

**ROCHESTER CITY COUNCIL WORKSHOP**

**April 15, 2014**

**CITY COUNCIL CHAMBERS**

**8:08 PM**

**COUNCILORS PRESENT**

Councilor Collins  
Councilor Gates  
Councilor Gray  
Councilor Hamann  
Councilor Keans  
Councilor Kittredge  
Councilor Lachapelle  
Councilor Larochelle  
Councilor Lauterborn  
Councilor Varney  
Councilor Walker  
Mayor Jean

**OTHERS PRESENT**

City Manager Fitzpatrick  
Deputy City Manager Cox  
Attorney Wensley  
Chief Planner Campbell  
Tom Kaczynski, Resident

**MEMBERS EXCUSED**

Councilor Torr

**MINUTES**

**1. Call to Order**

Mayor Jean called the City Council Workshop to order at 8:08 PM. Kelly Walters, City Clerk, took a silent roll call. All Councilors were present except for Councilor Torr, who had been excused.

**2. Public Input**

Tom Kaczynski, resident, mentioned that the City Manager is seeking to adjust the salary and benefits for non-union employees, to keep them in proportion with the union employees. He suggested that the City Manager seek to adjust the union employees' salary and benefits, to keep them in proportion with private citizens in the City of Rochester.

Mayor Jean closed Public Input at 8:11PM.

**3. Communications from the City Manager**

**3.1. City Manager's Report**

City Manager Fitzpatrick stated that the following information has been provided in the City Council's packet for review:

- Management Team Minutes of March 24, 2014, and March 31, 2014.
- Department Head Meeting minutes of April 3, 2014.

Contracts and documents executed since last month:

- McCrillis computer lease/purchase
- Harriman Architect & Engineers – Change Order #4
- RH Lord – bleacher summary proposal
- Memorandum of Understanding - Fire Department - resources to school
- Crossroads Sewer & Water Project – Wright Pierce design phase contract

Mayor Jean requested more information about the Memorandum of Understanding between the City and the School Department. City Manager Fitzpatrick agreed to forward this information to the Mayor.

Councilor Gates stated that the Department Report for the Building, Zoning, and Licensing Services has an error. He added that Zoning Board of Adjustment case 2014-03 has not been approved; it has been postponed. City Manager Fitzpatrick agreed to check into the matter.

### **3.2. City Manager's Presentation of Fiscal Year 2015 O&M and CIP Budget**

City Manager Fitzpatrick gave a PowerPoint presentation of the Fiscal Year 2015 O&M and CIP Budget. *This can be found as an addendum to the City Council Workshop packet.*

City Manager Fitzpatrick stated that this budget has maintained its sound fiscal health without a loss of services and without significant increases to property taxes. He gave special recognitions to the team that has been working on this budget: Blaine Cox, Deputy City Manager; Roland Connors, Deputy Finance Director; Mark Sullivan, Senior Accountant; Shirley McCrillis, Executive Secretary; Diane Hoyt, Human Resources Manager; and Angie Gray, Account Clerk.

Councilor Lauterborn stated that the City Manager indicated that the City side of the budget has met the Tax Cap limitation; however, the School Department has submitted a budget that exceeds the Tax Cap by \$71,000. She asked if this means that the overall City's Budget exceeds the Tax Cap by \$71,000. City Manager Fitzpatrick replied that is correct.

Mayor Jean asked if the School Department based the proposed budget using the maximum amount needed for healthcare premiums. Deputy City Manager Cox replied no, they had already accounted for the reduced rate of health insurance premiums in the calculations.

Councilor Varney questioned if some of the money was already accounted for. Mayor Jean said this would be discussed further at the budget deliberations.

Councilor Larochelle asked when the proposed budget would be available on-line. Deputy City Manager Cox replied that it would be posted to the City's website the following day. *The budget books were available to the City Councilors immediately following the meeting.*

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

No discussion.

#### **5. Amendment to Ordinances Repealing Chapter 42 of the General Ordinances of the City of Rochester and Adopting a New Comprehensive Zoning Ordinance to be known as Chapter 42 of the General Ordinances of the City of Rochester, in its Stead – Discussion**

##### **AMENDMENT TO ORDINANCES REPEALING CHAPTER 42 OF THE GENERAL ORDINANCES OF THE CITY OF ROCHESTER AND ADOPTING A NEW COMPREHENSIVE ZONING ORDINANCE, TO BE KNOWN AS CHAPTER 42 OF THE GENERAL ORDINANCES OF THE CITY OF ROCHESTER, IN ITS STEAD**

#### **THE CITY OF ROCHESTER ORDAINS:**

- I.** That Chapter 42 of the General Ordinances of the City of Rochester, as presently amended and enacted as of April 15, 2014, is hereby repealed in its entirety, and a new comprehensive zoning ordinance, in the form set forth and annexed hereto as **EXHIBIT A** (the text of the proposed new Chapter 42) and **EXHIBIT B** (proposed new Official Zoning Map(s) for the City of Rochester) including the tables and map(s) included therein, whether by specific inclusion therein or by inclusion by reference thereto is adopted in its stead, said comprehensive zoning ordinance to be known as Chapter 42 of the General Ordinances of the City of Rochester.
- II.** That the City Clerk, or her designee, is hereby authorized to format and/or reformat the aforesaid new Chapter 42 of the General Ordinances of the City of Rochester, in its form as herein adopted, in a manner consistent and/or compatible with the formatting utilized in the existing General Ordinances of the City of Rochester, of which such new Chapter 42 will hereinafter constitute a part.
- III.** That the new Chapter 42 of the General Ordinances of the City of Rochester shall take effect upon its passage.

