

**Regular City Council Meeting
October 1, 2019
Council Chambers
7:00 PM**

COUNCILORS PRESENT

Councilor Abbott
Councilor Bogan
Councilor Gates
Councilor Gray
Councilor Hamman
Councilor Hutchinson
Councilor Keans
Councilor Lachapelle
Councilor Lauterborn
Councilor Torr
Councilor Walker
Deputy Mayor Varney
Mayor McCarley

OTHERS PRESENT

Blaine Cox, City Manager
Peter Nourse, Director of City Services
Daniel Camara, GIS Technician
Sonja Gonzalez, CIO

MINUTES

1. Call to Order

Mayor McCarley called the Regular City Council Meeting to order at 7:00 PM.

2. Opening Prayer

Mayor McCarley called for a silent moment of prayer.

3. Pledge of Allegiance

Mayor McCarley led the Pledge of Allegiance

4. Roll Call

Kelly Walters, City Clerk, called the roll. All City Councilors were present.

5. Supplemental Appropriation to the Rochester Economic Development Commission Fund in an amount of \$3,000,000.00 for the 145 Airport Drive Development Project and Borrowing Authority pursuant to RSA 33:9 *first reading*

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

Supplemental Appropriation to the Rochester Economic Development Commission Fund in an amount of \$3,000,000.00 for the 145 Airport Drive Development Project and Borrowing Authority pursuant to RSA 33:9

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

That the amount of Three Million Dollars (\$3,000,000.00) is hereby appropriated as a supplemental appropriation to the Rochester Economic Development Commission Fund for the purpose of paying costs associated with the 145 Airport Drive development project.

Further, in accordance with the provisions of RSA 33:9 and in conjunction with this supplemental appropriation, the City Treasurer, with the approval of the City Manager, be, and hereby is authorized to borrow the sum of Three Million Dollars (\$3,000,000.00) through the issuance of bonds and/or notes, and/or through other legal form(s), such borrowing to be on such terms and conditions as the said Treasurer and City Manager may deem to be in the best interest of the City of Rochester. Such borrowing is authorized subject to compliance with the provisions of RSA 33:9 and Section 45 of the Rochester City Charter to the extent required, necessary and/or appropriate. The entirety of the borrowing authority shall be exercised in regards to a loan from the New Hampshire Business Finance Authority.

Still further, the City Manager is hereby authorized to execute all documents necessary to complete the above transactions on behalf of the City.

To the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to establish a new fund named Rochester Economic Development Commission (REDC) Fund and designate such accounts and/or account numbers as are necessary to implement the transactions contemplated in this Resolution.

6. Recess to Public Hearing

Councilor Lachapelle **MOVED** to recess to a public hearing at 7:03 PM.

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

7. Reconvene Regular City council Meeting

Mayor McCarley announced that the Regular City Council meeting has been reconvened at 7:09 PM.

8. Acceptance of Minutes

8.1 Regular City Council Meeting: September 3, 2019 *consideration for approval*

Councilor Lachapelle **MOVED** to **ACCEPT** the Regular City Council meeting minutes. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

8.2 Special City Council Meeting: September 17, 2019 *consideration for approval*

Councilor Lachapelle **MOVED** to **ACCEPT** the Special City Council meeting minutes. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

9. Communications from the City Manager

9.1 Employee of the Month Award

City Manager Cox presented the Employee of the Month award for October 2019 to Daniel Camara, IT Department. City Manager Cox invited Sonja Gonzalez and Peter Nourse, Director of City Services to join him.

9.2 City Manager's Report

The City Manager Cox's report is as follows:

Contracts and documents executed since last month:

- City Manager
 - Connectivity Point Contract – Chambers Maintenance Phase 3
 - Connectivity Point Contract – Leightronix (Streaming/On-Demand) Subscription Renewal
- Department of Public Works
 - 10-16 Wallace Street Remediation Plan Update
 - 58 Pickering Road – NHDES Site Remediation

- Assistant City Engineer Temporary Assistance Contract
- Bid 20-03 Recommendation to Award
- Colonial Pines Phase II – Drainage Design Amendment
- Community Center Lightning Project – Change Order 2
- Portland Street – Twin Culvert Project Contract
- GSBP (Granite State Business Park) Water Main Extension Project - Water Main Easement w/ Albany – Bid 20-03
- WWTP Biosolids and Carbon Storage Facilities Project – Notice to Proceed
- WWTP Biosolids and Carbon Storage Facilities Project – Contractor Agreement
- Economic Development Department
 - CAP Weatherization – Furnace replacement/insulate attic – Briar Ridge home
 - CAP Weatherization – environmental review – heater replacement – Saks Mobile Home Park home
 - CAP Weatherization – 6 projects
 - Weatherization retrofit - 2 homes in Briar Ridge
 - Shingle replacement – home in Gonic
 - Weatherization retrofit & heating system replacement – home in northwest Rochester
 - Weatherization retrofit & heating system replacement – home in East Rochester
 - Weatherization retrofit – home in East Rochester
 - CAP Weatherization – 2 projects
 - retrofit & bath fan replacement – home in northwestern Rochester
 - replacement of water heater & furnace – home in northwestern Rochester
 - Bureau of Homeless and Housing Services – Certification of Consistency
 - Environmental Review – Homeless Shelter of Strafford County
 - HUD Release of Funds – JOB Loan – Back Hill Beer
 - JOB Loan – Back Hill Beer – Collateral Assignment of Life Insurance
 - LDI Solutions – Letter of Intent
- Legal
 - Tax Deed Redemption– 7 Martinique Drive
- Police Department
 - Police/Fire Radio Project (Motorola) Contract

The following Computer Lease/Purchase or Tuition Reimbursement Requests have been enclosed:

- Tuition Reimbursement – Parker-Wright, K – Library
- Tuition Reimbursement – Wilder, T – Fire

The following standard reports have been enclosed:

- Monthly Overnight Travel Summary
- Permission & Permits Issued
- Personnel Action Report Summary

No other discussion was held under the City Manager's report.

10. Communications from the Mayor

10.1 Announcement: Rochester Municipal Election will be held Tuesday, November 5, 2019

Mayor McCarley announced that the Rochester Municipal Election would be held on Tuesday, November 5, 2019.

10.2 Announcement: November Regular City Council Meeting to be held Wednesday, November 6, 2019

Mayor McCarley announced that the Regular City Council meeting for November would be held on Wednesday, November 6, 2019.

10.3 Proclamation: Extra Mile Day

Mayor McCarley proclaimed that November 1st has been set aside as "Extra Mile Day" in Rochester, NH.

Mayor McCarley clarified the date of an upcoming public hearing that had been incorrect in a flyer. She announced that the public hearing relative to the NHDOT Ten Year Transportation Improvement Plan is scheduled to take place on Wednesday, October 2, 2019 at 6:00 PM at the Frisbie Memorial Conference Center.

Mayor McCarley said the Porch Fest had been a successful event and thanked all the individuals involved in making it such a great event.

11. Presentation of Petitions and Council Correspondence

11.1 Mandela Drive water main extension petition *Motion to accept or reject*

Mayor McCarley said there is a petition from the residents of Mandela Drive regarding the water main extension project. The City Council must vote to accept or reject the petition (not the action of the petition). Councilor

Varney **MOVED** to **ACCEPT** petition with the proviso that it be included with the review of CIP projects for the next fiscal year. Councilor Lachapelle seconded the motion. Councilor Torr asked if the residents of that street agreed to connect to city services (water). Mr. Nourse replied yes. He added that per the City Ordinances, under this type of situation, the abutters are responsible to pay for the cost of the extension. The **MOTION CARRIED** by a unanimous voice vote.

