

**Codes and Ordinances Committee**

Councilor Alex de Geofroy, Chair  
Councilor Tim Fontneau, Vice Chair  
Councilor David Walker  
Councilor Patricia Turner  
Councilor Bryan Karolian



**CODES AND ORDINANCES COMMITTEE**

Of the Rochester City Council  
**Thursday, February 15, 2024**  
**31 Wakefield Street, Rochester, NH**  
Council Chambers  
**6:00 PM**

**Agenda**

1. Call to Order
2. Roll Call
3. Public Input
4. Acceptance of the Minutes
  - 4.1 October 5, 2023 *motion to approve* P. 3
5. Review of the City Council Rules of Order P. 11
6. Review of the Code of Ethics and Conduct for Elected and Appointed Officials P. 33
7. **Discussion:** Resolution Pursuant to RSA 34:1-a Establishing a Waste Management Closure Reserve Fund P. 41
8. Overview of Building and Licensing Services – Director Jim Grant
9. Other
10. Adjournment

---

*Intentionally  
left blank...*

---

City Clerk's Office

---

---

**Codes and Ordinances Committee**

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



**Others Present**

Mike Scala, Director of Economic Development  
Terence O'Rourke, City Attorney

**CODES AND ORDINANCES COMMITTEE**  
Of the Rochester City Council  
**Thursday, October 5, 2023**  
**Council Chambers**  
**6:00 PM**

**Minutes**

**1. Call to Order**

Chair Lachapelle called the Codes and Ordinances meeting to order at 6:00 PM.

**2. Roll Call**

Deputy City Clerk Cassie Givara took the roll call attendance. Councilors Beaudoin, Fontneau, Gilman, and Chair Lachapelle were all present. Councilor Desrocher was excused.

**3. Public Input**

There was no one present for public input.

**4. Acceptance of the Minutes**

**4.1 September 7, 2023 *motion to approve***

Councilor Beaudoin **MOVED** to **ACCEPT** the minutes of the September 7, 2023 Codes and Ordinances Committee meeting. Councilor Gilman seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**5. Amendment to Chapter 7-35 of the General Ordinances of the City of Rochester Regarding the Economic Development Commission (addendum A)**

Chair Lachapelle explained that this item had been kept in Committee because members had additional questions for City staff before they were prepared to make a recommendation.

Councilor Fontneau referred to chapter 7-35, section C (1) and the proposed amendment “Promote the City of Rochester, through advertising, prospect development and other means, as an attractive location for industrial, residential, and business development and/or expansion.” He stated that he felt the role of the Economic Development Commission had always been commercial and business development, and the residential aspect would be a new role for the commission. He expressed concern with using tax dollars to allow the Economic Development Commission to promote residential development, which isn’t normally a benefit to the tax base. Councilor Fontneau stated he would be more comfortable if the wording was changed to indicate the promotion of residential development “when in connection with commercial development.”

Mike Scala, Director of Economic Development, explained that the term “residential” was used as broad term to potentially encompass multiple options in the future. The REDC does not intend to seek out multi-family or strictly residential development, He stated that the goal of the type of development in question would be mixed-use with the potential of a residential component. Director Scala said that he would be open to the addition of verbiage specifying that this covers residential development when in association with business development. Councilor Fontneau **MOVED** to change the verbiage to indicate the promotion of “residential when in conjunction with commercial development.” Councilor Beaudoin seconded the motion.

Councilor Beaudoin echoed Councilor Fontneau’s concerns regarding the REDC promoting residential development and the perception of subsidizing such development. He cautioned against the term “residential,” without the caveat noted by Councilor Fontneau, to avoid single family or multi-family developments. Director Scala agreed that the suggested wording would be less constrictive than the previously mentioned term “mixed-use.” Councilor Beaudoin indicated that although he does not support such mixed-use developments with residential, such as the zoning change authorized at the Granite Ridge, he would be supportive of Councilor Fontneau’s amendment. There was discussion on the probability of a commercial development being proposed with a large residential component. Director Scala stated that the City would consider such a proposal if it was presented, but it was likely that the huge majority of proposals would be mixed-use with a residential component. The **MOTION CARRIED** by a unanimous voice vote. Attorney O’Rourke stated that he would work on the exact verbiage for this passage.

#### **6. Amendment to Chapter 7-63 of the General Ordinances of the City of Rochester Regarding the Economic Development Reserve Fund (Addendum B)**

Councilor Beaudoin directed the Committee to the strikeouts contained in the amendment and stated that the changes go beyond “housekeeping” and minor adjustments. He read an excerpt which states “...encouraging the development of industrial and commercial sites, promoting the City as an attractive location for businesses and residents, and acquisition of land related to the same. The name of the fund is the Economic Development Reserve Fund.” Councilor Beaudoin asserted that State RSA 34:1-a is very limiting with how money from an Economic Development Special Reserve fund can be used. He felt that the acquisition of land would be covered under the referenced statute, however everything else in the statute references

capital expenditures and capital improvements. He suggested that the proposed verbiage of the amendment is too broad and should be reworded in keeping with State law.

Attorney O'Rourke clarified that this verbiage being discussed is, verbatim, the resolution adopted by City Council on July 5, 2022. The only difference between what is being presented now and what was adopted is the formatting and paragraph numbering. The strikeouts referenced have already been approved by Council and deleted from the City ordinances, leaving 7-63 blank. The recommended action is to recommend to Council that the previously adopted resolution be integrated into the City Ordinances as chapter 7-63 so it will have a place to "live" and be referenced. Councilor Beaudoin asked if, based on the wording on RSA 34:1-a, if the REDC would be limited to the acquisition of land. Attorney O'Rourke read directly from RSA 34:1-a "Any city may establish a reserve fund for the maintenance and operation of a specific public facility or type of facility, a specific item or type of equipment, or for any other distinctly-stated, specific public purpose that is not foreign to its institution or incompatible with the objects of its organization. He said this is not contrary to the adopted resolution. Chair Lachapelle reiterated that the verbiage being discussed was already adopted by Council. The action being taken by the Codes committee is simply to recommend the formatting and recommend Council approval for the resolution to be integrated into the City's General Ordinances.

Councilor Fontneau made a minor correction of a redundant word in the passage (**The name of the fund shall is the Economic Development Reserve Fund**). Attorney O'Rourke stated he would make this clerical correction.

Councilor Fontneau questioned the section in paragraph D which reads: "**Upon said 2/3rds vote expenditure requests may then be presented to City Council.**" He inquired if "may" was used instead of "shall" for instances in which the REDC may decide not to move forward with a request for proposal from the City Council. The committee discussed this section further and clarified that the REDC cannot expend any money without City Council approval. However, even after a 2/3 vote, they may decide not to move forward with a project and the ordinance should be worded to not require them to go before Council with every project unless money is being expended.

Councilor Beaudoin asked if the money must be allocated for a specific purpose or project before being transferred to the Trustees of the Trust Fund. Attorney O'Rourke stated that was correct. Councilor Beaudoin asked how specific the request needed to be prior to investment and if it could just be a broad request for land. Director Scala clarified that there would be a fully fleshed out project proposal prior to the REDC coming to City Council.

Councilor Beaudoin **MOVED** to recommend to full Council the adoption of Chapter 7-63 into the City Ordinances. Councilor Gilman seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**7. Amendment to Chapter 7 of the General Ordinances of the City of Rochester Regarding the Code of Ethics and Conduct for Elected and Appointed Officials (Addendum C)**

Chair Lachapelle referenced the first of Councilor Beaudoin's suggested edits to section

A, in which he suggested that the proposed Board of Ethics (BOE) be comprised of five members instead of three, and the suggestion that the City Council member serving on the board should be approved by a majority vote of said Council. Chair Lachapelle stated that the Mayor has authority by the City Charter to appoint members to certain boards and commissions without a Council vote.

Councilor Beaudoin spoke about the serious implications of potential ethics violations, and the unlikelihood of this Ethics Board needing to convene for many years. He felt that the current verbiage for membership left out several boards who could potentially be affected, as well as leaving out members of the public. He suggested adding a member of the public to be approved by Council. Additionally, he stated that having the City Attorney involved with the Board of Ethics' process would constitute involving the administration in Council business. However, he felt that there *should* be a fifth ex officio member of the board with a legal background. The Committee discussed the potential difficulty in finding a member of the NH Bar to serve and the potential of replacing this suggestion with two members of the public instead. Attorney O'Rourke explained why he did not feel having members of the public serving on this board would be advisable; the members who are slated to serve are already elected by the public to represent Rochester's residents and their interests. There is also the question of how these members of the public would be vetted. Attorney O'Rourke reiterated that the way the ordinance is currently written, the members are comprised of established City boards and they would hold this BOE position as part of their official duties. A member of the public could be difficult to evaluate and appoint when considering the input of all the three elected boards involved. Attorney O'Rourke cautioned against bringing in members of the public while the BOE is still in its infancy. He suggested establishing the board and getting it up and running before any such changes are made.

Councilor Fontneau emphasized if the Committee recommends to full Council that this ordinance is adopted, that the Board of Ethics should not be established until January 2024 when the new City Council, School Board, and Police Commission are seated. He also suggested that the members have two-year terms to coincide with the elections of new Councilors and related boards.

Councilor Fontneau supported the idea of adding a member of the public to the BOE; although he agreed that there should be a fifth member to avoid tie votes. Councilor Beaudoin stated that because the BOE is an advisory board, even if they experienced a tie vote, it would equate to a failed vote and would still result in the question going to Council for action. Chair Lachapelle suggested that the discussion of membership take place with the full Council to gather more input.

