

**CODES AND ORDINANCES COMMITTEE**  
Of the Rochester City Council  
**Thursday, August 4, 2016**  
City Council Chambers  
31 Wakefield Street, Rochester, NH  
7:00 PM

**Codes and Ordinances Committee**

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

Councilor Torr  
Councilor Gray  
Lisa Stanley, Greater Rochester Chamber of Commerce Board Member  
T.J. Jean, Greater Rochester Chamber of Commerce, President  
Richard Bickford, School Department

**MINUTES**

**1. Call to Order**

Councilor Lachapelle called the meeting to order at 7:00 PM. All members of the Committee were present.

**2. Public Input**

Councilor Lachapelle invited the public to speak about any item City topic not already listed on the Agenda. He noted that time would be allotted to speakers during each agenda topic. No member of the public came forward. Councilor Lachapelle closed the public input portion of the meeting at 7:01 PM.

**3. Approval of the Codes and Ordinances Committee Minutes [May 5, 2016]**

Councilor Abbott **MOVED** to **APPROVE** the May 5, 2016, Committee meeting minutes. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**4. Amendment to Ordinances – Chapter 11.20**

Councilor Lachapelle introduced the Amendment to Chapter 11.20 and invited the Committee members, City Council members, and the public to speak about the topic.

Councilor Gates **MOVED** to recommend to the full City Council that Chapter 11.20 be adopted with the proposed language presented by the Rochester Greater Chamber of Commerce. Councilor Bogan seconded the motion. The resolution as proposed is as follows:

## **General Ordinances**

### **CHAPTER 11**

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.

Lisa Stanley, resident, addressed the Committee. She said that Chapter 11.20 and the Economic Development Special Reserve Fund had been established by the guidelines found in RSA 47:1-b and c. She said the City Council did not “rescind” the Economic Reserve Fund or Chapter 11.20 properly and therefore believed that both the Economic Development Reserve Fund and Chapter 11.20 are currently active.

Attorney O'Rourke clarified that the City Council did rescind Chapter 11.20 of the General Ordinances; however, the City Council had not deleted the Economic Development Special Reserve Fund.

Councilor Varney did not oppose the motion to be voted upon; however, he said the last sentence of Chapter 11.20 (b) references the balance of \$1,537,613.54, which is no longer available. He also stated that it implies that all money must be derived from Host Community Fees. He added that the City Council should use General Funds as it sees appropriate. Councilor Gates **MOVED** to AMEND the proposed amendment by removing the last sentence of 11.20 (b). Councilor Bogan seconded the motion.

The sentence to be removed is as follows:

*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.*

T.J. Jean, Chairman of the Greater Rochester Commerce, supported the language as proposed and did not state any objection to the amendment.

Mayor McCarley, Councilor Keans, and Ms. Stanley opposed deleting the last sentence of 11.20 (b) in order to preserve the historical information about the Economic Development Special Reserve Fund. Councilor Lachapelle called for a vote on the motion to amend. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Lachapelle called for a vote on the original motion as amended. The **MOTION CARRIED** by a unanimous voice vote.

## **General Ordinances**

### **CHAPTER 11**

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.**

## 5. Leak Abatement Policy

Councilor Lachapelle stated that John Storer, P.E. Director of City Services, submitted a Leak Abatement Policy, which had been recommended for approval by the Public Works Committee and the Utility Advisory Committee.

Councilor Lauterborn **MOVED** to send the proposed Leak Abatement Policy to the full City Council for approval. Councilor Bogan seconded the motion. Mayor McCarley questioned what would happen to pending or new cases prior to this Policy being adopted. Councilor Willis, who serves on the Utility Advisory Board, explained that all pending cases or new cases would be placed on hold at this point; however, he did not believe the new policy would

affect any closed cases. He further explained that the Utility Advisory Board does not have the ability to grant relief if water passed through the meter and was returned to the sewer. The Committee briefly discussed leaks that are undetected. The **MOTION CARRIED** by a unanimous voice vote.

## **6. City Charter Section 29: General Powers of the School Board**

Councilor Lachapelle said that the City Council did some research a few years ago about the possibility of utilizing the City's Public Buildings to manage both the City's properties and the School's properties, instead of having the two separate building departments. He recalled that the outcome of the research did not prove to be a feasible move. Councilor Lachapelle did not support the proposed Charter Amendment.

Councilor Gates stated that other municipalities have successfully made this change work and saved money for the taxpayers, including his hometown in MA. He believed it was worth looking into. Councilor Gray stated that new legislation had made it possible to combine some of the City services with that of the School Department.

Richard Bickford, Rochester School Department, gave a powerpoint presentation with details about the School's Building Department and its functions. Mr. Bickford gave details on improvements to the department, which have been successful.

Councilor Gray stated that it would be good Mr. Bickford to share some of the ideas presented in the powerpoint presentation with the Department of Public Works. He supported investigating how the City and School could share some of the same services. Councilor Varney agreed and said the idea should be explored. Councilor Gates requested leaving the matter in Committee and inviting a representative from a community where this type of cooperation has been successful to speak to the Committee. Councilor Lachapelle replied that if a representative should speak on this matter than it should be a community based out of New Hampshire.

## **7. HB 1205 Libraries with Children's Programming – Drug Free Zone**

The Committee briefly discussed the Drug Free Zone. Councilor Lauterborn supported seeking advice if the City Council could expand the Drug Free Zone to include the Rochester Public Library. Brian Sylvester, Director of the Rochester Public Library, agreed to discuss the matter with the Library Trustees and report back to the Committee. Councilor Keans recalled that the drug free zones are regulated by Federal Law.

Councilor Lachapelle stated that the topic would remain in Committee. It was determined that the City Attorney would discuss the matter with Police Chief Allen and report back to the Committee with a legal opinion.

## **8. Amendment to Ordinances – Election Officials**

Kelly Walters, City Clerk, gave a brief overview about the Chairman of the Supervisors of the Checklist and the Job Description. She noted that additional changes should be made to Chapter 5 Election Officials Salaries to clean up the language. She suggested that Attorney O'Rourke review the changes and the job description as well. Councilor Lauterborn **MOVED** to send the proposed amendment and job description to the full City Council for approval. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

## **9. Other**

Councilor Varney stated that the City Council set up a Special Reserve Fund for the School CIP Account; however, this should be accompanied by an ordinance. The City Attorney was asked to create a proposed ordinance for review. The Special Reserve Fund for the School CIP account is attached.

Councilor Torr requested that the Committee take another look at Chapter 42 and Chapter 43 of the General Ordinances regarding not allowing any new mobile home parks. Councilor Lachapelle said this would be on the next Codes and Ordinances Committee agenda for discussion.

## **10. Adjournment**

Councilor Abbott **MOVED** to **ADJOURN** the Committee meeting at 8:14 PM. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Kelly Walters, CMC  
City Clerk