

**City Council Workshop  
January 18, 2022  
Council Chambers  
6:31 PM**

**COUNCILORS PRESENT**

Councilor Beaudoin  
Councilor Berlin  
Councilor Desrochers  
Councilor Fontneau  
Councilor Gilman  
Councilor Gray  
Councilor Hailey  
Councilor Hamann  
Councilor Larochelle  
Councilor Malone  
Councilor Rice  
Deputy Mayor Lachapelle  
Mayor Callaghan

**OTHERS PRESENT**

Blaine Cox, City Manager  
Katie Ambrose, Deputy City Manager  
Terence O'Rourke, City Attorney  
Mark Sullivan, Deputy Finance Director  
Bryan Sanford, Charter Trust  
Brett Johnson, Trustee  
Ray Varney, Trustee  
Rob Pallas, Trustee  
Matthew Winders, Trustee  
Sherry Young, Attorney  
Jim Steinkrauss, Attorney  
Peter Nourse, Director of City Services

**Minutes**

**1. Call to Order**

Mayor Callaghan called the meeting to order at 6:31 PM. Deputy City Clerk Cassie Givara took a silent roll call. All Councilors were present in Council Chambers except for Councilor Desrochers, who was connecting remotely via Teams.

**2. Public Input**

There was no one present who wished to speak for public input.

**3. Communications from the City Manager**

City Manager Cox announced that there is a downtown parking ban in effect 11:00 PM through 7:00 AM. The Department of Public Works had reported that there has been an increase in those violating the parking ban, and moving forward, vehicles will be towed if they are not in compliance.

#### **4. Communications from the Mayor**

Mayor Callaghan announced that Councilor Ashley Desrochers was connecting to the meeting remotely via Microsoft Teams. He asked Councilors Desrochers if she was present and able to hear the proceedings. Councilor Desrochers confirmed that she was present and able to hear the meeting. Mayor Callaghan asked why Councilor Desrochers was unable to attend in person and if it was impractical for her to attend in person. Councilor Desrochers stated that she had experienced a COVID exposure and it was impractical for her to attend in person.

Mayor Callaghan reminded Council that they are a team and, although there will occasionally be debate, he expected the Council to be respectful.

#### **5. Presentation: Capital Reserve Fund review**

Katie Ambrose, Deputy City Manager and Finance Director, introduced the presenters and gave an overview of the information to be covered during the discussion. Finance Director Ambrose summarized the purpose of capital reserve funds, how they are governed and regulated, and how the City utilizes such funds. Although the funds can be invested, they are managed by the Trustees of the Trust Fund. She stated that there are no current capital reserve funds for City operations; however, there is a School Building Capital Reserve Fund and she detailed the history of this fund and how it is used. Ms. Ambrose reported that the fund would have been fully expended this fiscal year, but in September there was a supplemental appropriation to the fund in the amount of \$1,296,285 from State adequacy aid.

Finance Director Ambrose explained the benefit of capital reserve funds in order to budget over time for larger purchases and projects. She stated that currently all CIP projects are funded from cash, bond, or unassigned fund balance and she outlined the process to establish such a fund.

Bryan Sanford, Charter Trust, spoke about his work with other municipalities in regards to the use of Capital Reserve Funds. He detailed the benefits of using these types of funds and the planning involved.

Councilor Rice asked if money could be approved by Council each year for placement into a Capital Reserve Fund for the purchase of a more expensive item, such as a ladder truck, in anticipation of the end of the current apparatus' useful life. Finance Director Ambrose confirmed that the cost of a large purchase could be split into portions over several years to be invested in anticipation of a future purchase.

Councilor Beaudoin inquired about the cost for management fees related to

Capital Reserve funds. Mr. Sanford stated that Charter Trust charges .4% of the total market value invested.

Brett Johnson, Trustees of the Trust Fund, introduced the other Trustees: Rob Pallas, Ray Varney, and Matthew Winders. Mr. Johnson explained that the Trustees are custodians of any funds left to the City of Rochester in Trust and they are in charge of expending these funds. He stated that the City of Rochester currently has almost \$3.9 million in trust. He gave a history of the types of funds and the various organizations, charities, and residents which benefit from expenditures from these funds.