Councilor Beaudoin questioned the portion of section 7-85 "*Complaints, Investigations, and Hearing*" which states "...*Such complaint must be based on personal knowledge and set forth facts with enough specificity and detail for a determination of sufficiency for investigation.*" He felt that if anyone besides the victim themselves were to report a violation, or if the person reporting the violation witnesses it themselves, then it could be considered hearsay. Attorney O'Rourke clarified that if the victim of a violation reports it to a fellow board member who then brings it to the BOE, that would constitute sufficient personal knowledge; this direct information is weighed more heavily than third party information passed through multiple people. Councilor

Beaudoin questioned the requirement for the complainant to sign the written complaint under oath and speculated that, in doing so, the complainant could be in violation if the victim was found to be untruthful. Attorney O'Rourke explained that the person taking the oath is swearing that they were given particular information by the victim, not that they are certain the information given is factual. There was a brief discussion on the legal definition of hearsay.

Councilor Beaudoin read the remainder of the section, which goes on to state "*The Written Complaint must be signed under oath. The Complaint shall be delivered to the City Attorney with a copy to the Mayor and City Clerk.*" He felt that this process unnecessarily involves the City Administration in Council business. He suggested that such complaints be submitted to the City Clerk, who then forwards the complaint directly to the Board of Ethics. Councilor Beaudoin expressed that the way the process works as written would allow the City Attorney and/or Mayor too much authority to determine which complaints to investigate as opposed to allowing the BOE to be an independent body separate from the administration. Chair Lachapelle speculated that it is necessary to have vetting of complaints to determine their validity; otherwise, there could potentially be a large amount of baseless complaints going through the BOE.

Attorney O'Rourke clarified that after a sufficiency review between the City Attorney and Mayor or Deputy Mayor, any complaint received would go to the Ethics Investigative Officer (EIO) prior to going to the Board of Ethics. He explained that the sufficiency review is critical and reported that the City of Portsmouth, upon which the formatting and wording of the Rochester BOE ordinance is based, found that the huge majority of complaints received were without merit; it would not be beneficial to convene the BOE for every single complaint received.

Councilor Fontneau spoke about past experience with serving on a similar board of standards in the real estate profession, and how the process worked. He questioned if there should be an additional person besides the Mayor and City Attorney for these sufficiency reviews. Attorney O'Rourke suggested that if the Committee wanted to consider adding a third member, it could work as follows: If the complaint were against someone serving on a City Board, the three members could be the Mayor, City Attorney, and City Manager. If the complaint were against someone on the School Board, the three members could be the City Attorney, Mayor, and Superintendent. If the complaint were against someone on the Police Commission, the three members could be the City Attorney, the Mayor, and the Police Chief. Attorney O'Rourke said he could revise this section to include the third member of the sufficiency reviews. Councilor Fontneau **MOVED** to recommend the amendment to section 7-85 (b) to include this third member. Councilor Gilman seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Beaudoin read the portion of the ordinance which states "*A Complaint will be deemed sufficient if it is determined that the Complaint establishes on its own that it is more probable than not that a violation of the Ethics Code may have occurred...*" He stated that if a complaint is not deemed sufficient, the complainant should be notified of the justification for this insufficiency. The section outlines how, if the complaint is found sufficient, it is referred to the EIO for investigation. Councilor Beaudoin stated that he felt the complaint should be referred to the Board of Ethics for review, and if they felt it warranted further investigation, they could then refer the complaint to an EIO of their choosing. Attorney O'Rourke read an excerpt from 7-84 (A) which reads "...*The City Manager shall have the power to identify and retain an EIO,*

*with approval from the BOE...*” There was a brief discussion on when in the process the EIO would be hired and how the timeline would work. Councilor Fontneau spoke about the prior year’s City Council trial and how the Council took a vote for which he felt unprepared and without hearing any live testimony from either side.

Attorney O’Rourke explained the different bodies involved in the process, likening the EIO to the police/prosecutor, doing the investigative piece and considering charges. The BOE would act as the Grand Jury, deciding whether or not to bring charges. And finally the City Council, School Board, or Police Commission would be the petit jury if a trial was deemed necessary, at which point witnesses could be called and testimony heard. Councilor Beaudoin stated that his understanding of the proposed ordinance would not allow the charged party to question the EIO or the complainant in front of the Board of Ethics. Attorney O’Rourke read the portion of 7-85: D (1) which states “... *the BOE shall hold at least one (1) public hearing at which the EIO, the Complainant, and the Charged Party shall be afforded an opportunity to present oral and written argument to the BOE. The BOE may hear from such other and further parties as it determines appropriate.*” Councilor Beaudoin questioned the phrasing “as it determines appropriate” and felt that the BOE should not be the deciding factor on who is and is not allowed to provide testimony. Chair Lachapelle stated that the whole purpose of the BOE is to gather information to make a determination; the BOE is not likely to disallow anyone from providing information.

Councilor Fontneau stated that he did not see the need for the Ethics Investigative Officer. He speculated that most of these cases brought forward would likely be handled with the BOE hearing testimony from the two involved parties without the need for external investigation. Chair Lachapelle agreed that the entire process as laid out is unlikely to be needed frequently but stated that the format is based on the already established and proven programs of other municipalities and legal review; it is important to maintain the entire process in the ordinance and not remove steps before it is even established.

Councilor Beaudoin agreed that the formation of the Board of Ethics is essential; however, he stated that the City should take the time to ensure that the establishment of the BOE ordinance is done properly and not rushed. Chair Lachapelle clarified that the Code of Ethics has already been established and adopted. He indicated that he felt it would be beneficial to send the BOE ordinance to the full Council for a discussion and further edits as needed. Councilor Fontneau agreed that the BOE document should be sent to full Council without a recommendation from the Codes Committee, but instead as a discussion item. The Committee decided to send the BOE ordinance to the November 8, 2023 City Council meeting for a first reading and referral to the November 21, 2023 City Council Workshop meeting.

There was further discussion on passage “D. Board of Ethics Hearing” section 1, and the final sentence “*The BOE may hear from such other and further parties as it determines appropriate.*” Attorney O’Rourke explained that the BOE would have hired an experienced EIO to carry out the investigation for them; it should not be the purview of the Board of Ethics themselves to determine which witnesses to call and what testimony to hear unless they need further clarification at the time of the hearing. Councilor Beaudoin speculated that by only hearing the report of the Ethics Investigative Officer, the charged party does not have sufficient opportunity to present evidence or testimony which could potentially be exculpatory. Attorney O’Rourke read an excerpt from section C which reads “*The Charged Party shall have an*

*opportunity to provide a response to the Complaint.”* He explained that this is the opportunity for the charged party to provide any such evidence or witnesses on their behalf, at which point the EIO can investigate further.

Councilor Beaudoin **MOVED** to send the Board of Ethics ordinance to the full City Council for a first reading at the November 8, 2023 City Council meeting and a referral to the November 21, 2023 City Council Workshop for discussion. Councilor Fontneau seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

## **8. Other**

Chair Lachapelle stated that the next Codes and Ordinances Committee meeting would take place on November 2, 2023.

## **9. Adjournment**

Chair Lachapelle **ADJOURNED** the Codes and Ordinances Committee meeting at 7:06 PM.

Respectfully Submitted,

Cassie Givara  
Deputy City Clerk

---

*Intentionally  
left blank...*

---

City Clerk's Office

---

---

**ROCHESTER  
NEW HAMPSHIRE**



**2023  
CITY COUNCIL  
RULES OF ORDER**

**RULES OF ORDER  
OF THE CITY COUNCIL  
CITY OF ROCHESTER, NEW HAMPSHIRE**

**ARTICLE 1: CITY COUNCIL MEETINGS ..... 1**

SECTION 1.1 REGULAR MEETINGS..... 1

SECTION 1.2 SPECIAL MEETINGS..... 1

SECTION 1.3 NON-PUBLIC SESSIONS.....1

SECTION 1.4 ABSENCE OR DISABILITY OF MAYOR, DEPUTY MAYOR..... 1

SECTION 1.5 REMOTE PARTICIPATION DURING COUNCIL AND BOARD MEETINGS..... 2

SECTION 1.6 ORDER OF BUSINESS ..... 3

SECTION 1.7 PUBLIC HEARINGS.....4

SECTION 1.8 OPEN DOOR.....4

SECTION 1.9 PUBLIC INPUT (Including during Public Hearings) Guidelines for Public Comment.....5

