

**Rochester Regular City Council Meeting
April 2, 2013
COUNCIL CHAMBERS
7:00 PM**

MEMBERS PRESENT

Councilor Hervey
Councilor Hynes
Councilor Keans
Councilor Lachapelle
Councilor LaBranche
Councilor Lauterborn
Councilor Larochelle
Councilor Reed-Erickson
Councilor Savoie
Councilor Torr
Councilor Varney
Councilor Walker
Mayor Jean

OTHERS PRESENT

City Manager Fitzpatrick
Deputy City Manager Cox
Deputy City Manager Pollard
Attorney Wensley
Peter Nourse, Acting Public
Works Director/City Engineer

MINUTES

1. Call to Order

Mayor Jean opened the Regular City Council meeting at 7:00 PM.

2. Pledge of Allegiance

Mayor Jean led the Pledge of Allegiance.

3. Opening Prayer

Mayor Jean called for a moment of silence in honor of the military troops fighting for our freedom.

4. Roll Call

Kelly Walters, City Clerk, took a roll call. All Council members were present.

Mayor Jean asked if any member of the City Council objected to rearranging the Agenda in order to accommodate the Assessing staff waiting for an employee's recognition. No member of the City Council objected to the request.

City Manager Fitzpatrick invited Gaye Nadeau, Assessing Department, to come forward. He requested that Tom Mullin, City Assessor, Blaine Cox, Deputy City Manager, and Mayor Jean join him in recognizing Gaye Nadeau. He said Ms. Nadeau has decided to retire after twenty-five years of employment with the City of Rochester. She is held with the highest of regard amongst the Assessing Department staff. He said she leaves behind fond memories and an endearing laugh. He thanked Ms. Nadeau for her dedication to the City of Rochester.

5. CDBG Action Plan

5.1 CDBG Action Plan

Councilor Lachapelle **MOVED** to read the Resolution by title only for the first time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the Resolution by title only for the first time as follows:

RESOLUTION ADOPTING A 2013-2014 ROCHESTER CDBG
“ACTION PLAN FOR THE CITY OF ROCHESTER, NH”
AND APPROVING AND APPROPRIATING THE 2013-2014
COMMUNITY DEVELOPMENT BUDGET FOR THE CITY OF ROCHESTER

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHESTER, AS FOLLOWS:

I. That the Mayor and City Council of the City of Rochester, by adoption of this Resolution, hereby adopt the one-year 2013-2014 “Action Plan for the Department of Planning and Development for the City of Rochester, NH”, as prepared, and presented to the Mayor and City Council, by the City of Rochester Department of Planning and Development, in connection with the City’s CDBG program, including the goals, objectives and concepts set forth therein.

II. Further, that a twelve (12) month Community Development Block Grant budget for the Department of Planning and Development for the City of Rochester in the total amount of Two Hundred Three Thousand Three Hundred Sixty-Five Dollars (\$203,365.00) be, and hereby is, approved and appropriated for fiscal year 2013-2014. Included in said approval and appropriation are expenditures set forth in the one-year action plan of the Department of Planning and Development for the City of Rochester for the Community Development Block Grant program, in the following categories and amounts:

Administration	\$40,673.00
Public Service Agencies	\$30,505.00
Economic Development	\$12,000.00

Housing	\$43,458.23
Public Facilities/Infrastructure	<u>\$76,728.77</u>
Total	\$ 203,365.00

This budget and the one-year action plan for 2013-2014 may be reconsidered if federal funding is changed or if it is inconsistent with the total 2013-2014 budget adopted for the Department of Planning and Development.

The sums necessary to fund the above appropriation in the amount of Two Hundred Three Thousand Three Hundred Sixty-Five Dollars (\$203,365.00) shall be drawn in their entirety from the above mentioned 2013-2014 fiscal year Community Development Block Grant from the federal government to the City of Rochester. The Finance Director is hereby authorized to create such line item accounts as shall be necessary to implement this Resolution.

Furthermore, in the event that federal funding for the above Community Development Block Grant budget is less than the total appropriation amount provided for in this Resolution, then, and in such event, the City Manager, or his designee in the Department of Planning and Development, is authorized to proportionately reduce the amounts for the budgetary categories stated above, as well as for any planned grants and/or other expenditures made from within such budgetary categories.

Kenn Ortmann, Director of Planning and Development, addressed the City Council relative to the CDBG Block Grant. He said the City of Rochester hired Elena Engle, Community Development Specialist, over four months ago. Since that time, Ms. Engle has been working with the Community Development Committee in preparation for the CDBG Block Grant. He informed the City Council that Ms. Engle has completed all necessary paperwork associated with the CDBG Block Grant to date. He introduced Ms. Engle to the City Council.

Ms. Engle thanked the City Council for the opportunity to address the City Council. She said the main purpose of the CDBG Block Grant is to provide decent, safe, and sanitary housing in suitable living environments to persons of low and moderately low incomes. The focus of funding is on Rochester residents. She gave a brief overview of this year's action plan. She gave details of the guidelines that must be followed in order to receive the federal grant funding.

Ms. Engle informed the City Council that the amount of funding has not yet been determined; however, this year's action plan is being presented with an estimated ten percent decrease over last year's funding per advice from a HUD representative. She said last year's funding was \$225,961 and the estimated ten percent decrease to that funding is \$203,365, which is what this action plan is based upon. She is hopeful that this is a conservative estimate.

Ms. Engle reported that the Community Development reviewed a \$64,000 worth of funding request for this year's action plan.

Ms. Engle said that the Community Development Committee has been seeking ways to evaluate the local agencies that receive funding from the Rochester CDBG Block Grant. The Community Development Committee will continue to seek ways in which to evaluate such agencies in the following year; however, a basic evaluation form issued by the Committee has been completed this year by the Committee and could be found in this evening's packet.

5.2 Public Hearing [CDBG Action Plan]

Mayor Jean recessed to the Public Hearing relative to the CDBG Action Plan at 7:15 PM and reconvened the Regular City Council meeting at 7:31 PM.

6. Acceptance of Minutes

6.1 March 5, 2013, Regular City Council Meeting

Councilor Lachapelle **MOVED** to **ACCEPT** the Regular City Council meeting minutes of March 5, 2013. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

6.2 March 19, 2013, Special City Council Meeting

Councilor Lachapelle **MOVED** to **ACCEPT** the March 19, 2013, Special City Council Meeting minutes. Councilor LaBranche seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

6.3 July 5, 2011, Regular City Council Meeting [*Correction and Approval*]

Councilor Lauterborn asked why a set of minutes from 2011 was in need of correction and how was the error discovered. City Clerk Walters explained that all resolutions are included in the Annual Report along with the date of adoption; however, it was noticed that there was no motion to adopt a particular resolution in the said set of minutes. After reviewing the DVD from the meeting date it was apparent that the resolution had been adopted; however, Attorney Wensley advised that the action must come back to the full City Council in order to properly correct this set of minutes.

Councilor Lachapelle **MOVED** to **AMEND** the recommended changes to the July 5, 2011, Regular City Council meeting minutes and to **ADOPT** as amended. Councilor LaBranche seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. The **MOTION CARRIED** by a unanimous voice vote.

7. Communications from the City Manager

Mayor Jean acknowledged that the daughter of the City Manager was in attendance of the meeting. He said Laura Fitzpatrick was here on a family visit and that she is the Assistant City Manager of Rio Rancho, New Mexico.

7.1 Employee of the Month Award

City Manager Fitzpatrick invited Chief Allen and Steve Gahan, Rochester Police Department, to come forward. He said Mr. Gahan has been responsible for organizing the Hockey Game Fund Raiser between the Rochester Fire Department and the Rochester Police Department [Guns and Hoses.] He awarded Mr. Gahan with the Employee of the Month award for April.

7.2 Recognition of Employee Retirement

- **Gaye Nadeau**

This recognition took place prior to the Public Hearing.

7.3 City Manager's Report

City Manager Fitzpatrick reported that the following Management Team Meeting minutes were included in the City Manager's packet for review:

- February 25, 2013
- March 4, 2013
- March 11, 2013
- March 18, 2013

City Manager Fitzpatrick reported that the "ice" rate at the Rochester Arena would be adjusted and that more information has been provided by Chris Bowlen, Director of Recreation and Arena Services. This can be found in the City Manager's packet.

City Manager Fitzpatrick said since his last report, the agreement between the New Hampshire Department of Transportation and the City of Rochester has been signed relative to the newly constructed 10620-L Project. This can be found in the City Manager's packet.

City Manager Fitzpatrick said that the following two zoning verifications have been signed since his last report: 113 South Main Street [New Business] and an undeveloped parcel of land on Route 11.

City Manager Fitzpatrick reported that the following standard reports have been included in the City Manager's packet:

- Personnel Action Report Summary
- Permission and Permits Issued
- City Council Request and Inquiry Report

Councilor Keans asked a question regarding the Management Team Minutes of February 25, 2013. She asked what is meant by a “Joule Bug”. City Manager Fitzpatrick explained that a Joule Bug is basically a company which creates software application designs to run on “smartphones” “tablet computers” and other mobile devices. He said just as every city and town municipality has there own website, soon enough, every city and town would eventually have their own “mobile app.” He recalled that the Rochester Chamber of Commerce already has a mobile application.

Councilor Varney requested a copy of the following policy, which was discussed at the March 11, 2013, Management Team meetings: *Post-Election Removal of Political Advertising from City Property and State and City Owned Rights-of-Way*.

Councilor Varney referred to the Management Team Meeting minutes of March 4, 2013. He asked what is meant by “Specialized Purchasing Consultants.” Deputy City Manager Cox explained that there is a cost savings associated with sending out to bid all of the City’s copier and printer needs at one time. Part of this project is consolidating the City’s smaller printers into larger more efficient copiers and eliminating the smaller and more expensive to use products. Councilor Larochelle asked if the City’s bid would also include the schools. Deputy City Manager Cox replied yes.

