

**City Council Workshop Meeting
March 16, 2021
Meeting Conducted Remotely
6:52 PM**

COUNCILORS PRESENT

Councilor Abbott
Councilor Belken
Councilor Bogan
Councilor Gray
Councilor Hainey
Councilor Hamann
Councilor Hutchinson
Councilor Lachapelle
Councilor Lachance
Councilor Rice
Councilor Walker
Deputy Mayor Lauterborn
Mayor McCarley

OTHERS PRESENT

Blaine Cox, City Manager
Katie Ambrose, Deputy City Manager
Terence O'Rourke, City Attorney
Mark Sullivan, Deputy Finance Director

Minutes

1. Call to Order

Mayor McCarley called the Workshop meeting to order at 6:52 PM. She had read the following preamble prior to the public hearing which had proceeded this meeting:

Good Evening, as Chairperson of the (City Council, Planning Board, Police Commission, ZBA, etc), I am declaring that an emergency exists and I am invoking the provisions of RSA 91-A:2, III (b). Federal, state, and local officials have determined that gatherings of 10 or more people pose a substantial risk to our community in its continuing efforts to combat the spread of COVID-19. In concurring with their determination, I also find that this meeting is imperative to the continued operation of City government and services, which are vital to public safety and confidence during this

emergency. As such, this meeting will be conducted without a quorum of this body physically present in the same location.

a.) **Providing public access to the meeting by telephone:** At this time, I also welcome members of the public accessing this meeting remotely. Even though this meeting is being conducted in a unique manner under unusual circumstances, the usual rules of conduct and decorum apply. Any person found to be disrupting this meeting will be asked to cease the disruption. Should the disruptive behavior continue thereafter, that person will be removed from this meeting. The public can call-in to the below number using the conference code. Some meetings will allow live public input, however you must have pre-registered online, otherwise, the meeting will be set to allow the public to "listen-in" only, and there will be no public comment taken during the meeting. [Public Input Registration](#) (Please note: In order to notify the meeting host that you would like to speak, press 5* to be recognized and unmuted)

Phone number: 857-444-0744

Conference code: 843095

b.) **Public Access Troubleshooting:** If any member of the public has difficulty accessing the meeting by phone, please email PublicInput@RochesterNH.net or call 603-332-1167.

c.) **Public Input:** Due to the ongoing situation with COVID-19, the City of Rochester will be taking extra steps to allow for public input, while still ensuring participant safety and social distancing. In lieu of attending the meeting, those wishing to share comments, when permitted, with the City Council (Public Hearing and/or Workshop settings) are encouraged to do so by the following methods:

- **Mail:** City Clerk/Public Input, 31 Wakefield Street, Rochester, NH 03867 (*must be received at least three full days prior to the anticipated meeting date*)
- **email** PublicInput@rochesternh.net (*must be received no later than 4:00 pm of meeting date*)
- **Voicemail** 603-330-7107 (*must be received no later than 12:00 pm on said meeting date in order to be transcribed*)

Please include with your correspondence the intended meeting date for which you are submitting. *All correspondence will be included with the corresponding meeting packet (Addendum).*

d.) **Roll Call:** Please note that all votes that are taken during this meeting shall be done by Roll Call vote.

Let's start the meeting by taking a Roll Call attendance. When each member states their name (and/or ward), also please state whether there is anyone in the room with you during this meeting, which is required under the Right-to-Know law. (Additionally, Council members are required to state their name and ward each time they wish to speak.)

2. Roll Call

Deputy City Clerk Cassie Givara had taken the roll call prior to the public hearing. All Councilors had indicated that they were present and alone in the location from which they were connecting except for Councilors Abbott and Lachapelle, and Mayor McCarley who indicated there would be others occasionally present in their locations.

3. Public Input

Ray Barnett, resident, spoke in opposition of amending the TIF District.

4. Communications from the City Manager

City Manager Cox reported that Director of City Services Peter Nourse had indicated that the State classified our region as "abnormally dry"; however, both the main reservoir and Round Pond are overflowing and the volume available and capacity being used is far below the current usage and demand. Director Nourse had reported that from a drinking water perspective, the City is in a good place.

City Manager Cox stated that, as discussed at a prior City Council meeting, they are setting up the first Ambulance Services committee meeting with the Mayor's appointees; Councilors Hainey, Walker, and Rice. City Manager Cox said that he has appointed Assistant Fire Chief Wilder and Deputy Finance Director Sullivan to this committee. The Committee will be setting up their first meeting soon.

City Manager Cox gave an update on the tax office's move to the Community Center. According to Deputy City Manager Ambrose, this move should be ready to occur by mid-April. Interior and exterior signage for the building is underway and they are currently working on reserve parking to accommodate customers.

City Manager Cox gave a brief update on the discussion of in-person Council meetings. He stated that the proposed first in-person meeting will be the workshop on April 20th. They have decided that the Community Room at the

Community Center is the best space and they are currently working on the audio system and VAST line connection to facilitate this meeting.

