

**Rochester City Council Public Hearing**

**March 19, 2013**

**COUNCIL CHAMBERS**

**7:00 PM**

**MEMBERS PRESENT**

Councilor Hervey  
Councilor Hynes  
Councilor Keans  
Councilor LaBranche  
Councilor Lachapelle  
Councilor Larochelle  
Councilor Savoie  
Councilor Varney  
Councilor Walker  
Mayor Jean

**OTHERS PRESENT**

Daniel Fitzpatrick, City Manager  
Blaine Cox, Deputy City Manager  
Dan Wensley, City Attorney

**MEMBERS EXCUSED**

Councilor Lauterborn  
Councilor Torr  
Councilor Reed-Erickson

**MINUTES**

**1. Call to Order**

Mayor Jean called the Public Hearing to order at 7:00 PM. Marcia Roddy, Deputy City Clerk, took a silent roll call. All Councilors were present except for Councilors Lauterborn, Reed-Erickson, and Torr, who had been excused.

**2. Amendment to the City of Rochester Ordinances Relative to Regulation of Permissible Fireworks Chapter 23.13**

Mayor Jean read the Amendment by title only as follows:

**AMENDMENT TO ORDINANCES REGARDING  
FIREWORKS**

**THE CITY OF ROCHESTER ORDAINS:**

That Chapter 23 of the General Ordinances of the City of Rochester, entitled "Fire Safety Measures", as presently amended, be further amended by repealing Section 23:13, as presently amended, in its entirety, and by inserting in its stead the following Section, to be known as Section 23.13 of the General Ordinances of the City of Rochester:

**"23.13 Regulation of Permissible Fireworks."**

- A. In accordance with the provisions of RSA 160-C, it shall be illegal for any person, firm, partnership or corporation to offer for sale, expose for sale, sell at retail, purchase, possess, use, explode or display any permissible fireworks within the City of Rochester, except as specifically provided for in this ordinance.
- B. As used in this ordinance:
  - i. "Display" means the use, explosion, activation, ignition, discharge, firing or any other activity which is intended to cause or which causes a firework to do what it was manufactured to do.
  - ii. "Permissible fireworks" means those consumer firework devices defined as "permissible fireworks" in RSA 160-C, as the same currently exists or as, from time to time, hereinafter amended.
  - iii. "Fire Chief" means the Fire Chief of the City of Rochester or his/her designee.
  - iv. "Police Chief" means the Police Chief of the City of Rochester or his/her designee.
- C. Subject to, and in accordance with the provisions of Chapter 160-C of the New Hampshire Revised Statutes Annotated it shall be lawful to possess and/or display permissible fireworks upon compliance with the following requirements:
  - i. A person who is 21 years of age or older may display permissible fireworks on private property with the written consent of the owner or in the owner's presence, subject to the provisions of this ordinance and RSA Chapter 160-C, and any other applicable ordinance regulation or statute.
  - ii. No display of permissible fireworks shall be permitted within the City except between the hours of 6 PM and 11 PM on Saturdays in the months of June and July and between the hours of 6 PM and 10 PM on Saturdays between the months of August through May. Display of permissible fireworks shall be permitted on the following holidays; Labor Day, Fourth of July, or New Year's Eve (December 31<sup>st</sup>), provided, however, that on New Year's Eve such display shall be permitted to occur between the hours of 6 PM on December 31<sup>st</sup> and 1:00 AM on January 1<sup>st</sup>.
  - iii. The display of permissible fireworks shall be of such a character,

and so located and conducted, that it shall not be hazardous to property or endanger any person. In accordance with the provisions of RSA Chapter 160-C, no permissible fireworks shall be permitted on public property and must be at least 50 feet from nearby buildings, nearby trees, electrical and telephone lines or other overhead obstructions, and the location of any nearby storage of flammable or combustible liquids or gases.

