

**Rochester City Council Workshop
March 19, 2019
Council Chambers
7:01 PM**

COUNCILORS PRESENT

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

OTHERS PRESENT

Blaine Cox, City Manager
Terence O'Rourke, City Attorney
Tom Kaczynski, Resident
Gregg DeNobile, Resident
Paul Martin, Resident
Jim Campbell, Director of Planning
Bruce Mayberry, BCM Planning LLC
Jim Grant, Director BZLS
Joe Devine, Code Enforcement Officer

COUNCILORS EXCUSED/ABSENT

Councilor Keans

Minutes

1. Call to Order

Mayor McCarley called the meeting to order at 7:01 PM. Deputy City Clerk Cassie Givara took a silent roll call. All Councilors were present except for Councilor Keans.

2. Public Input

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

Tom Kaczynski, resident and State representative, addressed Council regarding the image of Rochester and code enforcement.

Gregg DeNobile, resident, spoke regarding the goals and plans for Rochester moving forward.

Paul Martin, resident, addressed Council regarding the Neighborhood Compliance program and code enforcement.

Public Input closed at 7:20 PM.

3. Communications from the City Manager

3.1. Employee of the Month

City Manager Cox announced that Cassie Givara, Deputy City Clerk, is the Employee of the Month for the Month of March 2019.

4. Communications from the Mayor

No Discussion

5. Update: Impact Fees

Jim Campbell, Director of Planning, introduced Bruce Mayberry, consultant from BCM Planning LLC. Mr. Campbell stated that Mr. Mayberry had presented to the Planning Board regarding impact fees and there will be a public hearing to follow on April 15, 2019 at which point the City will decide whether or not to adopt these methodologies. Mr. Campbell clarified that the City Ordinance itself will be updated and this will need to be approved by City Council.

Bruce Mayberry, Consultant, gave a summary of the work he has done for the City of Rochester. In 2007, Mr. Mayberry did a report for the City in which he reviewed all the City's capital facilities and determine which, if any, would qualify for an impact fee assessment. In 2018, the Planning Board requested Mr. Mayberry update and reorganize this report. Mr. Mayberry stated that he'd found justification for placing impact fees on the Public Schools, Public Safety buildings such as police and fire, municipal offices, and the public library.

Mr. Mayberry explained that Impact Fees are assessments for the proportionate capital cost which new development places on the City's infrastructure. These fees are a revenue raising device designed to compensate the City for the investment it has made in its capital facilities to the degree that it will serve new development.

Mr. Mayberry detailed the scope of the study he completed as well as explaining how impact fees would assist in recovering portions of capital costs to improve City facilities. Mr. Mayberry presented a draft impact fee schedule showing how the fees are determined and dispersed as well as the potential annual revenue which could be assessed if the impact fee schedule is adopted.

Mr. Mayberry gave a summary of the utilities portion of the impact fees. He explained that impact fees are allowed to contain provisions for utilities such as

storm water, water and sewer. He stated that some of these fees are already collected under water and sewer ordinances and suggested that this made more sense than to collect them via impact fee ordinance which is not as quick and has more constraints.

Mr. Mayberry spoke about the changes which would need to be made to the City's ordinances and internal regulations in order to instate the collection of impact fees.

Councilor Varney inquired if Mr. Mayberry had data from the other communities in the state which use impact fees as far as what their fee schedule looks like. Mr. Mayberry answered that he has some of this data, although some of the data is quite old and hasn't been updated while other communities have impact fee schedules which are actively changing.

Councilor Varney asked Mr. Mayberry his experience with how these fees are implemented and whether it's normally done by implementing a percentage of the proposed fees. Mr. Mayberry stated that the impact fees could be implemented in sections over time, but what is most important is that they remain proportionate to one another so it's evenly distributed across the base.

Councilor Gray questioned how the fees would be assessed for residence wishing to sell land which they already owned. He surmised that if a homeowner wanted to sell a piece of land and they were assessed an impact fee of \$7,790, it would essentially make the land worth less because of the assessed fees taken out of the sale price.

Mr. Mayberry stated that although he has not seen this before, it made sense for the amount assessed for impact fees to be figured into the capital cost of the land. He explained that there is a range which could be potentially charged per unit. The fees being proposed are below the national average on the residential end and some communities charge a single fee for a selected facility areas as opposed to all possible facility fees.

Councilor Torr asked how long the fees are held before they are forfeited back to the person who paid the fees. Mr. Mayberry stated that there is a 6-year time period. By way of the City Ordinance, the fees would go back to the property owner.

Councilor Lachapelle clarified that state RSA dictates how all the fees are reported and there are strict guidelines recording the fees coming in, going out and being retained.

