

**Committee Members Present**

Councilor Peter Lachapelle, Chair  
Councilor Elaine Lauterborn, Vice Chair  
Councilor Ray Varney  
Councilor Sandra Keans



**Others Present**

Jim Grant, Director of Building Safety  
Kelly Walters, City Clerk  
Cliff Newton, Resident  
Robert Gates, Resident  
Tom Kaczynski, Resident  
Lou Archambault, Resident

**MINUTES**

**CODES AND ORDINANCES COMMITTEE**

Of the Rochester City Council

**Thursday August 1, 2013**

City Council Chambers

31 Wakefield Street, Rochester, NH

7:00 PM

---

**1. Call to Order**

Councilor Lachapelle called the Codes and Ordinances Committee meeting to order at 7:00 PM. All Councilors were present.

**2. Public Input**

Councilor Lachapelle asked the residents in Council Chambers if they wanted to address the Committee to do so at this time.

Robert Gates, resident, addressed the Committee in regards to the City Council Rules of Order, which the City Council approved on June 4, 2013. He was concerned with Section 4.7, Paragraph (i) in regards to public input. He read the paragraph to the Committee. It is his assumption that residents from out of town would not be permitted to speak during public input, which he felt abridged the first amendment rights.

Mr. Gates stated that an individual should not be restricted on the City topic during public input sessions, due to it not being listed on the agenda. In some cases, the

resident might not be able to attend a meeting when the topic is on the agenda. He stated he was “ok” with a time-limit that one could speak, but he also felt that public input should be available at all City Council and Committee meetings. All public input can be worthwhile and he would like the Codes and Ordinances Committee to take a second look at this matter because it might not be compliant with the first amendment. He reiterated that public input is important and he thanked the committee for their time.

Lou Archambault, resident, addressed the committee on “people” or their “legal representatives” speaking at meetings. He is concerned that these folks come to Rochester, they purchase property or investments, and align themselves with elected officials to which they stand before “us” demanding that the citizens agree to re-zone for their profiting schemes. He stated that he did not care if the public input line went out the door and down the street. It seems that the listening skills of the board members are lacking. He gave the example of a recent Planning Board meeting where certain residents wanted chickens removed from the area even though they knew it was an agricultural zone at the time of the purchase.

Mr. Archambault wanted to compare this issue with an issue happening on Chesley Hill Road. The purchaser knew what the property was zoned for at the time of purchase; however, that did not matter. It seems the City runs on a different day/different rule basis. He thanked the Committee for their time.

Cliff Newton, resident, addressed the Committee in regards to public input. He gave the example of a citizen who might be moving to Rochester from another town. This person would not be permitted to speak at a Council meeting. His concern is that the City Council is narrowing the citizens input and they are not allowed to do this. Mr. Newton explained that he had a doctor from Tuft’s University come to speak before on his behalf. He said public input is important because ideas are founded on exchange of dialogue.

Mr. Newton did not understand how Section 4.7 (i) was adopted by the City Council and added that citizens are displeased. He cited a case from Massachusetts in regards to this matter and explained how the case was resolved. Mr. Newton understood that public input needed a time limit, but urged the Committee to do the right thing.

Tom Kaczynski, resident, asked the committee why they had a distain for public input. He cited the Granite State Futures as an issue, but some were allowed to speak. Mr. Kaczynski went on to explain that good ideas and talent come from public input, so he does not understand why the City should be restricting public input.

Mr. Kaczynski explained that there are always ways to improve the Community and he referred to the way he ran his own business. He explained he did not feel there was a problem at the meetings and questioned whether it was in regards to the extra time spent on listening that was a problem.

Mr. Kaczynski was also concerned with the issue of public input as it is pertained to the agenda. He explained that citizens can only address the City Council at Workshop

Meetings and they may want to speak about an agenda item that happened at a previous City Council Meeting; however, under the new section of the City Council Rules of Order, they are not permitted to do so. He thanked the Committee for their time.

### **3. Approval of the Codes and Ordinances Committee Minutes**

- **May 2, 2013**

Councilor Lauterborn **MOVED** to **APPROVE** the Committee minutes of May 2, 2013. Councilor Keans seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

### **4. Chapter 25.17 Of the City Ordinances – Issuance of License and Fees**

Jim Grant, Director of Building Safety, explained to the Codes and Ordinances Committee that he has brought them an amended version of Chapter 25.17 per their recommendation from the May 2, 2013 meeting.