**ARTICLE 2: DUTIES AND POWERS OF PRESIDING OFFICER ..... 7**

SECTION 2.1 PRESIDING OFFICER - DECORUM AND ORDER..... 7

SECTION 2.2 PRESIDING OFFICER - DECLARING VOTES..... 7

SECTION 2.3 PRESIDING OFFICER - ROLL CALL VOTES ..... 7

SECTION 2.4 PRESIDING OFFICER - ORDER OF QUESTIONS..... 7

SECTION 2.5 DISPOSAL OF MOTIONS ..... 7

SECTION 2.6 MOTION FOR ADJOURNMENT..... 7

SECTION 2.7 PRESIDING OFFICER - RECOGNIZING MEMBERS ..... 7

SECTION 2.8 COMMITTEE APPOINTMENTS ..... 8

SECTION 2.9 ROBERT'S RULES OF ORDER ..... 8

**ARTICLE 3: RIGHTS AND DUTIES OF MEMBERS..... 9**

SECTION 3.1 COUNCIL MEMBER SPEAKING..... 9

SECTION 3.2 COUNCIL MEMBER IN DEBATE ..... 9

SECTION 3.3 INTERRUPTION OF COUNCIL MEMBER ..... 9

SECTION 3.4 COUNCIL MEMBER SPEAKING, LIMITATIONS..... 9

SECTION 3.5 PRECEDENCE OF MOTIONS ..... 9

SECTION 3.6 MOTION REDUCED TO WRITING .....10

SECTION 3.7 VOTING ON MOTIONS, ABSTENTIONS ..... 10

SECTION 3.8 MAYORAL VETO - EXERCISE AND VOTE TO OVERRIDE..... 10

SECTION 3.9 DIVISION OF A QUESTION ..... 10

SECTION 3.10 READING OF A PAPER, OBJECTIONS ..... 10

SECTION 3.11 SUSPENSION, AMENDMENT, AND REPEAL OF RULES ..... 10

SECTION 3.12 ATTENDANCE OF MEMBERS.....11

**ARTICLE 4: AGENDAS, COMMUNICATIONS, COMMITTEES, REPORTS, RESOLUTIONS..... 12**

SECTION 4.1 AGENDA PREPARATION .....12

SECTION 4.2 MEMORIALS AND DOCUMENTS, PRESENTATION .....12

SECTION 4.3 REPORTS AND PAPERS, LEGIBLY WRITTEN OR TYPED .....12

SECTION 4.4 STANDING COMMITTEES.....12

SECTION 4.5 SPECIAL COMMITTEES .....13

SECTION 4.6 REMOVAL OF A COMMITTEE MEMBER .....13

SECTION 4.7 PUBLIC INPUT AT WORKSHOP OR COMMITTEE MEETINGS.....13

SECTION 4.8 SITTING OF COMMITTEE DURING COUNCIL MEETINGS ..... 14

SECTION 4.9 COMMITTEE REPORTS .....14

SECTION 4.10 COMMITTEE OF THE WHOLE, COUNCIL RULES .....14

SECTION 4.11 AUTHORIZATION OF EXPENDITURES, CITY DEBT.....14

SECTION 4.12 ORDINANCES AND RESOLUTIONS .....14

SECTION 4.13 ELECTIONS BY BALLOT .....15

SECTION 4.14 RECORD OF VOTES AND PROCEEDINGS .....15

SECTION 4.15 FUNCTIONS OF FINANCE COMMITTEE.....15

SECTION 4.16 FUNCTIONS OF CODES AND ORDINANCES COMMITTEE .....15

SECTION 4.17 FUNCTIONS OF PUBLIC WORKS AND BUILDING COMMITTEE .....16

SECTION 4.18 FUNCTIONS OF PUBLIC SAFETY COMMITTEE .....15

SECTION 4.19 FUNCTIONS OF COMMUNITY DEVELOPMENT COMMITTEE .....15

SECTION 4.20 FUNCTIONS OF THE APPOINTMENTS REVIEW COMMITTEE .....15

SECTION 4.21 INAUGURAL MEETING, ORDER EXERCISES .....15

SECTION 4.22 COUNCIL COMMUNICATIONS.....17

SECTION 4.23 MINUTES .....17

SECTION 4.24 CANCELLATION OR POSTPONEMENT OF MEETING(S).....17

APPENDIX.....18

**RULES OF ORDER OF THE  
CITY COUNCIL  
CITY OF ROCHESTER, NEW HAMPSHIRE**

**ARTICLE 1  
CITY COUNCIL MEETINGS**

**SECTION 1.1 REGULAR MEETINGS**

Regular meetings of the City Council shall be held in the Council Chamber in City Hall on the first Tuesday of each month, at 6:00 o'clock PM, except when a state general election or a regular municipal election is held on said first Tuesday of the month of November. The November meeting date in the year in which a regular municipal election is conducted shall be the Wednesday following said municipal election, in accordance with Section 52 of the City Charter. The November meeting date in the year in which a state general election is conducted shall be the second Tuesday of that month, unless the City Council shall otherwise direct. The inaugural meeting date following the regular municipal election shall be the first Tuesday after January 1. If any such date shall fall upon a legal holiday or upon the day on which a special state or municipal election is conducted the City Council shall vote to conduct said meeting on the day following or on the Tuesday following that holiday or Election Day.

**SECTION 1.2 SPECIAL MEETINGS**

The City Clerk shall call a special meeting of the City Council at the written request of the City Manager, the Mayor, or at the written request of a majority of City Council. Special meetings of the City Council shall be held upon written notice being delivered by the City Clerk to each City Councilor at least forty-eight (48) hours prior to said meeting, said notice stating the purpose for which the meeting is called. The Mayor shall take the chair precisely at the hour appointed for the meeting and call the members to order, and within ten minutes or sooner if a quorum be present, shall cause the roll to be called, and the names of the members present to be recorded. The Clerk shall also record the names of the members coming in after the calling of the roll.

**SECTION 1.3 NON-PUBLIC SESSIONS**

Items being considered for action in a non-public session shall be submitted and dealt with in accordance with Council Rules of Order sections 4.1, 4.2, and 4.3. Therefore, all supporting documentation, contracts, or proposals being considered during non-public session shall be submitted to council members at least five calendar days in advance of consideration. Such documentation shall be distributed in a confidential manner.

**SECTION 1.4 ABSENCE OR DISABILITY OF MAYOR, DEPUTY MAYOR**

In the absence or disability of the Mayor, the Deputy Mayor shall take the chair and preside over the meeting and shall act as Mayor during such absence or disability. In

the absence or disability of both Mayor and Deputy Mayor, the Clerk shall call the Council to order and shall preside until a chairperson shall be chosen by a roll call vote and plurality of votes, who shall preside and act as Mayor during such absence or disability.

## **SECTION 1.5 REMOTE PARTICIPATION DURING COUNCIL AND BOARD MEETINGS**

### **a) INTRODUCTION / PURPOSE**

The City Council strongly encourages board members to be physically present for all board and committee meetings. The Council recognizes, however, that extenuating circumstances may occasionally prevent a member from being physically present at a meeting. Therefore, to promote full participation of board members while ensuring access and transparency for the public as required by NH RSA 91-A:2 Access to Governmental Records and Meetings, the Council authorizes remote participation in board meetings subject to the following procedures and requirements.

### **b) PERMISSIBLE REASONS FOR REMOTE PARTICIPATION**

Remote participation is not to be used solely for a board member's convenience or to avoid attending a particular meeting in person. Any Board member who is unable to physically attend a meeting of the board may make arrangements to remotely participate in the meeting under the following conditions:

1. Personal illness or disability;
2. Out-of-town travel;
3. Unexpected lack of child-care;
4. Family member illness or emergency;
5. Weather conditions;
6. Military service;
7. Employment obligations; or
8. A scheduling conflict.
9. As determined by the Chair

### **c) PROCEDURE FOR REMOTE PARTICIPATION**

1. With the exception of an emergency, a member of the board requesting to participate in a meeting remotely shall notify the board chair (the "Chair") as soon as practicable, but in no case less than 2 business days prior to the scheduled meeting.

2. The Chair will contact the board staff liaison as soon as possible and state they have allowed board member to participate remotely (state meeting date) based on criteria laid out in this document.

3. The staff liaison will contact the Government Channel Coordinator or designee to arrange technical logistics, based on currently available technology.

4 Staff liaison, the requesting board member, and the Government Channel Coordinator will

arrange for a test prior to said meeting. While technological issues may arise that may be beyond staff control, this will ensure the best possible experience.

5. The remote participant(s) shall join the remote meeting 15 minutes prior to scheduled meeting time.

6. The Chair shall announce the remote participant *prior* to the Call to Order and follow this suggested script: “Board member (name) is participating in this meeting remotely. (name) are you there? (participant– “yes I am here”) (name) was it reasonably impractical for you to be physically present at this meeting? (participant) – yes, it was impractical for me to be physically present).”

7. The Chair may decide how to address technical difficulties that arise when utilizing remote participation, but whenever possible, the Chair should suspend discussion while reasonable efforts are made to correct any problem that interferes with a remote participant’s ability to hear, or be heard clearly by all persons present at the meeting location.

8. A member participating remotely shall notify the chair if leaving the meeting before it is adjourned or rejoining the meeting after a period of absence.

9. All votes taken during such a meeting shall be by roll call.

10. Participation by remote communication will be noted in the official board minutes. Any interruption to or discontinuation of the member’s participation will also be noted in the minutes.

## **SECTION 1.6 ORDER OF BUSINESS**

a) The order of business for Regular meetings of the City Council shall be as follows:

1. Call to order
2. Pledge of Allegiance
3. Prayer
4. Roll Call
5. Approval of the minutes of the previous meeting(s)
6. Communications from the City Manager
7. Communications from the Mayor
8. Presentation of Petitions and Council Correspondence [and Disposal thereof by Reference or Otherwise]
9. Nominations, Appointments and Elections
10. Report of Committees
11. Unfinished Business
12. Consent Calendar
13. New Business

#### 14. Adjournment

- b) **New Business:** Items requiring Council action may be introduced by any member of the City Council, but may not be acted upon at the meeting in which they are introduced unless the items are properly filed in accordance with Article 4, Section 4.1 herein. The Council may act upon said items if they have not been filed in advance by suspending Council Rules by a two-third (2/3) vote of the City Council.

### **SECTION 1.7 PUBLIC HEARINGS**

**Public Hearings:** To receive citizen input and feedback on certain specific matters that have been placed on the meeting agenda for consideration and action by the City Council, Public Hearings will be scheduled and held as required by law and/or whenever referred for a public hearing by simple majority vote of Council Members present. Upon being referred by Council vote, Public Hearings will be noticed for and held during a subsequent Regular and/or Special Meeting or Committee Meeting. At the request of the presiding officer, Ordinances or Resolutions scheduled on an agenda for public hearing will be briefly introduced with appropriate explanations by staff. Citizens will then have the opportunity to address the Council speaking to the specific item(s) subject to public hearing, subject to the following guidelines: [6/4/2013]

1. All speakers shall be residents of the City of Rochester, property owners in the City of Rochester, and/or designated representatives of recognized civic organizations or businesses located and/or operating in the City of Rochester;
2. All speakers shall address their comments to the presiding officer and the Council as a body and not to any individual member;
3. Speakers shall first recite their name and address for the record, and, if applicable, the name and address of the civic organization and/or business they have been designated to represent;
4. For each public hearing item, a speaker shall be provided a single opportunity for comment;
5. Public Hearings are not intended to be utilized for a two-way dialogue between speaker(s), Council Member(s), and/or the City Manager, or administrative staff; and
6. The presiding officer shall preserve strict order and decorum for and by all speakers appearing before the Council.