Councilor Hutchinson inquired why, in the chart presented, the Police

Department had the lowest percentage of fees in each category. Mr. Mayberry explained that these fees are in line with the national average. The capital cost of the police station per officer would serve a population of 35,000, which Rochester will not reach for some time. When the cost is spread out evenly over the categories, the number gets smaller. It is not about the importance of the service but rather the capital investment. The police department has a single headquarters as opposed to multiple existing and proposed stations for the fire department and higher capital investment. The fees are also determined factoring in any existing deficits in debt service.

6. Discussion: Proposed Zoning Changes

6.1 Amendment to Chapter 42 of the General Ordinances of the City of Rochester Regarding the Location and Boundaries of Zoning Districts (*petition submitted by landowners of two parcels*)

Councilor Varney presented a representation of the land listed in the petition and explained what the petition is requesting. Councilor Varney showed the two parcels on which the zoning change is being proposed, which are two 40-acre lots currently zoned agricultural. Councilor Varney stated that he felt it didn't make sense to keep these parcels zoned agricultural surrounded by office commercial lots.

Councilor Varney addressed concerns which had been expressed about large amounts of multi-unit apartment buildings being developed on these lots. He stated that these types of developments would require special exception and variances from the Planning Board.

Councilor Walker clarified that these two lots were not originally zoned office commercial because the lots were too deep. He stated that the Planning Board would be reviewing and potentially changing the zoning for this whole corridor of Rochester Hill Road due to a loophole in the office commercial zoning which allowed seven multi-unit buildings to be developed in one small lot. Councilor Walker expressed concern that these same types of multi-unit developments could be built on these two lots due to the current loophole. He also stated that there is currently no City sewer service this far out on Rochester Hill Road, which would cause the need for a large leech field to accommodate any development. For these reasons, the Planning Board recommended denying the petition so they could review this zoning on Rochester Hill.

Councilor Varney stated that these lots across from an airport and industrial park would not be inappropriate for the development of multi-unit apartments. He expressed concern that if this decision is extended, the City may lose the

opportunity to have these parcels developed. Councilor Varney felt that it would be a waste to have these parcels used for single-family residences.

Councilor Walker inquired if a large amount of apartment buildings and multi-family units which could fit into these large lots, along with the traffic and buses they bring, is the type on density the City is looking for in this area.

Councilor Varney reiterated that his understanding is that these multi-unit dwellings and apartment buildings are only allowed by conditional use, and the City would be able to limit the amount of units being developed. Jim Campbell, Director of Planning & Development, confirmed that these are only allowed by conditional use.

There was a discussion regarding how duplexes would be allowed if the zoning were changed to office commercial; although duplexes are permitted currently under agricultural as well.

Councilor Varney stated that he felt that Office Commercial would be the best option for the type of development the City wants to encourage in this area. He suggested that even if the front half of the lots were zoned office commercial, it would be preferable to what the zoning allows currently.

Councilor Walker agreed that if the development in this area was truly commercial, it would be ideal. He questioned whether the density that could come along with a large amount of multi-unit properties or duplexes is what the City would want to allow. He stated that placing large residential developments on the outskirts of the City where there are no amenities is an issue.

Mayor McCarley asked Mr. Campbell if the Planning Board had a plan in place for reviewing this proposal and making a decision. Mr. Campbell stated that the Board may discuss this at the April 15, 2019 meeting and they may look at other options to make development on this property more palatable to the City.

6.2 An Ordinance of the City of Rochester City Council Adopting Amendments to Chapter 42 of the General Ordinances of the City of Rochester Regarding Zoning and Development Standards for the Development of Lands within the Downtown Commercial Zone District

Councilor Walker spoke about the discussion on these proposed amendments which was held at the Planning Board. He stated that they hoped to have a public hearing on the matter on April 16, 2019 after which Council could vote on the amendments at a special meeting.

Councilor Varney pointed out at the proposed changes were made to the old ordinance. There is now a new ordinance after codification and the changes should be reflected to the new ordinance.

Terence O'Rourke, City Attorney, clarified that the new codified ordinances hadn't been officially rolled out yet. Although these changes were made to the old ordinance format, they can be submitted and updated using the new numbering format and phrasing for the codified ordinances.

7. Update: Neighborhood Compliance Program

Jim Grant, Director of Building, Zoning, and Licensing Services, presented to Council regarding the softer approach to the Neighborhood Compliance Program based on the suggestions which had been made by Council. Mr. Grant indicated they would also be presenting a new program which the department is hoping to roll out in the near future.

Joe Devine, Compliance Officer, addressed Council regarding the two approaches to Code Compliance; proactive and reactive. Mr. Devine spoke about the reasoning and benefits for utilizing each approach. He stated that BZLS is looking for approval from Council to continue with the proactive aspect of enforcement while also working on the reactive approach generated by incoming complaints.

