

Codes and Ordinances Committee

Councilor Peter Lachapelle, Chair
Councilor Elaine Lauterborn, Vice Chair
Councilor Ray Varney
Councilor Robert Gates
Councilor Derek “Mac” Kittredge



AGENDA

CODES AND ORDINANCES COMMITTEE PUBLIC HEARING

Of the Rochester City Council
Thursday, May 1, 2014
City Council Chambers
31 Wakefield Street, Rochester, NH
7:00 PM

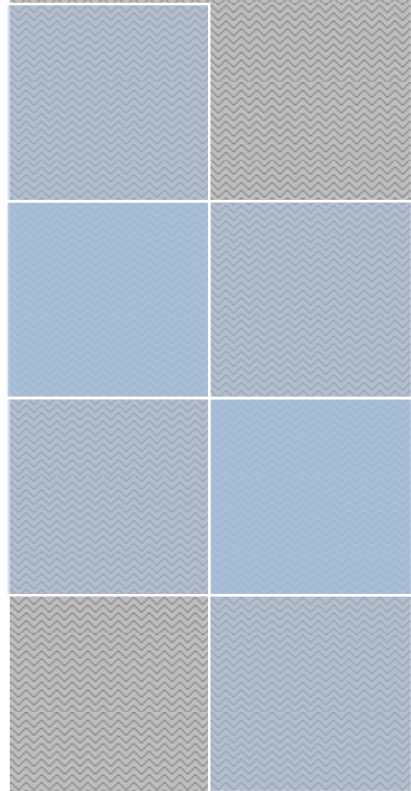
- 1. Call to Order**
- 2. Public Input**
- 3. Amendment to Chapter 17 – Water Leakage Prevention P-3**
- 4. Adjournment**

AGENDA

CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council
Thursday, May 1, 2014
City Council Chambers
31 Wakefield Street, Rochester, NH
Immediately Following the Public Hearing

- 1. Call to Order**
- 2. Public Input**
- 3. Approval of the Codes and Ordinances Committee Minutes**
 - **March 27, 2014 P-5**
 - **April 3, 2014 P-17**
- 4. Panhandling Discussion**
- 5. Amendment Chapter 17 – Water leakage Prevention P-31**
- 6. Other**
- 7. Adjournment**



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CITY OF ROCHESTER
NOTICE OF PUBLIC HEARING

Notice is hereby given that the Codes and Ordinances Committee of the Rochester City Council will conduct a **PUBLIC HEARING** on May 1, 2014, at 7:00 p.m. in the City Council Chambers, City Hall, 31 Wakefield Street, Rochester, NH, relative to the following matter:

AMENDMENTS TO CHAPTER 17 OF THE
GENERAL ORDINANCES OF THE CITY OF ROCHESTER
REGARDING WATER LEAKAGE PREVENTION,
MITIGATION PROCEDURES AND RESPONSIBILITIES

The ordinance amendments, if adopted, would establish certain procedures designed to deal with water conservation issues by recognizing that treated drinking water supplied to residential, commercial and industrial customers by the City through the Rochester Water Works distribution system is a valuable public resource, which is protected against waste by leakage occurring outside of the water distribution located on/within City owned and/or controlled property. The proposed amendments to Chapter 17 of the General Ordinances of the City of Rochester, entitled “Water”, would, if adopted:

- (a) Amend Section 17.2 of the General Ordinances of the City of Rochester (the “GOCR”) to define the term “Water Leakage” for purposes of Chapter 17 GOCR;
- (b) Amend Section 17.3 of the GOCR of Chapter 17, entitled “Policy Statement”, by adding a provision recognizing that treated drinking water supplied to Rochester’s water customers through the Rochester Water Works distribution system is a valuable public resource, which needs to be conserved by water customers against loss through leakage occurring on the customer’s property (or on other private property over which the customer’s water service extends); and
- (c) Would adopt a new provision of Chapter 17 of the GOCR, to be designated as Section 17.20-A of the GOCR which would establish a procedure designed to (a) reduce water leakage on private property; (b) establish a system of notification by the City to customers experiencing unexplained increases in water consumption associated with customers account, and (3) establishing the responsibility of the customer to check for potential leakage on the customer’s property (or on other private property over which the customer’s water service extends) and to fix any leak detected and/or to report to the City the cause for the increased consumption, among other responsibilities and consequences.

Copies of the “Amendments to Chapter 17 of the General Ordinances of The City of Rochester Regarding Water Leakage Prevention, Leakage Mitigation Procedures and Responsibilities” are available in the City Clerk’s Office.

The **PUBLIC HEARING** on the above matter will be conducted by the Codes and Ordinances Committee of the City Council at the City Hall, City Council Chambers, 31 Wakefield Street, Rochester, New Hampshire.

Citizens are invited to attend the **PUBLIC HEARING** and to ask questions or otherwise speak on the proposal.

Persons with disabilities requesting accommodations should contact the City Clerk's Office, (tel. 332-2130) on or before May 1, 2014, in order to make arrangements.

Kelly Walters,
Rochester, City Clerk

SPECIAL CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council
Thursday March 27, 2014
City Council Chambers
31 Wakefield Street, Rochester, NH
7:00 PM

Committee Members Present

Councilor Peter Lachapelle, Chair
Councilor Elaine Lauterborn, Vice Chair
Councilor Ray Varney
Councilor Robert Gates
Councilor Derek "Mac" Kittredge
Mayor Jean

Others Present

City Manager Fitzpatrick
Jim Campbell, Chief Planner
Councilor Larochelle
Councilor Walker
Councilor Keans
Councilor Hamann
Councilor Collins
Councilor Gray
Councilor Gates
William Elwell, Resident
Michael Provost, Executive Director
Of Rochester Main Street
Lucien Levesque, Resident
George Pelletier, Resident
Louis Archambault, Resident
Ric Perreault, Resident
Ken Billings, Resident
Don Gilbert, Resident
Frank Chiaramitaro, Great Traditions,
Home Builders Incorporated
Francis Bruton, Attorney
Richard Lundborn, Norway Plains
Kent Melchior, Resident
Lyndon Rickards, Resident
Mona Perreault, Resident
Gregg DeNobile, Resident

MINUTES

1. Call to Order

Councilor Lachapelle called the Special City Council meeting to order at 7:03 PM. Kelly Walters, City Clerk, took a silent roll call. All Committee members were present.

2. Public Input

William Elwell, 281 North Main Street, addressed the Committee concerning the proposed Chapter 42 re-zoning amendment. He stated that Carriage Hill is located on the corner of McDuffee Street and North Main Street. This parcel of land is, and always has been,

assessed as being a property with a warehouse. This area is currently being proposed as Neighborhood Mixed Use. He said the area does not meet the criteria for Neighborhood Mixed Use; however, it does meet the criteria for the Highway Commercial Use. He distributed material to backup his conclusion and a transcript of the Planning Board meeting in which this matter was discussed. *This can be found as an addendum to the Codes and Ordinances packet dated for March 27, 2014.*

Mr. Elwell spoke about four residential lots located on North Main Street between Carriage Hill located on McDuffee Street and Claire Street. He pleaded with the Planning Board to rezone these lots as Highway Commercial. He submitted a letter written by Mary Ellen Humphrey, Economic Development Specialist, supporting his request to rezone parcel #0115-0055-0000 to Commercial Us. The letter supported rezoning additional lots in the area too. He hoped the City Council would review this entire area carefully.

Michael Provost, Executive Director of Rochester Main Street, spoke on behalf of the Rochester Main Street board. He said the Special Downtown Review provisions have been left out of the final draft of Chapter 42 and the board strongly felt these provisions should be retained with the final proposal and making the downtown area more welcoming for existing and potential business owners.

Lucien Levesque, 10 Letourneau Street, addressed the Committee about the proposed rezoning of North Main Street [near Letourneau Street]. A petition was presented to the Planning Board with the intent of keeping this portion of North Main Street as Residential (1). He stated that this is a real safety issue. Traffic is a problem now and will continue to be a problem with the development of the Strafford Square Roundabout.