12. Nominations, Appointments, Resignations, and Elections

No discussion.

13. Reports of Committees

13.1 Appointments Committee

13.1.1 Appointment: Matthew Winders – Historic District Commission Alternate, Term to Expire 1/2/2021

Councilor Keans reviewed the Committee's recommendation regarding Matthew Winders' application. Mayor McCarley nominated Mr. Winders to be appointed as an Alternate Member of the Historic District Commission with a term to expire on January 2, 2021. Councilor Lachapelle seconded the nomination. Councilor Walker **MOVED** that nominations cease and for the clerk to cast one ballot for Mr. Winders. The **MOTION CARRIED** by a unanimous voice vote.

13.1.2 Appointment: Bianca Mireles – Arts & Culture Commission, Term to expire 6/30/2020

Councilor Keans reviewed the Committee's recommendation regarding Bianca Mireles's application. Mayor McCarley nominated Ms. Mireles to be appointed as a Member of the Arts and Culture Commission with a term to expire on January 2, 2020. Councilor Lachapelle seconded the nomination. Councilor Walker **MOVED** that nominations cease and for the clerk to cast one ballot for Ms. Mireles. The **MOTION CARRIED** by a unanimous voice vote.

13.1.3 Appointment: Tim Murray – Arts & Culture Commission, Term to expire 7/1/2020

Councilor Keans reviewed the Committee's recommendation regarding Tim Murray's application. Mayor McCarley nominated Mr. Murray to be appointed as a Member of the Arts and Culture Commission with a term to

expire on January 2, 2020. Councilor Lachapelle seconded the nomination. Councilor Walker **MOVED** that nominations cease and for the clerk to cast one ballot for Mr. Murray. The **MOTION CARRIED** by a unanimous voice vote.

13.2 Codes & Ordinances Committee

13.2.1 Amendment to Chapter 28 of the General Ordinances of the City of Rochester Regarding Nuisance Animals *first reading, consideration for second reading and adoption*

Councilor Lachapelle **MOVED** to read the Amendment to Chapter 28 of the General Ordinances of the City of Rochester for the first time by title only. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley read the Amendment by title only for a first time as follows:

Amendment to Chapter 28 of the General Ordinances of the City of Rochester Regarding Nuisance Animals

THE CITY OF ROCHESTER ORDAINS:

That Chapter 28 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows (Deletions are struck out and additions are italicized):

§28-4 Nuisance

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B. Under this section, an animal is considered a nuisance if:

(1) Any animal or bird causes frequent, ~~or long continued~~ *noise for sustained periods of time of more than Fifteen (15) minutes, or during the night hours* ~~which so as to disturb the comfort and repose of any person in a neighboring premises~~ *peace and quiet of a neighborhood or area*, not including a dog which is guarding, working, or herding livestock, as defined in RSA 21:34-a, II (a) (4).

The effective date of these amendments shall be upon passage.

Councilor Lachapelle **MOVED** to suspend the rules and read the Amendment by title only for a second time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a majority voice vote. Mayor McCarley read the Amendment for a second time by title only.

Councilor Lachapelle **MOVED** to **ADOPT** the Amendment. Councilor Walker seconded the motion. Councilor Varney asked for clarification if the fifteen minutes is related to the daytime or nighttime. Councilor Lachapelle replied the fifteen minutes is for daytime hours. The **MOTION CARRIED** by a majority voice vote.

13.2.2 Amendment to Chapter 167 of the General Ordinances of the City of Rochester Regarding Drop-Off Bins *first reading, consideration for second reading and adoption*

Councilor Lachapelle **MOVED** to read the Amendment to Chapter 167 of the General Ordinances of the City of Rochester for a first time by title only. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley read the Amendment by title only for a first time as follows:

Amendment to Chapter 167 of the General Ordinances of the City of Rochester Regarding Drop-Off Bins

THE CITY OF ROCHESTER ORDAINS:

That Chapter 167 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows:

ARTICLE V Drop-Off Bins

§ 167-24 DEFINITIONS

CODE OFFICIAL: *The Director of Building, Zoning, and Licensing Services, the Code Compliance Officer or any duly authorized representative who is charged with the administration and enforcement of this chapter.*

DROP-OFF BIN: *Any receptacle or container located outside of an enclosed building and designed, intended or used for collection and temporary storage of donated items or materials including, but not limited to, clothing, shoes, books, toys, furniture, household materials and other like items. Drop-off bins are also known as donation collection bins/boxes, charity bins/boxes, clothing bins/boxes, clothing donation containers, or any combination thereof.*

OWNER: *A person, association, corporation, partnership, or other legal entity having a legal or equitable title in real property.*

PREMISES: *A lot, plot or parcel of land including any structures thereon.*

STRUCTURE: *That which is built or constructed or a portion thereof.*

§167-25 LICENSES AND PERMITS REQUIREMENTS

Whether for the owner of the premises or the person who has obtained the written permission of the owner, the fee to obtain the initial license to own, install, operate, or use a drop-off bin is \$25 that must be tendered at the time of license application. Such license may be annually renewed on or before the anniversary date of the application for an annual renewal fee of \$25. Regardless of the number of drop-off bins owned, installed, operated, or used by a license applicant, the applicant shall only pay one annual license fee. The initial permit fee for a drop-off bin is \$10 per bin payable at the time of application for the license. The annual renewal fee for each drop-off bin permit is \$10 payable on or before the anniversary date of the initial application. Each drop-off bin shall display its current permit at all times.

§167-26 COMPANY TYPE AND BIN LABELS

To best inform the public and potential donors, bins shall be labeled according to Company Type as follows:

(a) Shall have a label or appended sign that states "PLEASE REPORT ANY OVERFLOW OF ITEMS, DAMAGE, OR MALFUNCTION TO [PERMIT HOLDER'S NAME] AT [PERMIT HOLDER'S TELEPHONE NUMBER] OR TO THE DIRECTOR OF BUILDING, ZONING, AND LICENSING SERVICES AT [TELEPHONE NUMBER DESIGNATED BY DIRECTOR]." Such label or appended sign shall be in lettering no less than three inches in height and no less than one-half inch in width, and;

(b) If none of the proceeds from the sale of the items collected in the drop-off bin will be given to a "charitable organization" as that term is defined in RSA 72:23-I, there shall be a label or sign permanently attached to the drop-off bin which identifies the permit holder's name and address and states: "DONATIONS ARE NOT FOR CHARITABLE PURPOSES AND WILL BE SOLD FOR PROFIT. DONATIONS ARE NOT TAX DEDUCTIBLE." Said label or appended sign shall be prominently displayed on the receptacle in the largest lettering on the receptacle or appended sign but said lettering shall be no less than three inches in height and no less than one-half inch in width, or;

(c) If 100% of the items, or the proceeds from the sale of the items, collected in the drop-off bin will be used for the benefit of a "charitable organization" as

that term is defined in RSA 72:23-I, there shall be a label or sign permanently attached to the drop-off bin that identifies, at least, the legal name of the charitable organization receiving the benefit of the donated items, as it appears on the certificate of registration issued to the charitable by the New Hampshire Attorney General's Charitable Trust Unit in the largest lettering on the drop-off bin or appended sign but said lettering shall be no less than three inches in height and no less than one-half inch in width, or;

