

Codes and Ordinances Committee

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



Others Present

Terence O'Rourke, City Attorney
Paul Lynch, School Board

CODES AND ORDINANCES COMMITTEE
Of the Rochester City Council
Thursday, October 6, 2022
Council Chambers
6:01 PM

Minutes

1. Call to Order

Chair Lachapelle called the Codes and Ordinances meeting to order at 6:01 PM.

2. Public Input

There was no one present for public input.

3. Acceptance of the Minutes

3.1 September 1, 2022 *motion to approve*

Councilor Beaudoin **MOVED** to **ACCEPT** the minutes of the September 1, 2022 Codes and Ordinances meeting. Councilor Desrochers seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

4. Code of Ethics and Conduct

Chair Lachapelle pointed out a minor correction needed to update to current terminology; on page 11, under section *C. Sanctions*, there is a reference to "Vice" Mayor which should be corrected to "*Deputy*" Mayor. This correction does not require a vote and can be updated when the other edits are reflected.

Chair Lachapelle asked School Board Member Paul Lynch if there were any suggested edits from the School Board. Mr. Lynch stated that due to the timing of the meetings, this has not been discussed by the School Board. However, he reported that he had reviewed the proposed Code of Ethics, as did School Board member Dave Camire who had been involved with the prior iteration of the Code of Ethics. They felt that the current code with the edits up until the current time will work well without any obvious issues. However, he stated he would like to bring the Code of Ethics to the School Board for discussion with the full board at the meeting the following week.

Chair Lachapelle noted that since the Code of Ethics was first proposed, it had been improved and softened in order to make it workable for all the relevant boards. He said once the Code has been enacted, there could potentially be an Ethics Committee formed in the future.

Councilor Fontneau inquired about the financial disclosure portion of the Code where it states that in the financial disclosure statement, a member's "primary source of annual income and capital assets" will be listed. He acknowledged that the financial disclosure was based on the process used by the State for representatives; however, he could not recall ever having to list capital assets and asked for clarification on what this would include. He speculated that if this category includes anything over \$10,000, then things such as automobiles, 401K, and investment accounts would need to be divulged. Chair Lachapelle said his understanding is that these assets would only need to be disclosed if they were a direct conflict of interest, which would not include personal finances. Councilor Fontneau reiterated that the current proposed verbiage seems to be requiring that *all* assets over \$10,000 be disclosed. Councilor Beaudoin stated that if this was the intention, the disclosure could be quite lengthy for those with multiple investment accounts and would likely need to be updated frequently as those investments aged. Councilor Fontneau suggested removal of any reference to capital assets.

Councilor Beaudoin stated that during discussions at the State House, members may recuse themselves due to conflict of interest or direct financial interest in a discussion. He said he did not see any wording in the Code that suggested recusal in such situations. Chair Lachapelle stated that there is a portion of the Council Rules of Order that covers such situations. Mr. Lynch agreed that the verbiage is important to allow board members to be able to properly do their job while also being open and transparent and not hindering the process. There was further discussion in Committee about what constitutes a conflict and the need for specific language to protect not only the process, but also the elected official participating in the process.

Attorney O'Rourke referenced the NH RSA 15-A form that will be cited in the Code of Ethics and read the following portion:

B. Indicate below whether you or a family member has a special interest in any of the following businesses, professions, occupations, groups, or matters. A person has a reportable special interest in an item on this list if a change in law, a change in administrative rule, a decision whether or not to award a contract, grant a license or permit, discipline a licensee or permittee, or other decision by government affecting the listed business, profession, occupation, group, or matter would potentially have a greater financial effect on you or a family member than it would on the general public:

<input type="checkbox"/> 1. Any profession, occupation, or business licensed or certified by the State of New Hampshire. List each such profession, occupation, or category of business:					
<input type="checkbox"/> 2. Health Care	<input type="checkbox"/> 3. Insurance	<input type="checkbox"/> 4. Real Estate, including brokers, agent, developers, and landlords	<input type="checkbox"/> 5. Banking or financial services	<input type="checkbox"/> 6. State of New Hampshire, county, or municipal employment	
<input type="checkbox"/> 7. N.H. Retirement System	<input type="checkbox"/> 8. Current use land assessment program	<input type="checkbox"/> 9. Restaurants/ Lodging	<input type="checkbox"/> 10. Sale and distribution of alcoholic beverages	<input type="checkbox"/> 11. Practice of law	
<input type="checkbox"/> 12. Any business regulated by the Public Utilities Commission		<input type="checkbox"/> 13. Horse or dog racing, or other legal forms of gambling	<input type="checkbox"/> 14. Education	<input type="checkbox"/> 15. Water Resources	
<input type="checkbox"/> 16. Agriculture	<input type="checkbox"/> 17. N.H. taxes:	<input type="checkbox"/> Business Profits Tax	<input type="checkbox"/> Business Enterprise Tax	<input type="checkbox"/> Interest and Dividends Tax	<input type="checkbox"/> 18. Optional: Specify any other area in which you have a special interest ---