George Pelletier, 119 Walnut Street, addressed the Committee about keeping the Chesley Hill Road Development [Mitchell Property] as Residential (1). He wished to clarify that there had been no mention about rezoning this area until a developer purchased this property and requested this lot be rezoned to Residential (2). He stated that the Chesley Hill Road residents have been told not to worry about this development because 91 high-end rental units would be developed; however, the reality is that anything that is considered acceptable to Residential (2) would be open for development.

Lew Archambault, 224 Chesley Hill Road, addressed the Committee on behalf of Gregg DeNobile. He stated that Mr. DeNobile has not received an answer to his question about the definition of Section 8 Housing. What is it?

Mr. Archambault stated that the Attorney representing the Chesley Hill Developer mentioned that they had entered into a verbal agreement with the Planning Department. What is this status of this agreement? *This question was addressed by Mayor Jean later in this set of minutes clarifying that there is no such verbal agreement.*

Mr. Archambault requested to know what spot zoning is.

Mr. Archambault stated that it has been said that residents would not be notified of the zoning changes. Is this true? How will this be impacted by Senate Bill 228?

Mr. Archambault stated that Mr. DeNoblie is questioning how this proposed ordinance is in the best interest of the City.

Councilor Lachapelle requested that City Clerk Walters ensure that all of Mr. DeNobile's questions are answered.

Ric Perreault, 159 Chesley Hill Road, spoke about how many times the local police are called to apartment buildings for criminal matters. He spoke against rezoning Chesley Hill Road to Residential (2). He provided information about the general purpose of zoning, which should enhance the general safety, welfare of its community, and wise use of the land.

Mr. Perreault spoke against spot zoning and requested that the Chesley Hill Road Development remain Residential (1).

Ken Billings, 161 Chesley Hill Road, addressed the Committee. He stated that this rezoning process has taken nearly ten years and within this timeframe no proposal had been made to change any part of Chesley Hill Road from Residential (1) to Residential (2), until now; however, now that there is an interested developer, this part of Chesley Hill Road is being proposed as Residential (2). He questioned who is responsible for this change. He spoke about high density neighborhoods and urged the Committee to recommend to the full City Council that all of Chesley Hill Road remain as Residential (1).

Don Gilbert, 75 Chesley Hill Road, addressed the Committee about farming. The new proposal states that a farm must have a minimum of 10 acres. He disagreed that 10 acres of land is necessary for farming activities.

Frank Chiaramitaro, landlord of property located on Rochester Hill Road, addressed the Committee. He spoke in favor of allowing multi-family units on Rochester Hill Road. He has concerns about the density requirements. He questioned if it is appropriate to limit the multi-family units to four-family units in a Residential (2) Zone.

Mr. Chiaramitaro said the density rings bisect parcels of land on Chesley Hill Road and Rochester Hill Road, when this happens to a parcel of land, then the density requirement defaults to the lower of the two density requirements.

Mr. Chiaramitaro stated that the Conservation Overlay District prohibits development on various types of wetlands; however, poorly drained soils can be used to fulfill twenty-five percent of the density requirements and allow buffer zones to be used to fulfill density requirements. Both areas cannot be built upon. He opined that since the land cannot be built upon then it should not be used to fulfill density requirements. He gave an example. He invited the Committee to speak to him about any of his concerns at a later date.

Francis Bruton, III, Attorney for the Robie Family/Rochester Hill Trust, addressed the Committee. He spoke in favor of the Compressive Rezoning as it has been presented.

Attorney Bruton disagreed with Mr. Chiaramitaro's comments about how other communities calculate density requirements. He disagreed with other material presented by Mr. Chiaramitaro, as well, and distributed information of his findings. He hoped that the Committee would respect the significant effort that the Planning Board has put forth and recommend the adoption of the existing proposed comprehensive zoning ordinances. *This packet of information provided by Attorney Bruton can be found with the Codes and Ordinances Committee packet dated for March 28, 2014.*

Richard Lundborn, P.E., Project Engineer for Norway Plains Associates, Inc., addressed the Committee on behalf of his clients, the Robie Family. He spoke against comments made by Mr. Chiaramitaro and distributed material to the Committee for consideration. He stated his qualifications to speak about poorly drained soils, noting that poorly drained soils are not the same as wetlands. He said the current Residential (2) Zone and proposed Residential (2) Zone would allow elderly housing development by special exception (current) or conditional use (proposed). Lastly, he noted that the actual design, State permits, and the stormwater regulations have the final say on density. The Planning Board has created an ordinance that is in line with other communities in the area, especially with Durham. *This packet of information provided by Mr. Lundborn can be found with the Codes and Ordinances Committee packet dated for March 28, 2014.*

Kent Melchior, 43 Labrador Drive, spoke against the proposed ordinance amendment which would change Labrador Drive from Residential (1), to Neighborhood Commercial. He stated that the residents have provided a signed petition requesting that Labrador Drive remain Residential (1) in this neighborhood. He mentioned that a map had been provided to the Planning Board which shows the amount of wetlands in the particular area proposed to be developed. He spoke against changing Fillmore Blvd. from Residential (1) to Highway Commercial. He added that this is a safety issue as well.

Mr. Melchior pointed out that the developer did not want to discuss creating a buffer between the residences and the commercial businesses.

Lyndon Rickards, 58 Labrador, addressed the Committee. He opposed the proposed Neighborhood Commercial Zone for the entrance of Labrador Drive. He listed the permitted uses for Neighborhood Commercial. He added that this zone would allow for a drive-thru service by special exception.

Mr. Rickards requested clarification about the architectural standards. It states that individual non-residential buildings shall not exceed 4,000 square feet; however, 2,000 square feet had also been discussed. He wished to have clarification about which regulation is correct.

Mr. Rickards stated that the Planning Department provided information regarding a question from Councilor Varney pertaining to Conditional Use. Mr. Rickards requested more information about Conditional Use for the Neighborhood Mixed Use, which allows for conditional use, depended upon the size of the building [Article 5 – 3-D]. He stated that all other variances require an appeal to be made to the Zoning Board of Adjustments. He asked the Committee to think about this and questioned how this would benefit the City.

Mr. Rickards spoke against zoning along lot lines, specifically Neighborhood Commercial near Residential (1) Zones. He also spoke against spot zoning and questioned whether all of Councilors Varney and Hamann's questions have been answered.

Mona Perreault, 159 Chelsey Hill Road, attended this meeting to protect her property, as her neighbors are doing, too. She spoke against the density rings. She urged the Committee to follow its "mission statement" which states that the City of Rochester's biggest concern is the overall quality of life. They can achieve this by keeping Chesley Hill Road zoned for Residential (1).

Gregg DeNobile, 146 Chesley Hill Road, addressed the Committee. He requested to have his previous questions submitted to the City Council answered. He stated that this zoning ordinance is going to set the tone for the City for the next thirty or so years and the City Council should think about how this would tie into the "branding of the City" project.

Councilor Lachapelle closed public input at 8:15 PM.

3. Chapter 42 Discussion

- **No Verbal Agreement Between the City of Rochester and the Chesley Hill Developer:**

Mayor Jean stated that a rumor has circulated about the City of Rochester making a verbal agreement with the owner of the Chesley Hill Development. This was spoken about during public input and the record should be set straight. He asked Nel Sylvain, Planning Board Chairman, if he and/or any member of the Planning Board had made a verbal agreement with this developer about rezoning the lot in question to Residential (2). Mr. Sylvain stated that he has not made any such agreement nor has he knowledge of any such agreement. Mayor Jean later asked the same question to Jim Campbell, Chief Planner, and Dan Fitzpatrick, City Manager. Chief Planner Campbell and City Manager Fitzpatrick both replied no.

- **Farms, Farm Crops:**

Councilor Gray stated that a comment made during public input indicated that the proposed ordinance would require a lot size of 10 acres [minimum] for the purpose of farming. Chief Planner Campbell replied that is correct, and read the following proposal from Article 20 and the definition of a farm:

Article 20 – Standards for Specific Permitted Uses:

4. Farm; Farm, Crop

a. Lot Size. The minimum lot size is 10 gross acres for a farm and 5 gross acres for a crop farm.