(d) If a professional solicitor owns, installs, operates, or uses a drop-off bin pursuant to a contractual arrangement with a charitable organization whereby the professional solicitor receives either a flat fee or a percentage of the proceeds from the sale of the donated items, have a label or sign permanently attached to the drop-off bin which states: "SOLICITATIONS FOR DONATIONS ARE MADE BY (NAME OF PROFESSIONAL SOLICITOR) ON BEHALF OF (NAME OF CHARITABLE). DONATIONS WILL BE SOLD FOR PROFIT BY (NAME OF PROFESSIONAL SOLICITOR)." Said label or appended sign shall be prominently displayed on the donation drop-off bin in the largest lettering on the thereon but said lettering shall be no less than three inches in height and not less than one-half inch in width, and;

(e) Shall be placed only on premises commercially used by an established business or on church property and drop-off bins shall not be permitted in any Residential Zone or in the Downtown Commercial Zone.

§167-27 APPLICATION REQUIREMENTS – COMPANY LICENSES AND BIN PERMITS

Any party seeking to obtain the requisite license to operate drop-off bins and permits for each drop-off bin shall submit a written application to the Director of BZLS upon a form provided by the Director. The application shall require the following information:

(a) The name, physical address (no P.O. boxes), telephone number, and electronic mail address of the applicant, and;

(b) A photograph of the drop-off bin and the proposed location for which a permit is sought. If the application is for more than one location, the applicant may submit a single application with a list of preferred locations and only one photograph of the type of drop-off bin to be used unless different types of bins will be used at different locations. In the event the applicant is using different types of bins at different locations, a photograph of each type of bin must be submitted, and;

(c) Whether the applicant would prefer to receive notice and orders by regular mail or electronic mail, and;

(d) The signature of the applicant, and;

(e) The required license and permit fees, and;

(f) If placed on property not owned or leased by the operator of the drop-off bin, a written agreement with the owner of each premises where a bin is to be located which evidences the agreement of the owner(s) to the placement of a drop-off bin on the property. The applicant shall also provide a certificate of liability insurance in an amount not less than \$500,000 showing each owner of the premises where a bin is located as an additional insured, and;

(g) A maintenance agreement on the form provided from the Director wherein the applicant affirms that each drop-off bin location will be monitored on a daily basis, emptied no less than twice every calendar week, except in the event of a declared weather emergency by the National Weather Service or other natural disaster, and no overflow of items from the bin shall remain on the ground for more than 24 hours after actual or constructive notice of said overflow.

(h) The information supplied pursuant to this subsection shall be used for all notices, correspondence, or communications from the Director.

(i) Currently operated drop-off bins do not enjoy grandfathered status and must comply with all the requirements of this Article.

§167-28 BIN PLACEMENT

(a) Drop-off bin(s) shall be located on a hard and durable surface such as asphalt, concrete, aggregate, crushed rock and the like and all ingress and egress from each bin shall also be of a similar surface. In no event shall the placement of a drop-off bin or any means of ingress or egress be composed of sod, dirt, sand, or similar porous material. All drop-off bins shall be located on the designated premises so as not to interfere with sight triangles, on-site circulation of vehicular or pedestrian traffic, required setbacks, parking, landscaping, and all other applicable requirements imposed on the property as part of any governmental approval, including any zoning requirement;

(b) The placement of drop-off bins shall be restricted to an area within 75 feet from any wall of the largest permanent building on the premises or against a well-lit exterior wall of such building;

(c) A drop-off bin shall not be within a 1,000 foot radius of any other drop-off bin operated by the same licensee;

(d) Drop-off bins shall not be larger than six feet high by six feet wide by five feet deep;

(e) Drop-off bins shall be enclosed and operate by use of a securely locked receiving door so that the contents of the bin may not be accessed by anyone other than those persons authorized by the licensee to collect the contents;

§167-29 BIN MAINTENANCE

(a) The drop-off bin must be regularly emptied, no less than twice every calendar week, to prevent overflow of clothing or other items that may be strewn about the premises. No overflow of items from a bin shall remain on the ground for more than 24 hours after actual or constructive notice of said overflow;

(b) Any person found illegally dumping at a drop-off bin shall be guilty of a misdemeanor pursuant to RSA 163-B:3 and will be subject to the penalties set forth in RSA 163-B:4.

(c) Any graffiti placed on the drop-off bin must be removed within 72 hours following notice of its existence. However, within the 72 hours, the owner has the option to notify the Director in writing of the owner's intent to replace the drop-off bin within five days and along with said written notice submits a photograph of the new drop-off bin.

(d) If a drop-off bin is damaged to the extent the locking mechanism or receiving door has been compromised or one of its sides has been breached, it shall be repaired, replaced or removed within five days of receipt after notice of such damage from the Director unless the Director determines the damage is such that the drop-off bin constitutes a danger to persons or property in which case it shall be made safe or removed within 24 hours of notice of said condition.

§167-30 VIOLATIONS

Any violation of the provisions of this Article or any order of the Director or the Code Compliance Officer related thereto are subject to citation and the civil penalties set forth in RSA 47:17 and Ordinance §54-3.

The effective date of these amendments shall be upon passage.

Councilor Lachapelle **MOVED** to suspend the rules and read the resolution for a second time by title only. Councilor Walker seconded the

motion. The **MOTION CARRIED** by a majority voice vote. Mayor McCarley read the Amendment for a second time by title only.

Councilor Lachapelle **MOVED** to **ADOPT** the motion. Councilor Walker seconded the motion. Councilor Keans spoke against the motion. She said the City, in the past, had a problem with “dumping” near donations centers and it could have been resolved in a simpler way rather than creating a complicated ordinance. The **MOTION CARRIED** by a majority voice vote.

13.2.3 Amendment to Chapter 40 of the General Ordinances of the City of Rochester regarding Building Permit Fees *first reading, consideration for second reading and adoption*

Councilor Lachapelle **MOVED** to read the Amendment to Chapter 40 of the General Ordinances of the City of Rochester for a first time by title only. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley read the Amendment by title only for a first time as follows:

Amendment to Chapter 40 of the General Ordinances of the City of Rochester Regarding Building Permit Fees

THE CITY OF ROCHESTER ORDAINS:

That Chapter 40 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows (Additions are italicized):

§40-15. Permits

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(1) The following fees shall be charged for said permits, based upon the estimated cost of construction as presented to the Director of Building, Zoning, and Licensing Services upon application forms provided by him: on proposed work, the fee of nine dollars (\$9.) per one thousand dollars (\$1,000.) of estimated cost of work, or any portion thereof, with a minimum fee of ten dollars (\$10.), in addition to an application fee of ten dollars (\$10.) for each permit. *The following permits shall be a charged only the*

minimum permit fee of ten dollars (\$10.), in addition to an application fee of ten dollars (\$10.) for each permit.

- (a) *Fences*
- (b) *Roofing (Re-shingling only)*
- (c) *Siding*
- (d) *Sheds under 200 square feet*

The effective date of these amendments shall be upon passage.