### **SECTION 1.8 OPEN DOOR**

Except in circumstances when the City Council is using Council Chambers for Non-Public Sessions or Non-Meeting, the door to Council Chambers shall remain open. However, if the Chair determines that noise or other distractions emanating from the rest of City Hall are interfering with the conduct of business, the Chair may order the door to be closed. If

the Chair does order the door closed, the door shall be immediately affixed with a sign stating "Meeting in Session, Open to Public, Please Enter Quietly, Door to Remain Closed." As soon as any interference with the conduct of City Council business has terminated, the door to Council Chambers shall be ordered open by the Chair.

### **SECTION 1.9 PUBLIC INPUT (Including during Public Hearings) – Guidelines for Public Comment.**

The City Council hereby acknowledges and affirms the value of and need for public input as it conducts the City's business. Public input and comment periods during City Council and subcommittee meetings is an essential part of local government meetings. This is an opportunity for members of the public to inform the City Council of their views and offer unique insights regarding topics within the City Council's purview. However, it must be clear that these are business meetings of the City Council. The public does not participate in the decision-making process. The public's role is to provide input for the City Council's consideration in making its decisions.

The receipt of constructive input must be balanced with the City Council's need to conduct its business in an orderly and fair manner. The meeting Chair must have discretion to curtail and even cut off public input which he/ she reasonably perceives to be irrelevant to the City Council's particular purposes or public input that constitutes defamation<sup>1</sup>, fighting words<sup>2</sup>, or a criminal threat<sup>3</sup>. Determining relevancy, although sometimes challenging, is fairly clear. Determining what constitutes appropriate criticism of elected and appointed officials versus unprotected speech is more challenging.

Although the Chair has the primary responsibility to enforce the rules, all members of the City Council and subcommittees have a responsibility to raise a Point of Order when appropriate. When that happens, the Chair determines whether the rules have been violated and whether a speaker is allowed to continue. Any two Councilors can challenge the Chair's decision. In that event, by majority vote, the Council/ committee will decide whether the speaker is allowed to continue.

Citizens have a right to complain about elected officials as well as appointed officials, including City employees. These complaints are protected speech per the First Amendment to the U.S. Constitution. However, the City Council will not

---

<sup>1</sup> Defamatory statements are those that a speaker (a) knows to be false and defames the object of the statements;

(b) makes with a reckless disregard for whether the statements are true or false; or (c) negligently fails to ascertain whether the statements are true. *McCarthy v. Manchester Police Dep't*, 168 N.H. 202, 210 (2015).

<sup>2</sup> "[F]ace-to-face words plainly likely to cause a breach of the peace by the" recipient. *State v. Oliveira*, 115 N.H. 559, 561 (1975).

<sup>3</sup> RSA 631:4; *State v. Hanes*, 171 N.H. 173, 179 (2018).

allow defamation, fighting words, or criminal threats. These types of utterances are not

protected by the First Amendment.

Comments identifying a specific action or a specific issue of concern are appropriate. However, accusations of wrongdoing or illegal acts without evidence are defamatory and will be not allowed.

Example of protected speech: The City Manager was wrong to eliminate parking in downtown Gonic. He failed to consider the needs of the residents who live there in the downtown that need the parking in close proximity. He incorrectly determined that the parking obstructed the view of northbound motorists -

Example of an unprotected utterance: The City Manager was wrong to eliminate parking in downtown Gonic. He did this because he took a bribe from the landowner adjacent to the parking.

Citizens who wish to submit a criticism regarding elected and/ or appointed officials are encouraged to do so in writing or to meet with appropriate officials in a non-public setting to convey their input. However, if a citizen wishes to make a public criticism, the City Council recognizes the right to do so if it is conveyed in a manner that is legitimate speech.

-

<p><b>ARTICLE 2</b></p> <p><b>DUTIES AND POWERS OF PRESIDING OFFICER</b></p>
--

**SECTION 2.1 PRESIDING OFFICER - DECORUM AND ORDER**

The presiding officer shall preserve decorum and order, may speak to points of order in preference to the members, and shall decide all questions of order, subject to an appeal to the Council on motion of any member. No other business shall be in order until the questions on the appeal shall have been decided.

**SECTION 2.2 PRESIDING OFFICER - DECLARING VOTES**

The presiding officer shall declare all votes, but if any member doubts the vote, the presiding officer, without further debate upon the question, shall require a division and shall declare the results.

**SECTION 2.3 PRESIDING OFFICER - ROLL CALL VOTES**

When any member shall require a question to be put in the roll call vote, the presiding officer shall so order, if the request is seconded.

**SECTION 2.4 PRESIDING OFFICER - ORDER OF QUESTIONS**

The presiding officer shall propound all questions in the order in which they are moved, unless the subsequent motion shall be previous in its nature.

**SECTION 2.5 DISPOSAL OF MOTIONS**

After a motion is made and seconded, it shall be considered, and, after it is stated by the presiding officer, it shall be disposed of by vote of the City Council, unless the mover withdraws it before a decision or amendment and the second agrees to withdrawal of the motion.

**SECTION 2.6 MOTION FOR ADJOURNMENT**

The presiding officer shall consider a motion to adjourn as always in order, the time of the next meeting having been agreed upon, unless a member has possession of the floor, or any question has been put and not decided. The motion to adjourn, or to lay on the table, or to take from the table, if seconded, shall be decided without debate.

**SECTION 2.7 PRESIDING OFFICER - RECOGNIZING MEMBERS**

When two or more members ask to be recognized at the same time, the presiding officer shall name the member who shall speak first.

## **SECTION 2.8 COMMITTEE APPOINTMENTS**

All Council committees shall be appointed and announced by the presiding officer, who shall designate the chairperson and vice-chairperson thereof. The Mayor shall be Chair of the Finance Committee and an Ex-Officio voting member of all other committees of the Council.

## **SECTION 2.9 ROBERT'S RULES OF ORDER**

When no other provision is herein made, questions of parliamentary law shall be decided as prescribed in the most recent edition of Robert's Rules of Order.

<b>ARTICLE 3</b> <b>RIGHTS AND DUTIES OF MEMBERS</b>
---

### **SECTION 3.1 COUNCIL MEMBER SPEAKING**

When any member is about to speak in debate, or deliver any matter to the Council, the member shall use a raised hand to be recognized, shall remain seated, respectfully address the presiding officer, shall be confined to the question under debate, and shall avoid personalities. The presiding officer shall attempt to allow a particular stream of discussion to be completed prior to allowing a member to change the direction of the debate at hand.

### **SECTION 3.2 COUNCIL MEMBER IN DEBATE**

Members in debate shall address each other as Councilor or may use a description by the ward represented, or such other designation as may be intelligible and respectful.

### **SECTION 3.3 INTERRUPTION OF COUNCIL MEMBER**

No member speaking shall be interrupted by another, except to call to order or to correct a mistake. But if any member, in speaking or otherwise, transgresses the Rules of the Council, the member so called to order shall immediately cease speaking unless permitted to explain, and the Chair shall decide the question of order. The City Council, if appealed to, shall decide the question with limited debate.

### **SECTION 3.4 COUNCIL MEMBER SPEAKING, LIMITATIONS**

Upon a motion and a two-thirds (2/3) vote by the council to limit debate, the Chair shall limit discussions on any motion before the council. After such vote and if no time limit is set as part of the motion, no member shall speak more than twice on the same question, or more than five minutes at one time, nor more than once, until all other members choosing to speak shall have spoken.

### **SECTION 3.5 PRECEDENCE OF MOTIONS**

The following motions shall have precedence in the order in which they are arranged:

1. **TO ADJOURN:** A privileged motion to be voted on at once if seconded; not debatable.
2. **TO LAY ON THE TABLE/TO TAKE FROM THE TABLE:**  
Requires a second, not debatable.
3. **TO CALL FOR THE PREVIOUS QUESTION/TO MOVE THE QUESTION (TO CLOSE DEBATE):**  
Requires a second, not debatable.
4. **TO POSTPONE TO A TIME CERTAIN:**  
Requires a second, debatable.

5. **TO REFER:** Requires a second; debatable.
6. **TO AMEND:** Requires a second; debatable.
7. **TO POSTPONE INDEFINITELY:** Requires a second: debatable.
8. **MAIN MOTION:** Requires a second; debatable.

### **SECTION 3.6 MOTION REDUCED TO WRITING**

Every motion shall be reduced to writing, if the presiding officer directs, or if a member of the Council requests it.

### **SECTION 3.7 VOTING ON MOTIONS, ABSTENTIONS**

Every member who shall be in the Council Chamber when a question is put shall vote, except that no member may vote on any question in which the member has a direct interest to a degree that may significantly impair the independent and impartial exercise of that member's judgment as a Councilor. If a member takes this rule for purposes of not voting, the member shall inform the City Council before a vote be taken on the motion under consideration.

### **SECTION 3.8 MAYORAL VETO - EXERCISE AND VOTE TO OVERRIDE**

To be effective, the right of veto accorded to the Mayor under the provisions of Section 10-A of the Rochester City Charter, must be exercised, and notice of such exercise must be communicated in writing to the City Clerk, within one hundred forty-four (144) hours after action by the Council. As soon as practicable after receipt of the Mayor's written notice of exercise of the veto power, and in no event later than seventy-two (72) hours after receipt of such notice, the City Clerk shall inform the Council in writing of the Mayor's exercise of such veto. The Council may override said veto by a two-thirds (2/3) vote of all Councilors (Mayor excluded) serving in office, as provided for in Section 10-A of the Rochester City Charter, no later than the close of the next Regular meeting of Council.

### **SECTION 3.9 DIVISION OF A QUESTION**

The division of a question may be called for when the sense will admit it.