Councilor Lachance praised Mike Riley and the Buildings and Grounds crew for the great work being done with the relocation of the tax office. Councilor Lachance also encouraged residents to visit the Community Center and see all it has to offer. Councilor Rice suggested that in the upcoming months, perhaps Matt Wyatt could do a video tour of the Community Center to be presented at a workshop meeting to help inform the community of the businesses and services which are located there. Mayor McCarley suggested that this could coincide with the naming ceremony that the City is planning for the Community Center.

5. Communications from the Mayor

No Discussion.

6. Update: School Building Capital Reserve Fund Annual Transfer

Mayor McCarley said this is normally the time, following the audit, where Council makes some decisions on the School Capital Reserve Fund. There is no reserve money this year, so there is no need for Council to take action. She stated that there is money in the School Capital Reserve Fund from last year which will be a part of the budget discussions, but there is no need currently for Council action.

Deputy Finance Director Ambrose stated that this item is on the agenda because normally the Finance department would be bringing forth a resolution following the audit presentation. This discussion will serve as documentation for the record showing there is no surplus on which Council needs to vote.

7. Discussion: Charter Commission

Mayor McCarley gave an overview on the discussion of whether to form a charter commission or to approach the charter amendments individually as questions on a municipal ballot.

Councilor Walker said that the Council could either put together a charter commission or piecemeal individual changes; but either way he felt there needed to be a change to section 70 of the charter to allow for removal of members from all Boards and Commissions as opposed to just Council, as well as a change to allow 4-year staggered terms for Councilors. Mayor McCarley clarified that Councilor Walker is suggesting that the Council would have the authority to remove School Board and Police Commission members. Councilor Walker agreed. Mayor McCarley stated that they would have to determine with the State whether

or not that is something the Council could have the authority to do.

Councilor Lachapelle agreed that staggered 4-year terms for City Council would make sense and questioned whether they would have to also make the change for School Board and Police Commission, which would be more complicated due to their small membership. There was a brief discussion about the potential downfalls of an election potentially replacing the majority of the sitting Council and erasing the Council memory by bringing on entirely new members.

Councilor Lachance recalled that when the charter did allow staggered terms, the Police Commission elected a new member every 2 years for a 6-year term. He stated that Council and School Board would elect "A" seats at one election, then "B" seats two years later to ensure institutional memory was maintained. Councilor Lachance cautioned against having too many charter amendments on a municipal ballot, which can cause voters to vote against all of the items as opposed to reading through each item. Therefore, if there are going to be a large amount of charter amendments, he recommended doing it by commission rather than ballot. Mayor McCarley agreed; however she stated that the City Clerk and the City Attorney had put a good deal of effort into reviewing the charter and making recommended changes. She felt that it might make sense to focus on one or two changes if the choice is to put the amendments on the municipal ballot. Mayor McCarley indicated that Council is starting the discussion early in order to go through the proper process and have adequate time to do so.

Mayor McCarley stated that the City Attorney had laid out particular changes which have come up recently and need to be reviewed; in particular, the mayoral succession procedure since, for the first time, the City has a mayor leaving prior to their term ending. Councilor Walker inquired what conflict was in question regarding mayoral succession. Mayor McCarley stated that the charter seems to direct the City in two different directions as to vacancies and the roll of the Deputy Mayor in such a circumstance. Councilor Walker recounted how the process had taken place in the mid-90s in a similar circumstance, with the new mayor taking office shortly after the election instead of waiting until January. Attorney O'Rourke confirmed that the procedure discussed by Councilor Walker is laid out in section 6 of the City charter; however section 9 regarding the position of deputy mayor indicates that the office will be filled once the original term ends, which would be in January. These two sections of the charter give conflicting information.

Councilor Rice spoke in favor of a charter commission to be put on the municipal ballot; not only to handle the larger substantive changes and updates, but also the multiple administrative and grammatical changes which are needed.

Councilor Hamann asked if the smaller grammatical changes needed to be approved by the voters. Attorney O'Rourke confirmed that regardless of the

gravity of the change, it needed to go back to the voters for a decision. He clarified that the changes suggested by himself and the City clerk were primarily conflicts either internally or with State law; there were no suggestions made on policy or the city's governing body, which would be handled by the Council and the voters.

Attorney O'Rourke said that adding the charter changes as questions on the ballot was a faster process. If a charter commission is the process chosen, the commission itself would be on the ballot to form a separate elected body to work on the changes thereafter. If either process is not completed in time for the November ballot, the City would need to hold a special election with a ballot containing the charter questions. Attorney O'Rourke clarified that all grammatical changes could be included in one amendment with multiple sections as opposed to individual amendments.

Councilor Walker inquired if a charter commission were voted on at the Municipal election, would the City then need to have a special election on the amendments the commission suggests or if the City would need to wait two years for the next Municipal election to vote on these changes. Attorney O'Rourke stated he would have to determine with the State whether or not City charter questions would be allowed on a State election ballot. He stated that once the charter commission finishes their work, they would then need to wait on State approval and the questions would need to go on a ballot within 60 days of this approval, which would mean a special election. Depending on how long the charter commission takes to make their recommendations, it may or may not coincide with the next municipal election.