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

Councilor Lachapelle **MOVED** to **ADOPT** the motion. Councilor Walker seconded the motion. Councilor Lauterborn explained that since there is no follow-up inspection, than the City should not be charging additional fees based upon the value of the item. Councilor Keans agreed; however, having the inspections might be a better option for the City. Councilor Lauterborn agreed. The **MOTION CARRIED** by a majority voice vote.

Councilor Lachapelle announced that the October 3, 2019, Codes and Ordinances Committee meeting is canceled and that the next Meeting is scheduled for November 7, 2019. The City Council briefly discussed the matter.

13.3 Community Development Committee

Councilor Lauterborn said there are no Committee actions. The Committee continued discussing the idea about having an indoor music theater/festival over the summer months at the Opera House. At the Committee meeting Anthony Ejarque presented a reasonable scenario of what it might cost for 2020. There is a possibility of utilizing grant funding; however, it is unlikely that grant funding would be in place for the 2020 season. If a Community member or business owner makes a significant contribution, than the Committee would review the proposal for the 2020 season; however, it is unlikely and a reasonable scenario would be that the event would not start until the 2021 season. She invited other Councilor members to submit any ideas about funding the 2020 season for the Committee to review. Mayor McCarley said these things do take time but are worth the effort.

13.4 CTE Joint Building Committee (Meeting to be held September 30, 2019)

Councilor Varney said the Committee met last evening. He reviewed the financial statements and said about \$200,000 has been allocated for technical equipment and various other improvements. There is about \$57,000 that remains in the contingency fund. The next meeting will be on October 28, 2019.

The Council discussed when the Committee would hold a soft opening of the project. Mayor McCarley said this has been discussed; however, it is likely that it will not occur prior to the January timeframe.

13.5 Finance Committee

Mayor McCarley said the Finance Committee discussed proposed increases to the water and sewer rates; however, this action is staying in Committee at this time.

Councilor Gray asked how the State budget would impact the City of Rochester. The City Council discussed specifics of changes to the State budget. Mayor McCarley said more discussion would take place after the City receives final numbers from the DRA.

13.6 Public Safety

13.6.1 Committee Recommendation: To Install a "dead end" sign at the entrance to Sonata Court *consideration for approval*

Councilor Walker **MOVED** to **APPROVE** the Committee's recommendation to install a "dead end" sign at the entrance to Sonata Court. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

13.6.2 Committee Recommendation: To paint cross-hatch markings for no parking within 15 feet of the fire hydrant on Church Street near Demeritt Street *consideration for approval*

Councilor Walker **MOVED** to **APPROVE** the Committee's recommendation to paint cross-hatch markings for no parking within 15 feet of the fire hydrant on Church Street near Demeritt Street. Councilor Lachapelle

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

13.7 Public Works

13.7.1 Resolution Accepting NH Department of Environmental Services (NHDES) Grant, in Connection with 2020 Household Hazardous Waste Day and Authorizing City Manager to Enter into a Contract with NHDES not to exceed \$14,000 *first reading, consideration for second reading and adoption*

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

**Resolution Accepting
NH Department of Environmental Services (NHDES) Grant,
in Connection with 2020 Household Hazardous Waste Day
and Authoring City Manager to Enter Into a
Contract with NHDES not to exceed \$14,000**

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

That a NHDES Grant, in the amount not to exceed Fourteen Thousand Dollars (\$14,000.00) to the City of Rochester, for the purpose of hosting hazard mitigation, is hereby accepted by the City of Rochester and, when received, such grant funds shall be assigned to account number 13010057-533007 previously approved by the Council in the 2020 operating budget of the City of Rochester.

Additionally, the City Manager of the City of Rochester, be, and hereby is authorized to enter into a contract with the NHDES with respect to such grant and the conduct of the aforementioned 2020 Household Hazardous Waste Day.

Furthermore, to the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to designate and/or establish such accounts and/or account numbers as necessary to implement the transactions contemplated by this Resolution.

Councilor Lachapelle **MOVED** to read the resolution for a second time by title only. Councilor Walker seconded the motion. The **MOTION CARRIED** by a majority voice vote. Mayor McCarley read the resolution for a second time by title only.

Councilor Walker **MOVED** to **ADOPT** the resolution. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Torr said the City was supposed to erect a fence around the basketball courts near the high school; however, cars are driving up to shed light on the basketball court at night time. This could be a dangerous situation. Councilor Varney said currently there are three sides of the basketball court fenced in; however, the one side that is not fenced is open to the parking lot. He suggested that a plan be made in order to install lighting and a guardrail prior to the next basketball season.

Councilor Torr mentioned that the easement for the railroad has been settled for the water main extension for the GSBP. The bidding process has started at an estimated \$1,200,000 or more.

Councilor Torr said the Planning Board intends to utilize the remaining funds from the Ten Pines Development Project Surety to construct a sidewalk. He felt the remaining funds belong to the developer. He requested more information.

Mr. Nourse gave a brief history of the funding and said he has received clarification from the Planning Board. The sidewalk would be constructed from the interchange at the Globe Plaza all the way to the Ten Pines Development. He added that there are still some details to be worked out as far as policy is concerned. The City Council briefly discussed the intention of the developer's surety funds. Jim Campbell, Planning and Development Department Director, confirmed that in 2009 the developer left the remaining funds to the City if it meant the developer did not need to construct the sidewalk as originally planned. Mr. Campbell agreed to show that documentation to Councilor Torr.

Councilor Gray asked about the National Pollutant Discharge Elimination System (NPDES) permits and if there had been any updates. City Manager Cox said they have elevated discussions about the permit; however, there is nothing to report at this point.

Councilor Lachapelle referred to the Public Works Committee action item relative to the Household Hazardous Waste Day. He said it is scheduled for May 2, 2020.

Councilor Lauterborn received a call from a constituent about the quality of the final paving job on Whitehouse Road (Somersworth end). She requested that the matter be referred to the Public Works Committee to ensure the City did not accept inferior services.

14. Old Business

14.1 Amendment to Chapter 7 section 40 of the General Ordinances of the City of Rochester regarding Purchasing Procedures *second reading and consideration for adoption*

Councilor Lachapelle **MOVED** to read the Amendment by title only for a second time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley read the Amendment for a second time by title only.

See Addendum A.

Councilor Lachapelle **MOVED** to **ADOPT** the Amendment. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

14.2 Amendment to Chapter 7 section 62 of the of the General Ordinances of the City of Rochester regarding the General Fund unassigned Fund Balance *second reading and consideration for adoption*

Councilor Lachapelle **MOVED** to read the Amendment by title only for a second time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley read the Amendment for a second time by title only.

See Addendum B.

Councilor Lachapelle **MOVED** to **ADOPT** the Amendment. Councilor Walker seconded the motion. The **MOTION CARRIED** by a majority voice vote.

14.3 Amendment to Chapter 275 of the General Ordinances of the City of Rochester regarding the Downtown Commercial District *second reading and consideration for adoption*

Councilor Lachapelle **MOVED** to read the Amendment for a second time by title only. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley read the Amendment by title only for a second time.

See Addendum C.

Councilor Lachapelle **MOVED** to **ADOPT** the Amendment. Councilor Walker seconded the motion.

