

CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

Thursday May 7, 2015

City Council Chambers

31 Wakefield Street, Rochester, NH

7:00 PM

Committee Members Present

Councilor Peter Lachapelle, Chair
Councilor Elaine Lauterborn, Vice Chair
Councilor Donna Bogan
Councilor Robert Gates
Councilor Ray Varney

Others Present

Kelly Walters, City Clerk
Councilor Gray
Councilor Collins
Terence O'Rourke, City Attorney
Seth Creighton, Chief Planner
Michelle Mears, City Planner
Lorraine St. Jean, 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.

2. Public Input

No member of the public addressed the Codes and Ordinances at that time. Councilor Lachapelle closed public input at 7:01 PM.

3. Approval of the Codes and Ordinances Committee Minutes

• **March 5, 2015**

Councilor Bogan **MOVED** to **ACCEPT** the Committee minutes of March 5, 2015. Councilor Gates seconded the motion. Councilor Lauterborn asked to have the minutes amended. Her first correction was to change the date on page one for the February 5, 2015 minutes, currently it states December 4, 2014, which was incorrect. Her second correction pertained to the adjournment of the meeting. It currently states that Councilor Gray moved to adjourn the meeting and she distinctly remembers Councilor Varney had moved to adjourn the meeting. Councilor Lachapelle asked Nancy Carignan, Assistant City Clerk, to make those changes.

Councilor Bogan **MOVED** to **AMEND** the **MOTION** as stated. Councilor Gates seconded the motion. The **MOTION CARRIED** as amended by a unanimous voice vote. Councilor Lachapelle called for a vote on the main **MOTION** as **AMENDED**. The **MOTION CARRIED** by a unanimous voice vote.

4. Discussion - Polling Locations

Kelly Walters, City Clerk, explained that Dave Stevens, Moderator for Ward One, still has hesitations in regards to using Tara Estates as a polling location. She handed out a memo to the committee members with alternate locations.

Councilor Varney felt that the East Rochester School was still an option. Ms. Walters explained that Audrey Stevens, School Board Member, was checking with the School Department. There are obstacles, but could be possible. Councilor Varney mentioned that parking would be an issue if school was in session. The committee discussed working around a teachers workshop. They felt this might not be viable where the primary election date has not been set yet.

Councilor Lachapelle liked the idea of using Tara Estates as an option. The committee debated if signage would be an issue. Councilor Varney stated that they could make some changes when it comes to signage.

Ms. Walters did not want this issue held in committee, because of timing; however, Mr. Stevens was not present to voice his feelings regarding this location. She felt that he would like to be heard before it goes to the full City Council for their recommendation.

Councilor Lauterborn asked Ms. Walters if Mr. Stevens has any other suggestions. Ms. Walters explained that they had driven through Ward One in search of other locations. The committee discussed the other locations listed on her handout, but all locations had issues with being able to handle an election.

Ms. Walters asked if the Codes and Ordinances Committee intends to recommend Tara Estates to the full City Council and could they reach out to Mr. Stevens. She asked if Councilor Lachapelle could have a private discussion with him. Councilor Varney stated that Mr. Stevens could come and speak to the City Council directly since he is a City Official.

The Codes and Ordinances Committee briefly discussed the churches that were recommended, but clearly they do not provide enough parking.

Councilor Lauterborn asked if they could use a location outside of the ward. Ms. Walters had inquired about that and it would entail changing the boundary lines of the Ward. If you do not change the lines, then it is next to impossible to get permission from the State to move a polling location outside of a ward. Councilor Gray explained that if they change the lines it could allow access to the American Legion function hall. The committee debated this further.

Councilor Bogan recalled that when Mr. Stevens came to a previous Codes and Ordinances meeting he was pushing to have elections in the schools. Councilor Bogan felt that from her experiences that it would be a disaster. She said that Tara Estates was the better option.

Councilor Collins commented that he did not feel that the schools were out of the question. He felt that for one day the schools could make accommodations. Councilor Bogan reiterated that she is opposed to having elections in the schools while children are there; this poses a security issue. Councilor Lauterborn felt that schools were still a viable option. She said that this is a learning experience for the kids. She gave examples of her past experience as an elementary school principle. Councilor Gray went on to explain that at some schools the cafeteria and the gymnasium are combined, so they would have to make alternate means for the students to have their lunch.