Mr. Varney emphasized the need to determine what a potential school building Capital Reserve Fund is going to be used for, as well as the timeline and end date of such a fund. If there is a fund established for a new school building, there will need to be a determination on timeframe for building and costs in the future so the money can be put into appropriate accounts accruing interest instead of just sitting. He inquired if the adequacy funds received from the state were annual. Finance Director Ambrose stated that she believed the School received payments quarterly as opposed to one lump sum; however, the transfer is made in one amount annually. Mayor Callaghan stated that there had recently been a joint school board and city council committee formed, and one of their primary charges will be determining the items referenced by Mr. Varney.

## **6. Presentation: Wastewater Treatment Facility permitting**

Attorney Sherry Young, Rath, Young, and Pignatelli, gave an update to Council on the commitments that the City of Rochester has made in regards to the NPDES Wastewater Treatment Permit.

Attorney Young explained that a National Pollutant Discharge Elimination Systems (NPDES) Permit regulates discharges into US water. She stated that the last permit issued in Rochester was a 5-year permit in 1997, which has been continued/extended since 2002. She stated that in 2012, there were plans to issue an individual permit with limits of technology for total nitrogen in the amount of 3mg/l and total phosphorous at 0.12mg/l. The cost to upgrade the wastewater treatment facility at that time to meet these limits was approximately \$30 million, plus an additional \$2 million per year in operating costs. These limits from the 2012 proposed permit would also increase sewer rates and, in turn, potentially stifle development within the City. She stated that the City wanted to seek a scientific basis for these stringent limits before accepting the permit and the potential impacts that would come with it.

Attorney Young explained that presence of eelgrass is used as a marker for the health of a body of water and that the EPA had posited that the decline in

eelgrass within the Great Bay Estuary was due to nitrogen levels. In turn, the EPA planned to impose more stringent levels on nitrogen. The cities of Rochester, Dover and Somersworth questioned this determination on the basis that the science was not sound. The Tri-cities filed suit and pursued legislation to require a peer review of this report. Attorney Young gave further history of the peer review and the legal proceedings during the process. She reported that despite significant reductions in nitrogen discharges and lack of supporting evidence, in 2020 the EPA issued a draft NPDES permit with a lower total nitrogen limit than anywhere else in New England.

Attorney Young detailed the Administrative Order of Consent as well as the portion of the permit which allows for an Adaptive Management Plan for the estuary and the elements which are included in this plan.

Jim Steinkrauss, Rath, Young & Pignatelli, gave a summary of the Intermunicipal agreement that Rochester and neighboring communities had entered into in March 2021 and the Municipal Alliance for Adaptive Management (MAAM), which was formed thereafter. Attorney Steinkrauss gave details of MAAM's mission, funding allocations and the share coming from each community involved. He stated that MAAM submitted a joint adaptive management plan to the EPA in July of 2021.

Councilor Hamann questioned the 18.65 percent referenced as Rochester's share under the MAAM agreement, which appeared to be a higher percentage. It was clarified that the number listed was incorrect and Rochester's share was, in fact, 28%.

City Manager Cox stated that the focus of the entire issue is the water quality in Great Bay, with the emphasis being on nitrogen and, specifically, point-source nitrogen. He said that by questioning the science that was the basis for the proposed limits, and employing adaptive management to look for other sources of degradation of water quality, has been greatly beneficial. The City has been able to look at non-point sources of nitrogen. City Manager Cox reiterated that the communities in the Great Bay watershed have greatly reduced the nitrogen discharges into the bay and asked Director of City Services Peter Nourse for some more information.

Mr. Nourse reported that there had been a 75% reduction of nitrogen, which had been reduced from 32mg/l to 8mg/l. Phosphorous had also been reduced, although it is on the increase again. Mr. Nourse said many of the communities in the watershed had voluntarily reduced nitrogen discharges and the eelgrass problem persists despite that reduction.

Councilor Larochelle referenced the numbers that stated that less than half of the nitrogen affecting Great Bay came from point source pollution. Mr.

Steinkrauss stated that in the permit, about 2/3 comes from non-point source. Councilor Larochelle surmised that even with upgrades and improvements to the water treatment facility, there would not be a great improvement in eelgrass. Councilor Larochelle asked if the wastewater enterprise fund was bearing the bulk of the cost for the improvements being made. City Manager Cox confirmed this was true.

Councilor Beaudoin referenced the 198lb average per day limit on nitrogen which is based on flow, regardless of the rate of said flow. He questioned how this would be effected as more development and growth occurs in the City and the flow rate to the wastewater treatment plant increases. Director Nourse stated that the current limit is 262 lbs per day average per the Administrative Order of Consent, which expires in November of 2025. The plant is currently averaging just on the edge of 198 lbs per day. He agreed that even with increased flow, a total limit per day needs to be achieved rather than a concentration per liter, which is challenging.