Councilor Walker said that Councilor Abbott had recently expressed reasonable concerns about this Amendment. He added that the City Council should set up a special committee to discuss with developers the requirement to utilize the first 50 (linear) feet vs 4,000 square footage for commercial development on the ground floor of downtown commercial buildings. Councilor Varney said City staff has submitted a memorandum to the City Council relative to supporting the Amendment as proposed: developers would be required to utilize the first 50 (linear) feet for commercial development on the ground floor of downtown commercial buildings. Councilor Abbott requested documentation of the research collected by City staff. City Manager Cox said that he met with the Legal Department, Planning Department, and the Economic Development Department to discuss Councilor Abbott's concerns. There was a unanimous consensus that the requirement of square footage vs linear footage would not work in the downtown area. The department heads felt overwhelmingly that the Amendment should be adopted with the 50 (linear) footage requirement as presented.

Michael Scala, Economic Development Manager, addressed the City Council. He said that a requirement of 4,000 square footage of commercial development on the ground floor would be counterproductive to the spirit of this Amendment. He gave details of the research he gathered by speaking directly to developers and working with other City departments. He gave reasons why developers would have incentive to keep a viable smaller commercial space to service the tenants of said buildings. Councilor Abbott questioned requested documentation of the research completed by City staff. He asked how ventilation would be obtained after much of the ground floor and above the ground floor had been developed for residential apartments. He did not feel that a requirement of 4,000 square feet of ground floor commercial space would hurt the developers. He said the City provides parking in the downtown area and offers applicants the option of using the 79E tax incentive. He listed several business which would require ventilation and said most business that do not require ventilation would close at 5:00 PM. He stated that the City should focus on changing the demographics of the downtown area. Mr. Scala did not disagree with changing the demographics of the downtown area. He said it would be up to the developer to decide what

type of business to bring to the area. It would be of tremendous benefit to the residents because it would increase the tax base. He reiterated his support for this Amendment as it being proposed. Councilors Walker and Keans recommended slowing the process down a little in order to make a solid plan of what would work best for Rochester. Councilor Varney argued that this Amendment does give developers the incentive and opportunity to develop commercial and residential in the downtown area. He said the REDC as well as the Chamber of Commerce have supported this Amendment as presented. Mayor McCarley talked about the Smart Cities Presentation and the direction the City of Rochester has been seeking relative to allowing some residential development on the ground floor of the downtown buildings. She said the requirement to maintain 50 feet (linear) of the ground floor seems reasonable vs the suggestion to increase the requirement to 4,000 square feet, which seems restrictive. The City Council debated the issue. The **MOTION FAILED** by a roll call vote of 5 to 8 with Councilors Varney, Hutchinson, Lachapelle, Lauterborn and Mayor McCarley voting in favor and Councilors Torr, Abbott, Gray, Walker, Bogan, Hamann, Gates and Keans voting in opposition.

15. Consent Calendar

Councilor Lachapelle **MOVED** to **APPROVE** the items under the consent calendar. Councilor Hamman seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

15.1 Resolution Deauthorizing \$146,217.16 related to various projects funded from the Department of Public Works Capital Improvement Plan Project Funds *first reading, consideration for second reading and adoption*

Resolution Deauthorizing \$146, 217.16 related to various projects funded from the Department of Public Works Capital Improvement Plan Project Funds

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

That One Hundred Forty Six Thousand Two Hundred Seventeen and 16/100 Dollars (\$146,217.16) of previously appropriated funds is deauthorized from various completed, cancelled, or postponed projects in accordance with Exhibit A.

Still further, the amount of One Hundred Forty Six Thousand Two Hundred Seventeen and 16/100 Dollars (\$146,217.16) shall be returned to the General Fund Unassigned fund balance.

To the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to establish and/or designate such accounts and or account numbers as are necessary to implement the transactions contemplated in this Resolution.

15.2 Resolution Deauthorizing \$613.24 in funding related to the 2019 Victims of Crimes Act Grant *first reading, consideration for second reading and adoption*

Resolution Deauthorizing \$613.24 in funding related to the 2019 Victims of Crimes Act Grant

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

That the amount of Six Hundred Thirteen and 24/100 Dollars (\$613.24) appropriated as part of the 2019 Victim of Crimes Act (VOCA) Grant is hereby deauthorized. Four Hundred Ninety and 62/100 Dollars (\$490.62) of the deauthorization is grant reimbursement which will not be sought from the New Hampshire Department of Justice. One Hundred Twenty-Two and 62/100 Dollars (\$122.62) of the deauthorization is derived from the City's required local match and shall be returned to the General Fund Unassigned Fund Balance.

To the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to establish and/or designate such accounts and or account numbers as are necessary to implement the transactions contemplated in this Resolution.

16. New Business

16.1 Resolution Authorizing Acceptance of \$10,000.00 as a Voluntary Contribution and Supplemental Appropriation for Old Dover Road Area Sidewalk Installation *first reading, consideration for second reading and adoption*

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

Resolution Authorizing Acceptance of \$10,000.00 as a Voluntary Contribution and Supplemental Appropriation for Old Dover Road Area Sidewalk Installation

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

That the amount of Ten Thousand Dollars (\$10,000.00) is hereby accepted as a voluntary contribution from New Style Homes, Inc. related to the approval of its subdivision at 156 Old Dover Road.

Further, the entire amount of the voluntary contribution is hereby appropriated to the FY20 CIP Old Dover Road Area Sidewalks multi-year account.

To the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to establish and/or designate such accounts and or account numbers as are necessary to implement the transactions contemplated in this Resolution.

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

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion. The City Council discussed where the sidewalk would be built. Councilor Lauterborn questioned if the sidewalk would be constructed near 156 Old Dover Road, which is not located near any other sidewalks or businesses. Mr. Campbell gave a brief history relative to the \$10,000 contribution and said the sidewalk would likely be constructed closer to the Columbus Avenue/Route 125 area. Councilor Torr asked if this was a forced action from the City to the developer or a voluntary effort on the side of the developer. Mr. Campbell replied that the developer was pleased to be able to voluntarily make this contribution to the City. (MOTION CARRIED)

16.2 Resolution Authorizing Transfer of \$50,000.00 from the Project Performance Cash Account to the Sidewalk Rehabilitation Multi-Year Account and Payment to New Hampshire Department of Transportation *first reading, consideration for second reading and adoption*

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

Resolution Authorizing Transfer of \$50,000.00 from the Project Performance Cash Account to the Sidewalk Rehabilitation Multi-Year Account and Payment to New Hampshire Department of Transportation

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

That the amount of Fifty Thousand Dollars (\$50,000.00) is hereby transferred from the Project Performance Cash Account to the Sidewalk Rehabilitation Multi-Year account and that Thirteen Thousand Nine Hundred Sixty Six and 16/100 Dollars (\$13,966.16) of said amount shall be paid to the New Hampshire Department of Transportation to pay costs associated with sidewalks built on Ten Rod Road as part of the so-called Aloe Pines elderly housing development.

To the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to establish and/or designate such accounts and or account numbers as are necessary to implement the transactions contemplated in this Resolution.

Councilor Lachapelle **MOVED** to suspend the rules and read the resolution by title only. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a majority voice vote. Mayor McCarley read the resolution for the second time by title only.

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion. The City Council briefly discussed the matter. The **MOTION CARRIED** by a unanimous voice vote.