Councilor Collins agreed with Councilor Bogan that times have changed when it comes to security.

Councilor Lachapelle discussed with the committee that Tara Estates is a good fit. Ms. Walters asked if the vote on this could be held until the end of the meeting in hopes that Mr. Stevens would be able to attend; however she did agree that Tara Estates is the best location at this point.

Councilor Lauterborn mentioned that when it comes to relocating to the American Legion, which falls in Ward Six, there may be difficulties since Ward One is larger than Ward Six.

Councilor Lachapelle asked Ms. Walters about the timing for a decision to be made. Ms. Walters explained that she would like to know by June so that her office can notify the voters in that ward.

Councilor Varney **MOVED** to recommend Tara Estates as the Ward One polling location. Councilor Lauterborn seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Ms. Walters commented that she will be looking at long term changes to the Ward lines and other possible locations. She mentioned that the upcoming election is small in comparison to a Presidential Primary election so it will be a good test run for Tara Estates.

5. Discussion - Sign Ordinance, Chapter 42

Councilor Lachapelle said that it was requested that the Codes and Ordinances Committee review the recent changes made to the sign ordinance again before sending it to the full City Council.

Terence O'Rourke, City Attorney, stated the major changes to the sign ordinance fell under the political signs. He explained that he did a lot of research on this topic. He said that per the Attorney General they could not limit the size of a political sign.

Mr. O'Rourke explained that political signs are not allowed on public property or on the City's rights-of-way. He felt that the statute could be read either way, but they are not allowed on public property. Councilor Lauterborn wanted further clarification on the areas that they are referring to. The Codes and Ordinances Committee discussed the areas around the City which the ordinance is referring to. Councilor Varney asked about the Adopt-A-Spots as those spots are City property. After a brief discussion it was agreed that it was redundant and Planning will make the changes. They also agreed that section [D] could be removed.

Councilor Gray wanted to inform the committee that there is legislation in the works for this issue, which would allow the municipality to make some changes in regards to political signs on City property.

Michelle Mears, City Planner, explained that she added definitions for "Special Event" signs.

Councilor Varney asked about "Off Premise" signs, section [13.d], which he read to the Committee. It was his opinion that these signs need to be approved by the City Council and not the Planning Board. He explained that it would conflict with another ordinance. Councilor Varney wanted this to be changed. The Codes and Ordinances Committee discussed this change further. Councilor Lauterborn asked why this was a conflict and Councilor Varney explained that any sign erected on public property needs City Council approval.

Councilor Gray addressed the RSA pertaining to political signs. He explained that they are allowed directly in front of a private property by the owner, which is still the City's right-of-way. Mr. O'Rourke said that the City could restrict them. Councilor Gray said to use caution on that due to the RSA. Mr. O'Rourke said that he would research this further.

Councilor Varney asked about "Special Event" signs under section [23]. He read this section to the committee and said that he believed that this is in conflict with another ordinance and also should be sent to City Council for approval. Ms. Mears said that she would make that change. Councilor Varney added more input.

Councilor Varney explained that they had a copy of the Zoning Board ordinance in front of them which pertains to the Granite Ridge Development [GRD] and the signage. He explained that section [j.4] refers to provisions of section 42.9, which should read 42.29. He also stated that paragraphs A and B should be removed and this should be in the sign ordinance, not the zoning ordinance, or "sprinkled" throughout the ordinances. He said that this as well should be approved by City Council.

Councilor Varney asked if they could add a paragraph under "Wall" signs for the GRD, which would allow them one additional wall mounted sign per tenant on the rear facade. Mr. O'Rourke agreed that this would make sense. This would apply to buildings located between the service road and Route 11.

Councilor Varney had concerns regarding "Portable" signs as they pertain to the Commercial District. He did not want to exclude them in such places as GRD or Highway Commercial where in some cases they have an outside sidewalk. He felt that they should be permitted in all commercial zones. Seth Creighton, Chief Planner, explained that this ordinance is crafted differently because the GRD zone is a forthcoming district and will have a secondary road; he explained the intent.

Councilor Varney voiced his concerns regarding the signage for the GRD and felt a pylon sign would work for this situation. Mr. Creighton discussed this further with the committee.