Councilor Lachapelle requested an update on the two dams located in Gonic. City Manager Fitzpatrick agreed to check into the matter.

8. Communications from the Mayor

8.1 Short Video Relative to “Inaugural Rochester/UNH Bus Service”

After the short video presentation, Mr. Ortmann addressed the City Council. He said this is a great service being provided for Rochester residents. He added that the short video was produced by our own Government Channel coordinator and should be recognized as a fine piece of work.

Councilor Varney requested that the video be linked to the City’s website. Mayor Jean agreed and said it could also be added to the “video on demand” link.

Mayor Jean said there has been an increase of twenty-five percent in Rochester commuters using the Coast Bus service.

8.2 Joint Building Committee Request – *School Board/City Council*

Mayor Jean informed the City Council of a letter sent by Michael Hopkins, Superintendent of Schools to the Mayor and Rochester City Council. The purpose of the letter is to request a joint building committee between the governmental bodies in order to discuss the renovations to the East Rochester School building project estimated at \$13,100,000. The Committee would meet according to State law requirements under RSA 199:3.

Mayor Jean said Deputy City Manager Cox researched the regulations to find out if funding had to be in place in order to form such a Committee and found that funding did not have to be in place in order to meet as a joint committee.

Councilor Lachapelle volunteered to serve on the Joint Building Committee.

Mayor Jean said the project is listed in the proposed School Department's CIP budget for FY 14 and the City Council would discuss the matter further during the budget process. Mayor Jean asked if Council desired to set up such a Committee at this time or wait until funding was in place. He suggested the City Council could set up an *ad hoc* Committee instead of formulating a joint building committee until funding is in place.

Councilor Lauterborn recalled that a Joint Building Committee would be required to have an equal number of board members from each of the two boards. She asked how many of each board would be required to formulate this committee. Councilor Keans replied there should be at least six members from each governmental body. Mayor Jean added that once all members had been appointed to the committee, the committee itself would elect a member to chair the committee.

Councilor Varney requested to have more information about the expensive project and to have funding in place, prior to setting up any committee to discuss the East Rochester School building project. Mayor Jean suggested that the City Council Finance Committee and the School Board Finance Committee could possibly schedule a meeting together to discuss the project. In this way any member from either board could attend the meeting.

9. Presentation of Petitions and Council Correspondence

10. Nominations, Appointments, Resignations, and Elections

9.1 Election of Ward One School Board Seat, [Seat A]

Mayor Jean stated that there were two candidates for the vacant School Board Seat, Jake Collins and Fred Leonard.

Mayor Jean stated that Mr. Collins was present at the meeting; however, Mr. Leonard informed the mayor prior to the meeting that he would regrettably be out of town for the evening.

Mayor Jean nominated both Jake Collins and Fred Leonard to fill the vacant Ward One Seat [A]. Councilor Lachapelle seconded the nominations. Jake Collins was elected as the Ward One School Board member by an 8 to 5 roll call vote. The following eight City Councilors voted for Jake Collins: Councilors Varney, Hynes, Reed-Erickson, Keans, Lauterborn, LaBranche, Hervey, and Mayor Jean. The following five City Councilors voted in favor of Fred Leonard: Councilors Larochelle, Savoie, Walker, Torr, and Lachapelle.

Attorney Wensley administered the Oath of Office to Mr. Collins. Mr. Collins thanked the City Council for the opportunity to serve on the Rochester School Board and he publicly thanked Mr. Leonard for showing an interest in serving on the Board as well.

11. Reports of Committees

11.1 Appointments Committee

Councilor Larochelle briefed the City Council about the Committee's recommendation of each appointment.

Mayor Jean nominated Jennifer Stimac to be appointed to serve on the Library Board of Trustees [Ward 6] with a term to expire in January 2016. Councilor Lachapelle seconded the nomination. Councilor Lachapelle **MOVED** that nominations cease. Councilor LaBranche seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean announced that Ms. Stimac has been appointed to serve on the Library Board of Trustees [Ward 6] with a term to expire in January 2016, by a unanimous ballot vote.

Mayor Jean nominated Steven Maimes to be appointed to serve on the Library Board of Trustees [Ward Two] with a term to expire in January 2016. Councilor Lachapelle seconded the nomination. Councilor Lachapelle **MOVED** that nominations cease. Councilor LaBranche seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean announced that Mr. Maimes has been appointed to serve on the Library Board of Trustees with a term to expire in January 2016, by a unanimous ballot vote.

Mayor Jean nominated Robert Pallas to be reappointed to serve on the Trustees of the Trust Fund with a term to expire in January 2016. Councilor Lachapelle seconded the nomination. Councilor Lachapelle **MOVED** that

nominations cease. Councilor LaBranche seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean announced that Mr. Pallas has been reappointed to serve on the Trustees of the Trust Funds with a term to expire in January 2016, by a unanimous ballot vote.

Mayor Jean nominated Michael Provost to serve on the Arts and Culture Commission with a term to expire on June 30, 2014. Councilor Lachapelle seconded the nomination. Councilor Lachapelle **MOVED** that nominations cease. Councilor LaBranche seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean announced that Mr. Provost has been appointed to serve on the Arts and Culture Commission with a term to expire on June 30, 2014, by a unanimous ballot vote.

Councilor Laroche reported that George Lewis, Utility Advisory Board, requested that the current ordinance Chapter 17.29 (c) relative to the “expiration terms” set for the Utility Advisory Board be sent to the Codes and Ordinances for review. He explained that the current expiration terms are set for five-year terms and that the recommendation is to reduce the term to only three year terms. Mayor Jean agreed. Councilor Lachapelle reported that the next Codes and Ordinances Committee would meet on Thursday, April 4, 2013, and would address the matter under “other”.

Councilor Lachapelle asked Attorney Wensley if a public hearing would be required in order to amend Chapter 17.29 (c) of the Rochester City Ordinances. Attorney Wensley replied that not all City Ordinance amendments require a public hearing; however, it would be up to the discretion of the Codes and Ordinance Committee.

Councilor Laroche requested that a current member of the Utility Advisory Board’s expiration term be corrected.

Mayor Jean **MOVED** to reconsider the previous appointment of Sharon Parshley, Utility Advisory Board, with a term to expire in January 2016 [*original appointment was on February 5, 2013*]. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean **MOVED** to appoint Ms. Parshley to the Utility Advisory Board with a term to expire in January 2018. Councilor Keans seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

11.2 Codes and Ordinances Committee

Councilor Lachapelle briefed the Council about the last meeting and stated that there were no action items.

11.3 Community Development

Councilor Lauterborn stated that the Community Development Committee meeting minutes of February 28, 2013, have been included in the City Council packet; however, these minutes were reviewed “verbally” at the last Regular City Council meeting. She added that there were no action items related to this set of minutes and basically the entire set of minutes was relative to the CDBG Block Grant discussions.

Councilor Lauterborn reviewed the Community Development Committee meeting minutes of March 28, 2013. She said a presentation relative to the Disc Golf was well received by Committee members. She added that this program would bring a lot of people to the City of Rochester for the related events and tournaments. She said Chris Bowlen, RAYS Director, would be presenting this item along with his budget presentation.

Councilor Lauterborn reported that the Rochester Main Street summary update could be found on page 90 of the City Council packet.

Councilor Lauterborn reported that the Committee discussed the CDBG Block Grant. She **MOVED** to require any social service agency receiving City funds opposed to receiving CDBG Block Grant funds be required to follow the same application reporting requirements as the CDBG Block Grant requires. Councilor Larochelle seconded the motion.

Councilor Varney expressed concern over creating more administrative work with this additional requirement. This seems to be a time consuming process. Councilor Lauterborn said that a similar comment had been made at the meeting by the Planning Director; however, this was a separate issue from the Committee’s recommendation requiring the application and reporting. The **MOTION CARRIED** by a majority voice.

Councilor Lauterborn reported that the Committee briefly discussed the Route 11 Park access. The Committee’s conclusion was that because this was State property that there was not a lot that could be done to control the access. Councilor Hynes gave a brief history of the land which eventually became a public park with picnic tables. He said the entrance is the same configuration as the exit. He did not recommend taking Council action because the City of Rochester does not own the land.

Councilor Varney recalled that the area has not changed from its original configuration and if the City does not work with the State in order to control the access to the park then it will become an undesirable location as it once was. He suggested contacting the State in order to resolve the matter. There should at least be a gated access to the park. Mayor Jean asked if any member of Council objected to directing the City Manager to contact the State regarding obtaining the land, optimizing its use, or at least “gating” the entrance. No objection was stated.

Councilor Lauterborn said the Recreation Department's monthly newsletter could be found in the packet. The newsletter is well received by other communities and it is well distributed throughout the surrounding communities. She briefed the City Council about the adult programs.

Councilor Lauterborn said there is material from *Rochester Main Street* as well as more information about the CDBG Block Grant in the City Council packet.

Councilor Keans questioned how the Disc Golf would eventually become revenue or economic benefit for the City of Rochester as referred to in the Community Development minutes. Councilor Lauterborn said it would not become City revenue; however, there is enough land at Squanamagonic to erect a high class Disc Golf course, which would bring a lot of people into the City. The Disc Golf itself has become a very popular sport and there are not many full courses being offered in New Hampshire. It could bring in people from all over New Hampshire and surrounding states. Councilor Keans asked why the City of Rochester would pay \$5,000 so that Rob Feeney, PDGA, could erect a Disc Golf course. Would the City of Rochester be charging a fee for admittance to the park? What does the City of Rochester gain by the PDGA holding a Disc Golf tournament? Councilor Lachapelle stated that there is a small Disc Golf course at Bellamy Park in Dover, New Hampshire; however, Rochester would have a much larger course and it could have a positive impact on the City by bringing people to the City. These people would utilize local hotels and restaurants. He added that City Council would be having the final lease come before the City Council for final review. Council discussed the initial costs of the program and the equipment costs. Councilor Hervey recalled that after the initial cost of \$5,000 the revenue gained by the tournaments would be reinvested into the course. Councilor Keans said this is the point; why does the City not receive a percentage of the proceeds? Councilor Lauterborn stated that more information could be provided by Chris Bowlen, RAYS Director, during the budget presentation.