Article 2 – Definition:

Farm - All uses and activities as articulated in RSA 21:34-a. (Also see "Farmer's Market", "Forestry", "Livestock", "Plant Nursery", and "Roadside Farm Stand").

Councilor Gray asked what the proposed Permitted Use in an Agricultural Zone is for a farm and what farm type activities are permitted for lot sizes less than 5 acres in size. Chief Planner Campbell replied that farm, farm crops, and road side stands, are permitted. There are special exceptions listed as well.

Councilor Kittredge questioned if there is a distinction between operating a commercial farm and farming for your own family's use. Chief Planner Campbell explained that the proposed ordinance links the definition of farming to the State RSA 21:34-a, which deals more with commercial farms.

- **Density Rings and the Zoning of Chesley Hill Road**

Councilor Gates asked the audience to raise their hands in support of keeping all of Chesley Hill Road zoned as Residential (1). He stated for the record that many people in the audience raised their hands in support of keeping Chesley Hill Road zoned as Residential (1).

Councilor Varney stated that one of the density rings touches the property [Mitchell Hill] located on Chesley Hill Road. He said if Chesley Hill Road is being proposed as Residential (2), then the minimum lot area is 5,000 square feet vs. the minimum lot area of 6,000 square feet in the current ordinance. This equates to a seventeen percent increase in density.

Councilor Varney stated that the density rings are in direct conflict with the dimensional table. He said if the Chesley Hill Road Development lot remains Residential (1) and the density ring stays in place, the lot size would be reduced from 10,000 square feet to 5,000 square feet, which would mean the potential of 200 new homes in this area.

Councilor Walker asked for the Chief Planner to give an overview of why the density rings are being proposed in Chapter 42. Chief Planner Campbell replied that the idea of implementing density rings was to create a central area of density in the middle of each ring and to have less density on the outer edges of the rings.

Councilor Lauterborn asked if the Planning Board had been in total agreement about implementing the density rings. Councilor Walker replied that the majority of the Planning Board members were in favor of implementing the density rings; however, the Planning Board members did have a debate about the size of the rings.

Councilor Lauterborn stated that the map shows that only a third of the Chesley Hill Development property [Mitchell Hill] is inside the density ring; however, if this location is rezoned to Residential (2) the entire area becomes eligible for the higher density. She said that would defeat the purpose of keeping the high density areas to the core of the density ring.

Councilor Varney stated that the implementation of the density rings over-complicates the zoning process. Councilor Walker stated that it is the same idea as an overlay district. Councilor Kittredge suggested sending specific issues to the Zoning Board of Adjustment. Councilor Walker spoke against this idea.

Mayor Jean asked about the Residential (1) lots located outside of the density rings and why there is a conflict for these specific lots. All Residential (1) lots are classified as 10,000 square feet with the exception of Residential (1) lots located outside of the density rings, which are being classified as 7,500 square feet. Chief Planner Campbell stated that there is a minimum lot area requirement, which is the minimum acreage required for a single-family home or duplex. There is also a minimum lot area per dwelling unit, which is what most of the density rings were geared toward. The idea is that a proposed lot must first meet the minimum lot area requirement and then, in order to have more than one unit, there is an additional requirement of minimum lot area per dwelling unit. He said having two requirements is a bit confusing; by removing the first requirement of minimum lot area would resolve some confusion and keep the focus on the minimum lot area per dwelling unit.

Recommendation 1:

Removal of Density Rings and Rezoning of Chesley Hill Road to Residential (1) in the Comprehensive Rezoning Proposal

Councilor Varney **MOVED** to recommend to the full City Council that the Mitchell Property located on the south westerly end of Chesley Hill Road, which is currently being proposed as Residential (2), be reverted back to Residential (1), in the Comprehensive Rezoning Proposal. He added that all language pertaining to the density rings be removed from the Comprehensive Rezoning Proposal along with the density rings on the map. Councilor Gates seconded the motion. Councilor Lachapelle asked if the motion should be split. Councilor Varney replied no. He explained that if the Chesley Hill Development remains Residential (1) and the density rings are still active, then it would allow “double” the units to be permitted in this area. Councilor Walker reiterated that the intent of the density rings is to make a requirement of the minimum lot area per dwelling unit and by correcting the language the density rings could remain in the proposal. Councilor Lauterborn stated that someone should reword and present the matter to the full City Council. The **MOTION CARRIED** by a 6 to 0 roll call vote. Councilors Kittredge, Gates, Lauterborn, Varney, Lachapelle, and Mayor Jean voted in favor of the motion.

- **Poorly Drained Soils**

Councilor Varney had requested to get a map which indicates where the “poorly drained” soils are located. It seems that the City has a lot of poorly drained soils. He said poorly drained soils are not the same as wetlands. The City should restrict development on wetlands, but not on poorly drained soils. Councilor Walker stated that by restricting development on poorly drained soils keeps the City of Rochester in line with other communities, such as Durham.

Councilor Varney recalled that the City had already researched how much property in the City has poorly drained soils and it seems that it equates to more than half of the City's

development. He stated that a soil scientist should give an opinion of what is considered wetlands and what is not. Councilor Walker stated that the Planning Department would be willing to eliminate this requirement; however, restricting development on poorly drained soils had been discussed at great length at the Planning Board level with experts and what is being restricted is the result of that compromise.

- **Labrador Drive**

Councilor Walker stated that he and Rick Healey, Planning Board Member, were against rezoning Labrador Drive to Neighborhood Mixed Use; however, the Planning Board voted in favor of the change.

Recommendation 2:

Labrador Drive and Fillmore Blvd reverted back to Residential (1) in the Comprehensive Rezoning Proposal

Mayor Jean **MOVED** to recommend to the full City Council that Labrador Drive, currently being proposed as Neighborhood Mixed Use, be reverted back to Residential (1), and that Fillmore Blvd., currently being proposed as Highway Commercial, be reverted back to Residential (1) in the Comprehensive Rezoning Proposal. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a 6 to 0 roll call vote. Councilors Lauterborn, Gates, Varney, Kittredge, Lachapelle, and Mayor Jean voted in favor of the motion.

- **Special Downtown District**

Chief Planner Campbell clarified that there is a difference between the Special Downtown District and the requirement for a Minor Site Plan Review. He said that the minor site plan review process includes filing a minor site plan application, paying a fee, and notifying the abutters, whereas the Special Downtown District does not. The Special Downtown District is usually handled by the Planning Department.

Recommendation 3:

Retain the Special Downtown Review Process in the Comprehensive Rezoning Proposal

Councilor Lauterborn **MOVED** to recommend to the full City Council that the Special Downtown Review Process be retained in the Comprehensive Rezoning Proposal. Councilor Gates seconded the motion. Mr. Sylvain gave some insight to why this was changed; however, he did not object to the motion made by Councilor Lauterborn. The **MOTION CARRIED** by a unanimous voice vote.

- **Screened-in Dumpsters**

Councilor Lachapelle stated that there is a proposed provision that would require businesses to screen in their dumpsters. He agreed this would aesthetically look great;

however, it poses a financial hardship on business owners. He agreed with this requirement for all “new” construction, but not to place this requirement on existing structures. Mr. Sylvain stated this was an attempt to rid the City of unnecessary eyesores. Councilor Lachapelle suggested that this section be reworded. Councilor Walker questioned if the current ordinances require businesses to screen in their dumpsters. Mr. Sylvain replied no. Mr. Sylvain agreed to reword this section and to present it at the next Codes and Ordinances Committee meeting on Thursday, April 3, 2014.

- **Downtown Commercial District**

Councilor Varney stated that the Downtown Commercial District used to reach Strafford Square. Chief Planner Campbell stated that part of the reason this district no longer reaches Strafford Square is that section of the City is now being considered for Neighborhood Mixed Use. He stated that the downtown area used to be split between Business (1) and Business (2), which was two separate districts, and now there is one Downtown Commercial District.