16.3 Resolution Authorizing Acceptance of Donation of Three MI-9 Carbine Rifles and Twenty Boxes of 9mm Blank Ammunition from the American Legion *first reading, consideration for second reading and adoption*

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

Resolution Authorizing Acceptance of Donation of Three M1-9 Carbine Rifles and Twenty Boxes of 9mm Blank Ammunition from the American Legion

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

That three M1-9 Carbine Rifles and Twenty Boxes of 9mm Blank Ammunition are hereby accepted by the City from the American Legion on behalf of the Rochester Police Department.

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

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion. The City Council briefly discussed the matter. The **MOTION CARRIED** by a unanimous voice vote.

16.4 Resolution Authorizing Acceptance of \$1,329.95 from the Drug Enforcement Agency (DEA) *first reading, consideration for second reading and adoption*

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

Resolution Authorizing Acceptance of \$1,329.95 from the Drug Enforcement Agency (DEA)

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

That One Thousand Three Hundred Twenty Nine and 95/100 Dollars (\$1,329.95) is hereby accepted from the DEA as part of the federal forfeiture funds due to the Rochester Police Department.

To the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to establish and/or designate such accounts and or account numbers as are necessary to implement the transactions contemplated in this Resolution.

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

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion. Councilor Keans questioned why the figures in the resolution did not match up with the Agenda Bill in the City Council packet. Chief Toussaint replied that it was likely a clerical error; however, the figures on the resolution are correct. The **MOTION CARRIED** by a unanimous voice vote.

16.5 Resolution Establishing Polling Places and Times for the November 5, 2019 Municipal Election *first reading, consideration for second reading and adoption*

Councilor Lachapelle **MOVED** to read the resolution for a first time in its entirety. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley read the entire resolution as follows:

Resolution Establishing Polling Places and Times for the November 5, 2019 Municipal Election

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

That the following polling places are hereby established for the City of Rochester for the upcoming 2019 Election.

**WARD 1: East Rochester Elementary School
773 Portland Street, East Rochester**

**WARD 2: St. Mary's Parish Center
71 Lowell Street, Rochester**

**WARD 3: Gonic Elementary School
~~11~~ 10 Railroad Avenue, Rochester**

**WARD 4: McClelland Elementary School
59 Brock Street, Rochester**

**WARD 5: Rochester Community Center
150 Wakefield Street/Community Way,
Rochester Located on the Chestnut Hill
Road Side of Building**

WARD 6: Elks Lodge #1393

295 Columbus Avenue, Rochester

Further, that in accordance with RSA 659:4, and Section 47 of the City Charter – All polling places shall be open from 8:00 A.M. to 7:00 P.M., on said Election Day.

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

17. Non-Public/Non-Meeting

17.1 Non-Public Session, Land, RSA 91-A:3. II (d)

Mayor McCarley stated that there would be no need for a Non-public session this evening; however, there would be a Non-meeting directly following the adjournment of this meeting. She asked if any Councilors had any other issues to discuss.

Councilor Walker requested that the Mayor appoint a small review Committee to discuss the Amendment to 275 which failed this evening. Mayor McCarley indicated that she intended to form a small Committee.

Councilor Torr asked if the Rochester Police officers carried their side arms when they are marching in parades with rifles. It was confirmed that the officers do carry their side arms while marching.

18. Adjournment

Councilor Lachapelle **MOVED** to **ADJOURN** the Regular City Council meeting at 8:25 PM. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Kelly Walters, CMC
City Clerk

FINANCE COMMITTEE

Agenda Item

Agenda Item Name: General Ordinances- Administrative Code Chapter 7-40- Purchasing

Date Submitted: 8/6/19

Name of Person Submitting Item: Mark Sullivan Deputy Finance Director

E-mail Address: mark.sullivan@rochesternh.net

Meeting Date Requested: Aug 13, 2019

Issue Summary Statement: Continued discussion on review of the threshold amounts in the Purchasing Procedures, ordinance 7-40 from July 9-2019 Finance Committee meeting. Attached is the Administrative Code Chapter 7-Purchasing Procedures 7-40, and a draft mark up of suggested edits. Understanding from 7-9-19 meeting is as follows;

\$1,000 threshold can be increased to \$5,000

\$5,001 to \$15,000 require a minimum of three written vendor quotes, no verbal.

\$15,001 or greater requires competitive sealed bid process, substitution of approved vendor lists, State of NH and State of MA bid lists, and any other approved purchasing group may be allowed.

Additional Follow-Up from 7-9-19:

What does School Department use for thresholds ? School Department utilizes the same purchasing thresholds as City, and competitive sealed bid at \$10,000 or above.

How do we guard against employee-vendor relationships and collusion ? The annual audit requires any employee to disclose any vendor relationship in which the employee receives a direct benefit. This is called the Related Third Party Transaction disclosure. Failure to disclose this relationship, as well as any other act of vendor collusion, if discovered to exist, are subject to ethics review and other potential disciplinary actions.

Recommended Action: Recommendation to endorse, refer to Codes & Ordinances.

§7-38 Legal basis.

The provisions of this article governing purchasing procedures to be used by the City of Rochester are incorporated with the Administrative Code in accordance with the requirements of Section 27 of the Rochester City Charter.

§ 7-39 Purchase orders required.

Purchase orders authorized by the proper authority shall be used in all instances.

§ 7-40 Purchasing procedures.

[Amended 9-4-2007; 10-15-2013]

A. All purchases shall have electronic approval, and said sums for each category below shall not be exceeded for any one item, or combination of items to be purchased from any single vendor. Approval levels are noted for each category.

~~A.B. All Purchases under one up to five thousand-dollars one-dollar (\$1,001-) (\$5,000) shall have the electronic approval of the Department Head and Purchasing Department, with the limitation that said sum shall not be exceeded for any one item or combination of items to be purchased from any single vendor.~~

~~B.C. All purchases one five thousand and one dollars (\$1,000-) (\$5,001) up to fifteen than ten thousand one-dollars (\$15,000) (\$10,001-) shall have a minimum of three (3) quotations comparable for the same product or service quotes. The three quotations -must be written vendor responses, no verbal quotations allowed. The quotation, or notes, must be attached to the requisition request. Approval is required by Department Head, Purchasing Department, Finance Director, or Deputy Finance Director, before conversion to purchase order.~~

~~If three quotes are not available then an exception may be made with the approval of the City Manager, or his/her designee, clearly documenting the reason for the exception in the electronic requisition document. The maximum of ten thousand dollars (\$10,000-) shall not be exceeded for any one item or combination of items to be purchased from any single vendor.~~

~~C.D. All purchases fifteen thousand and one dollars (\$15,001) or greater require competitive sealed bid process. Utilization of approved vendor lists, or other approved bid lists may be substituted for the sealed bid process with approval of City Manager, or designee. Approval is required by the Department Head, Purchasing Department, Finance Director, or Deputy Finance Director, and City Manager. Bid results/quotation notes must be attached to requisition request.~~

E. Exceptions to the above may be allowed for the following, provided its determined to be in the best overall interest of the City; Approval required by City Manager, or designee.

1 Professional service contracts

2. Sole Source Vendors.

3 .Computers, complex Information Technology (IT) equipment, and software.

4. Documented reasons why the bid or required amount of quotations cannot be sourced

5. Emergency situations which create immediate risk to City.

~~D. All individual item purchases or contracts over ten thousand dollars (\$10,000.) shall require a competitive sealed bid process and approval of the department head, Finance Director and the City Manager. Exceptions for purchases over ten thousand dollars (\$10,000.) may be allowed at the discretion of the City Manager for professional service contracts, computer software/hardware, passenger vehicles/one-ton vehicles or smaller, or other items where comparative pricing instead of a sealed bid process may be in the best overall interest of the City. The City Council shall be formally notified whenever an exception to the sealed bid process occurs.~~

§ 7-41 Sale of tax-deeded property.