Councilor Gray acknowledged Waste Management's part in the reduction of nitrogen due to their pre-treatment process of the leeching agent.

Councilor Rice stated that his recollection from the NPDES Permit presentation in 2019 was that our community is one of the only areas on the East Coast which is so greatly affected by these limitations. Attorney Young stated that although many other communities have nitrogen limits, none are as stringent as those being imposed in this area.

Councilor Berlin asked for clarification on the per day nitrogen limit and when these limits expire under the permit. Attorney Young stated that under the current permit, there is a provision which allows communities to petition for an increase in their limit if it can be demonstrated that there are programs and upgraded being put in place to offset the nitrogen discharges from storm water. .

Councilor Hamann inquired if the potential impact the Portsmouth Naval Shipyard has on the estuary is being investigated. Attorney Young stated that this was the first time the PNSY had been mentioned and acknowledged it was something which should be looked into. She stated that none of the Maine communities which discharge into the estuary are covered under the permit.

Mayor Callaghan stated that if there are no objections, the meeting will RECESS for a non-meeting. The workshop was **RECESSED** at 7:38 PM. The Meeting reconvened at 8:09 PM.

## **7. Presentation: Redistricting**

Mayor Callaghan introduced Councilor Gray to present. He reminded Council

that this was Councilor Gray's opportunity to respond to comments and questions which had been raised in regards to redistricting at the end of the prior City Council Meeting; however, he stated there would be no rebuttal or debate following the presentation.

Councilor Gray introduced himself, stating he is also a Senator representing District 6 Rochester, serves as Chair of the Senate Election Law and Municipal Affairs Committee, and served as the Chair of the House Special Committee on Redistricting.

Senator Gray gave an overview to Council on the requirements and considerations during the process of redistricting. He gave an outline of the article contained within the NH Constitution as well as the legal precedent by which the political subdivisions are determined and governed. He explained how the number of delegates to Congress, Executive Council, Senate, and State Representatives are determined based upon an even distribution of an "ideal" apportionment of the State population. He explained the formula which is used to determine the ratio share for each town or city and explained how flatorial districts are formed with the excess number of inhabitant from one community with smaller communities containing fewer inhabitants than needed to entitle them to one representative. Senator Gray explaining the calculations and thought process behind combining Milton with Rochester's Ward 5 for a shared seat.

Senator Fray gave further information on the process still underway. He presented a summary of the current plan passed through the House (House Bill 50) showing how Starfford County's 38 representatives are proposed to be distributed. He reported that there would be a hearing in the senate regarding this House Bill for anyone wishing to attend.

## **8. Department Reports**

Councilor Rice inquired about bulk trash pickup. Councilor Lachapelle, Waste Management employee, stated that the bulk trash pickup was suspended for the second full week of January due to staffing shortages. He stated that residential drop-off is still open and able to accept bulk items.

Councilor Larochelle inquired what "ISB call outs" referred to in the Police department report. Chief Boudreau clarified that ISB stands for "Investigative Services Bureau" and is the detective division within the department. They are called out to scenes for higher stakes situations such as overdose deaths, robberies, or suspicious circumstances. He briefly spoke about the on call schedule for these detectives.

Councilor Larochelle referenced a map, which the police department had

previously issued to Council that showed crimes within the City. He inquired where he could view this information. Chief Boudreau stated that there is a neighborhood crime map available and he would provide that information.

Councilor Larochelle mentioned a section of the Public Works report that stated a deceased deer was found and removed from an isthmus at Tufts Pond. He asked why it was referenced in the report and if there were any implications to such an incident. It was speculated that it was mentioned because Tufts Pond is a source of drinking water for the City, and decaying organic materials could be detrimental or affect water quality in this type of water source. Councilor Larochelle requested that such statements be qualified in future reports to clarify their significance.

Councilor Rice asked about vacancy rates within the City and inquired what efforts were being made to fill these vacancies. City Manager Cox stated that this information could be added to future reports.

**9. Other**

No discussion.

**10. Adjournment**

Mayor Callaghan **ADJOURNED** the City Council Workshop at 8:31 PM.

Respectfully Submitted,

Cassie Givara  
Deputy City Clerk