Councilor Varney referred to the Community Development Committee meeting minutes found on page 87 of the City Council packet. He said there was a short discussion about reporting requirements regarding TIF Districts. He did not recall the City Council ever discussing funding salaries relative to this type of reporting. He requested more information about the matter. He suggested discussing the matter at the Finance Committee. Mayor Jean agreed to have Deputy City Manager Cox add this matter to the Finance Committee agenda and request more information from Deputy City Manager Pollard and the Director of Planning regarding the matter.

11.4 Finance Committee

Mayor Jean briefed the Council about the last meeting and stated that there were no action items at this time. He said the Committee received an update on the City Hall Annex project and there was a brief discussion about the elderly exemption data. There was a discussion about the Community Center space analysis, Channing's Lane, and the House Finance Committee meeting.

11.5 Government Channel Committee

Councilor Lachapelle briefed the Council about the last meeting and stated that there were no action items.

11.6 Public Safety Committee

Councilor Walker reported that there was a presentation relative to Coast Transportation in order to update the Committee on all the additional bus stops and bus shelters. The Committee requested more information from Coast Transportation and the matter stayed in Committee.

Councilor Walker summarized an issue that arose as a result of the construction near the Spaulding Turnpike Exit 14/Ten Rod Road-Industrial Park. He **MOVED** to direct the City Manager to contact the Department of Transportation regarding negotiations related to signage and lights, which were removed during construction. Councilor Lachapelle seconded the motion. Councilor Lachapelle said the NHDOT has already sent the City a letter denying the original request to replace the lights in this area because it did not meet the "streetlight" requirements. He said the entire area needs to be addressed regarding signage and lighting. Councilor Savoie stated that there have been discussions related to the remainder of State funding of this project. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Walker gave a brief review of items left in Committee. Councilor Keans questioned what the difference was between the handicap request being made by the China Palace on South Main Street and handicap spaces currently being used in the downtown area. Councilor Walker confirmed that some of the current handicap signs in the downtown do not meet ADA requirements; however, it does not make sense to allow another handicap sign in the downtown area which does not meet ADA requirements. The City Council debated the issues.

Councilor Walker **MOVED** to **DENY** the request to place a streetlight on the corner of Third and Fourth Streets. Councilor Lachapelle seconded the motion. Councilor Walker stated that there is already a streetlight about 100 feet from the corner. Council briefly discussed the matter. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Keans **MOVED** to erect a handicap sign on South Main Street in front of the China Palace as previously requested by the owners, which would be conforming to all other handicap spaces in the downtown area. Mayor Jean seconded the motion. Councilor Lauterborn stated that there were several “curb-cuts” in the downtown area to support the handicap spaces. She questioned how much work and associated cost is involved with creating a curb-cut. It was determined that there is already a handicap curb-cut in the pavement at this location; however, there is not enough space on the side of the street to allow a wheelchair to safely exit the vehicle. Councilor Walker said just because some of the handicap spaces in the downtown area are not ADA compliant, it does not give the City permission to knowingly approve another handicap space which is not ADA compliant. He said the Committee also discussed other options for the business to have a handicap space. The owners have not responded to the suggestions at this time. Councilor Larochele stated that a lot of people using handicap spaces are not wheelchair bound and it could be a benefit to these other individuals. Councilor Lauterborn asked if the motion fails would the owners still be able to seek alternatives to this handicap parking space. Council debated the matter. The **MOTION FAILED** by a majority voice vote.

Councilor Keans **MOVED** to remove all handicap spaces from the downtown area which are not ADA compliant. The motion did not receive a second.

11.7 Public Works & Buildings Committee

Councilor Torr stated that plowing issue on Sprucewood Drive has been resolved by the Department of Public Works.

Councilor Torr said the New Hampshire Department of Transportation NHDOT has requested that the City of Rochester absorb all maintenance costs associated from the old Ten Rod Road intersection/North Main Street up to the Spaulding Turnpike Exit 15 area, which is currently maintained by the State. This would include plowing and would require the City’s plow trucks to make a U-turn at the Spaulding Turnpike Exit 15 off/on ramps. This would make for an expensive and dangerous plow route for the City of Rochester. He **MOVED** to have the City Manager contact the State about opposing the change to the Urban Compact of Farmington Road.

Mayor Jean said if the State is not willing to withdraw the request then the City should seek permission to acquire Route 11 Park as a safer turn-a-round for plowing. City Manager Fitzpatrick requested that the City Council pass a formal resolution opposing the proposed change to the Urban Compact area on Farmington Road. Mayor Jean **MOVED** to resolve that the Rochester City Council instruct the City Manager to contact the NHDOT in order to express the City’s opposition to the changing and extension of the Urban Compact area on

Farmington Road. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Torr said the owners of China Palace are seeking to extend the municipal parking lot on Columbus Avenue. Councilor Walker **MOVED** to **DENY** the request to extend the municipal parking lot on Columbus Avenue. Councilor Keans seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Torr summarized the discussion about paving Grant Street. Councilor Walker **MOVED** to instruct the City Manager to direct staff to proceed with paving on Grant Street in the spring using the remaining funds from the FY13 appropriation. Councilor LaBranche seconded the motion. Councilor Walker gave reasons why it makes sense to pave Grant Street at the same time. Mayor Jean questioned if the Committee discussed paving Common Street at the same time. Council discussed the matter. Councilor Walker said there is no funding in place for Common Street at this time; it would require a supplemental appropriation in order to include Common Street in with this project. The **MOTION CARRIED** by a unanimous voice vote.

Mayor Jean requested to have Peter Nourse, Acting Public Works Director, get an estimate on what it would cost to include Common Street with the Grant Street project. Councilor Varney recalled the amount would be \$59,000. Mayor Jean asked if there would be a reduction in price if the project were to be included with the Grant Street and Linden Street projects. Mr. Nourse said there would be slight reduction in cost and there would still be some funding available from the balance in the FY13 appropriation after considering the \$59,000 for Grant Street. Council discussed the timeframe for beginning the Grant Street and Linden Street projects. Mayor Jean requested the costs associated with Common Street be included with the Grant and Linden Street costs. Mr. Nourse agreed to get back to the City Council.

Councilor Torr updated the City Council relative to Strafford Square.

Councilor Torr stated that the Committee discussed moving the bump-out in the curbing on Lincoln Street. He gave reasons why the bump-outs on Lincoln Street and the Common area should be removed. Councilor Walker **MOVED** to supply an estimate to the Public Works Committee of what it would cost to remove the bump-outs. Councilor LaBranche seconded the motion. Councilor Hervey recalled that the curbing on Lincoln Street was partially funded by the State. He asked if there would be any implications involved with removing the bump-outs. Councilor Varney stated that the motion should include the staff investigating if the bump-outs could be removed in the first place. Mayor Jean asked if there were any more comments regarding seeking the estimated costs and seeking more information regarding the legalities of removing the bump-outs. The **MOTION CARRIED** by a unanimous voice vote.

12. Old Business

12.1 Amendment to the City of Rochester Ordinances Relative to Regulation of Permissible Fireworks Chapter 23.13

Councilor Lachapelle **MOVED** to read the Amendment to the Rochester City Ordinances relative to Chapter 23.13 Regulations of Permissible Fireworks for the second time by title only. Councilor LaBranche seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the Amendment by title only for a second time as follows:

AMENDMENT TO ORDINANCES REGARDING FIREWORKS

THE CITY OF ROCHESTER ORDAINS:

That Chapter 23 of the General Ordinances of the City of Rochester, entitled "Fire Safety Measures", as presently amended, be further amended by repealing Section 23:13, as presently amended, in its entirety, and by inserting in its stead the following Section, to be known as Section 23.13 of the General Ordinances of the City of Rochester:

"23.13 Regulation of Permissible Fireworks.

- A. In accordance with the provisions of RSA 160-C, it shall be illegal for any person, firm, partnership or corporation to offer for sale, expose for sale, sell at retail, purchase, possess, use, explode or display any permissible fireworks within the City of Rochester, except as specifically provided for in this ordinance.
- B. As used in this ordinance:
 - i. "Display" means the use, explosion, activation, ignition, discharge, firing or any other activity which is intended to cause or which causes a firework to do what it was manufactured to do.
 - ii. "Permissible fireworks" means those consumer firework devices defined as "permissible fireworks" in RSA 160-C, as the same currently exists or as, from time to time, hereinafter amended.
 - iii. "Fire Chief" means the Fire Chief of the City of Rochester or his/her designee.
 - iv. "Police Chief" means the Police Chief of the City of Rochester or his/her designee.