### **SECTION 3.10 READING OF A PAPER, OBJECTIONS**

When the reading of a paper is called for, and the same is objected to by any Member, it shall be determined by a vote of the Council.

### **SECTION 3.11 SUSPENSION, AMENDMENT, AND REPEAL OF RULES**

No standing Rule of Order of the Council shall be suspended unless two-thirds (2/3) of the members present shall consent thereto. Nor shall any Rule of Order be repealed or

amended without a motion therefore, made at a previous meeting, nor unless a majority of the whole City Council concur therein. The Rules of Order of the City Council shall be reaffirmed by the new Council following each municipal election. The Rules of the former Council shall not be binding.

### **SECTION 3.12 ATTENDANCE OF MEMBERS**

Every member shall take notice of the day and hour to which the Council may stand adjourned, and shall give his punctual attendance accordingly.

<p><b>ARTICLE 4</b></p> <p><b>AGENDAS, COMMUNICATIONS, COMMITTEES,</b></p> <p><b>REPORTS, RESOLUTIONS</b></p>
---

**SECTION 4.1 AGENDA PREPARATION**

The agenda for each Council meeting shall be prepared by the Mayor, the Deputy Mayor and the City Manager in conjunction with the City Clerk. Any Councilor may place an item on the agenda provided that the items be submitted in writing or email to the City Clerk, the Mayor, the Deputy Mayor or the City Manager eleven (11) calendar days prior to the meeting of Council. The City Clerk shall provide Council members with copies of the agenda at least five (5) calendar days prior to the meeting of the Council.

**SECTION 4.2 MEMORIALS AND DOCUMENTS, PRESENTATION**

All memorials and other documents addressed to the City Council shall be presented by the presiding officer or by a member in the presiding officer's place, who shall explain the subject thereof; and they shall lie on the table to be taken up in order in which they are presented, unless the Council shall otherwise direct.

**SECTION 4.3 REPORTS AND PAPERS, LEGIBLY WRITTEN OR TYPED**

All reports and other papers submitted to the City Council shall be written in fair hand or typewritten. The Clerk shall make copies on any papers to be reported by the committees, at the request of the chairs thereof. At the request of any councilor a digital copy may be provided in place of printed page.

**SECTION 4.4 STANDING COMMITTEES**

At the commencement of the new year following the regular municipal election, the following committees shall be appointed by the Mayor:

**Finance:**

Shall consist of seven (7) members including the Mayor who shall serve as chair.

**Public Works and Buildings:**

Shall consist of five (5) members.

**Public Safety:**

Shall consist of five (5) members.

**Codes and Ordinances:**

Shall consist of five (5) members.

**Community Development:**

Shall consist of five (5) members.

**Appointments Review Committee:**

Shall consist of five (5) members.

- A. No Council Member shall serve on more than three (3) standing committees, excluding the Finance Committee.
- B. All vacancies occurring in any standing committee shall be filled by the Mayor.

**SECTION 4.5 SPECIAL COMMITTEES**

Special committees shall consist of three (3) members unless a different number be ordered by the Mayor.

**SECTION 4.6 REMOVAL OF A COMMITTEE MEMBER**

A member of any committee may be removed by a two-thirds (2/3) vote of the entire Council.

**SECTION 4.7 PUBLIC INPUT AT WORKSHOP OR COMMITTEE MEETINGS**

The chair shall call the committee together and no committee shall act by separate consultations, and no report shall be received from any committee unless agreed to in committee actually assembled, and voted upon by a majority of the members thereof.

Public input on any subject appropriate to be brought before the Council shall be allowed at the beginning of every committee meeting or council workshop and shall be placed as the first item of business on the agenda of said meeting. When possible, the chair shall allow for reasonable input from the public during the meeting, to allow citizens to comment on any item appearing on the agenda, except for any items discussed in any non-public session. The chair may limit any public input to insure that the committee is able to complete its work and to provide for the decorum of the meeting.

1. Speakers shall be residents of the City of Rochester, property owners in the City of Rochester, and/or designated representatives of recognized civic organizations or businesses located and/or operating in the City of Rochester;
2. Speakers shall address their comments to the presiding officer and the Council as a body and not to any individual member;
3. Speakers shall first recite their name and address for the record, and, if applicable, the name and address of the civic organization and/or business the have been designated to represent;

4. Each speaker shall be provided a single opportunity for comment, limited to five (5) minutes with the five (5) minutes beginning after the obligatory statement of named and address by the speaker;
5. Public Input shall not be a two-way dialogue between speaker(s), Council Member(s), and/or the City Manager, or administrative staff; with the exception of Committee meetings when allowed by the Chair; and
6. The presiding officer shall preserve strict order and decorum for and by all speakers appearing before the Council.

#### **SECTION 4.8 SITTING OF COMMITTEE DURING COUNCIL MEETINGS**

No committee shall sit during the meetings of the City Council without special leave.

#### **SECTION 4.9 COMMITTEE REPORTS**

It shall be the duty of every committee of the Council to which any subject may be specially referred to report thereon at the next meeting of the City Council, or to ask for further time.

#### **SECTION 4.10 COMMITTEE OF THE WHOLE, COUNCIL RULES**

The rules of proceedings in Council shall be observed in a committee of the whole so far as they may be applicable, excepting the rules limiting the time speaking.

#### **SECTION 4.11 AUTHORIZATION OF EXPENDITURES, CITY DEBT**

After the annual appropriations shall have been passed, no subsequent expenditure shall be authorized for any object, unless provisions for the same shall be made by a specific transfer from some of the annual appropriations or money in the treasury unappropriated or by expressly creating therefore a City debt; and no City debt shall be created except by a majority vote of the Council in the affirmative.

#### **SECTION 4.12 ORDINANCES AND RESOLUTIONS**

Every Resolution, including those which propose to change the Ordinance, shall be placed on the City Council Agenda in accordance with Section 4.1. Any Resolution shall receive a First Reading during the first meeting in which it appears on the Agenda. Following the First Reading, the Council shall take one of the following actions:

1. Vote to disapprove the Resolution.
2. Refer to a Public Hearing if required by law.
3. Refer to an appropriate standing committee, or to the City Council sitting as a Committee of the Whole, for further review. Any Resolution proposing a change to the Ordinance, which did not originate in the Codes and Ordinances Committee, must be referred to said committee prior to a vote of approval. Resolutions referred to Public Hearing per action #2 may also be referred to committee.
4. If actions #2 and #3 do not apply to the Resolution, the Council may proceed to a

vote of approval.

For a Resolution which is not subject to action #1 or #4, it shall receive a Second Reading at the next meeting during which it appears on the City Council Agenda. Following the Second Reading, for any Resolution referred to a standing committee, the chairperson of said committee shall deliver a report detailing the review of the Resolution. After the committee report is delivered, the City Council shall entertain any motions to amend. Following disposition of the motions to amend, the City Council shall vote on final approval or disapproval of the Resolution.

All Resolutions shall be read by title only for the First and Second Reading. Any Councilor desiring a Resolution to be read in its entirety shall Motion as such and said Motion shall require a second. In order to be successful, said Motion must receive a two-thirds (2/3) vote of approval from the entire City Council.

### **SECTION 4.13 ELECTIONS BY BALLOT**

In all elections on the part of the City Council, the members of the City Council shall vote publicly by roll call. To be elected any person seeking election must receive a majority of the votes of those members present and voting.

Single candidates upon nominations ceasing will be elected by City Council voice vote that the City Clerk cast one ballot for that candidate.

### **SECTION 4.14 RECORD OF VOTES AND PROCEEDINGS**

The Clerk shall keep a record of the votes and proceedings of the City Council, entering thereon all orders and resolutions, except such as it is necessary to engross; reports, memorials, and other papers submitted to the Council shall be noted only by their titles or a brief description of their purpose, but any accepted reports may be entered at length on said record.

### **SECTION 4.15 FUNCTIONS OF FINANCE COMMITTEE**

Functions shall include: Purchasing, Trust Funds, Operating Budget, Final Capital Budget, Taxes, City Reports, Legal Affairs, Insurance, Audits, Claims, Accounts, Bids, Review of Expenditures, Receipts, Contract Change Orders, Welfare and Grants. The Finance Committee shall present a monthly report of the City accounts to the Council.

### **SECTION 4.16 FUNCTIONS OF CODES AND ORDINANCES COMMITTEE**

Functions shall include: Municipal Elections and Returns, Charter and Ordinances, Council By-Laws, Enrolled Bills, Planning, Zoning, and such other matters as may be directed by the City Council.

### **SECTION 4.17 FUNCTIONS OF PUBLIC WORKS AND BUILDING COMMITTEE**

Functions shall include: Roads, Sewer Systems, Water Systems, Engineering, Public Buildings, Recycling and Solid Waste, Pollution, Water Resources, Space Allocations.

#### **SECTION 4.18 FUNCTIONS OF PUBLIC SAFETY COMMITTEE**

Functions shall include: Police, Fire, Parking, Traffic, Street Signs, Street Lights, Animal Control, Public Health Services and Ambulance Services.

#### **SECTION 4.19 FUNCTIONS OF COMMUNITY DEVELOPMENT COMMITTEE**

Functions shall include: Economic Development, Industrial Development, Land Use Policy, Technology Issues, Chamber of Commerce, Rochester Main Street, Arts and Cultural, Recreation, Parks, Adult & Youth Services, Promotional Activities and Festivals, Public Relations, COAST, CDBG and Human Services Agencies.

#### **SECTION 4.20 FUNCTIONS OF THE APPOINTMENTS REVIEW COMMITTEE**

Functions shall include: Interviewing of candidates for Council appointed positions on various boards of the City, including but not exclusive of Planning Board, Zoning Board of Adjustment, Trustees of the Trust Fund, Library Trustees, Arena Commission, Recreation, Parks and Youth Services, Welfare Appeals Board, Utility Advisory Board.