- iv. No permissible fireworks may be used, discharged, exploded, or displayed during periods of very high or extreme fire danger as determined by the Fire Chief or the NH Division of Forests and Lands.
  - v. Permissible fireworks may be used, discharged, exploded, or displayed in a manner such that any all discharge debris shall remain within the property lines of the lot on which the display originates..
  - vi. Anyone using permissible fireworks shall be responsible for removing any debris accumulated due to the discharge of fireworks that fall onto the public way, public property, and any private property within twenty-four hours. Anyone failing to remove such debris shall be financially responsible for its clean up.
- D. A violation of this ordinance shall be subject to the penalties provided for in Chapter 23, Section 23.11, Penalty, of the City of Rochester General Ordinance.
- E. This ordinance shall be construed consistently with NH Code of Administrative Rules Saf c 2600, as made applicable by state statute and as adopted by reference in Section 23.1, of the General Ordinances of the City of Rochester, and is not meant to repeal any section thereof. Nothing in this ordinance shall be interpreted so as to conflict with the provisions of Chapters 160-B or 160-C of the New Hampshire Revised Statutes Annotated, as currently written, or as from time to time hereafter amended. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct independent provision and such holding shall not affect the validity of the remaining portions thereof.
- F. The Police Chief or Fire Chief may suspend the use of permissible fireworks for any of the following reasons:

- i Unfavorable weather conditions, including but not limited to, lightning storms or high wind conditions exceeding 20 miles per hour or higher.
  - ii. If any person under the age of 21 possesses, uses, discharges or explodes, used, discharged or exploded any permissible firework device.
  - iii. If any person who is using, discharging, exploding, or displaying the permissible fireworks appears to be under the influence of alcohol or drugs;
  - iv. If, in the opinion of the Police Chief or Fire Chief, the use, discharge, exploding, or display of permissible fireworks would create a threat to public safety.
- G. The Police Chief and/or Fire Chief are authorized to seize, take, remove or cause to be removed, at the expense of the owner, all firework devices that are being discharged in violation of this ordinance.”

### **3. Resolutions Authorizing the Issuance of Refunding Bonds**

Mayor Jean read the resolutions relative to authorizing the issuance of refunding bonds by title only as follows:

#### **Resolution I**

#### **CITY OF ROCHESTER, NEW HAMPSHIRE**

#### **A Resolution**

#### **Authorizing the Issuance of Refunding Bonds**

**dated as of February 19, 2013**

**WHEREAS**, the City of Rochester, New Hampshire (the "City") issued certain Bonds dated July 15, 2004, the outstanding principal amount of which is \$4,755,000 (the "Refunded Bonds"); and

**WHEREAS**, the Refunded Bonds are subject to redemption prior to their stated maturity on July 15, 2014 (the "Redemption Date"); and

**WHEREAS**, it appears likely that bonds issued today would have a net interest cost less than the net interest cost on the Refunded Bonds; and

**WHEREAS**, the City may be able to realize debt service savings by issuing certain refunding bonds (the "Refunding Bonds"), the proceeds of which would be utilized to refund or advance refund the Refunded Bonds and to pay certain other costs relating thereto;

**NOW THEREFORE, BE IT RESOLVED** that the City, acting by and through its City Council, hereby authorizes the issuance of Refunding Bonds pursuant to the provisions of RSA 33:3-d, the proceeds of which shall be utilized to refund or advance refund the Refunded Bonds, to pay the redemption premium, if any, applicable thereto, any principal and interest coming due on the Refunded Bonds prior to the Redemption Date, and to pay the costs of issuance of the Refunding Bonds, including any costs of credit enhancement; provided, however, that such refunding is only authorized to the extent that the same will achieve a net present value debt service savings in an amount equal to at least three percent (3%) of the outstanding principal amount of the Refunded Bonds; and

**IT IS FURTHER RESOLVED** that the City Treasurer, with the approval of the City Manager, is hereby authorized to issue the aforesaid Refunding Bonds by entering into a Bond Purchase Contract with such bond purchaser or underwriter as they may deem appropriate in connection with the issuance of the Refunding Bonds to evidence the City's approval of the terms and conditions of the Refunding Bonds; and

**IT IS FURTHER RESOLVED** that an Escrow Contract and such other documents as shall be required in connection with the issuance of the Refunding Bonds shall be signed on behalf of the City by the aforementioned individuals, or such other individuals as may be required by state law or as may be specified by bond counsel; and engage such other professionals (including a Financial Advisor, Escrow Agent, Verification Agent and Paying Agent), and to do such other things as are necessary to consummate the aforesaid refunding; and

**IT IS FURTHER RESOLVED** that all actions heretofore taken by the City consistent with the foregoing are hereby confirmed, ratified and approved.