Mr. Creighton discussed the "Sandwich Board" signs. He explained his concerns as to why they are restricted and cited the density of the areas. Councilor Varney said they may incur some push back from the business outside those districts. He did not want to see a stream of business owners running to the Zoning Board for variances. Mr. Creighton explained that he is looking at this from a planning perspective. He said that if they are

allowed in such areas as Route 125, it might look like a sea of plastic. Councilor Varney suggested leaving it alone.

Councilor Varney commented on the "Seasonal Agricultural" signs [13.f]. He said that he believes this will be a continual problem and explained why. Councilor Lauterborn did not agree. She felt that these signs are of service to citizens as consumers. Councilor Bogan agreed.

Ms. Mears said that she has noted the changes the committee has recommended and will revise the ordinance

Councilor Gates **MOVED** to recommend Chapter 42.29 (sign ordinance with revised changes) to the City Council for the June 2, 2015, meeting. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Varney asked if the Codes and Ordinances Committee could get a clean revised copy as soon as possible. Ms. Mears said that she would get them a copy.

6. Discussion - Aquifer Protection Draft Ordinance

Mr. Creighton, Chief Planner, said that he was there to address the committee on the Aquifer Protection Ordinance. He stated that they made some minor revisions and worked with legal counsel. He said that the ordinance had been to the Planning Board twice and they wanted changes with the wording. The Planning Board wanted to change "maintenance and inspection" the change of "may be" to "will be." Mr. Creighton said that there were two changes that did not make it in the draft.

Councilor Lachapelle ask if this ordinance is going to cost the City more money. Councilor Lauterborn also asked if there would be a cost to City staff. Councilor Lachapelle felt that it should stay at "may be," to give them some options.

Councilor Varney discussed with the committee his interpretation. He explained as it is right now the City could charge a fee.

Councilor Varney wanted to confirm that this pertains to hazardous waste. Mr. Creighton said that it did and it was in reference to businesses in this area and did not include single family homes.

Mr. Creighton said that every property that goes before the Planning Board that has hazardous material would have to have an inspection. Councilor Lauterborn asked if the owner would be charge a fee.

Councilor Varney asked if there are concerns that these inspections will not get done. Mr. Creighton said yes.

Councilor Lauterborn and Councilor Varney felt it should be left as "may be." Mr. O'Rourke agreed that the cost should be passed on to the owner.

Councilor Lauterborn addressed [XV] "Maintenance and Inspection." She read section A to the committee and explained that when looking at section B it was her opinion that it does not read right.

Councilor Bogan asked what would happen if someone is required to have an inspection, but it does not get done. Councilor Lachapelle stated that they would be breaking their own ordinance. Councilor Lauterborn said if it states "shall be," then everyone that is required to get Planning Board approval will have to be inspected by City staff and charged a fee.

Councilor Lachapelle felt that this was going to add a larger work load for that department.

The Codes and Ordinances Committee debated the terminology and further discussed hazardous material. Councilor Lachapelle asked Mr. Creighton and Mr. O'Rourke if they thought the change in wording was acceptable. Mr. Creighton explained that it had gone back and forth.

Councilor Varney asked for a list of businesses in the Aquifer zone because they will need to be notified. Ms. Mears said there are approximately one hundred or less and she can get them a list.

Mr. Creighton said that properties and businesses in this zone currently would be grandfathered, unless they enlarge their business.

Councilor Gray mentioned that the committee is looking at a new map, which is smaller than the previous map that that Mr. Creighton brought to the Committee. He felt that it was not large enough area to make a difference.

Councilor Lachapelle said if the staff agreed to the ordinance, then he would be fine with it. Councilor Varney agreed that they should leave it alone.

Councilor Gray said that one of the discussions that Planning had on the Aquifer was the fee, which one could look at as another tax. He mentioned that if someone is complying then maybe the fee could be waived.

Councilor Lauterborn wanted to see a fee schedule. Councilor Lachapelle also asked if there was such a schedule. Councilor Gray felt that it would be the same as the Department of Public Works. Mr. Creighton believed that the DPW schedule was the one they were going to use. Councilor Varney asked where the fee schedule was going to be listed. Councilor Gray said the staff would need to look at the fees to see if they are consistent with the work being done.