[Amended 2-1-2005]

- A. In accordance with the provisions of RSA 80:42 and/or 80:80, the City Manager is hereby indefinitely, and until such time as this section is repealed, authorized to transfer tax liens upon real property acquired by the City at a Tax Collector's sale for nonpayment of taxes thereon and/or to convey property acquired by the City by tax deed for nonpayment of taxes; provided, however, that a public auction and/or advertised sealed bid sale is held, and the results of said public auction and/or sealed bid sale are confirmed by a majority vote of the City Council. In conducting such public auction and/or sealed bid sale, the City Manager may establish a minimum amount for which the property is to be sold and the terms and conditions of sale.
- B. The City Manager, by ordinance, may be authorized to dispose of tax liens or tax-deeded property in a manner otherwise than provided in this section, as justice may require.
- C. Upon the affirmative two-thirds vote of the Rochester City Council, the City Manager may be authorized to transfer tax liens upon real property acquired by the City at a Tax Collector's sale for nonpayment of taxes thereon and/or to convey property acquired by the City by tax deed for nonpayment of taxes without conducting a public auction and/or advertised sealed bid sale, subject to such terms and conditions as the City Council shall establish.
- D. For purposes of this section, the authority to dispose of the property "as justice may require" shall include the power of the City Manager to transfer the tax lien(s) and/or convey the property to a former owner, or to a third party for benefit of a former owner, upon such reasonable terms as may be agreed to in writing, including the authority of the City to retain a mortgage interest in the property, or to reimpose its tax lien, contingent upon an agreed payment schedule, which need not necessarily reflect any prior redemption amount. Any such agreement shall be recorded in the Registry of Deeds. This subsection shall not be construed to obligate the City to make any such conveyance or agreement.

FINANCE COMMITTEE

Agenda Item

Agenda Item Name: Administrative Code 7-62 Undesignated Fund Balance

Date Submitted: 8/6/19

Name of Person Submitting Item: Roland Connors-Deputy Finance Director

E-mail Address: roland.connors@rochesternh.net

Meeting Date Requested: August 13, 2019

Issue Summary Statement: Review of Administrative Code 7-62 Undesignated Fund Balance at the April 9, 2019 Finance Committee meeting requested some additional updates. The changes were referencing the Ordinance in the Policy, and added language in regarding non-recurring requiring 2/3'rds Council vote.

Recommended Action: Review/Discussion/Acceptance referral recommendation to Codes & Ordinances Committee.

The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

§ 7-62 ~~Undesignated~~ General Fund unassigned fund balance.

- A. Purpose. The Rochester City Council recognizes that the establishment and maintenance of fiscal responsibility and the promotion of property tax stabilization are goals which promote the public health, safety and welfare of the City of Rochester and its inhabitants. Therefore, it is the purpose of the Rochester City Council in adopting this section to establish a mechanism whereby the fiscal integrity of the City is strengthened and maintained, and the long-term stability of the City's property tax rate is promoted, through the establishment of a systemic and disciplined process for the prudent and planned utilization of revenues. In adopting this section, the Rochester City Council recognized that it is prudent financial practice for municipalities such as Rochester to establish and maintain ~~an~~ ~~undesignated~~ a minimum General Fund Unassigned fund balance (as hereinafter more particularly defined) ~~of between 58% and 40~~ 17% of ~~their respective~~ total general ~~General fund~~ Fund ~~appropriations~~ expenditures. General Fund expenditures include City, County, and School collectively.
- B. Minimum ~~undesignated~~ General Fund unassigned fund balance requirement. The ~~G~~ general F ~~F~~ und ~~Unassigned F~~ und balance of the City, at the end of any fiscal year, as established and reported to the State of NH on Form MS-535 "Financial Report of the Budget" and confirmed within the notes of the City's annual ~~in accordance with generally accepted accounting principles (GAAP), including any and all balances derived from accounts and/or operations taken into account in the "general fund" column of the City's annual audit, and excluding any and all reserves, and any dedicated fund balances of the general fund audited financial statements,~~ shall for the purposes of this section be designated as the "~~undesignated~~ Unassigned fund balance" of the ~~g~~ General F ~~F~~ und of the City of Rochester, and shall be referred to throughout this section as the "~~undesignated~~ Unassigned fund balance." The ~~undesignated~~ unassigned fund balance for any fiscal year shall be maintained at a minimum level of ~~between not less than 85% and 17% of the actual~~ total g ~~General F~~ und ~~appropriations~~ expenditures for the City for that fiscal year.
- C. Use of ~~undesignated~~ General Fund Unassigned fund balance – Non-Recurring. In any subsequent fiscal year, the City Council may, upon adoption of a written resolution, by a two-thirds majority vote, after notice and public hearing, utilize the excess of the actual ~~Unassigned F~~ und balance of the ~~G~~ general F ~~F~~ und (as determined by the annual audit of the City) over the prescribed ~~undesignated~~ unassigned fund balance level established in Subsection **B** of this section from the prior fiscal year for capital projects, transfers to capital projects, transfers to capital reserve, or for any other appropriation of a non-recurring nature.
- D. ~~Emergency appropriations~~ Use of General Fund ~~undesignated~~ Unassigned F ~~F~~ und ~~B~~ balance - Recurring. At any time in a budget year, the City Council may, upon adoption of a written resolution, by ~~majority~~ a two-thirds majority vote, after notice and public hearing, make ~~emergency~~ emergency appropriations from the ~~G~~ general F ~~F~~ und ~~Unassigned F~~ und balance of the City of Rochester to meet an essential need for public expenditure. If such ~~emergency~~ emergency appropriation reduces the ~~undesignated~~ unassigned fund balance to a level below the minimum prescribed by Subsection **B** of this section, the resolution authorizing such appropriation shall include a plan to restore the ~~undesignated~~ Unassigned F ~~F~~ und ~~B~~ balance to the minimum level established in Subsection **B** of this section within a period not to exceed 2 years.

*This section supplements and supersedes the provisions promulgated under the City of Rochester Fund Balance Policy

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CITY of ROCHESTER
New Hampshire
Proposed FUND BALANCE POLICY

ADOPTED BY ROCHESTER
CITY COUNCIL in SEPTEMBER 2014

Purpose and Scope

The following policy has been adopted by the City of Rochester, New Hampshire. This policy is intended to ensure that the City maintains adequate fund balances and reserves in order to:

- Provide sufficient cash flow for the daily financial needs,
- Secure and maintain investment grade bond ratings,
- Offset significant economic downturns or revenue shortfalls, and
- Provide funds for the unforeseen expenditures related to emergencies.

This policy supplements the provisions promulgated under and it is superseded by the City's General Ordinances regarding the City's fund balance and reserve policies. Specifically, Chapter 7-62.

Definitions

Fund type definitions: The following definitions will be used in reporting activity in governmental funds across the City. The City may or may not report all fund types in any given reporting period, based on actual circumstances and activity.