Councilor Varney asked Mr. Grant if he followed the States definitions of the State's ordinance. Mr. Grant replied yes, with a few minor adjustments; he referenced Class I as it pertained to seasonal establishments. He went on to explain that it is revenue neutral.

Councilor Lachapelle asked if the adjustments were made to the seating capacity as it pertained to Class A and Class B. The Codes and Ordinances Committee discussed this briefly.

Councilor Varney **MOVED** to bring Chapter 25.17 of the City Ordinances to the full City Council. *See Attachment.* Councilor Keans seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

### **5. Proposed Renaming of the Building Safety Department**

Jim Grant, Director of Building Safety, explained to the Codes and Ordinances Committee why there should be a name change to the Building Safety Department. He stated that they want to change the name to Department of Building, Zoning and Licensing Services. He stated that they handle the ZBA meetings now along with doing variances and the appeals process.

Councilor Varney asked why the word “zoning” was included in the name and why this was not handled by the Planning Department. Mr. Grant stated that he acts under the title of Zoning Administrator under his job description. Councilor Lauterborn asked if the Planning Department did anything with zoning. Mr. Grant replied no. Councilor Lauterborn felt that they need to have more discussion on this topic. Councilor Keans asked if his department was just the administrative aide for zoning. Mr. Grant agreed however, he explained that Chapter 42 refers to him. Councilor Varney felt that

zoning should be kept in the Planning Department. The Codes and Ordinances Committee discussed this further.

Mr. Grant cited that the name change has been initiated by Karen Pollard, Deputy City Manager. Councilor Lachapelle felt that Ms. Pollard should be involved in the discussion. The Committee decided to invite Ms. Pollard to the September 5, 2013, Codes and Ordinances Committee meeting. Councilor Varney asked if they should be called Building and Licensing Services.

Councilor Lachapelle explained at this time it will stay in committee. Councilor Varney explained that he would like City Manager Fitzpatrick to attend the September 5, 2013, meeting, as well, for the discussion.

Councilor Lauterborn stated that from the new title it will be omitting “enforcement”. The Codes and Ordinances Committee discussed the title of Zoning Administrator briefly. Councilor Lauterborn asked Mr. Grant if had looked at what other cities might be titling this department. Mr. Grant explained that other cities are all over the place when it comes to the titles for this department. He discussed this further with the committee members and explained that he would be happy with just naming it the “Codes” Department because that is what the City Council often refers to it currently.

Mr. Grant and Councilor Lauterborn discussed the Codes Book briefly in regards to page 78. Councilor Lachapelle thanked Mr. Grant for his time and input.

## **6. Rules of Order**

- **Minutes**

Kelly Walters, City Clerk, discussed “minutes” the Codes and Ordinances Committee. She said that the City Manager recently supplied the Clerk’s office with information regarding how minutes are to be written according to Roberts Rules of Order. She read the description as follows: *The name and subject of a guest speaker can be given but no effort should be made to summarize his remarks.* She explained that Mayor Jean wished to specify how the minutes should be written moving forward. Ms. Walters gave a few examples of how they are currently written. Councilor Lauterborn asked about public input, citing that the minutes would list a name and the topic they addressed.

Councilor Lachapelle asked how the minutes were being written now. Ms. Walters explained that public input is basically written “verbatim.” The Codes and Ordinances Committee discussed the matter. The consensus of the Committee was to have the minutes summarized verses verbatim. Ms. Walters asked that the matter stay in committee so that she could provide written policy for the Committee to review at the September 5, 2013, meeting. She stated that no change would occur to the writing of the minutes until the City Council makes a final decision. Councilor Lauterborn commented that the New Hampshire Municipal Association provides workshops on this particular topic and they do have printed materials on this topic.

- **Additional Documents to Official Minutes**

Ms. Walters said that when a citizen bring documentation to meetings and asks that it be added to the official minutes, she currently adds the documentation as an addendum to the packet verses including the documentation in the official minutes because it makes the minutes too large. She stated that the addendum does not get updated on the website.

Councilor Varney asked her why it does not get posted to the website? She stated that it was something that never had been done, but if they would like this done she would revise the packets. Ms. Walters explained that they could take a vote on whether they wanted to add it as an addendum or indicate to the Clerk if they wanted something added to the website on a case to case basis.