Councilor Fontneau said that by listing these potential sources of interest on the disclosure form, it would allow a board member to serve without recusing themselves from discussions or votes pertaining to these matters, as long as it does not directly affect them. Chair Lachapelle suggested that the City Attorney could rework the verbiage in this section just slightly and come back to the Committee. This would also allow Mr. Lynch time to bring the Code of Ethics to the School Board for further dialogue and edits. Mr., Lynch asked if the intention was for incoming school board members to sign an acknowledgment referencing this Code of Ethics along with the School Board code of ethics prior to taking office. Chair Lachapelle stated that this is the intention. Mr. Lynch stated that he would bring this discussion to the School Board and would confer with Superintendent Repucci and the Policy Administrator for feedback.

Chair Lachapelle stated that this discussion would be kept in Committee. The City Attorney will rework the section regarding the financial disclosure and return to Committee at the next meeting. He clarified that there would be no Codes and Ordinances meeting held in November due to the proximity to the Election. The next meeting will be held on December 1, 2022 at 6:00 PM. Mr. Lynch asked how the feedback from the School Board should be passed along for edits. Chair Lachapelle stated that members are welcome to attend the future meeting, however email feedback would be sufficient.

5. Discussion: Revision to City Building Permits adding option for EPA “Renovation, Repair, & Painting” certification number

Councilor Desrochers explained that this discussion centered on the option of adding a checkbox to the building permit application, which would allow contractors to list their RRP (Renovation, Repair, and Painting) EPA certification number. This certification is obtained when an individual is trained in lead safety practices. She clarified that this would be an optional field and not a requirement; it would be a starting point for distribution of education on lead safe practices along with information on funding programs to help with lead abatement and opportunities for training those interested in these practices. Councilor Desrochers requested that the proposal be run by Building and Licensing Director Jim Grant for his feedback and approval so that a decision is not being made without the approval of the department affected.

Councilor Fontneau expressed uncertainty about the inclusion of this checkbox and field for certification number without first determining if there could be potential liability for those

not providing the information. He speculated that if this checkbox were left blank and a project was later found to be in violation of lead safe practices, if the exclusion of this information could then be used as evidence that the contractor was aware it was a requirement to adhere to these practices. He stated that the huge majority of building permits are applied for online currently, and it would be difficult to distribute physical paperwork upon application.

Chair Lachapelle stated that the Committee would contact Jim Grant to determine if he could attend the December 1 meeting to offer his opinion. Councilor Desrochers clarified that this program is not meant to be punitive in any way, but rather a starting point for education. She emphasized that if lead safety practices are not being followed during a renovation, this is against the law and will be investigated by the appropriate entity. She acknowledged that if the majority of applications were being applied for online, it may be as simple as adding a link to the website to redirect to the educational information.

Councilor Beaudoin questioned whether there could be liability on the City's part if a contractor listed an EPA certification number and was later found to not be certified; would it be the City's responsibility to verify the validity of the certification. Attorney O'Rourke reiterated that the Committee should have further discussion with Director Grant to determine how to move forward.

Chair Lachapelle asked, if the decision is made that this addition to building permits was appropriate, would it need to go to full Council for a vote. Attorney O'Rourke stated that he would review this to determine if a Council vote is needed.

Councilor Desrochers restated that this proposal is not meant to be punitive and she would support having a link added to the website to offer the information and show that the City of Rochester is committed to lead safety. She reiterated that there is funding available for lead abatement, training, and education that often goes unused and this resource would direct parties to these opportunities.

6. Other

Chair Lachapelle reported that the Water Ordinance from Department of Public Works would be coming to the next Codes and Ordinances meeting in December; however, it may need more than one meeting to complete.

7. Adjournment

Chair Lachapelle **ADJOURNED** the Codes and Ordinances Committee meeting at 6:27 PM.

Respectfully Submitted,

Cassie Givara
Deputy City Clerk