- C. Subject to, and in accordance with the provisions of Chapter 160-C of the New Hampshire Revised Statutes Annotated it shall be lawful to possess and/or display permissible fireworks upon compliance with the following requirements:
- i. A person who is 21 years of age or older may display permissible fireworks on private property with the written consent of the owner or in the owner's presence, subject to the provisions of this ordinance and RSA Chapter 160-C, and any other applicable ordinance regulation or statute.
 - ii. No display of permissible fireworks shall be permitted within the City except between the hours of 6 PM and 11 PM on Saturdays in the months of June and July and between the hours of 6 PM and 10 PM on Saturdays between the months of August through May. Display of permissible fireworks shall be permitted on the following holidays; Labor Day, Fourth of July, or New Year's Eve (December 31st), provided, however, that on New Year's Eve such display shall be permitted to occur between the hours of 6 PM on December 31st and 1:00 AM on January 1st.
 - iii. The display of permissible fireworks shall be of such a character, and so located and conducted, that it shall not be hazardous to property or endanger any person. In accordance with the provisions of RSA Chapter 160-C no permissible fireworks shall be permitted on public property and must be at least 50 feet from nearby buildings, nearby trees, electrical and telephone lines or other overhead obstructions, and the location of any nearby storage of flammable or combustible liquids or gases.
 - iv. No permissible fireworks may be used, discharged, exploded, or displayed during periods of very high or extreme fire danger as determined by the Fire Chief or the NH Division of Forests and Lands.
 - v. Permissible fireworks may be used, discharged, exploded, or displayed in a manner such that any all discharge debris shall remain within the property lines of the lot on which the display originates.
 - vi. Anyone using permissible fireworks shall be responsible for removing any debris accumulated due to the discharge of fireworks that fall onto the public way, public property, and any private property twenty-four hours. Anyone failing to remove such debris shall be financially responsible for its clean up.
- D. A violation of this ordinance shall be subject to the penalties provided for in Chapter 23, Section 23.11, Penalty, of the City of Rochester General Ordinance.

- E. This ordinance shall be construed consistently with NH Code of Administrative Rules Section 2600, as made applicable by state statute and as adopted by reference in Section 23.1, of the General Ordinances of the City of Rochester, and is not meant to repeal any section thereof. Nothing in this ordinance shall be interpreted so as to conflict with the provisions of Chapters 160-B or 160-C of the New Hampshire Revised Statutes Annotated, as currently written, or as from time to time hereafter amended. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct independent provision and such holding shall not affect the validity of the remaining portions thereof.
- F. The Police Chief or Fire Chief may suspend the use of permissible fireworks for any of the following reasons:
- i. Unfavorable weather conditions, including but not limited to, lightning storms or high wind conditions exceeding 20 miles per hour or higher.
 - ii. If any person under the age of 21 possesses, uses, discharges or explodes, used, discharged or exploded any permissible firework device.
 - iii. If any person who is using, discharging, exploding, or displaying the permissible fireworks appears to be under the influence of alcohol or drugs;
 - iv. If, in the opinion of the Police Chief or Fire Chief, the use, discharge, exploding, or display of permissible fireworks would create a threat to public safety.
- G. The Police Chief and/or Fire Chief are authorized to seize, take, remove or cause to be removed, at the expense of the owner, all firework devices that are being discharged in violation of this ordinance.”

Councilor Lachapelle **MOVED** to **ADOPT** the Amendment to the City Ordinances. Councilor Keans seconded the motion. The **MOTION CARRIED** by a majority voice vote.

12.2 Amendment to Ordinances: Creation of Chapter 18 Regulation of Cross-Connections to Prevent Backflow between Potable and Non-Potable Water Systems

Councilor Lachapelle **MOVED** to read the Amendment to the Rochester City Ordinance relative to creating Chapter 18. Councilor LaBranche seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the Amendment as follows:

MUNICIPAL CROSS-CONNECTION ORDINANCE
CITY OF ROCHESTER, NEW HAMPSHIRE

Article 1: General Provisions

SECTION ANALYSIS

- 18.1 Purpose
- 18.2 Authority
- 18.3 Responsibilities of the Department
- 18.4 Definitions
- 18.5 Administration

18.1 Purpose

New Hampshire Code of Administrative Rules, Env-Ws 364, requires that the City of Rochester take appropriate actions to prevent the reverse flow of water previously delivered to customers. Each public water system serving 1,000 or more persons must have a written Cross-Connection Control Program Ordinance.

Cross-connections between water supplies and non-potable sources of contamination represent one of the most significant threats to health in the water supply industry. This program is designed to accomplish the following:

- A. To protect the City of Rochester, New Hampshire public potable water supply from contamination by isolating, within its customers' internal distribution systems, contaminants that could backflow or back siphon into the public water system.
- B. To promote the elimination or control of existing cross-connections, actual or potential, between the customer's in-plant potable and non-potable water systems by isolating those contaminants that could backflow or back siphon into the customer's internal distribution system.
- C. To provide for the maintenance of a continuing program of cross-connection control that will systematically and effectively prevent the contamination of potable water systems via cross connections.
- D. To supplement the regulations promulgated and revised by the New Hampshire Department of Environmental Services as listed in Section II.

18.2 Authority

- A. New Hampshire Administrative Rules Env-Ws 364 *Backflow Prevention* Section 2.3 Responsibilities of the Water Treatment Chief Operator. The City of Rochester public water system rules and regulations, adopted.

18.3 Responsibilities of the Department

A. The Department is responsible for protecting the public potable water distributions system from contamination due to the backflow or back siphon of contaminants through the water service connection.

18.4 Definitions

A. Air Gap (approved for both high and low hazard protection) An unobstructed vertical distance, through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle. Physically defined as a distance equal to twice the diameter of the supply side pipe but never less than one inch.

B. Approved Backflow Prevention Device: A backflow prevention device that is listed on the current "approved" list that is maintained by the State of New Hampshire.

C. Approved Source: A source of water utilized by a public water system for distribution to the public for consumption purposes and which is approved by the NHDES Water Supply Division for said use following a required and/or approved treatment process.

D. Auxiliary Water Supply: Any water supply on, or available to, a premises other than the Town's approved public potable water supply.

E. Backflow: The flow of water or other liquids, mixtures, or substances into the distribution pipes of a potable water supply from any source or sources other than the intended source.

F. Backflow Prevention Device: A device or means designed to prevent backflow or back siphonage. Most commonly categorized as air gap, reduced pressure principle device, double check valve assembly, pressure vacuum breaker, atmospheric vacuum breaker, hose bib vacuum breaker, residential dual check, double check with intermediate atmospheric vent, and barometric loop.

G. Reduced Pressure Zone Principle Backflow Prevention Device or "RPZ" (approved for both high and low hazard protection) An assembly consisting of two (2) independently operating approved check valves together with a hydraulically operating, mechanically independent pressure differential relief valve located between the two (2) check valves and below the first check valve. These units are located between two tightly closing, resilient-seated shut off valves as an assembly and equipped with properly located resilient-seated test cocks for the testing of the check valves and the relief valve.

H. Double Check Valve Assembly or "DCA" (approved for low hazard protection only) An assembly of two independently operating spring-loaded check valves with tightly closing shut off valves on each side of the check valves, plus properly located test cocks for the testing of each check valve.

I. Pressure Vacuum Breaker or "PVB" (approved for low hazard protection only) A device containing one or two independently operating spring-loaded check valves and an independently operating spring-loaded air inlet valve located on the discharge side of the check or checks. The device includes tightly closing shut off valves on each side of the check valves plus properly located test cocks for the testing of each of the check valve(s).

J. Atmospheric Vacuum Breaker (approved for low hazard protection only). A device, which prevents back siphonage by creating an atmospheric vent when there is either a negative pressure or sub-atmospheric pressure in a water system.

K. Hose Bibb Vacuum Breaker (approved for low hazard protection only) A device which is attached to a hose bib and which acts as an atmospheric permanently vacuum breaker.

L. Residential #7 Dual Check (approved for low hazard protection only) An assembly of two independently operating, spring-loaded check valves without tightly closing shut off valves and test cocks. Generally employed immediately downstream of the water meter to act as a containment device. This is a non-testable device.

M. Backflow presenter with Intermediate Atmospheric Vent (approved for low hazard protection only). A device having two (2) independently operating check valves separated by an intermediate chamber with a means for automatically venting it to the atmosphere. The check valves are force loaded to a normally closed position and the venting means is force loaded to abnormally open position.

N. Barometric Loop of pipe rising at least 35 feet at its topmost point above the highest fixture it supplies It is utilized in water supply systems to protect against back siphonage (only).

O. Backflow Prevention Device Inspector - Certified: A person who has proven his competency to inspect and test backflow prevention devices by the possession of a valid backflow prevention device certification issued by the New England Water Works Association, or other equivalent certification approved by NHDES.

P. Back Pressure: Pressure created by mechanical means or other means causing water, liquids, or other substances to flow or move in a direction opposite of what is intended.

Q. Back Siphonage: The flow of water or other liquids, mixtures, or substances into the distribution pipes of a potable water system from any source other than it's intended source, that is caused by negative or reduced pressure in the potable water system.

R. Check Valve: A self-closing device, which is designed to permit the flow of fluids in one direction and to close if there is a reversal flow.

S. Containment Philosophy: The method and philosophy of backflow prevention, which requires a backflow preventer at the service entrance, which isolates the customer's facility from the public water supply.

T. Fixture Isolation Philosophy: A more complex isolation approach whereby protective devices are placed at individual fixtures within a facility as well as where cross connections exist at the last free flowing outlet to ensure occupants of a facility are protected within.

U. Contaminant: As defined in RSA 485: I-a, II, any physical, chemical, biological or radiological substance or matter in water.

V. Cross Connection: Any actual or potential physical connection or arrangement between two otherwise separate systems, one of which contains potable water and the other of which contains water of unknown or questionable safety and/or steam, chemicals, gasses, or other contaminants whereby there may be a flow of an unapproved water or other substance to a potable water system.

W. Customer (Owner): Any person who has legal title to, or license to operate or habitat in a property at which a cross-connection Inspection is to be made or at which a cross-connection is present.

X. Department: The City of Rochester Public Works Department.

Y. Division: Division of Water, New Hampshire Department of Environmental Services.

Z. Fixture Isolation: A method of backflow prevention in which a backflow preventer is located to correct a cross-connection at an in-plant location rather than at the water service entrance.

AA. High Degree of Hazard: A condition where, if a backflow were to occur, the resulting effect on the water supply could cause injury, illness or death if consumed by humans. The foreign substance may be hazardous to humans from

a chemical, biological, physical, or radiological standpoint. The effects of the contaminant may result from short- or long-term exposure.

