ACTION ITEM ☐
INFORMATION ONLY ☒FUNDING REQUIRED? YES ☐ NO ☒
* IF YES ATTACH A FUNDING RESOLUTION FORMRESOLUTION REQUIRED? YES ☐ NO ☒FUNDING RESOLUTION FORM? YES ☐ NO ☒

AGENDA DATE	June 7, 2016		
DEPT. HEAD SIGNATURE	Kelly Walters		
DATE SUBMITTED	5/27/2016		
ATTACHMENTS	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	* IF YES, ENTER THE TOTAL NUMBER OF PAGES ATTACHED	1

COMMITTEE SIGN-OFF

COMMITTEE	
CHAIR PERSON	

DEPARTMENT APPROVALS

DEPUTY CITY MANAGER	Signature on file
CITY MANAGER	Signature on file

FINANCE & BUDGET INFORMATION

FINANCE OFFICE APPROVAL	Signature on file
SOURCE OF FUNDS	
ACCOUNT NUMBER	
AMOUNT	
APPROPRIATION REQUIRED	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>

LEGAL AUTHORITY

City Council.

CC FY 16 AB 169

SUMMARY STATEMENT

As many State and Federal Election laws are changing, it has become challenging to ensure unified election day practice across all the voting locations.

Please see the attached job description for a Chairman of the Supervisors of the Checklist.

If the City Council reinstated this position at the rate of \$300 per election there would be no impact on the election budget for this year. There is already \$600 set aside for the building rentals, which will not be used this year due to the polling location changes to the schools.

The City Clerk's office could utilize this person for the purpose of visiting the nursing homes in the City for registrations and absentee ballots.

RECOMMENDED ACTION

Send the recommended changes to the next Codes and Ordinances Committee in August.

Job Description – Chairman, Supervisors of the Checklist

The Chairman of the Supervisors of the Checklist is responsible for attending election law training offered by the Secretary of the State prior to any State Election. Sessions are held prior to candidate filing periods. The Chairman of the Supervisor is required to meet with the Chief Election Official at least one week prior to any State election in order to review any changes in election law or the election procedure for the upcoming election.

On election days, the Chairman shall drive around to each of the polls to inspect and answer questions from the Supervisors and Ballot Clerks in each ward regarding voter registration. The Chairman must be thoroughly versed in New Hampshire election laws regarding voter registration requirements.

The Chairman of the Supervisors of the Checklist is an appointed position. Eligible candidates must be registered voters domiciled in the City of Rochester and registered on the voter master checklist for the City of Rochester. The City Council of the City of Rochester shall make the appointment. The Chairman shall serve for a term of two years, terms expiring January 2nd of the year immediately following each municipal election.

The Chairman may be required to visit nursing homes and private homes to assist individuals who wish to apply for voter registration in the City and/or who wish to apply for an absentee ballot for an election. No additional monetary compensation will be awarded for these duties.



This page has
been
intentionally left
blank.