Incumbents of any Committee who have submitted Statements of Interest for reappointment and are running unopposed: the Appointments Committee reserves the right to waive the presence of the candidate.

#### **SECTION 4.21 INAUGURAL MEETING, ORDER EXERCISES**

The order of exercises at the meeting held on the first Tuesday after January 1, or Wednesday, January 2, following the regular municipal election shall be as follows:

1. Call to Order
2. Pledge of Allegiance
3. Prayer
4. Roll Call of Councilors-Elect and Mayor-Elect
5. Mayor takes Oath of Office
6. Councilors-Elect take Oath of Office
7. Roll Call of School Board Members-Elect
8. School Board Members-Elect take Oath of Office
9. Roll Call of Police Commissioners-Elect
10. Police Commissioner-Elect takes Oath of Office
11. Election of Deputy Mayor

12. Inaugural Address
13. Recess to Time Certain
14. Committee of the Whole: Review of Code of Ethics and Conduct
15. Old and/or New Business

#### **SECTION 4.22 COUNCIL COMMUNICATIONS**

- (a) No member shall cause to be mailed, electronically transferred, delivered, or left at City Hall any documents or correspondence for any other member or the City Manager which does not clearly identify the name of the member sending such information and, if possible, the source of such information.
- (b) No anonymous correspondence shall be placed in any member's Council mailbox. All mail, electronic media or other correspondence shall clearly identify the sender, source and date it was received.

#### **SECTION 4.23 MINUTES**

All meetings of the City Council including all standing and special committees of the Council shall take roll call at all committee meetings and record their proceedings and provide minutes of any meeting to the City Clerk's Office in a manner prescribed under NH RSA 91-A (NH Right To Know Law).

#### **SECTION 4.24 CANCELLATION OR POSTPONEMENT OF MEETING(S)**

- (a) The Mayor, Deputy Mayor, and City Manager shall confer and determine if insufficient business or other non-urgent matter warrants postponement or cancellation of a scheduled Council meeting.
- (b) The Mayor, Deputy Mayor, and City Manager shall confer and determine if inclement weather or other emergency warrants postponement or cancellation of a scheduled Council meeting.
- (c) All such decisions regarding postponement or cancellation shall be made no later than 3:00 PM on the date of the scheduled meeting.
- (d) The City Clerk will notify Council members by both email and telephone upon determination of a meeting cancellation or postponement.
- (e) The City Clerk shall ensure that notification of any such cancellation or postponement shall immediately post on the City's website and Face book page.

**APPENDIX**

REVISED AND ADOPTED BY CITY COUNCIL FEBRUARY 6, 1990 [1]  
 AMENDED AND REAFFIRMED BY CITY COUNCIL JANUARY 14, 1992 [2]  
 REAFFIRMED BY CITY COUNCIL JANUARY 11, 1994 [3]  
 AMENDED BY CITY COUNCIL MARCH 1, 1994 [4]  
 AMENDED AND REAFFIRMED BY CITY COUNCIL JANUARY 9, 1996 [5]  
 AMENDED AND ADOPTED BY CITY COUNCIL FEBRUARY 3, 1998 [6]  
 AMENDED AND ADOPTED BY CITY COUNCIL FEBRUARY 5, 2002 [7]  
 AMENDED AND ADOPTED BY CITY COUNCIL MARCH 5, 2002 [8]  
 AMENDED AND ADOPTED BY CITY COUNCIL FEBRUARY 3, 2004 [9]  
 AMENDED AND ADOPTED BY CITY COUNCIL JANUARY 10, 2006 [10]  
 AMENDED AND ADOPTED BY CITY COUNCIL JANUARY 15, 2008 [11]  
 AMENDED AND ADOPTED BY CITY COUNCIL February 2, 2010 [12]  
 AMENDED AND ADOPTED BY CITY COUNCIL February 7, 2012 (1.4) (3.1) (3.5) and (4.1) [13]  
 AMENDED AND ADOPTED BY CITY COUNCIL June 4, 2013 (1.3) (1.5) and (4.7) [14]  
 AMENDED AND ADOPTED BY CITY COUNCIL March 4, 2014 (4.21) and (4.14) [15]  
 AMENDED AND ADOPTED BY CITY COUNCIL March 1, 2016 (1.4) (3.8) (4.1) and (4.7) [16]  
 AMENDED AND ADOPTED BY CITY COUNCIL March 6, 2018 (1.4 12&13), (4.25) [17]  
 AMENDED AND ADOPTED BY CITY COUNCIL October 2, 2018 (Added 1.4, which moved the order of 1.5 & 1.6) [18]  
 AMENDED AND ADOPTED BY CITY COUNCIL: April 7, 2020 (Amended 1.1 7pm to 6:30pm) (Replaced Section 4.12)  
 AMENDED AND ADOPTED BY CITY COUNCIL: March 1, 2022 (Amended 1.1 6:30pm to 6:00pm) (addition of new section 1.3) (Amended (1.4)(4.1)( 4.12)( 4.13) (4.19)  
 AMENDED AND ADOPTED BY CITY COUNCIL: May 3, 2022 (4.13)  
 AMENDED AND ADOPTED BY CITY COUNCIL: June 7, 2022 (1.8)  
 AMENDED AND ADOPTED BY CITY COUNCIL – April 4, 2023 (1.9) & (4.21)  
 AMENDED AND ADOPTED BY CITY COUNCIL – May 4, 2023 (1.6) & (4.21)

---

*Intentionally  
left blank...*

---

City Clerk's Office

---

---



**City of Rochester, NH**

**Code of Ethics and Conduct  
For  
Elected and Appointed Officials**

Adopted March 7, 2023

## A. ETHICS

The citizens and businesses of the City of Rochester are entitled to have fair, ethical and accountable local government. To this end, the public should have full confidence that their elected and appointed officials:

- Comply with both the letter and spirit of the laws and policies affecting the operations of government.
- Are independent, impartial, and fair in their judgment and actions.
- Use their public office for the public good, not for personal gain; and
- Conduct public deliberations and processes openly, unless required by law to be confidential, in an atmosphere of respect and civility.

Therefore, members of the City Council, all Boards, and Committees and Commissions shall conduct themselves in accordance with the following ethical standards:

1. **Act in the Public Interest.** Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of Rochester and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before them.
2. **Comply with both the spirit and the letter of the Law and City Policy.** Members shall comply with the laws of the nation, the State of New Hampshire, and the City of Rochester in the performance of their public duties.
3. **Conduct of Members.** The professional and personal conduct of members while exercising their office must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of Council, Boards, Committees and Commissions, the staff or public.
4. **Respect for Process.** Members shall perform their duties in accordance with the processes and rules of order established by the City Council.
5. **Conduct at Public Meetings.** Members shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand.
6. **Decisions Based on Merit.** Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations. When making adjudicative decisions (those decisions where the member is called upon to determine and apply facts particular to an individual case), members shall maintain an open mind until the conclusion of the hearing on the matter and shall base their decisions on the facts presented at the hearing and on the personal knowledge of a Member on the issue presented to the rest of the City Council at said hearing.
7. **Communication.** Council Members shall avoid posting to social media in regards to any adjudicative matters pending before the body. Outside of adjudicative matters pending before the body, members of the Council/Commission/Board/Committee are advised not to participate in discrimination or harassment, even if the identified behaviors are not targeting a protected class, consisting of unwelcome conduct, sexual or otherwise, whether verbal, physical, or visual. Harassing conduct includes, but is not limited to: slurs or negative stereotyping; bullying, threatening, intimidating or other hostile acts; degrading jokes and displays or circulation of graphic material that degrades or shows hostility; and physical touching. Members are also advised to never demean or personally attack an employee regarding the employee's job performance in public.

8. **Conflict of Interest.** See Rochester City Charter, Section 72
9. **Gifts and Favors.** Members shall not engage in quid pro quo by taking any special advantage of services or opportunities for personal gain, by virtue of their public office that is not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised.
10. **Confidential Information.** Members must maintain the confidentiality of all written materials and verbal information provided to members which is confidential or privileged. Members shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial, or other private interests.
11. **Use of Public Resources.** Members shall not use public resources which are not available to the public in general (e.g., City staff time, equipment, supplies or facilities) for private gain or for personal purposes not otherwise authorized by law.
12. **Representation of Private Interests.** In keeping with their role as stewards of the public interest, members of Council shall not appear on behalf of the private interests of third parties before the Council or any Board, Committee, Commission or proceeding of the City, nor shall members of Boards, Committees and Commissions appear before their own bodies or before the Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies.
13. **Advocacy.** Members shall represent the official policies or positions of the City Council, Board, Committee or Commission to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Rochester, nor will they allow the inference that they do. Councilmembers and Board, Committee and Commission members have the right to endorse candidates for all Council seats or other elected offices. It is inappropriate to mention or display endorsements during Council meetings, or Board, Committee and Commission meetings, or other official City meetings.
14. **Policy Role of Members.** Members shall respect and adhere to the council-manager structure of the Rochester City government. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by City staff, Boards, Committees and Commissions, and the public. Except as provided by the City Charter and Code, members shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions.
15. **Independence of Boards, Committees and Commissions.** Because of the value of the independent advice of Boards, Committees and Commissions to the public decision-making process, members of Council shall refrain from using their position to unduly influence the deliberations or outcomes of Board, Committee and Commission proceedings.
16. **Positive Workplace Environment.** Members shall support the maintenance of a positive and constructive workplace environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to staff.

## **B. CONDUCT GUIDELINES**

The Conduct Guidelines are designed to describe the manner in which elected and appointed officials should

treat one another, City staff, constituents, and others they come into contact with while representing the City of Rochester.

## **1. Elected and Appointed Officials' Conduct with Each Other in Public Meetings**

Elected and appointed officials are individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. Despite this diversity, all have chosen to serve in public office in order to preserve and protect the present and the future of the community. In all cases, this common goal should be acknowledged even though individuals may not agree on every issue.