BB. Low Degree of Hazard: A condition where, if a backflow were to occur, the resulting effect on the water supply would be a change in aesthetic qualities. The foreign substance must be nontoxic and non-hazardous to humans.

CC Device Upgrade: The replacement of an existing backflow prevention device with another appropriate device designed for a higher hazard duty when the degree of hazard is increased.

DD. Person: As defined in RSA 485:1-a, XIII, any individual, partnership, company, public or private corporation, political subdivision or agency of the state, department, agency or instrumentality of the United States, or any other legal entity.

EE. Permit: A document issued by the Department that allows the use of a backflow preventer.

FF. Potable Water: Water from a source that has been approved by the Division for human Consumption.

GG. Public Water System: As defined by RSA 485:1-a, XV, a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. Such term includes any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control, which are used primarily in connection with such system. Any water system which meets all of the following conditions is not a public water system: (a) Consists only of distribution and storage facilities (and does not have any collection and treatment facilities); (b) Obtains all of its water from, but is not owned or operated by, a public water system; and (c) Does not sell water to any person.

HH. Supplier: Any person who controls, owns, or generally manages a public water supply system.

II. Water Service Entrance: The point in the customer's water system beyond the sanitary control of the Department; generally considered to be the outlet end of the water meter and always before unprotected branch.

JJ. Water Treatment Chief Operator: The Water Treatment Chief Operator of the City of Rochester, New Hampshire Water Treatment Facility, Department of Public Works, or his designated representative, who is vested with the authority and responsibility for implementation of a cross-connection control program and

for enforcement of the provisions of the Municipal Water System Ordinance and these regulations.

KK. Water Utility: The suppliers of water.

LL. Site Surveys: Initial site Surveys of existing commercial and industrial properties are required to determine degree of compliance with the regulations herein. Such activities shall be executed by the Department, either using its own resources or contracted resources. Activities shall include on site surveys of commercial and industrial users of the public water supply, which in the judgment of the Department may present risk of cross contamination.

MM. Premises: The industrial, commercial or residential facility or dwelling subject connected to the public water supply.

18.5 Administration

A. The Department will operate a cross-connection control program, to include keeping of necessary records, which fulfills the requirements of the Division's Backflow Prevention Regulations and is approved by the Division.

B. Philosophy. The City will administer the program on the theory of Containment, the approach of which utilizes a minimum of backflow devices and isolates the customer from the public water supply so that contamination of the public water system does not occur. If they so desire, the owner may utilize public health officials or private consultants to assist in the survey of their facilities and to assist in the selection of proper fixture isolation devices and the proper installation of these devices.

C. The Owner shall allow their property to be inspected for possible cross-connections and shall follow the provisions of the Department's program and the Division's regulations if a cross connection is required.

Article 2 - Requirements

SECTION ANALYSIS

18.6 Department

18.7 Owner

18.8 Low-Hazard

18.9 High-Hazard

18.6 Department

A. The Department will determine if an approved backflow prevention device is required at the City's water service connection to any customer's premises.

B. The Department may, directly or through a designated representative, give notice in writing to any such customer to install an approved backflow prevention device at each water service connection to their premises.

C. The Department will issue permits for all new backflow prevention devices and amended permits for any upgrades to such devices for higher hazard duty. No permit will be issued by the Department without an application from the Owner.

D. Permits shall have a duration based upon degree of hazard for the protective device. High hazard device permits shall have a duration of 6 months to coincide with semi-annual inspection and testing requirements. Low hazard device permits shall have a duration of 12 months to coincide with annual inspection and testing requirements. All permits shall automatically renew following certification from Owner that periodic inspection and testing has been completed on schedule.

E. There will be no fees for permits issued.

F. Existing commercial and industrial properties at the time of the issuance of this ordinance shall be the subject of site surveys conducted by the Department to determine the need for backflow prevention devices.

G. The department will not allow any cross-connection to remain unless it is protected by an approved backflow preventer for which a permit has been issued and which will be regularly tested per required schedule to ensure satisfactory operation.

H. If the Department determines at any time that a serious threat to the public health exists, the water service will be terminated immediately.

I. The Department will maintain records to include all applications for backflow prevention devices, installation, inspection and testing certification forms, notices of inspection/test requirement and permits.

J. The Department will monitor for permit compliance. Permits shall lapse and become void if inspection and testing are not certified on schedule. A void permit shall constitute grounds for discontinuation of water.

K. The Department will inform the Owner by letter of any failure to comply with scheduled inspection and testing and resulting permit violation. The Department will allow an additional 14 days past the original due date for completion of inspection and testing and Owner certification. In the event that the Owner fails to provide the certification within the additional 14 days, the Department will inform the Owner by letter, that the water service to the Owner's premises will be terminated. In the event that the Owner informs the Department of extenuating circumstances as to why the certification has not been made on schedule, a time

extension may be granted by the Department, but in no case will exceed an additional thirty (30) days.

L. All new residential water services will be required to install a residential #7 dual check device immediately downstream of the water meter.

M. Installation of a residential dual check valve results in a potential closed plumbing system within the residence. As such, provisions shall be made by the Owner to provide for thermal expansion within the closed loop system, i.e., the installation of thermal expansion devices and/or pressure relief valves.

N. New and retrofit installations of reduced pressure zone principle devices and double check valve backflow preventer include the installation of strainers located immediately upstream of the backflow device. The installation of strainers will preclude fouling of backflow devices due to both foreseen and unforeseen circumstances occurring to the water supply system such as water main repairs, water main breaks, fires, periodic flushing and cleaning of mains, etc. These occurrences may stir up debris within the water main that will cause fouling of backflow devices installed without the benefit of strainers.

18.7 Owner

NOTE: Homeowners are permitted to work on their own residential plumbing. A licensed plumber with a valid New Hampshire license is required for work on all industrial, commercial, and rental properties.

A. The Owner shall be responsible for the elimination or protection of all cross-connections on their premises.

B. The Owner shall ensure the protection of the water supply within their premises by the installation of approved backflow prevention devices, where necessary, or by Fixture Isolation techniques. All testing inspection and maintenance shall be the responsibility of the Owner. These devices internal to the facility will not be regulated by the Department.

C. The Owner, after having been informed by letter from the Department, shall at their expense install, maintain, and test, or have tested, any and all backflow preventers on their premises.

D. On new commercial and industrial installations, the Owner or their qualified agent shall determine the type of backflow preventer, if any, that will be required. The Owner shall supply a complete application for the installation of a backflow prevention device and provide to the Department for permit issuance.

E. The Owner shall inform the Department of any proposed or modified cross-connections and also of existing cross-connections of which the Owner is aware but may not be known by the Department.

F. The Owner shall not install a by-pass around any backflow preventer unless there is a backflow preventer of the same type on the bypass. Owners who cannot shut down operation for testing of the device(s) must supply additional devices necessary for testing to take place.

G. The Owner shall install backflow devices with the minimum requirements as provided herein in a manner approved by the Department, or its Designee and in accordance with approved plumbing regulations.

H. The Owner shall install only a backflow preventer approved by the Department and the Division.

I. Any Owner having a private well or other private water source shall not connect ("hard pipe") to the Department's system. The Owner may be required to install a backflow preventer at the service entrance if a private water source is maintained, even if it is not cross-connected to the Department's system.

J. In the event the Owner installs plumbing to provide potable water for domestic purposes which is on the Department's side of the backflow preventer, such plumbing must have its own backflow preventer installed.

K. The Owner shall be responsible for the payment of all fees for device installation or replacement, annual or semi-annual device inspection and testing, re-testing in the case that the device fails to operate correctly, and second reinsertions for non-compliance with Department rules and regulations.

L. Should a backflow prevention device be required or an upgraded device whether determined by the Department or otherwise the Owner, the Owner shall be responsible for submitting an application for such device to the Department.

M. There will be no fee for applications submitted.

N. Owners shall certify the installation of new or upgraded backflow prevention devices in writing to the Department within 90 days of issuance by the Department of the permit.

O. Failure, refusal, or inability on the part of the Owner to install the required initial or upgrade device(s) and provide certification to the Department within 90 days shall constitute grounds for discontinuing water service to the premises until such time as the required certification of compliance is received by the Department.

P. Owner shall be responsible for providing certification of inspection and testing to the Department within 14 days of regularly scheduled periodic inspection and testing, and re-testing following initial test failure if applicable. Failure to submit the certification within 14 days shall void the permit and constitute grounds for discontinuing water service to the premises.

Q. The Owner shall correct at their cost any malfunction of the backflow preventer, which is revealed by periodic testing. Corrections that impact the required certification schedule above shall be communicated to the Department at the earliest possible time.

Article 3 – Degree of Hazard

SECTION ANALYSIS

18.8 Low-Hazard

18.9 High-Hazard

The Department recognizes the threat to the public water system arising from cross-connections. These threats are classified as follows:

18.8 Low-Hazard

If a backflow were to occur, the resulting effect on the water supply would, at the most, be a change in its aesthetic qualities. The foreign substance(s) must be non-toxic to humans. All threats classified as "low hazards" will require, at a minimum, the installation of approved double check valve assembly.

18.9 High-Hazard

If a backflow were to occur, the resulting effect on the water supply could cause illness, injury or death if consumed by humans. The foreign substances may be hazardous to humans from a physical, chemical, biological, and/or radiological standpoint. The effects of the contaminants may result from short or long-term exposure. All threats classified as "high-hazard" will require the installation of approved reduced pressure zone principle backflow prevention devices or air gaps.

Article 3-a –Auxiliary Water Supplies

Where a single or dual family residential customer served by public water supply system has or proposes to install an auxiliary water supply (i.e., well, cistern, spring, etc.), the supplier of the water shall protect the public water supply against backflow by requiring the customer to perform one of the following:

A. Permanently disconnect the auxiliary water supply from any direct connection to the public water supply system. An inspection to determine compliance with

this requirement shall be made by the supplier of the water, local plumbing or building code enforcement official, or his designee. The frequency of the inspections shall be at the time of the disconnection and at periodic intervals thereafter (i.e. every three to five years).