- **General Fund** is used to account for all financial resources not accounted for and reported in another fund.
- **Special Revenue Funds** are used to account and report the proceeds of specific revenue sources that are restricted or committed to expenditure for specific purposes other than debt service or capital projects.
- **Enterprise Funds** are used to account for the City's business type activities where goods and/or services are provided to the general public and a user fee is charged.
- **Capital Projects Funds** are used to account for all financial resources restricted, committed or assigned to expenditure for the acquisition or construction of capital assets.
- **Permanent Funds** are used to account for resources restricted to the extent that only earnings, and not principal, may be used for purposes that support the City's purposes.

Fund balance reporting in governmental funds. Fund balance will be reported in governmental funds under the following categories using the definitions provided by GASB Statement No. 54:

Non-spendable	<i>Not available for appropriation.</i> Not available for spending either now or in the future because they are legally or contractually required to be maintained intact.	
Restricted	<i>Available for spending for a specific purpose.</i> Constraints on spending that are legally enforceable as stipulated in the Charter, by outside parties or enabling legislation.	
Unrestricted	Committed	<i>Not available for appropriation.</i> Constraints on spending that the City has imposed upon itself by the highest level formal action. Majority vote is required to approve a commitment however two thirds vote is required to remove a commitment.
	Assigned	<i>Available for appropriation.</i> Resources intended for spending for a specific purpose set by the governing body itself or by some person or body delegated to exercise such authority in accordance with policy established by the Council.
	Unassigned	<i>Available for appropriation.</i> Residual amounts not contained in any other classification. Reported in the general fund only.

Operational Guidelines

The following guidelines address the classification and use of fund balance in governmental funds:

Classifying Fund Balance Amounts

Fund balance classifications depict the nature of the net resources that are reported in a governmental fund. An individual governmental fund may include non-spendable resources and amounts that are restricted, committed, or assigned, or any combination of those classifications. The general fund may also include an unassigned amount.

Encumbrance Reporting

Encumbering amounts for specific purposes for which resources have already been restricted, committed, or assigned should not result in separate display of encumbered amounts. Encumbered amounts for specific purposes for which amounts have not been previously restricted, committed or assigned, will be classified as committed or assigned, as appropriate, based on the definitions and criteria set forth in Governmental Accounting Standards Board (GASB) Statement No. 54.

Prioritization of Fund Balance Use

When expenditure is incurred for which both restricted and unrestricted (committed, assigned, or unassigned) amounts are available, it shall be the policy of the City to consider restricted amounts to have been reduced first. When an expenditure is incurred for purposes for which amounts in any of the unrestricted fund balance classifications could be used, it shall be the policy of the City that committed amounts would be reduced first, followed by assigned amounts and then unassigned amounts.

General Fund Unassigned Fund Balance

Purpose. The Rochester City Council recognizes that the establishment and maintenance of fiscal responsibility and the promotion of property tax stabilization are goals which promote the public health, safety and welfare of the City of Rochester and its inhabitants. Therefore, it is the purpose of the Rochester City Council in adopting this section to establish a mechanism whereby the fiscal integrity of the City is strengthened and maintained, and the long-term stability of the City's property tax rate is promoted, through the establishment of a systemic and disciplined process for the prudent and planned utilization of revenues. In adopting this section, the Rochester City Council recognized that it is prudent financial practice for municipalities such as Rochester to establish and maintain a minimum General Fund unassigned fund balance (as hereinafter more particularly defined) of between 8% and 17% of total General Fund expenditures. General Fund expenditures include City, County, and School collectively.

This minimum fund balance is to protect against cash flow shortfalls related to timing of projected revenue receipts and to maintain a budget stabilization commitment.

Minimum General Fund unassigned fund balance requirement.

The General Fund unassigned fund balance of the City, at the end of any fiscal year, as established and reported to the State of NH on form MS-535 "Financial Report of the Budget" and confirmed within the notes of the City's annual audited financial statements, shall for the purposes of this section be designated as the "unassigned fund balance" of the General Fund of the City of Rochester, and is referred to throughout section 7-62 of the City ordinance as the "unassigned fund balance." The unassigned fund balance for any fiscal year shall be maintained at a minimum level of between 8% and 17% of total General Fund expenditures for the City for that fiscal year.

Use of General Fund unassigned fund balance – Non-Recurring.

In any subsequent fiscal year, the City Council may, upon adoption of a written resolution, by a two-thirds majority vote, after notice and public hearing, utilize the excess of the actual unassigned fund balance of the General Fund (as determined by the annual audit of the City) over the prescribed unassigned fund balance level established in Subsection **B** of section 7-62 of the City ordinance from the prior fiscal year for capital projects, transfers to capital projects, transfers to capital reserve, or for any other appropriation of a non-recurring nature.

Use of General Fund unassigned fund balance - Recurring.

At any time in a budget year, the City Council may, upon adoption of a written resolution, by a two-thirds majority vote, after notice and public hearing, make appropriations from the General Fund unassigned fund balance of the City of Rochester to meet an essential need for public expenditure. If such appropriation reduces the unassigned fund balance to a level below the minimum prescribed by Subsection **B** of section 7-62 of the City ordinance, the resolution authorizing such appropriation shall include a plan to restore the unassigned fund balance to the minimum level established in Subsection **B** of section 7-62 of the City ordinance within a period not to exceed 2 years.

Implementation and review

Upon adoption of this policy the Rochester City Council authorizes the City Manager to establish any standards and procedures which may be necessary for its implementation. The City Manager shall review this policy and provide a report of any recommendations for changes to the Rochester City Council at the following times:

- At least bi-annually
- If there is a change by GASB concerning fund balance reporting
- If there is a reasonable probability that the General Fund unassigned fund balance is expected to exceed 17 percent in the current or next budget cycle

**Amendment to Chapter 275 of the General Ordinances of the City of Rochester the
Downtown Commercial District**

THE CITY OF ROCHESTER ORDAINS:

That Chapter 275, Section 20.2.K. (~~65~~) of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows (changes in red):

(~~65~~) Downtown Commercial District. Within the Downtown Commercial (DC) District, multifamily is allowed with the following restrictions:

~~(a) Multifamily units are prohibited on the ground floor and only permitted non-residential uses within the Downtown Commercial District shall be located on the ground floor. However, parking shall be allowed on the ground floor except for parcels fronting any of the following streets:~~

- ~~i. Union Street~~
- ~~ii. North Main Street South of North Main Street Bridge~~
- ~~iii. South Main Street~~
- ~~iv. Wakefield Street south of Columbus Avenue~~
- ~~v. Hanson Street~~
- ~~vi. Museum Way~~

~~(ab) Ancillary ground floor multifamily use, such as entryways, lobbies, utility areas, and similar functional spaces shall be minimized to the extent practical. Remaining ground floor space within the first 50 feet of building depth shall be reserved for non-residential uses, as permitted in the DC District, unless otherwise required to comply with state building code and/or fire code, for parcels fronting any of the following streets (Applicants may apply to the Planning Board for a Conditional Use Permit to locate these uses between 30 feet and 50 feet):~~

- ~~i. Union Street~~
- ~~ii. North Main Street south of North Main Street Bridge~~
- ~~iii. South Main Street~~
- ~~iv. Wakefield Street south of Columbus Avenue~~
- ~~v. Hanson Street~~
- ~~vi. Museum Way~~
- ~~vii. Columbus Avenue North of South Main Street and South of Summer Street.~~

These amendments shall take effect upon passage.