- **Highland Street**

Councilor Varney said Highland Street should be a commercial corridor; however, he pointed out that there is a problem with the way in which Highland Street is being rezoned. He said the commercial zone reaches parts of Portland Street and Salmon Falls Road. He added that there is also a commercial zone reaching Abbot Street. Councilor Walker stated that one of the City Council's concerns with the original Chapter 42 is the fact that there were several properties with split zones. The Planning Board has eliminated all split zones in the new proposal. This is the result of that effort not to split zones. He said this is a residential use with a commercial component and it is limited by size and conditional use. Councilor Lauterborn said regardless of what the original intent of the City Council had been, it is obvious that there are now unintended consequences and the City Council ought to correct the zoning of this area even if means some split lots are needed. Chief Planner Campbell stated that the Neighborhood Mixed Use is classified as a Residential District. The Commercial activity was intended to support the residential areas that surround it. There are many conditional uses that would require a site plan to be reviewed by the Planning Board and any “special exceptions” would require an application to the Zoning Board of Adjustment prior to approval.

Councilor Gray suggested rezoning just the lots that reach to Portland Street and Salmon Falls Road, back to Residential (1). Councilor Walker stated that it would make some of the development non-conforming and it would pose a hardship on some home owners as well.

Mayor Jean stated that the Highland Street area seems to be an anomaly to the rest of the zoning in the City. He asked if it would be appropriate to insert a lot line on these few properties that would provide for the Highland Street's Neighborhood Mixed Use and Residential (1) behind the line. He added that if the City is requesting the revision then it would make sense for the City to pay for the revision. Mayor Jean stated that this would be exclusive for these particular lots in question. Mr. Sylvain stated that he understood the concerns of the

Committee members and he would revisit this location. He agreed to bring back a proposal to next week's Codes and Ordinances Committee meeting.

- **Milton Road**

Councilor Varney cautioned not to set the lot line for Highway Commercial back too far near the scrap yard on Milton Road.

Chief Planner Campbell stated that scrap/junk yards are listed under special exceptions for Highway Commercial. Councilor Varney questioned if a non-conforming use would need to seek the Planning Board's approval as well as the Zoning Board of Adjustment's approval prior to expanding its business. Chief Planner Campbell replied yes.

- **Dimensional Table for Residential and Agricultural Zones**

Councilor Varney asked why there was such a dramatic difference between the current and proposed Dimensional Table for Residential and Agricultural Zones. He stated that the current requirements for a single family home required a minimum of 10,000 square feet whether one has City utilities [water/sewer] or not. Councilor Gray explained that one must obtain the State's approval prior to installing water/sewer on a property so there was no need for the City to list the requirement of water/sewer.

Councilor Varney stated that there are changes to the setbacks, too. Councilor Walker stated that the changes were made to reduce the restrictions on the property owners. Councilor Gray added that it was intended to be more consistent from zone to zone as well.

- **North Main Street**

The Committee briefly discussed the zoning on North Main Street. Mr. Sylvain stated that by zoning this area as Neighborhood Mixed Use, it would require a Planning Board Site Review for home occupations. Councilor Varney stated that residents have made it clear that they do not want commercial business at the end of those streets near Burger King.

- **Rochester Hill Road**

Councilor Varney asked if the bottom of Rochester Hill Road had been rezoned for Office Commercial. Mr. Sylvain replied yes, and also some Neighborhood Mixed Use. Councilor Varney asked if the area near Benedict's is classified as Neighborhood Mixed Use. Mr. Sylvain replied yes. Councilor Walker stated that this would make all the non-conforming businesses in that area to conforming. Councilor Varney stated that there would be a potential for more commercial use at the end of these streets near Harding Street and Dodge Street.

Mr. Sylvain stated that there is more Office Commercial further south on Rochester Hill Road. Councilor Varney stated that there is a lot of inconsistent zoning in this area and questioned what the Rochester Hill Road corridor should look like. Councilor Walker stated that most of the Rochester Hill Corridor is being proposed as Office Commercial; however, after a lot of testimony from the residents, some areas were reverted back to Residential (1).

Councilor Keans asked why the Office Commercial Zone is so far back near Crocket Street. Councilor Walker recalled that it was a single lot. Councilor Keans disagreed, she stated that there is a dentist office located on the end of the street and there is another lot behind it. There only seemed to be one lot.

- **Setbacks for Raising Chickens in Residential Zones**

The Committee briefly discussed setbacks for raising chickens in the residential zones. Councilor Walker stated that the restriction is that no roosters are allowed and the chickens cannot be a nuisance to the neighbors, including sound and smell. Councilor Varney suggested looking at this closer.

4. Other

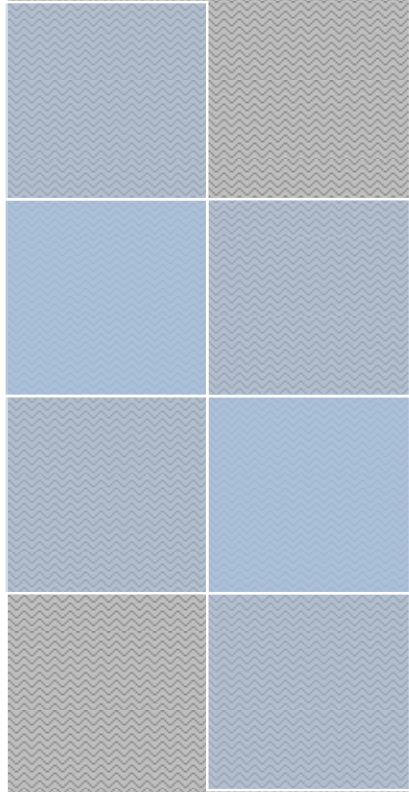
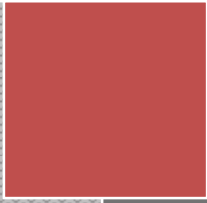
No Discussion.

5. Adjournment

Councilor Varney stated that he believed that the pending matter would require a longer discussion than the Committee has time for this evening. He **MOVED** to **ADJOURN** to meet next Thursday, April 3, 2014, at 7:00 PM. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Kelly Walters
City Clerk



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SPECIAL CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

Thursday April 3, 2014

City Council Chambers

31 Wakefield Street, Rochester, NH

7:01 PM

Committee Members Present

Councilor Peter Lachapelle, Chair
Councilor Elaine Lauterborn, Vice Chair
Councilor Ray Varney
Councilor Robert Gates
Councilor Derek "Mac" Kittredge

Others Present

City Manager Fitzpatrick
Jim Campbell, Chief Planner
Nel Sylvain, Chairman of Planning Board
Councilor Keans
Councilor Collins
Councilor Gray
Councilor Hamann
Councilor Torr
Fred Leonard, Resident
Gregg DeNobile, Resident
Tom Abbott, Resident
Frank Chiaramitaro, Great Traditions,
Home Builders Incorporated,
Lucien Levesque, Resident
Richard Breton, Resident
Traci McMath-Hlavac, Resident

MINUTES

1. Call to Order

Councilor Lachapelle reconvened the Special Codes and Ordinances Committee meeting at 7:01 PM. Kelly Walters, City Clerk took a silent roll call. All Committee members were present.

2. Comprehensive Rezoning Proposal Chapter 42 – *discussion continued.*

Councilor Varney **MOVED** to suspend the rules and reopen Public Input. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Lachapelle informed the public that three recommendations to the full City Council were approved at the March 27, 2014, Special Codes and Ordinances Committee meeting as follows:

Recommendation 1:

Removal of all Density Rings and Rezoning of Chesley Hill Road to Residential (1) in the Comprehensive Rezoning Proposal

Recommendation 2:

Labrador Drive and Fillmore Blvd. reverted back to Residential (1) in the Comprehensive Rezoning Proposal

Recommendation 3:

Retain the Special Downtown Review Process in the Comprehensive Rezoning Proposal

Councilor Lachapelle requested that the public address the Committee about topics they had not previously discussed with the Committee. He invited the public to come forward to address the Committee.