Mayor Jean stated that the City Council should continue working on the list of recommendations [23] made by the Codes and Ordinances Committee. He advised the City Council that the original recommendations and any votes taken by the City Council

this evening are **not** binding until they are voted upon by the full City Council during the Special City Council meeting after the second reading occurs.

The City Council discussed the public comments about the requirement of 10 acres of land to operate a commercial farm. Councilor Lauterborn stated that property owners should not be restricted from seeking “food” independence and questioned if this requirement differed from the existing ordinance. Chief Planner Campbell replied yes, but it was only altered slightly, in order to be less restrictive, by splitting up the definition of “farm” and “farm crop” as follows:

**Existing Ordinance:**

***(23) Farm. Any parcel of land containing at least ten (10) acres which is used in raising of agricultural products, livestock, poultry, and dairy products, including necessary farm structures and storage of equipment used, excluding raising of fur-bearing animals.***

**Proposed Ordinance:**

***4. Farm; Farm, Crop***

***a. Lot Size The minimum lot size is 10 gross acres for a farm and 5 gross acres for a crop farm.***

Councilor Lachapelle requested to have copies of the State RSA 21:34-(a) pertaining to farming, provided to the full City Council for review. Chief Planner Campbell agreed to supply that information to the full City Council.

Councilor Lauterborn asked if property owners would be prevented from having small farm stands. Chief Planner Campbell replied that the proposed ordinance is less restrictive than that of the existing ordinance. He noted that farm stands have not been a problem thus far and did not anticipate any problems moving forward.

Councilor Lauterborn stated that Mr. Abbott made a comment during public input. He indicated that farming “special exceptions” would only be allowed in the Agricultural Zone. Chief Planner Campbell stated that farms and crop farms are now listed under the Residential 1 zone as “special exceptions.” He said, additionally, farm crops, are listed as a “special exception” in the Residential 2 zone, as well.

Councilor Keans stated that the reason dimensional restrictions are posed on farms in the residential zones is basically because of odor. The City Council ought to investigate this matter more thoroughly in order to permit some of these types of crop farms in the residential area, without posing an unnecessary nuisance to the neighbors. Councilor Varney replied that the problem with “odor” on a crop farm has been addressed by implementing the more restrictive setbacks. Councilor Walker added that chickens are permitted in any zone, as long as they are not a nuisance to the neighbors, and that includes the odor.

Councilor Varney stated no one noticed the 10 acre requirement for a farm in the past; however, now that the issue is of public interest, it does seem more restrictive than it should be. The State RSA for farms does not address the acreage requirements; why should the City of Rochester. Attorney Wensley advised that the State RSA addresses the “uses” of the farm and not the “dimensions” of the farm. The City is permitted to pose dimensional requirements on land use if it is to be used for farming in the City. He added that odor is one of the reasons why the City would potential require a mandatory lot size of farms in residential zones.

Councilor Lauterborn stated that she received an email from a Portland Street property owner concerned about not being allowed to raise chickens for her personal use under the proposed ordinance. Councilor Walker stated that chickens are permitted in every zone, but roosters are only permitted in the agricultural zone.

Councilor Lauterborn said it is clear that only farms can have livestock and a farm must have 10 acres of land. She said if chickens are considered as “livestock” then the proposed zoning ordinance is contradictory. Councilor Walker stated that the 10 acres farm restriction is based on commercial farms and not for personal use. Councilor Walker further stated that the proposed ordinance is less restrictive than the existing ordinance because the existing ordinance restricts chickens in all zones except for the Agricultural Zone.

Councilor Gates asked at what point is a farm considered to be a commercial farm. It was determined that a Commercial Farm would be required to submit USDA forms to the State for the purpose of selling beef at a commercial level.

Councilor Kittredge asked if someone that had a problem with the farming ordinance would be able to appeal their case to the Zoning Board of Adjustment. Mayor Jean replied yes.

#### **Recommendations 24: Farms; Farm, Crops**

Councilor Gray **MOVED** to recommend to the full City Council that the 10 acre farm requirement be reduced to 5 acres, which would coincide with the crop farm requirement of 5 acres. Mayor Jean seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

- **Density Rings**

Councilor Larochelle questioned why the City would use a circle for a density boundary line. He stated that other boundary lines are made with actual property lines. Councilor Walker stated the 1 ½ mile circle [density ring] encompasses most of the Residential 2 zone and most of the homes within the circle are on City utilities [water and sewer].