Mr. Devine presented Council with the updated notice of violation form which the department has developed with added verbiage to explain why the resident is receiving the notice. There is also added phrasing advising residents how to contact the department for further information and to open the dialogue between the City and the resident.

Councilor Hutchinson inquired how the daily fees are set. Mr. Devine answered that the fines are dictated by State RSA.

Councilor Varney asked how much money in fees the Department of Building, Zoning and Licensing has collected in the past 18-months. Mr. Devine stated he did not have the exact figures available, but he estimated the amount to be approximately \$4000. He said the amount is low because residents typically correct the violation quickly before the fines escalate.

Councilor Hutchinson stated that there was not a large change between the new notice of violation and the previous version. He felt that the portion that Council and residents reacted to strongly was the fee schedule, which is still included in the notice. Attorney O'Rourke clarified that the fee schedule is required to be included by State RSA.

Mr. Devine said in many situations, depending on the circumstance and history of the issue, there is a courtesy letter issued to the resident prior to the notice of violation. This letter does not mention fees at all. He reiterated that the fines and fee schedule are dictated by state law and not specifically a part of the Compliance Program.

Councilor Gates asked if there was going to be a public hearing on this issue. He stated that he felt they should hear directly from the people effected on whether they agree or disagree with the program.

Mr. Grant clarified that what was presented to Council is the day-to-day process the department is already utilizing.

Mr. Devine gave Council a summary of the proposed "Rental Inspection Program" which they hope to introduce in the City. He explained that at this stage they would be presenting ideas which would go forward to the Codes and Ordinances Committee for further discussion.

Mr. Devine explained that if the program is adopted, all rental properties in the City would be required to apply through BZLS to receive an inspection. On the previous suggestion of Council, the program would implement a tiered approach to inspections, awarding or deducting points based on the severity of the violation in different categories. He stated that the standards used were HUD standards with a similar tiered system. The frequency of inspections would then be based on the score obtained by the landlord on the inspection; every 3 years, 2 years, or yearly. Mr. Devine stated that they were looking for approval from Council to send this program for further discussion at the Codes & Ordinances Committee, or direction to not go any further with the proposal.

Councilor Walker asked for clarification that what the program proposed is having all landlords in the City apply to have property inspections performed. Mr. Devine confirmed that was the proposal.

Councilor Varney referenced the brochure handed out detailing the program which states that the first inspection would be \$16 per rental unit. He said he understood there being a charge if the property had to be re-inspected but felt there should not be a charge for the initial inspection, which is an inconvenience to the property owner.

Mr. Devine stated that the ideas taken for this proposed program were from guidelines used in other NH towns and cities with similar programs.

Councilor Varney asked if rental owners were required to register with the

City. Mr. Devine answered that landlords are supposed to register with the City Clerk's office.

Councilor Varney suggested that if landlords are already required to register with the City, then City Staff could take the initiative in reaching out to landlords for these inspections as opposed to putting the burden on the property owners to apply.

Mr. Devine stated that although landlords are required by City Ordinance to register, there is not full compliance.

Councilor Gates asked if there would be additional staff needed to carry out these inspections. Mr. Grant said that there would be no additional staff needed; once these inspections are done on a regular basis with this proactive approach and many inspections being spread over years, there should be no need for additional City staff.

It was clarified that this program is not currently being used. The City is currently using a reactive approach to inspections based on complaints. Mr. Grant stated that one of the issues with this approach is the reluctance of tenants to complain for fear of retaliation by landlords.

Councilor Walker stated he did not support this proposed program and felt there must be a better approach. Councilor Walker said he supported a complaint driven approach.

Mr. Devine stated that he felt the program would be to protect not only the landlord, but the tenants as well. Tenants may fear eviction and be unable to afford other rentals. This program would address issues without the tenant having to complain. Mr. Devine also pointed out that any rentals of 3-units or more are already being inspected by the Fire Department.

Councilor Abbott suggested that if the City were to implement this program, they build in some sort of benefit to the landlords; perhaps the inspections could be done between tenancies and the properties could be certified. In this case, if the tenant files frivolous complaints, the landlord will have recourse to show that they were not responsible for the issues.

Councilor Lachapelle asked that if this program were to be discussed at the May 2, 2019 Codes & Ordinances Committee meeting, any backup materials or information be submitted prior to the meeting to be placed in the packet for review.

Mayor McCarley suggested that the City look into how many landlords are

complying with the requirement to register with the City.

8. Department Reports

No Discussion

9. Other

No Discussion

10. Non-Public/Non-Meeting

No Non-public session was held this evening.

11. Adjournment

Councilor Walker **MOVED** to **ADJOURN** the meeting at 8:30 PM. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully Submitted,

Cassie Givara
Deputy City Clerk