B. Abandon the auxiliary water supply in a manner acceptable by the water supplier.

C. Install an approved reduced pressure zone (RPZ) device at the public water supply service connection in accordance with Section 5-1.31 of the State Sanitary Code.

D. The customer shall provide the water supplier with backflow prevention device test results biannually or the customer's water service from the water provider will be shut off until the data is supplied to the water supplier.

Article 4 - Permits

The Department shall not permit a cross-connection within the public water supply system unless it is considered necessary and that it cannot be eliminated.

18.10 Permits

A. Cross-connection permits that are required for backflow prevention devices are obtained from the Department. A permit will be issued for each individual device. There will be no fees for initial permits and subsequent renewals. Permits shall be issued with a duration which coincides with the inspection and testing schedule of the device. High hazard devices shall have permits with durations of 6 months; low hazard devices shall have durations of 12 months. Failure of the Owner to provide certification of inspections and testing on required schedule shall void the permit and constitute grounds for discontinuation of water.

B. Amended permits shall be issued for any premises whereby there are any increases in degree of hazard such as to supersede the effectiveness of the present backflow preventer. Owners are responsible for submitting applications for the amended permits.

C. The permit shall contain the information required in Env-Ws 364, Backflow Prevention.

D. Permits are subject to revocation for cause by the Department and become immediately revoked if the Owner should so change the type of cross-connection or degree of hazard associated with the service without proper notification to the Department.

E. Fixture Isolation devices internal to a facility will not be regulated by the Department and permits are not required.

Article 5 – Existing In-Use Backflow Prevention Devices

18.11 Existing Backflow Prevention Devices

Any existing backflow preventer shall be allowed by the Department to continue in service if in good working order unless the degree of hazard is such as to supersede the effectiveness of the present backflow preventer, or result in an unreasonable risk to the public health. Permits for existing devices shall be issued with durations to coincide with the required schedule of inspection and testing. Where the degree of hazard has increased, as in the case of a residential installation converting to a business establishment, an existing backflow preventer must be upgraded to a reduced pressure zone principle device, or a reduced pressure zone principle device must be installed in the event that no backflow device is present.

Article 6 - Installation

SECTION ANALYSIS

18.12 Installation Requirements

18.13 Reduced Pressure Zone Backflow Prevention Devices

18.14 Double Check Valve Assemblies

18.15 Pit Installations

18.12 Installation Requirements

A. Initial installations, replacements and upgrades shall be performed by a New Hampshire certified backflow prevention device technician.

18.13 Reduced Pressure Zone Backflow Prevention Devices

A. The reduced pressure zone backflow prevention device shall be installed on the Owner's side of the water meter on the potable water supply line.

B. For "in-plant" protection, drinking and domestic water lines, lines for safety showers, and lines for eyewash units must be taken off the upstream side of the reduced pressure zone backflow prevention device.

C. The reduced pressure zone backflow prevention device shall be located so as to permit easy access and provide adequate and convenient space for maintenance, inspection, and testing. The device must be protected from freezing, flooding, and mechanical damage.

D. The reduced pressure zone backflow prevention device and shut-off valves must be installed in a horizontal alignment between three and four feet from the floor to the bottom of the device and a minimum of 12 inches from any wall, unless the device is approved by the Water Department or its Designee, for vertical installations.

E. Tightly closing valves must be installed at each end of the device and must be immediately accessible unless otherwise approved by the Water Department or its Designee.

F. If a drain is to be provided for a relief valve port, there must be an approved air gap separation between the port and the drain line. To be approved, the air gap must be at least twice the internal diameter of the discharge line, or two (2) inches minimum.

G. Pit installations shall be approved only as, but not limited to the requirements provided in Section X(C) below.

18.14 Double Check Valve Assemblies

A. The double check valve assembly shall be installed on the Owner's side of the water meter on the potable water supply line.

B. For "in-plant" protection, drinking and domestic water lines, lines for safety showers, and lines for eye wash units must be taken off the upstream side of the double check valve assembly.

C. The double check valve assembly shall be located so as to permit easy access and provide adequate and convenient space for maintenance, inspection, and testing. The device must be protected from freezing, flooding, and mechanical damage.

D. The double check valve assembly and shut-off valves must be installed in a horizontal alignment and the top of the double check valve assembly must be between 30 inches and 53 inches from the floor to the bottom of the device and a minimum of 12 inches from any wall, unless the device is approved by the Water Treatment Department Chief Operator or his Designee.

E. Tightly closing valves must be installed at each end of the device and be immediately accessible unless otherwise approved by the Water Treatment Department Chief Operator or His Designee.

F. Double check valve assemblies must be provided with suitable connections and appurtenances for testing.

G. Pit installations shall be approved only as, *but* not limited to the requirements provided in Section X(C) below.

18.15 Pit Installations

No backflow prevention device shall be installed in pits except as specifically approved by the Water Department, or its Designee, and must comply with all OSHA standards where applicable for work in confined spaces and then only as follows:

A. The pit interior shall be a minimum of ten (10) feet long, six (6) feet wide, and must have a clear height seven (7) feet high.

B. The pit must be watertight.

C. The pit opening and manhole cover must be at least 30 inches in diameter.

D. The foothold inserts must be of steel, aluminum, or other material approved by the Water Department, or its Designee, must be a maximum of 12 inches apart, and must be installed so that the top foothold is within 12 inches of the manhole cover and the bottom opening is within 12 inches of the pit floor.

E. An adequate drain must be installed and the drain line shall not be connected to a sewer. The drain must run to "daylight" and be easily located for inspection. The drain must have heavy a "rodent proof" mesh over the outlet. If a drain cannot be run to daylight, a sump pump with audible/visible alarm must be used.

F. The pit floor shall be pitched toward the drain.

G. If build in a roadway, the pit shall be reinforced to meet AASHTO H-20 loading requirements.

Article 7 – Periodic Testing

A. Backflow prevention devices shall be inspected and tested at least semi-annually for high hazard applications and at least annually for low hazard applications. Responsibility for ensuring inspections and testing and providing certification to the Department shall be the Owner's. Failure to certify inspections and testing on the required schedule shall void the permit and be grounds for discontinuation of water service.

B. Testing and Inspection of all devices to include reduced pressure principle backflow devices, testable double check valve assemblies, and testable pressure vacuum breakers shall be performed by a New Hampshire certified backflow prevention device tester.

C. Any backflow preventer, which fails during a periodic test, shall be repaired or replaced. When repairs are necessary, upon completion of the repair, the device shall be re-tested at Owner's expense to ensure correct operation. High hazard situations shall not be allowed to continue unprotected if the backflow preventer fails the test and cannot be repaired immediately. The Owner is responsible for spare parts, repair tools, or a replacement device. Parallel installation of two (2) devices is an effective means of ensuring that uninterrupted water service during testing and repair of devices is maintained; and is strongly recommended when the Owner desires such continuity.

D. Backflow devices will be tested more frequently than specified in "A" above, in cases where there is a history of test failures and the Department feels that due to the degree of hazard involved, additional testing is warranted. Cost of the additional testing will be borne by the Owner.

E. Failure to test a backflow prevention device as required, or failure to repair a device when needed shall result in termination of the water service.

Article 8 – Records and Reports

SECTION ANALYSIS

18.15 Records

18.16 Reports

18.15 Records

The Department will initiate and maintain the following:

A. Master files on existing and new properties requiring backflow prevention devices.

B. Master files on customer cross-connection tests and/or inspections for all applicable properties.

C. Master files on cross-connection permits.

D. Copies of permits and permit applications.

E. Master files on backflow prevention device installation/inspection and testing certification forms.

F. Copies of lists and summaries supplied to the Division.

18.16 Reports

The Department will submit the following to the Division:

A. Initial listing of low-hazard cross-connections on New Hampshire Department of Environmental Services, Water Supply Division Low-Hazard form X-I (L).

B. Initial listing of high-hazard cross-connections on New Hampshire Department of Environmental Services, Water Supply Division High-Hazard form X-I (H).

C. Annual update lists of Items 1 and 2, above.

D. Annual summary of cross-connection inspections on New Hampshire Department of Environmental Services, Water Supply Division form X-2.

Article 9 - Validity

A. If a provision of this Ordinance is found to be in conflict with any provision of zoning, building, safety or health or other Ordinance or code of the City of Rochester, or the State of New Hampshire, or the Federal government existing on or subsequent to the effective date of this Ordinance, that provision if in the judgment of the City of Rochester establishes the higher standard of safety and protection shall prevail.

B. The validity of any article, section, clause, sentence, or provision of this Ordinance shall not affect the validity of any other part of this Ordinance that can be given effect without such invalid part or part

Article 10 – Interpretation of Requirements

SECTION ANALYSIS

18.7 Interpretation

18.8 Appeals

18.7 Interpretation

The provisions of this Ordinance with respect to the meaning of technical terms and phrases, the classification of different plumbing devices, the regulations with respect to installing, inspecting, or testing backflow prevention equipment, and other technical matters shall be interpreted and administered by the Department acting in and for the City of Rochester, New Hampshire.

18.8 Appeals

Any party aggrieved by any decision, regulation or provision under this Ordinance, as amended, from time to time, shall have the right to appeal said decision to the Department who shall issue a decision within 30 calendar days of the appeal. If said appeal is denied by the Department, then the aggrieved party

shall have the right to appeal to the Utilities Advisory Board and then to the City Manager.

Article 11 - Modifications

The Town reserves the right to adopt, from time to time, additional rules and regulations as it shall deem necessary and proper relating to control and management of cross-connections, which additional rules and regulations, to the extent appropriate, shall be a part of these regulations.