Fred Leonard, 10 Sandia Drive, requested to know which meeting is scheduled to discuss an Amendment to the Ordinances relative to Chapter 17 Water. Councilor Lachapelle stated that a Public Hearing would be held at the next Codes and Ordinances Committee, May 1, 2014, at 7:00 PM.

Gregg DeNobile, 146 Chesley Hill Road, addressed the Committee. He asked what meeting is scheduled for the full City Council to discuss these recommended changes. Councilor Lachapelle replied the first reading and public hearing is scheduled for Tuesday, April 15, 2014, at 7:00 PM. Mr. DeNobile questioned if the document can be amended after the first reading takes place. Councilor Lachapelle replied yes.

Tom Abbott, 24 Railroad Avenue, addressed the Committee. He spoke against the definition of a Kennel License which limits the amount of dogs [3] a homeowner is permitted, with very few exceptions.

Mr. Abbott spoke against the regulations for the Contracted Storage Yards, which used to be a permitted use in the Agricultural Zone.

Mr. Abbott spoke against the requirement for 10 acres of land needed to have a farm and the regulations pertaining to crop growing, which by law, cannot not prohibited.

Mr. Abbott spoke against the regulations of parking commercial vehicles in a yard and regulations that would prohibit parking on a street.

Mr. Abbott spoke against the regulation that would prohibit your recreational vehicle from parking within the front setback of the property.

Mr. Abbott spoke against the regulations associated with non-buildable land, which are basically private restrictions consisting of private land covenants and private restricted easements.

Mr. Abbott spoke against the restriction of “glare”, which is the requirement for shielded lighting on residential, single family dwellings.

Mr. Chiaramitaro, President of Great Traditions Home Builders Incorporated, distributed information that rebutted comments made on March 27, 2014, at the Special Codes and Ordinances Committee meeting by Richard Lundborn, Norway Plains Association, and Attorney Bruton, pertaining to density requirements on Rochester Hill Road. *This can be found as an addendum to the Codes and Ordinances Committee packet of April 3, 2014.*

Lucien Levesque, 10 Letourneau Street, addressed the Committee. He reiterated that the residents of North Main Street are opposed to commercial business being permitted to build at the end caps of their streets. He requested that individuals in the audience opposed to this proposal stand up. City Clerk Walters indicated that about 16 to 18 people stood up in agreement. He said the residents in his area can only exit their streets by using North Main Street, which is not the same for the other side of the street. The other side of the street can exit onto Walnut Street. It is a traffic and safety concern for residents on his side of the street [Letourneau Street].

Richard Breton, 9 Riverside Drive, addressed the Committee. He spoke against the rezoning of North Main Street from Residential (1) to Neighborhood Mixed Use, noting that traffic and safety issues are a factor.

Mr. Breton stated that all residents that he approached last year to sign a petition against this rezoning matter signed the petition without hesitating.

Mr. Breton spoke about the rezoning process. He felt there were conflicts of interest along the way. He said decisions should be made for the best interest for the City of Rochester.

Mr. Breton noted that variances are almost always approved. He noted that there is a restriction against erecting billboards in the downtown; however, the commercial businesses have found a way around this regulation, by parking a large truck in the yard with a large sign.

Traci McMath-Hlavac, 8 McDuffie Street, addressed the Committee. She spoke against the rezoning of North Main Street, noting that the streets in the area are already

noisy and busy with traffic. She further noted that there is a business located at the end of McDuffie Street which blocks traffic from time to time.

Councilor Lachapelle closed public input at 7:31 PM.

Councilor Varney stated that at the time the motion was made to rid the ordinance and map of the density ring, it was not clear that the density rings were intended only to be applicable to multifamily dwellings. Now that this has been made clear, the density rings should be reinstated into the ordinance with the changes that have been documented by Chief Planner Campbell.

Chief Planner Campbell clarified how the documents were being presented this evening. He said all language to be removed is ~~crossed out~~ and all language to be inserted is **underlined and bold**.

Recommendation 4:

Amendment to the Comprehensive Rezoning Proposal, Article XIX – Dimensional Regulations, Section 8 – Density Rings

Councilor Varney referred to Article XIX – Dimensional Regulations, Section 8 – Density Rings. He **MOVED** to recommend to the full City Council that the following amendment be made:

Density Rings. The density rings are shown on the Official City of Rochester Map that is adopted as part of this Ordinance **and only apply to multi-family dwellings/developments.** The rings are defined as follows:

The ~~minimum lot area and~~ minimum lot area per dwelling unit with a one and one-half (1 1/2) mile radius of the center of Rochester, shall be 5,000 square feet. The minimum lot area and minimum lot area per dwelling unit outside of the one and one-half (1 1/2) mile radius of the center of Rochester, shall be 7,500 square feet.

The ~~minimum lot area and~~ minimum lot area per dwelling unit within a one-half (1/2) mile radius of the center of Gonic and East Rochester shall be 5,000 square feet. The minimum lot area and minimum lot area per dwelling unit outside of the one-half (1/2) mile radius of the center of Gonic and East Rochester, shall be 7,500 square feet.

Any lot that is partially within the radius of a density ring shall be treated as if it were entirely within the radius of the density ring.

Recommendation 5:

Amendment to Article II, Definitions of Dwellings: Dwellings Multifamily; Dwelling, Apartment Building; and Dwelling, Multifamily.

Councilor Varney **MOVED** to recommend to the full City Council that Article II, Definitions, be amended pertaining to the definition of multifamily units, be increased from (3) to (5) in the following definitions in the Comprehensive Rezoning Proposal:

- Development, Multifamily ~~three (3)~~ **five (5)**
- Dwelling, Apartment Building ~~three (3)~~ **five (5)**
- Dwelling, Multifamily ~~three (3)~~ **five (5)**

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

Recommendation 6:

Amendment to the Comprehensive Rezoning Proposal Map – Reinsert all Density Rings

Councilor Varney **MOVED** to recommend to the full City Council to reinsert the Density Rings in the Comprehensive Rezoning map. Councilor Gates seconded the motion.

Councilor Lachapelle sought clarification on the motion. He asked City Manager Fitzpatrick if the Committee should rescind the original motion made at the last Codes and Ordinances Committee relative to removing the density rings. He recalled that it was a combined motion with rezoning of Chesley Hill Road. City Manager Fitzpatrick stated that it would not be necessary since this is a separate motion.

City Clerk Walters wished to clarify if this motion included the language found in the text of Chapter 42. Councilor Varney stated that the previous motion [Recommendation 4] inserted the text pertaining to reinserting the density rings, as further amended. The **MOTION CARRIED** by a unanimous voice vote.

Recommendation 7:

Amendment to Article II, Definitions, relative to Minimum Lot Area and Minimum Lot Area per Dwelling Unit in the Comprehensive Rezoning Proposal

Councilor Varney **MOVED** to recommend to the full City Council that Article II, Definitions Minimum Lot Area [pages 17 and 18], be amended as follows:

Minimum Lot Area: The computed area contained within a lot that meets the Dimensional Standards of the Zoning Ordinance excluding very poorly drained soils and steep slopes greater than 25%. ~~Twenty-Five percent (25%) of poorly drained soils may be used to fulfill the minimum lot area. For example, if there was a 20-acre parcel and~~

~~10 acres were useable upland and 10 acres were poorly drained soils, you would be able to use 2.5 acres of poorly drained soils to use toward the minimum lot area. Therefore, you would have total of 12.5 acres of minimum lot area.~~

Minimum Lot Area per Dwelling Unit: The computed area contained within a lot for each additional dwelling unit that meets the Dimensional Standards of the Zoning Ordinances excluding very poorly drained soils and steep slopes greater than 25%. ~~Twenty-Five percent (25%) of poorly drained soils may be used to fulfill the minimum lot area per dwelling unit. For example, if there was a 20 acre parcel and 10 acres were useable upland and 10 acres were poorly drained soils, you would be able to use 2.5 acres of the poorly drained soils to put toward the minimum lot area per dwelling unit. Therefore, you would base you density on 12.5 acres.~~

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

Recommendation 8:

Amendment to Article II Definitions, Solid Waste Facility [page 25] in the Comprehensive Rezoning Proposal

Councilor Varney **MOVED** to recommend to the full City Council that the second paragraph under definitions found on page 25 of Article II pertaining to Solid Waste Facility be amended as shown below:

...Solid waste facility includes, **but is not limited to**, composting facility, junkyard, and recycling facility.