- a) *Honor the role of the chair in maintaining order*  
It is the responsibility of the Mayor, as chair to keep the comments of members on track during public meetings. Members should honor efforts by the chair to focus discussion on current agenda items. If there is disagreement about the agenda or the chair's actions, those objections should be voiced politely and with reason, following procedures outlined in parliamentary procedure.
- b) *Practice civility and decorum in discussions and debate*  
Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of debate by a free democracy in action. Free debate does not require nor justify, however, public officials to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments.
- c) *Avoid personal comments that could offend other members*  
If a member is personally offended by the remarks of another member, the offended member should make notes of the actual words used and call for a "point of personal privilege" that challenges the other member to justify or apologize for the language used. The chair will maintain control of this discussion.
- d) *Demonstrate effective problem-solving approaches*  
Members have a public stage and have the responsibility to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

## **2. Elected and Appointed Officials' Conduct with the Public in Public Meetings**

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident on the part of individual members toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.

- a) *Be welcoming to speakers and treat them with care and gentleness.*  
While questions of clarification may be asked, the official's primary role during public testimony is to listen.
- b) *Be fair and equitable in allocating public hearing time to individual speakers.*  
The chair will determine and announce limits on speakers at the start of the public hearing process.
- c) *Practice active listening*  
It is disconcerting to speakers to have members not look at them when they are speaking. It is fine to look down at documents or to make notes but reading for a long period of time or gazing around the room gives the appearance of disinterest. While you cannot be required to listen to public speakers in a certain way, it is advised that all members remain conscious of their actions during such time as member of the public might be speaking. To the best of your ability, remain focused on the speaker and avoid noise and

distractions.

Members shall be cognizant of non-verbal body language and facial expressions that could be interpreted as disbelief, anger, or boredom.

Members shall make attempts to listen actively and respectfully to City staff, members of the public and other Members whenever possible.

- d) *Maintain an open mind*  
Members of the public deserve an opportunity to influence the thinking of elected and appointed officials.
- e) *Ask for clarification, but avoid debate and argument with the public*  
Only the chair – not individual members – can interrupt a speaker during a presentation. However, a member can ask the chair for a point of order if the speaker is off the topic or exhibiting behavior or language the member finds disturbing.

### 3. **Elected and Appointed Officials' Conduct with City Staff**

Governance of a City relies on the cooperative efforts of elected officials, who set policy, appointed officials who advise the elected, and City staff who implement and administer the Council's policies. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by everyone for the good of the community. The council is committed to providing an environment that is free from discrimination and harassment, even if the identified behavior is not targeting a protected class.

*Harassment consists of unwelcome conduct, sexual or otherwise, whether verbal, physical, or visual. Harassing conduct includes, but is not limited to slurs or negative stereotyping; bullying, threatening, intimidating or other hostile acts; degrading jokes and display or circulation of graphic material that degrades or shows hostility; and physical touching*

- a) *Treat all staff as professionals*  
Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards staff is not acceptable.
- b) *Do not disrupt City staff from their jobs*  
Elected and appointed officials should not disrupt City staff while they are in meetings, on the phone, or engrossed in performing their job functions in order to have their individual needs met. Do not attend City staff meetings unless requested by staff – even if the elected or appointed official does not say anything, his or her presence implies support, shows partiality, may intimidate staff, and hampers staff's ability to do their job objectively.
- c) *Never publicly criticize an individual employee*  
Elected and appointed officials should never express concerns about the performance of a City employee in public, to the employee directly, or to the employee's manager. Comments about staff performance should only be made to the City Manager through private correspondence or conversation. Appointed officials should make their comments regarding staff to the City Manager or the Mayor.
- d) *Do not get involved in administrative functions*  
Elected and appointed officials acting in their individual capacity must not attempt to influence City staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits.

- e) *Do not solicit political support from staff*  
Elected and appointed officials should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City staff. City staff may, as private citizens with constitutional rights, support political candidates but all such activities must be done away from the workplace.
- f) *No Attorney-Client Relationship*  
Members shall not seek to establish an attorney-client relationship with the City Attorney, including his or her staff and attorneys contracted to work on behalf of the City. The City Attorney represents the City and not individual members. Members who consult with the City Attorney cannot enjoy or establish an attorney-client relationship with the attorney.

#### 4. **Council Conduct with Boards, Committees and Commissions**

The City has established several Boards, Committees and Commissions as a means of gathering more community input. Citizens who serve on Boards, Committees and Commissions become more involved in government and serve as advisors to the City Council. They are a valuable resource to the City's leadership and should be treated with appreciation and respect.

- a) *If attending a Board, Committee or Commission meeting, be careful to only express personal opinions*  
Councilmembers may attend any Board, Committee or Commission meeting, which are always open to any member of the public. However, they should be sensitive to the way their participation – especially if it is on behalf of an individual, business or developer – could be viewed as unfairly affecting the process. Any public comments by a Councilmember at a Board, Committee or Commission meeting should be clearly made as individual opinion and not a representation of the feelings of the entire City Council.
- b) *Limit contact with Board, Committee and Commission members to questions of clarification*  
It is inappropriate for a Councilmember to contact a Board, Committee or Commission member to lobby on behalf of an individual, business, or developer, and vice versa. It is acceptable for Councilmembers to contact Board, Committee or Commission members in order to clarify a position taken by the Board, Committee or Commission.
- c) *Respect that Boards, Committees and Commissions serve the community, not individual Councilmembers*  
The City Council appoints individuals to serve on Boards, Committees and Commissions, and it is the responsibility of Boards, Committees and Commissions to follow policy established by the Council. But Board, Committee and Commission members do not report to individual Councilmembers, nor should Councilmembers feel they have the power or right to threaten Board, Committee and Commission members with removal if they disagree about an issue.  
Appointment and re-appointment to a Board, Committee or Commission should be based on such criteria as expertise, ability to work with staff and the public, and commitment to fulfilling official duties. A Board, Committee or Commission appointment should not be used as a political "reward."
- d) *Be respectful of diverse opinions*  
A primary role of Boards, Committees and Commissions is to represent many points of view in the community and to provide the Council with advice based on a full spectrum of concerns and perspectives. Councilmembers may have a closer working relationship with some individuals serving on Boards, Committees and Commissions, but must be fair and respectful of all citizens serving on Boards, Committees and Commissions.
- e) *Keep political support away from public forums*

Board, Committee and Commission members may offer political support to a Councilmember, but not in a public forum while conducting official duties. Conversely, Councilmembers may support Board, Committee and Commission members who are running for office, but not in an official forum in their capacity as a Councilmember.

### C. SANCTIONS

a) *Acknowledgement of Code of Ethics and Conduct*

Councilmembers who do not sign an acknowledgement that they have read and understand the Code of Ethics and Conduct shall not be assigned intergovernmental assignments or Council subcommittees by the Mayor. Members of committees appointed by the Mayor and/or the City Council who do not sign an acknowledgement that they have read and understand the Code of Ethics and Conduct are not eligible to hold appointed positions.<sup>1</sup>

b) *Ethics Training for Local Officials*

Councilmembers, Board, Committee and Commission Members who are out of compliance with State or City mandated requirements for ethics training as determined by City Council shall not represent the City on intergovernmental assignments or Council subcommittees, and may be subject to sanctions.

c) *Behavior and Conduct*

The City of Rochester's Code of Ethics and Conduct expresses standards of ethical conduct expected for members of the City of Rochester Council, Boards, Committees and Commissions. Members themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. The chairs of Boards, Committees and Commissions and the Mayor and Council have the additional responsibility to intervene when actions of members that appear to be in violation of the Code of Ethics and Conduct are brought to their attention.

d) *Councilmembers*

Councilmembers who intentionally and repeatedly do not follow proper conduct may be reprimanded by the Mayor or formally censured by the Council, lose committee assignments (both within the City of Rochester and with intergovernmental agencies) or other privileges afforded by the Council.

Further, any Councilmember found in violation of this Code or any other misconduct in office may also be subject to the following sanctions imposed by the Council:

1. Required to attend and successfully complete training related to the nature of the violation.
2. Required to issue a formal, sincere apology.
3. Removed from office in accordance with Section 70 of the City Charter.

Failure to comply with any sanctions imposed by the Council will be considered a violation of this Code and an act of misconduct in office.

Individual Councilmembers should point out to the offending Councilmember perceived infractions of the Code of Ethics and Conduct. If the offenses continue, then the matter should be referred to the Mayor in private. If the Mayor is the individual whose actions are being questioned, then the matter should be referred to the Deputy Mayor. It is the responsibility of the Mayor (Deputy Mayor) to initiate action if a Councilmember's behavior may warrant sanction. If no action is taken by the Mayor (or Deputy Mayor), then the alleged violation(s) can be brought up with the full Council.

---

<sup>1</sup> This section does not apply to Council members or Committee members currently serving at the time of adoption.

e) *Board, Committee and Commission Members:*

Counseling, verbal reprimands and written warnings may be administered by the Mayor to Board, Committee and Commission members failing to comply with City policy. These lower levels of sanctions shall be kept private to the degree allowed by law. Copies of all written reprimands administered by the Mayor shall be distributed in memo format to the chair of the respective Board, Committee or Commission, the City Clerk, the City Attorney, the City Manager, and the City Council.

The City Council may impose sanctions on Board, Committee and Commission members whose conduct does not comply with the City’s policies, up to and including removal from office. Any form of discipline, short of removal imposed by Council shall be determined by a majority vote of elected members of the Council at a noticed public meeting and such action shall be preceded by a Report to Council with supporting documentation.

When deemed warranted, the Mayor or majority of Council may call for an investigation of Board, Committee or Commission member conduct. Also, should the City Manager or City Attorney believe an investigation is warranted, they shall confer with the Mayor or Council. The Mayor or Council shall ask the City Manager or the City Attorney to investigate the allegation and report the findings.