Article 12 – Ordinance in Force

This Ordinance shall be in full force and effect immediately following its passage, approval, and publication, as provided by law. The adoption of this Ordinance specifically repeals any previously adopted Cross Connection Ordinance or rules of the City of Rochester New Hampshire.

Councilor Walker **MOVED** to **ADOPT** the Amendment. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

13. New Business

13.1 Approval of the Secondhand Dealers and Pawnbrokers License

13.1.1 Twice is Nice

Councilor Torr **MOVED** to **APPROVE** the secondhand dealers and pawnbrokers license for Twice is Nice. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

13.1.2 Rochester Pawn

Councilor Walker **MOVED** to **APPROVE** the secondhand dealers and pawnbrokers' license for Rochester Pawn. Councilor LaBranche seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

13.2 Resolution Authorizing the City Manager to Accept Grant Funds and Enter into a Grant Contract with the State of NHDES for the Purpose of the Household Hazardous Waste Collections Event to be Held in the City of Rochester in May 2014

Councilor Lachapelle **MOVED** to read the resolution by title only. Councilor LaBranche seconded the motion. The **MOTION CARRIED** by a

unanimous voice vote. Mayor Jean read the Resolution by title only for the first time as follows:

**RESOLUTION ACCEPTING
NH DEPARTMENT OF ENVIRONMENTAL SERVICES GRANT,
IN CONNECTION WITH 2014 HOUSEHOLD HAZARDOUS WASTE DAY
AND AUTHORIZING CITY MANAGER TO ENTER INTO A
CONTRACT WITH NHDES WITH RESPECT TO
THE 2014 HOUSEHOLD HAZARDOUS WASTE DAY**

BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF ROCHESTER, AS FOLLOWS:

That a NH Department Environmental Services Grant, in the amount not to exceed Fourteen Thousand Thirty-Seven Dollars (\$14,037.00) to the City of Rochester, for the purpose of hosting hazard mitigation, is hereby accepted by the City of Rochester and, when received, such grant funds shall be assigned to account number(s) to be established by the Finance Director in the 2013-2014 operating budget of the City of Rochester.

Additionally, the City Manager of the City of Rochester, be, and hereby is authorized to enter into a contract with the New Hampshire Department of Environmental Services with respect to such grant and the conduct of the aforementioned 2014 Household Hazardous Waste Day.

Additionally, to the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to designate and/or establish such accounts and/or account numbers as necessary to implement the transactions contemplated by this Resolution.

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. City Manager Fitzpatrick said the Household Hazardous Waste Day grants are required to be applied for a year in advance. Mayor Jean announced that this year's Household Hazardous Waste Day would take place on May 4, 2013. Councilor LaBranche seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

13.3 Resolution: De-Authorizing Funds Related to the Chesley Hill Project in the Amount of \$1,552.18 and Making a Cash Transfer of Funds in the Amount of \$193.90 Back to the General Fund

Councilor Lachapelle **MOVED** to read the Resolution by title only for the first time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the Resolution by title only for the first time as follows:

RESOLUTION DEAUTHORIZING PORTION OF FY 2007-2008

**CIP BUDGET APPROPRIATION FOR THE SO-CALLED
CHESLEY HILL ROAD BRIDGE PROJECT**

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHESTER AS FOLLOWS:

WHEREAS, by virtue of a resolution adopted by the Mayor and City Council of the City of Rochester, the Mayor and City Council appropriated funds to the FY 2007-2008 CIP Budget of the City of Rochester, Water Works, for the purpose of providing funds for the so-called Chesley Hill Road Bridge Project (the "Project") in the total amount of One Hundred Sixty Thousand Eight Hundred Twenty-Five Dollars (\$160,825.00), with Twenty Thousand One Hundred Three Dollars (\$20,103.00) of such funding to be from cash, and the balance to be from grants; and

WHEREAS, such Project has been completed at a cost of One Hundred Fifty-Nine Thousand Two Hundred Seventy-Two Dollars and Eighty-Two Cents (\$159,272.82), and there remains unexpended funds in such appropriation account (15013010-771000-08512) the amount of One Hundred Ninety-Three Dollars and Ninety Cents (\$193.90) cash funds;

NOW THEREFORE, in light of the excess funding of the aforesaid appropriation in the amount of One Thousand Five Hundred Fifty-Two Dollars and Eighteen Cents (\$1,552.18) (One Hundred Ninety-Three Dollars and Ninety Cents (\$193.90) of which sum is in cash), which funds are no longer necessary for such Project, and leaving the aforesaid appropriation with One Thousand Five Hundred Fifty-Two Dollars and Eighteen Cents (\$1,552.18) (One Hundred Ninety-Three Dollars and Ninety Cents (\$193.90) in cash funds) in excess funding, the Mayor and City Council of the City of Rochester hereby withdraw and deauthorize One Thousand Five Hundred Fifty-Two Dollars and Eighteen Cents (\$1,552.18) of the aforesaid funds appropriated for the aforesaid purpose from the abovementioned FY 2007-2008 CIP Budget of the City of Rochester.

FURTHER, that the sum of One Hundred Ninety-Three Dollars and Ninety Cents (\$193.90) deauthorized in the preceding paragraph is hereby transferred to the general fund fund balance of the City of Rochester.

ADDITIONALLY, to the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to designate and/or establish such accounts and/or account numbers as necessary to implement the transactions contemplated by this Resolution.

Councilor Walker **MOVED** to read the Resolution by title only for the second time. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the Resolution by title only for the second time.

Councilor Walker **MOVED** to **ADOPT** the resolution. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

13.4 Resolution Authorizing the Reallocation of Funds in the Amount of \$2,614.22 within CDBG Grant Funds for the Purpose of the Catherine Street Sidewalk Project

Councilor Lachapelle **MOVED** to read the Resolution by title only for the first time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the Resolution for the first time by title only as follows:

**SUPPLEMENTAL APPROPRIATION IN CONNECTION THEREWITH FOR
CATHERINE STREET SIDEWALKS**

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHESTER, AS FOLLOWS:

That the sum of Two Thousand Six Hundred Fourteen Dollars and Twenty Two Cents (\$2,614.22) presently appropriated in line item below:

FY 11 CDBG (Fund 6082) = \$2,614.22
\$2,614.22

in the Community Development Block Grant Budgets for the Department of Planning and Development for the above indicated fiscal years be, and hereby is, transferred to a "Public Facilities" line item of the corresponding fiscal year's Community Development Block Grant Budget, for the purpose of providing funds necessary for the so-called Catherine Street Sidewalk Project. Additionally, the appropriations in the line item accounts from which the above transfers are to be made as specified above are hereby withdrawn and deauthorized to the extent of \$2,614.22.

Further, the sum of Two Thousand Six Hundred Fourteen Dollars and Twenty Two Cents (\$2,614.22) hereby transferred to the "Public Facilities" line items of the various Community Development Block Grant Budgets referred to above, be, and hereby are, appropriated as supplemental appropriations to the corresponding fiscal year various Community Development Block Grant Budgets for the Department of Planning and Development Budget for the purpose of providing sums necessary for the so-called Catherine Street Sidewalk Project, such appropriations to be drawn in their entirety from the herein above funds transferred to the

"Public Facilities" line item of the various Community Development Block Grant Budgets referred to above.

To the extent necessary and/or appropriate, the Finance Director is hereby authorized to assign account numbers to accounts and/or to establish accounts necessary to implement this resolution.

Council briefly discussed the timing and location of the project.

Councilor Lauterborn explained that this is an effort to repurpose the remainder funding from the CDBG funds remaining from FY 11. She said this is a federally funded grant and if the funding is not ever fully allocated then the amount of funding could be decreased in future years. Councilor Varney stated that this project could not be completed with next year's fiscal budget. Mr. Ortmann said there is some uncertainty about when the Catherine Street project could be completed; however, it is hoped that it would be completed sometime in fiscal year 2014. Councilor Lauterborn explained if the project is not completed in this year's fiscal year, then that specific funding could be carried over to the next fiscal year. Mr. Ortmann agreed that additional CDBG funds could be used to finish the project in the next fiscal year.

Councilor Keans asked what the original purpose of this funding. Council briefly discussed the matter. Ms. Engle stated that the original purpose was intended to be used for administrative costs associated with a different project. She explained that administrative costs cannot be carried over from year to year; however, this funding could be deauthorized and repurposed for a specific project such as the Catherine Street project. She said more information could be found on page 26 of the City Council packet.

Councilor Walker **MOVED** to suspend the rules and read the Resolution by title only for the second time. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the Resolution by title only for the second time.

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

13.5 Resolution Authorizing the Reallocation of Funds in the Amount of \$18,000 within the CDBG Grant funds for the Purpose of Historical Society's Window Installation Project

Councilor Lachapelle **MOVED** to read the Resolution by title only for the first time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the Resolution by title only for the first time as follows:

**RESOLUTION AUTHORIZING AND APPROVING TRANSFERS IN VARIOUS
PRIOR FISCAL YEARS TO THE 2013-2014 COMMUNITY BLOCK GRANT
BUDGET AND MAKING A SUPPLEMENTAL APPROPRIATION IN
CONNECTION THEREWITH FOR HISTORIC SOCIETY WINDOWS AND
INSULATION**

**BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF
ROCHESTER, AS FOLLOWS:**

That the sum of Eighteen Thousand Dollars (\$18,000.00) presently
appropriated in various line items below:

FY09 CDBG (Fund 6057) = \$10,091.78
FYIO CDBG (Fund 6064) = \$724.39
FYIO CDBG (Fund 6064) = \$139.74
FYII CDBG (Fund 6082) = \$3,339.94
FYII CDBG (Fund 6082) = \$703.64
FY12 CDBG (Fund 6091) = \$2,187.02
FY13 CDBG (Fund 6097) = \$813.49
\$18,000.00

in the Community Development Block Grant Budgets for the Department of
Planning and Development for the above indicated fiscal years be, and
hereby is, transferred to a "Public Facilities" line item of the corresponding
fiscal year's Community Development Block Grant Budget, for the purpose
of providing funds necessary for the so-called Historic Society Windows and
Insulation Project. Additionally, the appropriations in the line item accounts
from which the above transfers are to be made as specified above are hereby
withdrawn and deauthorized to the extent of \$18,000.00.

