

**Rochester City Council Workshop  
November 20, 2018  
Council Chambers  
7:00 PM**

**COUNCILORS PRESENT**

Councilor Abbott  
Councilor Bogan  
Councilor Gray  
Councilor Hamann  
Councilor Hutchinson  
Councilor Keans  
Councilor Lachapelle  
Councilor Lauterborn  
Councilor Walker  
Deputy Mayor Varney  
Mayor McCarley

**OTHERS PRESENT**

Blaine Cox, City Manager  
Terence O'Rourke, City Attorney  
Steve Beaudoin, Resident  
Cliff Newton, Resident  
Sarah Harrington, Resident  
Gregg DeNobile, Resident  
Matt Pappas, Resident  
Michelle McIntyre, Resident  
Sandy Averill, Resident  
Tom Kaczynski, Resident  
Paul Lynch, Resident  
Doris St. Pierre, Resident

**COUNCILORS EXCUSED/ABSENT**

Councilor Gates  
Councilor Torr

**Minutes**

**1. Call to Order**

Mayor McCarley called the meeting to order at 7:00 PM. Deputy City Clerk Cassie Givara took a silent roll call. All Councilors were present except for Councilor Torr and Councilor Gates, who were excused.

**2. Public Input**

Mayor McCarley invited members of the public to come forward and address the Council.

Steve Beaudoin, resident, spoke about the Neighborhood Compliance Inspections as well as the citations and appeal process.

Cliff Newton, resident, addressed council regarding NFPA fire codes and cautioned against adopting international codes.

Sarah Harrington, resident, spoke in support of the Neighborhood Compliance Program.

Gregg DeNobile, resident, spoke about uses for the surplus in the General Fund. Mr. DeNobile also addressed the Council regarding the Neighborhood Compliance Program.

Matt Pappas, resident, spoke in support of the Neighborhood Compliance program to keep Rochester clean and safe.

Michelle McIntyre, Ward 4 resident, spoke about her experience with the Neighborhood Compliance inspections.

Sandy Averill, spoke regarding the Neighborhood Compliance program, the violations which are issued to property owners, and the appeals process.

Tom Kaczynski, resident, addressed Council regarding the use of the fund balance surplus. Mr. Kaczynski also spoke about City ordinances regarding election signage.

Paul Lynch, resident, spoke in favor of the City's neighborhood compliance program and clarified the difference between violations and fines.

Doris St. Pierre, spoke about the violation notice she had received through the neighborhood compliance program.

Mayor McCarley closed public input at 7:38 PM.

### **3. Communications from the City Manager**

No Discussion

### **4. Communications from the Mayor**

Mayor McCarley passed along a reminder on behalf of the Chamber of Commerce asking those wishing to participate in the Rochester Christmas parade to contact Sam Rodgerson, Executive Secretary to the City Manager.

### **5. Department Reports**

Mayor McCarley reminded Council that the Joint Building Committee would be meeting Monday the 26<sup>th</sup> of November and it is important that all members of the committee attend.

## **6. NHDES Brownfields Clean-Up Grant – Wallace Street**

Karen Pollard, Director of Economic Development, had to identify potential uses for the future site. When the land was first given to the city by a business owner, it was discussed that it could be used as a small business incubator. This would give small business owners an opportunity to move from their residential areas to the downtown. Ms. Pollard stated they will be targeting small businesses; tradespeople who would generally be working from home and might need a space outside of their home for the business.

Ms. Pollard stated that they are still waiting for an answer on whether or not this site can be used for any other types of development other than what is currently noted in the grant.

Councilor Varney clarified that this site would be for private development, the City is not going to build on the site.

Ms. Pollard said that the City would not necessarily have to build on the land, the City would likely lease the land to a private developer who would then build on the site.

Councilor Varney cautioned against developing the site for office space. Ms. Pollard concurred that office-use is not a market which they intend to target and, in fact, the City is encouraging property owners to convert unused upper-level office spaces for residential use.

Ms. Pollard stated that the grant had just been approved which is why it's being presented to Council, but the project will not occur until next summer.

## **7. Discussion: Neighborhood Compliance Inspections**

James Grant, Director of Building, Zoning & Licensing, gave an introduction to the definition of code enforcement, the structure and organization of the department from which it's run, and the reasons why codes are enforced.

Councilor Gray said that it was his understanding that once the inspection report is issued, the violation and fines can be stopped as long as there is a plan to correct the issue(s) presented within the allotted amount of time. Mr. Grant indicated this topic would be covered in the presentation by Joe Devine,

Compliance Officer.

Councilor Keans inquired what the term “consumer protection” means as it is referred to in the definition given for Code Compliance. Joe Devine clarified that this could refer to consumer protections during the construction or renovation of a home. The Code Enforcement officer would help to ensure that the home is being built properly by the contractor as a protection to the homeowner.