Councilor Lauterborn asked if the density rings only apply to the Residential 2 Zone. Mayor Jean clarified that one of the recommendations made by the Codes and Ordinances Committee is to clearly define that density rings would only apply to multi-family dwellings, which would only be permitted in the Residential 2 Zone. The intended purpose of implementing density rings is to offer a density bonus for the developers of multi-family units located within the core of the circle and a smaller density bonus outside of the circle.

Councilor Lauterborn recalled that the current requirement of 6,000 square feet [multi-family dwellings] is being proposed to be reduced to 5,000 square feet [multi-family dwellings] located within the density rings. She recalled that poorly drained soils would be calculated into the square footage requirement, but not the “very” poorly drained soils. She added that this would also be a bonus in density. She referred to the map which shows the following ring sizes in the center of Rochester 1 mile, 1 ¼ miles, and 1 ½ miles. She stated that by reducing this circle down to 1 ¼ miles, it would still result in an increase to the density *just* outside the ring, to 7,500 square feet.

### **Maximum lot coverage**

Councilor Varney expressed concern about the dramatic increase to the Maximum Lot Coverage from 30% to 60%. Councilor Walker argued that the Maximum Lot Coverage currently only includes the size of the building; however, the proposed ordinance would include the parking spaces, walkways, and all impervious surfaces, which is the reason for the increase to 60%. Council discussed parking and drainage issues.

Councilor Gray stated that the Planning Board would review the site plan, including drainage, of such projects and would mitigate the potential problems. Councilor Varney disagreed with this proposal and would work on a new proposal to revert back to the 30%.

Mayor Jean said it seems since the recommendations have been made the only real concern for the size of the density ring and maximum lot coverage is based on some property located on Rochester Hill Road. The City Council reviewed other areas of the density rings.

### **Recommendations 25: Rochester Hill Road**

Councilor Varney said that the City Council needs to decide what Rochester Hill Road should look like. He questioned why a particular lot had been proposed as Office Commercial. Chief Planner Campbell agreed to gather more information about this particular area. Councilor Varney **MOVED** to recommend to the full City Council that a portion of Rochester Hill Road, currently zoned as Office Commercial, be changed to Residential 2, specifically by starting at the Armory Building on Rochester Hill Road and continuing to the Hill View apartments. The **MOTION CARRIED** by a unanimous voice vote.

- **Rochester Hill Road discussion**

Councilor Walker asked why a recommendation was made to change the bottom of Rochester Hill Road back to Residential 1. He added that the reason this area had been proposed as Neighborhood Mixed Use is because of the businesses located in this area, and now they will remain as “non-conforming.” Councilor Keans stated that this is an area with a majority of single family homes and only three businesses are located on that side of the street. Councilor Varney stated that the other side has remained as Neighborhood Mixed Use.

Mayor Jean recalled that the Planning Board originally proposed that the bottom of Rochester Hill Road [opposite side of Frisbie Hospital] as Neighborhood Mixed Use, in order to require a Planning Board site review vs. a Planning Department administrative decision for home occupations.

Councilor Lauterborn questioned if a colored map could be provided with all the recommended proposed changes. It was determined that this would not be possible until after the Comprehensive Zoning had been adopted for financial reasons.

- **Split Lots**

Councilor Gray stated that the City Council originally directed the Planning Board to rid the City of split zones. He asked about the recommended split zoning lots off from Highland Street. Councilor Varney did not recall that the split zones were problematic. Councilor Gates could only recall one split zone incident that appeared before the Zoning Board of Adjustment in the past ten years.

- **Sign Ordinance**

Councilor Varney recalled that the current sign ordinance was to be amended with the proposed zones. He requested the updated sign ordinance be posted to the City’s website. Chief Planner Campbell replied yes and that the Planning Board would continue to work on the sign ordinance at the Planning Board level.

Mayor Jean stated that it seems that most of the major problems with the proposed ordinance have been addressed. This leaves the City in a good position to potentially work out the rest of the details and to adopt the new ordinance at the next meeting, if all goes well. He noted that unintended consequences would be addressed on a case by case basis.

Councilor Larochelle recalled that the rest of Mr. Abbott’s concerns were to be addressed by the Planning Department. Chief Planner Campbell concurred, and agreed to have more information to the City Council soon.

Councilor Varney requested that Chief Planner Campbell provide an answer to Sharon Stewart’s letter. Chief Planner Campbell concurred.

**6. Department Reports**

No Discussion.

**7. Other**

Councilor Varney informed the City Council that the Public Works Committee would be discussing the 2014-2015 Paving Plan this coming Thursday.

**8. Adjournment**

Councilor Walker **MOVED** to **ADJOURN** the City Council Workshop at 9:44 PM. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Kelly Walters  
City Clerk