### **Resolution II**

#### **CITY OF ROCHESTER, NEW HAMPSHIRE**

#### **A Resolution**

#### **Authorizing the Issuance of Refunding Bonds**

**dated as of March 5, 2013**

**WHEREAS**, the City of Rochester, New Hampshire (the "City") has borrowed certain funds from the State of New Hampshire (the "State") pursuant to a certain State Revolving Fund Loan #CS-330122-04, dated on or about October 24, 2001 (the "SRF Loan"), the principal amount of which was \$7,693,025.54 as of August 1, 2012; and

**WHEREAS**, the State has indicated that the City may refinance and refund the SRF Loan prior to its stated maturity date without any premium or penalty upon one week's notice to the State; and

**WHEREAS**, the State has indicated that the State grant is currently applied against the principal and interest due on the SRF Loan will continue to be available to be applied against any bonds issued to refinance and refund the SRF Loan; and

**WHEREAS**, it appears likely that bonds issued today would have a net interest cost less than the net interest cost on the SRF Loan; and

**WHEREAS**, the City may be able to realize debt service savings by issuing certain refunding bonds (the "Refunding Bonds"), the proceeds of which would be utilized to refinance or refund the SRF Loan and to pay certain costs relating thereto;

**NOW THEREFORE, BE IT RESOLVED**, that the City, acting by and through its City Council, hereby authorize the issuance of Refunding Bonds pursuant to the provisions of RSA 33:3-d, the proceeds of which shall be utilized to refinance or refund or the SRF Loan, to pay the redemption premium, if any, applicable thereto, any principal and interest, if any, coming due on the SRF Loan prior to the redemption date, and to pay the costs of issuance of the Refunding Bonds, including any costs of credit enhancement; provided, however, that such refinancing or refunding is only authorized to the extent that the same will achieve a net present value debt service savings in an amount equal to at least three percent (3%) of the outstanding principal amount of the SRF Loan; and

**IT IS FURTHER RESOLVED**, that the City Treasurer, with the approval of the City Manager, is hereby authorized to issue the aforesaid Refunding Bonds by entering into a Bond Purchase Contract with a bond purchaser or underwriter in connection with the issuance of the Refunding Bonds to evidence the City's approval of the terms and conditions of the Refunding Bonds; and

**IT IS FURTHER RESOLVED**, that an Escrow Contract and such other documents as shall be required in connection with the issuance of the Refunding Bonds shall be signed on behalf of the City by the aforementioned individuals, or such other individuals, or such other individuals as may be required by state law or as may be specified by bond counsel; and

**IT IS FURTHER RESOLVED**, that the City is authorized to enter into such other documents, to engage such other professionals (including a Financial Advisor, Escrow Agent, Verification, Agent and Paying Agent), and to do such other things as are necessary to consummate the aforesaid refinancing and refunding; and

**IT IS FURTHER RESOLVED**, that all actions heretofore taken by the City consistent with the foregoing are hereby confirmed, ratified and approved.

Mayor Jean invited the public to address the City Council concerning the Amendment to the Fireworks or the two resolutions known as known as *City of Rochester, New Hampshire, A Resolution Authorizing the Issuance of Refunding Bonds*

*dated as of February 19, 2013 and City of Rochester, New Hampshire, A Resolution Authorizing the Issuance of Refunding Bonds dated as of March 5, 2013.*

Andrea Lemier, resident of Pine Street, addressed the City Council about the Amendment to the Fireworks Ordinance. She supported the proposed changes and thanked the City Council for their time.

Diane Desmarais, resident of Pine Street, addressed the City Council about the Amendment to the Fireworks Ordinance. She spoke about the problems with setting off fireworks. She supported the proposed changes and thanked the City Council for their time.

Helen Beauregard, resident of upper Pine Street, addressed the City Council about the Amendment to the Fireworks Ordinance. She spoke about the safety issues related to setting off fire works.

Alex Lindell, resident of Lyons Street, addressed the City Council. He opposed the set-back limits of the proposed fireworks ordinance. The set-back is fifty feet. He would like to continue to set off fireworks in his own neighborhood. If this ordinance is passed with the fifty foot set back requirement it would be like saying "no fireworks in Rochester." He thanked the City Council for their time.

Mayor Jean asked if any other member of the public wished to address the City Council. No other member of the public came forward. He closed the Public Hearing at 7:08 PM.

Respectfully submitted,

Marcia Roddy  
Deputy City Clerk