Councilor Lachance clarified that the question on the November ballot would be whether or not the voters are in favor of forming a charter commission. If they vote in favor, there would need to be a separate election to elect the members of said commission.

Councilor Gray stated that the way he believes the question of how the mayoral succession should be resolved is as follows: the deputy mayor who would be replacing the mayor was elected by the people of their ward, so that person should serve out the entirety of their term. The deputy mayor's replacement for their previous council position would have to be appointed by Council as opposed to being voted on by the people; therefore they should only serve until the election in November unless they win their seat. Councilor Lauterborn agreed with Councilor Gray's interpretation. She suggested that this conflict could be resolved by removing the word "mayor" from section 6.

Councilor Lauterborn spoke in opposition of forming a charter commission, which could potentially bring about much larger and more serious changes than the Council anticipates. She recommended focusing on resolving the conflicts

within the charter, the smaller grammatical changes, and the single substantive change of staggered terms, all of which could be done by ballot questions. Councilor Belken agreed that the charter as a whole did not need to be completely redone, but rather the Council could identify the conflicts and smaller changes which need to take place.

Councilor Rice asked for clarification on the process of having charter questions added to the municipal ballot if Council opted against the charter commission. Attorney O'Rourke stated that once Council decides there needs to be amendments to the charter, a public hearing would be required. After the public hearing, the amendments would come back to Council for discussion and any actual changes would need to go to another public hearing. The City Clerk then needs to submit the recommended amendments to the Secretary of State, the Attorney General, and the DRA for approval. Once approved, the amendments could be placed on the November Municipal ballot. He stated that if the approval takes too long at the State level and the deadline is missed for the municipal ballot, there would have to be a special election held within 60 days of the approval being received from the State.

Mayor McCarley asked for a voice vote to indicate support for going to a full Charter Commission. There were no Councilors who voiced their support. Councilor Lachance stated he felt there needed to be further review of the changes before he could make a determination either way.

Attorney O'Rourke cautioned that if any of the changes desired would affect the form of government, these types of changes would require a charter commission.

There was a brief discussion on the timeline on getting questions on the municipal ballot and how long the State may take to make their determination on whether to approve the amendments. Mayor McCarley suggested trying to reduce the changes to as few as necessary to allow the State to process them more quickly. Councilor Walker recalled that the last charter amendment was voted on in June and made the Municipal ballot the following November.

Councilor Hainey inquired about the "removal from office" question which had been discussed earlier and asked if this particular amendment may take longer because it involves the State RSA and would have to be reviewed by the City Attorney. Councilor Hainey suggested if this was an item the Council was interested in pursuing, they should start looking into it early and drafting language.

Mayor McCarley outlined the changes suggested (staggered terms, removal from office, mayoral succession, library trustees). She asked for a sense of Council

on whether the City Attorney should draft some language for the staggered and expanded terms, which was the largest of the suggestions currently. Councilor Lachance recommended reaching out to the School Board and Police Commission to determine if this change is something they would want.

Attorney O'Rourke inquired if the discussion should go to the Codes & Ordinances Committee or if it should come directly back to full Council. Mayor McCarley indicated the discussion should be continued by full Council.

8. Discussion: Ethics Committee

Mayor McCarley stated that prior to forming an Ethics Committee, the City would first need to draft a Code of Ethics and then determine how they would envision it working. Mayor McCarley stated that she felt there didn't need to be ethics language within the Charter. She suggested making the changes through the Codes & Ordinances committee. Included in the Council packet were the policies from several neighboring communities. Mayor McCarley asked for opinions on how the Council wanted to approach this topic.

Councilor Lachance agreed that the formation of a code of ethics should be approached through the Codes & Ordinances committee. Councilor Lachapelle agreed and stated that Codes and Ordinances could review this topic at their April 1 meeting and start determining how the committee would be formed and how it would operate. The recommendation will then come back to full Council.

Councilor Rice inquired if the Code of Ethics being drafted would apply to not only Council, but also to Police Commission and School Board, or if these governing bodies would be able to draft and adopt their own code. Mayor McCarley stated that the School Board already has ethics language within their codes. She suggested that the Codes & Ordinances Committee could reach out to the School Board and Police Commission to determine what is needed and how to proceed. Attorney O'Rourke confirmed that the School Board does already have their code of ethics which may be referenced in this code being discussed; however, the Ethics Commission which is being proposed would oversee each of these governing bodies as well as any City officials. Councilor Rice asked if the ethics committee giving direction to the School Board and other governing bodies would constitute a change in the form of government; by telling the other governing bodies the guidelines by which they need to operate. Attorney O'Rourke stated that the Ethics Committee would be an advisory board and would not have any authority to take action. They would be an investigatory body which would make recommendations to whichever board from which their subject was a member.

9. Department Reports

No Discussion.

10. Other

No Discussion.

11. Adjournment

Mayor McCarley **ADJOURNED** the City Council Workshop meeting at 7:49 PM.

Respectfully Submitted,

Cassie Givara
Deputy City Clerk