Councilor Gates seconded the motion. Councilor Lachapelle wished to recuse himself from the vote. The **MOTION CARRIED** by a unanimous voice vote, with Councilor Lachapelle abstaining.

Recommendation 9:

Amendment to Article XX, Standards for Specific Permitted Uses, Removal of the description of a Townhouses [#13]

Councilor Varney stated that the definition of a Townhouse should be removed from the ordinance since the term would no longer be utilized in the Comprehensive Rezoning Proposal. He **MOVED** to recommend to the full City Council, that Article XX, Standards for Specific Permitted Uses, Townhouses [# 13] be removed. *This can be found in Article II, page 5, of the Compressive Rezoning Proposal document.* Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Recommendation 10:

Amendment to Article XXI, Conditions for Particular Uses, Assisted Living Facility

Councilor Varney **MOVED** to recommend to the full City Council that the permitted density for an Assisted Living Facility, be increased by 1 ¼ times that otherwise would be permitted for residential uses in the district, in the Comprehensive Rezoning Proposal. *This can be found under Article XXI, Conditions for Particular Uses, Assisted Living Facilities, page 4.*

Councilor Lauterborn stated that this does make sense, but questioned how this amendment came about. She asked if this was originally an oversight. Councilor Varney replied this came about during a discussion of allowing a density bonus for this type of housing. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Recommendation 11:

Amendment to Article XXI Conditions for Particular Uses, Nursing Home

Councilor Varney **MOVED** to recommend to the full City Council that the permitted density for a Nursing Home be increased by 1 ¼ times that otherwise would be permitted for residential uses in the district. *This can be found under Article XXI, page 6.*

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

Recommendation 12:

Amendment to Article XXI, Conditions for Particular Uses, Senior Housing

Councilor Varney **MOVED** to recommend to the full City Council that the following statement be **removed** from Senior Housing: The permitted density shall be that of 1 ¼ times that otherwise would be permitted for residential uses in the district. *This can be found under Article XXI, page 7.* Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Recommendation 13:

Amendment to Article XXVIII, Performance Standards, Waste Disposal

Councilor Varney **MOVED** to recommend to the full City Council that Article XXVIII, Performance Standards, Waste Disposal [#11], Dumpsters [b], [page 4 and 5], in the Comprehensive Rezoning Proposal be amended as follows:

Dumpsters. All dumpsters **associated with new applications, including changes in use** , shall be fully screened so they are not visible from a public way (road, sidewalk, footpath , trail, park, or navigable waterway owned by the City of Rochester or another governmental agency and intended to be accessible to the public.) ~~All property owners, property managers, tenants, and businesses shall bring existing dumpsters into compliance with this requirement within 6 months of notification or as stipulated by the Code Enforcement Officer. This provision does not apply to dumpsters used specifically for active construction projects.~~

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

Recommendation 14:

Amendment to Table XXVIII [C] Food-Lodging-Public Recreation Uses

Councilor Varney **MOVED** to recommend to the full City Council that the Lodging, Bed and Breakfast, conditional use, be amended, by removing the conditional use from Residential (1), and allow Lodging, Bed and Breakfast to be listed as a conditional use under Residential (2).

Councilor Lauterborn questioned if there were any existing bed and breakfast establishments located in Residential (1). No one at the meeting recalled that there is an existing bed and breakfast located in Residential (1).

Councilor Kittredge asked if these units were problematic for the Residential (1) zone. Councilor Varney stated that the more suitable place to have a bed and breakfast are located in the Residential (2) zone. Councilor Kittredge asked what would happen if a bed and breakfast was discovered in the Residential (1) Zone. Councilor Lachapelle stated that the establishment would be grandfathered. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Recommendation 15:

Amendment Table XVIII [D] Industrial-Storage-Transport-Utility Uses; Junkyard and Recycle Facility

Councilor Varney **MOVED** to recommend to the full City Council that table XVIII-D, Industrial-Storage-Transport-Utility Uses, be amended by removing the exception [E]

from both the Junkyard and Recycle Facility under the Highway Commercial District column. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Recommendation 16:

Amendment to XXVIII [A] Residential Uses, by Removing Dwelling, Townhouse, from the table

Councilor Varney **MOVED** to recommend to the full City Council that an Amendment to XXVIII [A]: Residential Uses, by removing “Dwelling, Townhouse” from the table of Residential Uses. Councilor Gates seconded the motion. The **MOTION CARRIED** by a majority voice vote.

Recommendation 17:

Amendment to Article XXIII Accessory Uses – (f) Chickens, Fowl and Other Small Livestock

Councilor Lauterborn **MOVED** to recommend to the full City Council the following amendment to Article XXIII, Accessory Uses, (f) Chickens, Fowl and Other Small Livestock:

(f) Chickens, Fowl and Other Small Livestock

iii – No area or structure for the housing, storage of manure/animal waste, of feeding of animals shall be located within ~~any property setback areas~~ **20 feet of any abutting property lines;**

Councilor Lauterborn asked if this setback applies to all zones. Councilor Varney replied yes. Councilor Hamann asked if this would preclude a homeowner from raising chickens.

Councilor Lachapelle stated if the Committee did not object he would allow a comment to be made from the audience. Tom Kaczynski, resident, stated that the motions are not being made clear and the public does not know what is being voted upon this evening. Councilor Lachapelle apologized and distributed information to Mr. Kaczynski to be shared with the public. Councilor Kittredge expressed concern that more information should be sought prior to making a recommendation. Mr. Sylvain asked if someone would be able to make an appeal to the Zoning Board of Adjustment if necessary. Councilor Gates replied yes. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Recommendation 18:

Amendment to Article XXIII Accessory Uses – Fences

Councilor Lauterborn **MOVED** to recommend to the full City Council an amendment to Article XXIII, Fences, by adding (h) and (i) as follows:

h. **No fence shall be erected that blocks or limits the existing sight distance of an abutting driveway or right-of-way. A clear vision area extending along the full width of the front lot line between side lot lines shall be maintained 10 feet from the edge of road pavement or sidewalk at 3 feet 6 inches above the driveway surface (the height of a typical driver's eyes) to points 3 feet 6 inches above the road surface in both directions.**

i. **With regard to existing fences on the effective date of this provision, which fence fails to comply with the requirements of subsections (g) or (h) of this Section, in the event that the Code Enforcement Officer, in a written administrative decision, determines that an existing fence, by virtue of its height, location or otherwise, constitutes a hazard to public health and/or safety, then such fence shall be required to comply with the requirements of said subsection (g) or (h) hereof within six (6) months of the owners official notification by the Codes Enforcement Officer of the City of Rochester of such administrative decision, failing which, the fence in question shall be removed.**

Councilor Keans questioned if this was the language reviewed by Attorney Wensley. Chief Planner Campbell replied that paragraph (h) deals with a specific matter that the Planning Board wished to address and paragraph (i) is the exact same language submitted by Attorney Wensley. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

- **Chapter 42 Signs**

Chief Planner Campbell stated that the existing Chapter 42 sign ordinance is being carried over to the proposed ordinances. Mr. Sylvain stated that the Planning Board would begin work on the City's Master Plan. He proposed to put the Master Plan on hold in order to complete a proposed sign ordinance to the City Council to be presented to the full City Council as an amendment to the ordinances. Councilor Lachapelle stated that he would be in favor of this recommendation. Councilor Lauterborn recalled that the sign ordinance had been reviewed fairly recently anyway. Councilor Gates asked if a motion would be appropriate. Councilor Lachapelle stated that the Planning Board could potentially make some additional changes and submit a new proposal at the City Council Workshop.