Councilor Varney did not feel that it should be included in the minutes. Ms. Walters stated that she will put together a policy on the Committee to review. Councilor Lauterborn felt that some of the material should be added to the minutes/packet if it was part of their decision making. Councilor Keans gave a situation where they received information at a meeting regarding the bathrooms at the Common. She asked what happened to that handout. Ms. Walters explained that it was added to the packet and a copy of that packet is in the City Clerk's Office. Councilor Keans discussed this further. Ms. Walters will continue to keep it as an addendum to the packet at this time and she will come back for the September 5, 2013, meeting for further discussion. Councilor Lachapelle stated that this issue will stay in committee.

## **7. Other**

Ms. Walters wanted to brief the Codes and Ordinances Committee on the polling locations of the upcoming elections for Wards Three and Four.

Ward Three still faces an issue with lighting as well as traffic. She suggested having a volunteer from 4:00 to 7:00 PM to assist with the traffic, because that is when it becomes dark. She also suggested providing additional lighting at this location. Councilor Lachapelle agreed that Ward Three had lighting issues. She thought it was helpful as well to have the Public Works electronic signs designated, however that would need to be voted upon by the full City Council at a later date. Councilor Lachapelle discussed the location of the signs with Ms. Walters.

Ms. Walters stated that no action was needed just yet, she just wanted to brief the Committee on this issue because the Municipal Election is near. Councilor Lachapelle thanked her for her time

## **8. Adjournment**

Draft

Codes and Ordinances Committee

August 2, 2013

Councilor Lauterborn **MOVED** to **ADJOURN** the Committee meeting at 7:44 PM. Councilor Varney seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Nancy Carignan  
Assistant City Clerk

*Attachment can be found on the next page*

**Delete 25.17 in its entirety and replace with the following**

**\*Note - fees of Class I through VII are from State of NH\***

**25.17 Issuance of License and Fees.**

Every applicant for a license to operate a food service establishment shall make written application therefore on forms provided by the Board. Upon receipt of an application and the designated license fee, and after inspection to insure compliance with the Sanitary Food Code, a license shall be issued to the applicant by the Board if the requirements of this ordinance have been met. All licenses issued hereunder shall expire on the first day of July in each year.

**FEES. - Based on highest classification**

**Class A** Food service establishments having a seating capacity of 200 persons or more, retail food store with 4 or more prep areas; hospitals. **\$300.00**

**Class B** Food service establishments having a seating capacity of 100 through 199 seats; retail food store with 2 – 3 food prep areas. **\$200.00**

**Class C** Food service establishments having a seating capacity of more than 25 but less than 100 persons, retail food store with one food preparation area; caterers; bar or lounge that serves food; service/fraternal clubs with bar/liquor lounges; nursing homes. **\$150.00**

**Class D** Food service establishments with a seating capacity of 25 or less (including but not limited to bakeries); food service establishments with take-out service and no seating; drive-in movie theaters; fraternities and sororities; retail food store – self services; mobile carts utilizing servicing areas (commercial kitchen); service/fraternal clubs; group day care facilities; shared homes, rest homes; sheltered homes; boarding homes; home food manufactures; and mobile food operators. **\$100.00**

**Class E** Bed and breakfast; ice cream vendors – scooping; lodging facilities serving continental breakfast; **\$85.00**

**Class F** Retail food store – no preparation area; wholesalers/distributors of TCS\* food; vending machines – serving TSC\* foods; bakeries which do not serve TSC\* food or have seating; Food service establishments selling only pre-packaged products. **\$75.00**

**Class G** Bar or lounge with no food preparation area that serve alcohol; arena/theater concessions serving non-TCS\* food; retail food stores serving pre-packaged ice cream only; institutions; private schools, senior meal sites; sellers of pre packaged frozen USDA meat or poultry; Temporary food establishments; vending machine operators per location that do not dispense TSC\* food; social clubs; residential day care facilities. **\$50.00**

**Class H** Non-profit charitable organizations not holding a liquor license and not serving meals on a daily basis; public and private schools; government facilities. **NO FEE**

**Class I** Seasonal food service establishments.(open less then 6 months of the year) **\$\*\***

**\*\* Fee is one-half (1/2) the annual fee for corresponding non-seasonal Class I through Class VII establishments set forth above.**

**Class J** Food establishments at Rochester Fair. **\$65.00**

All applications for food service establishment licenses shall be filed with the Board on or before June 20<sup>th</sup> of each year. In addition to the fees provided for in this section, there shall be a \$10.00 late fee for any renewal application received after June 20<sup>th</sup> of any year.

**\*TSC – Time/Temperature Control for Food Safety**

