

Codes and Ordinances Committee

Councilor Peter Lachapelle, Chair
Councilor Steve Beaudoin Vice Chair
Councilor Skip Gilman
Councilor Ashley Desrochers
Councilor Tim Fontneau (absent)



Others Present

Mayor Paul Callaghan
Terence O'Rourke, City Attorney

CODES AND ORDINANCES COMMITTEE
Of the Rochester City Council
Thursday, April 7, 2022
Council Chambers
6:00 PM

Minutes

1. Call to Order

Chair Lachapelle called the Codes and Ordinances Committee meeting to order at 6:00 PM. Deputy City Clerk Cassie Givara took a silent roll call. All Councilors were present except for Councilor Fontneau, who was absent.

2. Public Input

Ray Varney, resident, was present for public input. However, the topic he was present to discuss was included later on the agenda. Chair Lachapelle stated that he would invite him to speak at the time this agenda item is discussed.

3. Acceptance of the Minutes

3.1 March 3, 2022 *motion to approve*

Councilor Desrochers **MOVED** to **APPROVE** the minutes of the March 3, 2022 Codes and Ordinances Committee meeting. Councilor Beaudoin seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

4. Proposed Amendment to City Council Rules of Order Section 4.14 "Elections"
(addendum A)

Attorney O'Rourke explained that the proposed change is to make all Council votes public rather than using secret ballot. This would eliminate the secret ballot votes for non-elected

officials, which is the current practice.

Ray Varney, Ward 1 resident, agreed that it made sense to utilize a voice or hand count vote for positions that are appointed by Council. However, he cautioned against elected positions, such as replacement City Council seats, being voted on publicly. He stated this situation could cause hard feelings amongst Councilors who then will need to continue working with each other for the foreseeable future.

Chair Lachapelle recalled that any publicly elected position, such as Councilor or election officials, were required to be voted on publicly. Attorney O'Rourke confirmed that publicly elected positions needed to be voted on publicly, and appointed position could be voted on via secret ballot. Although if the recommended changes are approved, this would eliminate the use of secret ballots. Mr. Varney agreed that the use of secret ballot for appointed officials is unnecessary, but reiterated that he felt use of secret ballots for elected positions was best practice.

Chair Lachapelle acknowledged that there had been suggested edits to section 4.14 submitted by resident Bill Elwell. He stated that these suggested changes would be reviewed for relevance.

Councilor Beaudoin agreed with Mr. Varney that a public vote on elected officials has the potential to cause hard feelings amongst fellow Councilors. However, he felt the Council had an obligation to the public to be transparent in their business and stated that he would support this amendment to eliminate secret ballots.

Mayor Callaghan stated that he had originally recommended this change to the rules of order due to the need for transparency with these votes. He also specified that he did not believe these votes for elected positions were covered under the RSA 91-A "Right to Know" law. Attorney O'Rourke clarified if this change is approved, all votes moving forward would be by public vote; however, appointed positions in which there is only one candidate with no other nominees can still be voted on with a single ballot cast by the City Clerk. Due to an inquiry in Mr. Elwell's suggested edits, it was confirmed that although there is no physical ballot, this vote is still referred to as casting a "ballot."

Councilor Desrochers thanked Mr. Varney for his input and expressed appreciation for both points of view; however, she stated that as a City Councilor she agreed with the need for transparency in these votes.

Councilor Beaudoin **MOVED** to recommend to full Council the amendments to Section 4.13 "Elections" of the Rules of Order. Councilor Gilman seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

5. Other

Mr. Varney referred the Committee to the portion of the March minutes referencing Chapter 7-63 "Economic Development Special Reserve Fund." He referenced the suggested addition of a paragraph reading: "Further, the proceeds from any City owned land sales, with the exception of all TIF 162-K development zones, may be allowed to be directly received into the Economic Development Special Reserve Fund upon direction of City Council." He stated that this

additional paragraph is unnecessary because Council will still have oversight and will still need to act on where to distribute these funds. Attorney O'Rourke clarified that the City Council had not voted yet to move forward with these suggested changes and the entire section was being deleted and revised in its entirety. It will be discussed at the April 12, 2022 Finance Committee meeting.

Mr. Varney suggested that, for the sake of transparency, the sale of any City-owned land or property should go to a public hearing prior to the sale in order to allow the public to weigh in and to inform them of the intent. He felt that the residents on Hanson Street should have had the opportunity to give input regarding the sale of 38 Hanson and the affect it would have on their parking areas. Councilor Beaudoin paraphrased a portion of RSA 91-A regarding land which states that divulgence of sale details, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community." He stated that in the case of 38 Hanson where the City owned the property and had the right to sell, or not sell, as they deemed fit, it would have been advantageous to hold a public hearing and allow public input.

Mr. Varney inquired who owned the School Department lands and buildings. Attorney O'Rourke stated that the City owns these lands and buildings, but they are under the control of the School district until a time when they cease to be used for school purposes, at which time the City takes over.

Chair Lachapelle referenced the list of city codes to be reviewed and the remaining DPW chapters. He stated that the Director of City Services would be ready to continue presenting the remaining chapters in late summer. These chapters will likely have multiple amendments and will be spread over several meetings as needed. However, currently there are no other pressing matters; so unless something come up, the May 5, 2022 Codes and Ordinances meeting will be canceled.

6. Adjournment

Chair Lachapelle **ADJOURNED** the Codes and Ordinances Committee meeting at 6:12 PM.

Respectfully Submitted,

Cassie Givara
Deputy City Clerk

ADDENDUM A

SECTION 4.14 ELECTIONS BY BALLOT

In all elections ~~by ballot~~ on the part of the City Council, ~~blank ballots and all ballots for persons not eligible shall be reported to the Council~~the members of the City Council shall vote publicly by roll call. To be elected any person seeking election must receive a majority of the votes of those members present and voting. ~~Tally of the ballots shall be reported to the Council and recorded in the minutes. Unless otherwise directed by the Council all ballots shall be destroyed after being reported.~~

A. ~~Boards and Commissions appointments shall be elected by ballot of the City Council with the exception of a single candidate.~~ Single candidates upon nominations ceasing will be elected by City Council voice vote that the City Clerk cast one ballot for that candidate.

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