- Business 1 Business 2 removed from the text

Councilor Varney recommended that the Planning Department seek to rid the references in the text Business (1) and Business (2) since the terms are no longer utilized in the Chapter 42 proposed ordinance. Chief Planner concurred.

- Public Comments Discussed

Councilor Gray recommended that the Planning Board review some of the issues brought up during public input relative to dog kennels, storage units, crop growing, and parking of commercial vehicles. They could submit a recommendation.

Councilor Lachapelle asked if a commercial farm is the type of farm which would need a 10 acre requirement. Mr. Sylvain stated that Planning Board's intent was not to prevent someone from growing a small garden and the Planning Board would likely be willing to amend the language, if necessary. Chief Planner Campbell stated that the proposed ordinance is the same text as the existing text and he agreed that it would not prevent someone from growing a garden in their backyard. Mr. Sylvain invited the public to come forward and ask questions.

Councilor Varney asked if the Planning Board could address some of these issues at their next Planning Board meeting. Mr. Sylvain concurred.

Councilor Torr spoke against the 10 acre requirement. Councilor Collins stated that the ordinances should be made simple enough for the residents to understand without having to do a lot of research.

Recommendation 19:

Amendment to Boundary Lines on Highland Street

Councilor Varney **MOVED** to recommend to the full City Council that the proposed Commercial District on Highland Street retain the same boundary lines that it does on the existing zoning map and that it be changed to Neighborhood Mixed Use. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Recommendation 20:

Amendment to Article XX Yard Sales [22]

Councilor Varney **MOVED** to recommend to the full City Council that an amendment be made to Article XX Standards for Mixed Use Yard Sales [22] by removing the words ~~in the front yard~~, which means it cannot be left out overnight.

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

- **Discussion: XVIII-A Residential Uses – Apartment, In-law**

Councilor Varney **MOVED** to recommend to the full City Council that Permitted Use be changed to Conditional Use under the Residential (1) zone. Councilor Varney stated that abutters should be notified. Chief Planner Campbell explained that in-law apartments must be part of the existing dwelling and cannot have its own entrance. Councilor Keans asked if the in-law apartment could have a full kitchen. Chief Planner Campbell replied that there is only so much square footage allowed for an in-law apartment. Councilor Varney asked if Accessory Apartments are permitted by special exception in a Residential (1) Zone, would they still have to appear before the Zoning Board of Adjustment. Chief Planner Campbell replied yes.

- **Request to extend Highway Commercial further down on North Main Street**

Councilor Varney stated that he is not in favor of allowing the Highway Commercial District any further down on North Main Street. He added that Highway Commercial permits some intense uses. Mr. Sylvain stated that is the lot of Carriage Hill and it is being proposed as Neighborhood Mixed Use.

Recommendation 21:

Amendment to North Main Street revert back to Residential (1)

Councilor Gates wished to open up the discussion of North Main Street.

Councilor Keans stated that the businesses can have unsightly back yards and the home owners in this area should be protected from this type of situation. Mr. Sylvain stated that by proposing this area as Neighborhood Mixed Use would require proposed business owners to first seek the Planning Board's approval. He added that a site plan review would prevent unwanted businesses from being located at the end of these streets.

Councilor Varney spoke against trying to fix this situation with the Neighborhood Mixed Use. He stated that an administrative issue occurred a few years ago that allowed a problematic home occupation to grow its business; this problem could be avoided in the future by administration.

Councilor Keans asked about allowing commercial vehicles to park overnight at a particular business. She read that only one small commercial vehicle is permitted to be parked overnight. How is it that there is a problem with commercial vehicles on North Main Street? Mr. Sylvain replied that there is only a regulation in place for parking such

a vehicle overnight. He agreed to check to check the regulations about parked vehicles for a home occupation.

Councilor Gates **MOVED** to recommend to the full City Council that the proposed Neighborhood Mixed Use on North Main Street be changed to Residential (1). Councilor Varney seconded the motion. Mr. Sylvain advised the Committee that this motion would in effect make Carriage Hill non-conforming. It was determined that the specific area of location is to be from Strafford Square north, starting after the CPA office next to Holy Rosary Parish, up to Claire Street, *the other side of Claire Street is the Shell Station [Highway Commercial]*, to the street prior to Holy Rosary Parish. It was further determined that Residential (1) begin at Strafford Square up to Burger King, but not including Burger King. Councilor Hamann stated that this was a tough decision for him. He said this action would **not** prevent the original problem from happening. He said no Planning Board Site Plan review would be in place. Mr. Sylvain replied that is correct, if there is a home occupation request in a Neighborhood Mixed Use, then the application is sent to the Planning Board or Zoning Board of Adjustment. Councilor Varney did not agree. Chief Planner Campbell stated that the intent of the Planning Board was to allow businesses in that area that would serve the neighborhoods; it was not to create large businesses. The Committee debated the matter. The **MOTION CARRIED** by a unanimous voice vote.

Recommendation 22:

Amendment to Article XXVIII [A] Residential Uses

Councilor Varney stated that multifamily units are proposed as “permitted” use in the agricultural zone. He **MOVED** to recommend to the full City Council an amendment to XXVIII [A], Residential Uses, by removing the conditional use in the Agricultural Zone for the following dwelling uses: Multifamily Development, Multifamily, and Three & Four Family, Dwelling. This would only allow single family homes and duplexes, which is how the existing ordinance is written. Councilor Lauterborn questioned what zones the multifamily units of three units or more would be permitted. Councilor Varney stated that they would be permitted in the Granite Ridge District, Neighborhood Mixed Use, Downtown Commercial, Office Commercial, and Highway Commercial. Councilor Gray spoke against the motion and suggested making an “exception” use. Councilor Collins read the five objectives of the agricultural district and stated that these objectives would be in direct conflict of allowing multifamily units in this zone. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Discussion – Rochester Hill Road inconsistent zoning

A discussion ensued about the inconsistent zoning of Rochester Hill Road. Councilor Varney asked what is this corridor supposed to look like. He added that there are three different zones as you travel up Rochester Hill Road. The Committee discussed the zones in this area. It was determined that this should be kept in

Committee. Councilor Varney stated that the area on Rochester Hill Road that is currently a Residential (1) zone is now being proposed as Residential (2); should this be changed to back to Residential (1) to be consistent with the area across the street. Councilor Lauterborn stated if the Cornerstone Apartments were allowed to be developed in this area then someone else could seek a variance too. She wished to clarify if this is the same property which a density ring runs through. Councilor Varney replied yes. Councilor Lachapelle asked why the Planning Board decided to propose this area as Residential (2). Mr. Sylvain stated that the airport is located in this area. Chief Planner Campbell stated that there are other multifamily units located in the area. City Manager Fitzpatrick could not see anyone wishing to build a single family home dwelling on this parcel. He questioned what is the best use for the City. Councilor Lauterborn suggested leaving this in Committee for now.

A discussion ensued about the lots directly across from the airport. Chief Planner Campbell agreed to review this area.

Recommendation 23:

Rochester Hill Road near Crocket Street

Councilor Lauterborn **MOVED** to recommend to the full City Council that the Neighborhood Mixed Use be reverted back to Residential (1), beginning just south of Crocket Street, traveling north on Rochester Hill Road, to the edge of the Downtown Commercial District, only on the west side, *which is located on the opposite side of Frisbie Hospital*. Councilor Gates seconded the motion. The **MOTION CARRIED** by a majority voice vote.

3. Other

Jim Grant, Building Zoning, and Licensing Services gave a brief update to the Committee about the housing and stated that he would provide more information at the next Codes and Ordinances Committee.