These sanctions are in addition to any other remedy that might otherwise be available to remedy conduct that violates this code or state or federal law. In order to protect and preserve good government, any individual including the City Manager and the City Attorney after complying with the State of New Hampshire Bar Rules of Professional Conduct, who knows or reasonably believes a member acts or intends or refuses to act in a manner that is or may be a violation of law reasonably imputable to the organization, or in a manner which is likely to result in substantial injury to the organization, may report the violation to the appropriate governmental authorities.

**D. IMPLEMENTATION**

The Code of Ethics and Conduct is intended to be self-enforcing and is an expression of the standards of conduct for members expected by the City. It therefore becomes most effective when members are thoroughly familiar with it and embrace its provisions.

For this reason, this document shall be included in the regular orientations for candidates for City Council, applicants to Board, Committee and Commissions, and newly elected and appointed officials. Members entering office shall sign the below acknowledging they have read and understand the Code of Ethics and Conduct. In addition, the Code of Ethics and Conduct shall be periodically reviewed by the City Council, Boards, Committees and Commissions, and updated it, as necessary.

***I affirm that I have read and understand the City of Rochester Code of Ethics and Conduct for Elected and Appointed Officials***

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

# Referred from Finance Agenda Item

02/09/2024

**Agenda Item Name:** Waste Management Closure Reserve Fund

**Date Submitted:** 1/3/24

**Name of Person Submitting Item:** Mark Sullivan Director of Finance

**E-mail Address:** mark.sullivan@rochesternh.gov

**Meeting Date Requested:** January 4, 2024

**Issue Summary Statement:** In May 2023 the Finance Committee was presented with a concept of implementing a special closure fund for Waste Management. It is anticipated that Waste Management will be closing landfill operations in 2034. When the landfill closes the host community fee revenue source will cease. The FY24 Adopted Operating budget appropriated \$4.6MM of host community fee revenues as a non-property tax revenue source.

In addition, it is anticipated that assessed values related to the Waste Management landfill operations will experience declines. Changes in assessed values will ultimately be determined by what commercial activity remains at the location. The location could still maintain a level of commercial activity as a transfer station.

Also, anticipated is that Waste Management will operate the location as a transfer station, and Rochester waste will be hauled to an out of state landfill location. This transition will create an entirely new expense category related to the transfer and disposal of waste.

Developing an ordinance to address the loss of non property tax revenues, and the related new disposal expenses, is a critical step to mitigating sharp property tax increases in the years following the closure.

First draft of ordinance reviewed at the November 14, 2023 Finance Committee meeting. Enclosed are updates to the original draft.

**Recommended Action:** Review, recommend sending to Codes & Ordinances Committee.

**Resolution Pursuant to RSA 34:1-a Establishing an Waste Management Closure Reserve Fund**

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

By adoption of this Resolution, the City Council establishes a Non-Capital Reserve Fund, Waste Management Closure Reserve Fund, pursuant to RSA 34:1-a for the purpose of creating a financial reserve for the anticipated closure of the Waste Management landfill in 2034. Upon closure of the Waste Management landfill the associated Waste Management Host Fee Revenues shall also cease. The purpose of this fund is to offset impacts to the amount to be raised by property taxes resulting from the complete loss, or material reduction, of the Waste Management Host Fee revenues, and any related additional waste disposal expenses.

The City Council, at its sole discretion, may appropriate monies to said Waste Management Closure Reserve Fund through the annual budgeting process, however, in no case shall said annual appropriation be less than One Million Dollars \$1,000,000. Revenue sources can be Waste Management Host Fee Revenues, or General Fund Unassigned Fund Balance.

Other unanticipated revenue sources may also be transferred to the fund upon a majority vote of Council. Upon 2/3 Council vote General Fund Unassigned Fund Balance contributions outside of the annual budget appropriation may occur after the annual fiscal year audit confirms the net changes to General Fund Unassigned Fund balance, and results are presented by the independent auditor.

Further, the City Council, at its sole discretion, may assign portions of the General Fund Unassigned Fund Balance as a reserve commitment to the Waste Management Closure Fund. This assigned status assures that an allocation of the General Fund Unassigned Fund balance is reserved for the Waste Management Closure Fund.

Further, the funds can be considered for utilization as a non property tax revenue source during the annual operating budget process upon realization of the following conditions, or combination of conditions. Waste Management's official ceasing of landfill operations and termination of all Host Fee Revenues, when landfill capacity materially decreases, which results in a material decrease of Host Fee Revenues, or when landfill capacity necessitates the implementation of new transfer station and disposal service expenses.

Pursuant to RSA 34:6, the Trustees of Trust Funds shall have custody of all non capital reserves transferred to the Waste Management Closure Reserve Fund. The Trustees of the Trust Fund will hold the monies appropriated to the Waste Management Closure Reserve Fund in a separate investment account. Appropriations made to the Waste Management Closure Reserve Fund will be submitted to the Trustees of the Trust Fund after July 1 but prior to June 30 of the fiscal year of the appropriation.

The City Council may dissolve the Waste Management Closure Reserve Fund at its sole discretion. Upon dissolution all available funds will lapse to the General Fund Unassigned Fund balance. 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.

**Annual Tonnage 1,100,000**

Year	Fee	Revenue	Budget Commitment	Retained Revenue	Cumulative Principal Captured	Cumulative P&I	Cumulative Interest
2024	\$4.50	\$4,950,000	\$4,600,000	\$350,000	\$350,000	\$360,500	\$10,500
2025	\$4.64	\$5,098,500	\$4,000,000	\$1,098,500	\$1,448,500	\$1,502,770	\$54,270
2026	\$4.77	\$5,251,455	\$4,000,000	\$1,251,455	\$2,699,955	\$2,836,852	\$136,897
2027	\$4.92	\$5,408,999	\$3,500,000	\$1,908,999	\$4,608,954	\$4,888,226	\$279,272
2028	\$5.06	\$5,571,269	\$3,500,000	\$2,071,269	\$6,680,222	\$7,168,279	\$488,057
2029	\$5.22	\$5,738,407	\$3,500,000	\$2,238,407	\$8,918,629	\$9,688,887	\$770,258
2030	\$5.37	\$5,910,559	\$3,000,000	\$2,910,559	\$11,829,188	\$12,977,429	\$1,148,241
2031	\$5.53	\$6,087,876	\$3,000,000	\$3,087,876	\$14,917,063	\$16,547,264	\$1,630,200
2032	\$5.70	\$6,270,512	\$3,000,000	\$3,270,512	\$18,187,575	\$20,412,309	\$2,224,733
2033	\$5.87	\$4,843,970	\$2,000,000	\$2,843,970	\$21,031,546	\$23,953,968	\$2,922,422
2034	\$6.05	\$3,326,193	\$2,000,000	\$1,326,193	\$22,357,739	\$26,038,565	\$3,680,827
		<b>\$58,457,739</b>	<b>\$36,100,000</b>	<b>\$22,357,739</b>	<b>\$22,357,739</b>	<b>\$26,038,565</b>	<b>\$3,680,827</b>

**Assumptions**

Annual Tonnage	1,100,000
Host Fee-Annual CPI	3.00%
Invest Interest Rate	3.00%

**Resolution Pursuant to RSA 34:1-a Establishing an Waste Management Closure Reserve Fund**

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

By adoption of this Resolution, the City Council establishes a Non-Capital Reserve Fund, Waste Management Closure Reserve Fund, pursuant to RSA 34:1-a for the purpose of creating a financial reserve for the anticipated closure of the Waste Management landfill in 2034. Upon closure of the Waste Management landfill the associated Waste Management Host Fee revenues shall also cease. The reserve fund shall be the Waste Management Closure Reserve Fund. The purpose of this fund is to offset impacts to the amount to be raised by property taxes resulting from the loss of the Waste Management Host Fee revenues, and any related additional waste disposal expenses.

The City Council, at its sole discretion, may appropriate monies to said Waste Management Closure Reserve Fund through the annual budgeting process, however, in no case shall said annual appropriation be less than One Million Dollars \$1,000,000. Revenue sources can be Waste Management Host Fee Revenues, or General Fund Unassigned Fund Balance.

Other unanticipated revenue sources may also be transferred to the fund upon a majority vote of Council. Upon 2/3 Council vote General Fund Unassigned Fund Balance contributions outside of the annual budget appropriation may occur after the annual fiscal year audit confirms the net changes to General Fund Unassigned Fund balance, and results are presented by the independent auditor. ~~Other unanticipated revenue sources may also be transferred to the fund upon a majority vote of Council.~~

Further, ~~the~~ City Council, at its sole discretion, may assign portions of the General Fund Unassigned Fund Balance as a reserve commitment to the Waste Management Closure Fund. This assigned status assures that an allocation of the General Fund Unassigned Fund balance is reserved for the Waste Management Closure Fund.

Further, the funds can be considered for utilization as a non property tax revenue source during the annual operating budget process upon realization of the following conditions, or combination of conditions. Waste Management's official ceasing of landfill operations and termination of all Host Fee Revenues, when landfill capacity materially decreases, which results in a material decrease of Host Fee Revenues, or when landfill capacity necessitates the implementation of new transfer station and disposal service expenses.

Pursuant to RSA 34:6, the Trustees of Trust Funds shall have custody of all non capital reserves transferred to the Waste Management Closure Reserve Fund. The Trustees of the Trust Fund will hold the monies appropriated to the Waste Management Closure Reserve Fund in a separate liquid investment account. Appropriations made to the Waste Management Closure

Reserve Fund will be submitted to the Trustees of the Trust Fund after July 1 but prior to June 30 of the fiscal year of the appropriation.

The City Council may dissolve the Waste Management Closure Reserve Fund at its sole discretion. Upon dissolution all available funds will lapse to the General Fund Unassigned Fund balance.

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.