Councilor Varney referenced the enthusiasm for code compliance in the Bendon Adams report which had been cited in the introduction. Councilor Varney stated that these citizen comments had been in relation to downtown commercial properties as opposed to single family homes, which this presentation centered upon.

Joe Devine, Compliance Officer, gave a presentation outlining the Code related Ordinances and laws which are followed by the City of Rochester. Mr. Devine reported that there are not guidelines listed in the property maintenance code which state a specific amount of chipping paint, missing shingles, or other defects that would be allowable. Therefore, the department issues violations based on the existence of the issue as opposed to the severity of the issue. Mr. Devine emphasized the importance of taking care of the issues when they are minor before they progress.

Mr. Devine spoke about the “Broken Window Theory” which states that signs of disorder and poor maintenance/disarray on homes induces other types of disorder and petty crime. It also stated that low level disorder should be addressed immediately to prevent it from becoming a larger issue.

Councilor Lauterborn felt that one of the issues with the broken window theory is that the photos displayed in the presentation were egregious examples of property violations which are not equal to the smaller items noted such as a board with chipping pain or screens missing from a window.

Mr. Devine stated that since the neighborhood Compliance Program began in June 2018, there have been no fines issued. The Department has not denied any plans requested by citizens to address their violations or time extensions on existing plans.

Council held a discussion on the way the program was implemented. A notice of violation written in legal terms is sent out to the property owners using terminology which indicates an escalating fine schedule the longer the violation goes unaddressed. Council suggested that the City-produced brochure noting options for the property owner to work with the City on a plan to address

violations, should be sent out along with the violation to soften the delivery. Mr. Devine stated that the department has started including this brochure with the violation notices.

Councilor Varney inquired why the Neighborhood Compliance programs seems to be targeting a certain area of the City as opposed to the City as a whole. Mr. Devine reported that the program started in the downtown area, Wards 4 and 6, where historically the greatest number of violations originated and where the highest crime rates are found.

Councilor Walker felt that the problem was not with the codes themselves, but with how the program is implemented. In the past there had been a complaint driven system. Councilor Walker stated that the proactive system where the code enforcement officer is walking the streets looking for violations is persecuting the constituents and it needs to be changed. This program targets the older, less-affluent areas of the City where residents may not be able to afford the repairs being required.

Mr. Devine detailed the problems encountered and consequences of a reactive (complaint-driven) system and explained how to access a complaint form. Mr. Devine also outlined the benefits of a proactive system and explained the code enforcement process.

There was a discussion of the available assistance programs for constituents needing help addressing their violations and the potential of a Rochester Property Rehabilitation Grant Program.

Councilor Hutchinson suggested a tiered approach to violations, with increasing levels based on the severity of risk. Councilor Hutchinson also spoke about the need for a letter accompanying violations which would explain the options for relief, payment plans or assistance. Mr. Devine stated that the department does issue "courtesy letters" and perform courtesy visits.

Councilor Hamann said that the Code Enforcement officer is interpreting the law as it is written and not doing anything incorrectly. He indicated that when the Compliance program was first discussed, he thought it sounded like a good idea, but he believes it has had some unintended consequences. Councilor Hamann suggested that the program be suspended until the City comes up with a policy with more definite guidelines or implements a tiered program.

City Manager Cox stated that the Council sets policy, and if the Council decides that they would like to re-implement a complaint-driven system as opposed to the proactive system, than that is the policy that will be followed. City

Manager Cox cautioned that even with a complaint-driven system, there will still be residents receiving violations who are unable to afford repairs. City Manager Cox agreed with the consensus of Council that the approach to violations could be less harsh.

Mayor McCarley inquired from Council what they would like to see done differently in regards to the code compliance program.

Council Lauterborn agreed with Councilor Hamann that that Neighborhood Compliance program should be suspended until the issues are addressed. Mr. Grant stated that the program had already been halted since Council had expressed concerns.

Councilor Lachapelle suggested that the discussion come back to another workshop meeting so Council can work on a policy.

## **8. Other**

Councilor Keans spoke about the City's ordinance on election signage and the practice the City employs of sending the code enforcement officer and the City attorney out to the polling locations to enforce this ordinance. Councilor Keans conveyed that she felt it was a waste of City time and money to have multiple City staff members driving around for the entire day enforcing the ordinance. Councilor Keans suggested the City take a look at this particular ordinance and reconsider.

## **9. Non-Public/Non-Meeting**

## **10. Adjournment**

Councilor Lachapelle made a motion to **ADJOURN** the meeting at 9:12 PM. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully Submitted,

Cassie Givara  
Deputy City Clerk