3. Adjournment

Councilor Kittredge **MOVED** to **ADJOURN** the meeting at 9:37 PM. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Kelly Walters
City Clerk

CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

Thursday March 6, 2013

City Council Chambers

31 Wakefield Street, Rochester, NH

7:00 PM

Committee Members Present

Councilor Peter Lachapelle, Chair
Councilor Elaine Lauterborn, Vice Chair
Councilor Ray Varney
Councilor Robert Gates
Councilor Derek “Mac” Kittredge*

Others Present

Jim Grant, Director of BZLS
Councilor Larochele
Councilor Gray
Dan Wensley, City Attorney
TJ Jean, Mayor
Lisa Clark, Office Manager, Department
of Public Works
Peter Nourse, Commissioner of Public
Works
George Pelletier, Resident
Tom Kaczynski, Resident

MINUTES**1. Call to Order**

Councilor Lachapelle called the Codes and Ordinances Committee meeting to order at 7:00 PM. All committee members were present; *Councilor Kittredge arrived at 7:10 PM.*

2. Public Input

Councilor Lachapelle explained that the public could speak during the discussion of the item which they have concerns with. He asked if anyone would like to address the Codes and Ordinances Committee at this time. There was no discussion at that time.

Councilor Lachapelle explained to the Codes and Ordinances Committee that they were going to enter into Non-Meeting Consultation with Legal Counsel under RSA 91-A:2 (d). He asked if there were any objections. Seeing no objections, Councilor Gates **MOVED** to enter into the Non-Meeting for legal consult at 7:04 PM. Councilor Varney seconded the motion. The **MOTION CARRIED** by a 5 to 0 voice vote. Nancy Carignan, Assistant City Clerk, took a roll call. Councilors Lachapelle, Lauterborn, Varney, Gates, and Mayor Jean voted in favor of the motion. *Councilor Kittredge arrived after roll call and entered into Non-Meeting at that time.*

Councilor Gates **MOVED** to exit the Non-Meeting at 7:30 PM and resume the Codes and Ordinances Committee meeting. Councilor Kittredge seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

3. Approval of the Codes and Ordinances Committee Minutes

- **February 6, 2014**

Councilor Lauterborn **MOVED** to **ACCEPT** the Committee minutes of February 6, 2014. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

4. Water Policies

Peter Nourse, Commissioner of Public Works, distributed a revised draft of Ch. 17 of the General Ordinances to the committee members. He explained that at last month's Codes and Ordinances Committee meeting his original proposed ordinance was recommended to go to full council for adoption with one exception: no single metered customers, primarily residential customers would be penalized. He explained that he revised the language of 17.34 (b), to indicate this. He stated that the Department of Public Works would send out an advisory letter for a potential leak, but the customer would not be penalized if they were paying their bill.

Councilor Lauterborn questioned why the ordinance did not differentiate between residential and multi-residential. Mr. Nourse addressed this for her.

Mr. Nourse stated that the ordinance was altered after meeting with the Codes and Ordinances Committee and the UAB Committee. The UAB Committee approved the wording of the ordinance with the acceptance of adding "C", which would soften the language on the leakage. This would reflect that no penalty would be imposed as long as the resident responded to the leak within a seven day period.

Councilor Lauterborn appreciated Mr. Nourse's efforts in revising the ordinance and this ordinance made sense to her.

Councilor Larochelle asked how much of an issue is this to the City. Mr. Nourse explained that this was an issue with the larger users, such as users with master meters or multi-unit meters, and there are some major leaks within the City when it comes to these users.

Mr. Nourse explained that this ordinance proposal came as a directive of the Finance Committee and the City Manager due to abatements. He said that if the water leak is not going into the sewer you can not charge for it. Councilor Larochelle stated that there should be no abatement if they are doing it knowingly.

Mr. Nourse stated that the UAB supports that a customer should pay up front with the exception of the overage that is being appealed. He has incorporated this into the standard operating procedures.

Councilor Lachapelle addressed the time period for appeals. He asked Mr. Nourse about the 180 days versus the 90 days. Mr. Nourse explained that the UAB favors the 90

days. He explained that currently the water and sewer differ on days and that they should read the same pertaining to the next billing cycle.

Councilor Varney asked if this meant that every appeal that goes over the 90 days will be sent to the City Council because he does not want to see that happen. Lisa Clark, Department of Public Works Office Manager, explained that it should not get to that point. Ms. Clark said that before that would happen the customer would have resolved the issue, paid the bill, or appealed the bill.

Councilor Varney expressed his concerns about a resident that had been charged for sewer for twenty-five years and was not on City sewer. Ms. Clark explained that this resident did not know when he bought the house that he was not on sewer and that the issue has been resolved.

Councilor Lachapelle asked if the Codes and Ordinance Committee wanted to recommend the new water ordinance proposal to the full City Council.

Councilor Lauterborn **MOVED** to recommend the revised water ordinance to the full City Council. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Larochelle expressed his concerns with ordinance 17.26 C. This ordinance “states that on a multi-line, if one customer does not pay their bill, and one or more may be innocent the customer’s water could be shut off because of the one customer that is not paying”. Mr. Nourse explained that most multi line customers are mobile home parks. Ms. Clark explained that this is very infrequent; however there are a few within the City. Councilor Larochelle asked if the multi-line section should still be in the ordinance. Councilor Varney stated that it should be left alone for now. Councilor Lachapelle agreed.

Councilor Larochelle asked if he could make a motion to strike 17.26 C, as a non-member. Councilor Lachapelle stated that he would have to do this at the City Council level.

5. Proposed Rental Housing Ordinance

Jim Grant, Director of Building, Zoning, and Licensing Services (BZLS), explained to the Codes and Ordinances Committee that earlier in the day he had met with the Rochester Property Owners Association in regards to this ordinance. He stated that they were a good group to talk to and appeared to be receptive to this type of ordinance. He did not feel that this group would be penalized by this ordinance.

Mr. Grant stated that the group discussed making this a voluntary compliance. He said the buildings would be inspected and receive a certificate stating that they were in compliance. When all is said and done, this could help them if they have any court issues.

Mr. Grant explained that the association had a slight issue with the fee schedule. He said that the housing ordinance needs to be tweaked. He added that the property owners association would draft something more suitable and get back to him. He stated that it could be a two month process and he would like this issue held in committee at this time.

Mr. Grant informed the Codes and Ordinances Committee that the fire on February 27, 2014, on Pine Street could have been avoided if the rental unit had working fire detectors and this program would have helped in this situation.

George Pelletier, resident and landlord, addressed the Codes and Ordinances Committee about the proposed ordinance. He mentioned that the current State law would have addressed the Pine Street fire. He had concerns that the City would have to hire more employees to do these yearly inspections and enforce the ordinance.

Mr. Pelletier explained that in some situations there is legally nothing the landlord can do. If the property has a lot of outside clutter, the landlord can not legally remove it. Councilor Lachapelle agreed and said that the property owners association could be helpful in drafting an ordinance that would protect tenants and landlords.

Councilor Lachapelle stated that this proposed ordinance will be staying in committee at this time. Mr. Pelletier explained that he had to go to “codes” [BZLS] to help him with his property issues and he thanked the Codes and Ordinances Committee for their time.

Mayor Jean questioned the process of holding a hearing with the enforcement process. Mr. Grant explained this would be an informal mediation type of situation and maybe it can be removed from the ordinance. Mayor Jean did not want a municipal employee to have to deal with this.

Councilor Gates asked if the BZLS goes to inspect a building and finds an apartment uninhabitable do the tenants have to move right away and, if they do, who pays for this? He asked if the City was liable and if anyone gets hurt due to the residence being uninhabitable is the City also liable. Mr. Grant discussed this further with Councilor Gates. Councilor Lachapelle said that this was more of a question for legal counsel. Councilor Kittredge added that some of the damages are a result of the tenant and not the landlord. He added it is hard to have these tenants removed.

Councilor Lachapelle reiterated that the issue is staying in committee and there may be an update by next month’s meeting.

6. Panhandling Ordinance Discussion

Councilor Lachapelle explained that the panhandling issue will be staying in committee because they are seeking further information on this topic.

Councilor Varney asked Nancy Carignan, Assistant City Clerk, to obtain from the Police Department copies of the panhandling brochure, which they had provided him. He would like the full City Council to have a copy.

7. Other

No other business was discussed at this time.

8. Adjournment

Councilor Lauterborn **MOVED** to **ADJOURN** the Committee meeting at 8:10 PM. Councilor Kittredge seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Nancy Carignan
Assistant City Clerk