Councilor Lauterborn asked if the City would need an outside company to do testing when it comes to chemicals, because this would be an added cost. The Codes and Ordinances Committee discussed that soil samples would need to be sent out for testing.

Councilor Lachapelle asked if the Aquifer was time sensitive. Mr. Creighton explained that there is an issue with getting the Aquifer approved and he was hoping to have it on the June 2, 2015, City Council agenda. He said that Strafford County Regional Planning has put in for a grant and they have a deadline.

Councilor Varney **Moved** to recommend the proposed Aquifer ordinance to the City Council on June 2, 2015. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

7. Trustee of the Trust Fund

Terence O'Rourke, City Attorney, addressed the Codes and Ordinances Committee on Trustees of the Trust Fund. He explained that this came from the Finance Committee. He said that his draft proposal did not make the packet. Mr. O'Rourke briefed them on the recommendations that were made.

Councilor Lauterborn agreed that the Trustees of the Trust Fund should change from three to five members. She suggested that their appointments be staggered terms. It was discussed that the Trustees are currently appointed by the Mayor to serve three year terms.

Mr. O'Rourke said that he would get his proposed amendments to the Codes and Ordinances Committee. Councilor Gray asked if candidate

qualifications are addressed in the amended ordinance. He also agreed to changing the number of members from three to five.

Lauterborn stated that if the committee was in agreement to make the change from three to five members then residents could submit statements of interest, but not be appointed until the amendments are adopted.

Councilor Lachapelle said that this matter will be kept in committee for now.

Councilor Varney asked if they were going to be adding qualifications to the ordinance. He referred to applicants having financial backgrounds. He explained that this committee is handling a large amount of money. Councilor Gray added that these members are in charge of a trust and gave further explanation. Mr. O'Rourke will check into this for the committee.

Councilor Varney stated that the Trustees do a lot of hard work managing the trust and they should not have to concern themselves with manual work outside of their regular duties.

This issue will be on the agenda for the June 4, 2015, Codes and Ordinances Committee meeting.

8. Second Hand Dealers - Chapter 34 Amendments

Mr. O'Rourke addressed the Codes and Ordinances Committee on his proposed changes to Chapter 34, Second Hand Dealers. He added an appeals process. When he looked at the previous ordinance it did not have such a process. He said that he has listed it under 34.4 (b) and this appeal process should be there to help if the City is brought to court.

Councilor Lauterborn's understanding is that this gets rid of the Licensing Board and licensing is handled through the Building, Zoning, and Licensing Services; however the Licensing Board now becomes the Appeals Board. The committee was in agreement. Councilor Varney explained that it appears to be better than what they have now and it speeds up the process. Councilor Lachapelle agreed.

Councilor Lauterborn **MOVED** to recommend the amendments to Chapter 34 to the City Council on June 2, 2015, meeting. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Lauterborn asked if Jim Grant, Director of BZLS, was agreeable to this change. Mr. O'Rourke said that he was.

9. Other

Ms. Mears asked Councilor Lachapelle if they could add Chapter 42, Multi-Family Dwellings, to the June 4, 2015, Codes and Ordinances meeting. Councilor Lachapelle informed her that he will put it on the agenda.

Councilor Gray addressed the Codes and Ordinances Committee about the City Charter. He expressed that he would like to do away with having seats A and B for City Councilors. Councilor Gray suggested that they amend the charter to reflect that the top two candidates with the most votes in the ward be elected and have them elected every other year.

Councilor Lauterborn asked if that would change the elected officials to a four year term. Councilor Lachapelle and the Codes and Ordinances Committee discussed a situation that had happened in the past where all City Councilors were elected out of office with the exception of one. The committee discussed that this was just a weird situation and is not the norm. The committee also discussed the Mayor staying at a two year term. Councilor Lauterborn was not opposed to a four year term. Councilor Gray explained why he is making this suggestion. He said in the past couple of elections several candidates ran unopposed.

Councilor Lauterborn was willing to entertain a discussion regarding this issue at the next Codes and Ordinances meeting scheduled for June 4, 2015.

10. Adjournment

Councilor Varney **MOVED** to **ADJOURN** the Committee meeting at 8:07 PM. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Nancy Carignan
Assistant City Clerk