Further, the sum of Eighteen Thousand Dollars (\$18,000.00) hereby
transferred to the "Public Facilities" line items of the various Community
Development Block Grant Budgets referred to above, be, and hereby are,
appropriated as supplemental appropriations to the corresponding fiscal
year various Community Development Block Grant Budgets for the
Department of Planning and Development Budget for the purpose of
providing sums necessary for the so-called Historic Society Windows and
Insulation Project, such appropriations to be drawn in their entirety from
the herein above funds transferred to the "Public Facilities" line item of the
various Community Development Block Grant Budgets referred to above.

To the extent necessary and/or appropriate, the Finance Director is hereby
authorized to assign account numbers to accounts and/or to establish accounts
necessary to implement this resolution.

Councilor Lachapelle **MOVED** to suspend the rules and read the resolution for the second time by title only. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Councilor Keans asked who made the request to replace the windows at the Historical Society. Mr. Ortmann recalled the request came about by a prior discussion with the Public Buildings related to the Historical Society window installation project. He agreed to check into the matter. Council discussed the matter and decided to postpone the vote until more information could be gathered from the Historical Society regarding the window installation project. Mayor Jean asked if Councilor Lachapelle and Councilor Walker would be amenable to withdrawing their motion and second to the motion. Councilors Lachapelle and Walker agreed to withdraw their motion process. Mayor Jean said the matter would be placed on the next City Council agenda. He requested more information prior to the next meeting. Councilor Savoie requested to know how the projects are chosen for this particular grant. What other projects could be done with the funding?

13.6 Resolution Authorizing the Reallocation of Funds in the Amount of \$70,000 within the CDBG Grant Funds for the Purpose of the Common Restroom Project

Councilor Walker **MOVED** to read the Resolution by title only for the first time. Councilor LaBranche seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the Resolution by title only for the first time as follows:

RESOLUTION AUTHORIZING AND APPROVING TRANSFERS FROM THE 2012-2013 TO THE 2013-2014 COMMUNITY BLOCK GRANT BUDGET AND MAKING A SUPPLEMENTAL APPROPRIATION IN CONNECTION THEREWITH FOR ROCHESTER COMMON RESTROOM

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHESTER, AS FOLLOWS:

That the sum of Seventy Thousand Dollars (\$70,000) presently appropriated in line item below:

FY13 CDBG (Fund 6097) = \$70,000
\$70,000

in the Community Development Block Grant Budgets for the Department of Planning and Development for the above indicated fiscal years be, and hereby is, transferred to a "Public Facilities" line item of the corresponding fiscal year's Community Development Block Grant Budget, for the purpose of providing funds necessary for the so-called Rochester Common Restroom Project. Additionally, the appropriations in the line item accounts

from which the above transfers are to be made as specified above are hereby withdrawn and deauthorized to the extent of \$70,000.00

Further, the sum of Seventy Thousand Dollars (\$70,000.00) hereby transferred to the "Public Facilities" line items of the various Community Development Block Grant Budgets referred to above, be, and hereby are, appropriated as supplemental appropriations to the corresponding fiscal year various Community Development Block Grant Budgets for the Department of Planning and Development Budget for the purpose of providing sums necessary for the so-called Rochester Common Restroom Project, such appropriations to be drawn in their entirety from the herein above funds transferred to the "Public Facilities" line item of the various Community Development Block Grant Budgets referred to above.

To the extent necessary and/or appropriate, the Finance Director is hereby authorized to assign account numbers to accounts and/or to establish accounts necessary to implement this resolution.

Councilor Walker **MOVED** to suspend the rules and read the Resolution by title only for the second time. Councilor Lauterborn seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the Resolution by title only for the second time.

Councilor Hynes **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion. Councilor Varney urged the City Council to defeat this motion and fund the project from the fund balance. He said there was an original estimate of \$55,000 to construct the bathroom facility at the Rochester Common and now the amount is up to \$70,000 to pay for associated costs relative to administrative overhead because of CDBG Block Grant funding. This is an inflated project by using federal funding.

Councilor Lauterborn said the City of Rochester would save \$55,000 by using the CDBG Block Grant funding. She understood that the project is inflated by administrative cost because it is a federal grant. These are regulations that must be followed in order to use federal funding. This project fits into the CDBG Block Grant regulation and saves the City money. It would not be wise to fund the Common Restroom Facility project with City funds when CDBG Block Grant funds are available.

Councilor Varney said injecting \$13,000 into a minor construction project does not make sense and the funding could be used elsewhere.

Councilor Hynes said there is a certain percentage of funding which will be paid for administrative costs no matter what project is being funded. It is irrelevant.

Councilor Varney recalled that Ms. Engle stated that CDBG Block Grant administrative funding could not be carried over into another year's administrative costs; however, it could be reallocated to another City project. Why is the City not taking advantage of this more often. The City does not have to spend all of the administrative costs allocated each year. Councilor Keans said you can not plan on not using the administrative costs and try to plan around it. It makes sense to make your plans according to the process and if there is a remaining balance the money can be reallocated to another City project.

Councilor Walker suggested using the project money on approved sidewalk projects. This way it would be a wise investment on necessary administrative costs. Mayor Jean explained the regulations to the City Council regarding CDBG funds.

Councilor Torr requested to know who would oversee the Common Restroom project. Mayor Jean believed it would be monitored by the Planning Department.

Councilor Hervey understood that any grant funds allocated for administrative costs do not have to be expended completely and if there are left over funds they can be used for another project. Councilor Reed-Erickson spoke in favor of the project. Council debated the matter. Mr. Ortmann gave a lengthy explanation of the process of using grant funds efficiently and the report given to the City by HUD. He understood the Council's concerns.

Mayor Jean called for a vote on the motion. The **MOTION CARRIED** by a 7 to 6 roll call vote. Councilors Larochelle, Keans, Reed-Erickson, LaBranche, Hervey, Lauterborn, and Hynes voted in favor of the motion. Councilors Walker, Lachapelle, Varney, Savoie, Torr, and Mayor Jean voted against the motion.

Mayor Jean said the next series of resolutions is complex. He distributed a spreadsheet created by Deputy City Manager Cox which gives details of each resolution's purpose. This makes the process more clear. This can be found as an Addendum to the City Council packet.

Councilor Larochelle **MOVED** to combine the resolutions. Councilor Lachapelle seconded the motion. Council discussed moving the items to the Consent Calendar. Councilor Lauterborn agreed to revise his motion and send the following items to the Consent Calendar: 13.7, 13.8, 13.9, and 13.10. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

13.7 Resolution Authorizing the Transfer Funds from the Headworks and Associated Projects in the Amount of \$74,150 - *Moved to the Consent Calendar*

13.8 Resolution Authorizing the Change of Funding Source in the amount of \$79,984.20 from the Clean Water Revolving Funds [CWSRF] - *Moved to the Consent Calendar.*

13.9 Resolution Authorizing Transfer of Funds in the Amount of \$5,834.20 From Sewer Cash Account [08534] to the Sewer Project Account [08533] - *Moved to the Consent Calendar.*

13.10 Resolution Authorizing Transfer of Funds in the Amount of \$9,165.80 from the Sewer Cash Account [08534] to the Sewer Fund - *Moved to the Consent Calendar.*

13.11 Resolution Authorizing the City Manager to Sign Documents with the Strafford Rivers Conservancy Regarding Land Conservation to Meet Wetland Mitigation Requirements Associated with the Granite State Business Park and Spaulding Turnpike Widening Projects

Councilor Walker **MOVED** to read the Resolution by title only for the first time. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the Resolution by title only for the first time as follows:

**RESOLUTION AUTHORIZING CITY MANAGER TO
EXECUTE AGREEMENT(S) WITH STRAFFORD RIVERS CONSERVANCY
WITH REGARD TO CONSERVATION/MITIGATION
ISSUES RELATED TO THE SO-CALLED HENDERSON SITE**

BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF ROCHESTER, AS FOLLOWS:

That the City Manager be, and hereby is, authorized, on behalf of the City of Rochester ("City"), to negotiate and enter into an Agreement or Agreements with the Strafford Rivers Conservancy relative mitigation/conservation issues related to certain land owned by the City of Rochester and known and/or referred to as the Henderson property, located on NH Rte. 11 in Rochester, such Agreement(s) to be upon such terms and conditions as the said City Manager deems to be in the best interest of the City of Rochester. Further, the City Manager is authorized to execute, as part of such Agreement(s), a Conservation Easement Deed(s) between the City and the Strafford Rivers Conservancy and to take such additional actions, and/or to execute such additional documents, as are necessary to effectuate the intent and purposes of this Resolution.

Councilor Walker **MOVED** to **ADOPT** the resolution. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a majority voice vote.

13.12 Consent Calendar:

Councilor Walker **MOVED** to **ACCEPT** all resolutions under the consent calendar including items moved to the Consent Calendar during the meeting. Attorney Wensley recommended the Resolutions be considered for a second time prior to adoption.

Councilor Lachapelle **MOVED** to consider the resolutions for a second time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Lachapelle **MOVED** to **ADOPT** all resolutions in the Consent Calendar. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**13.12.1 Resolution De-Authorizing Funds in the Amount of \$49,186.94
from the Neighborhood Stabilization Program [NSP]**

**RESOLUTION DEAUTHORIZATION PORTION OF THE NEIGHBORHOOD
STABILAZATION PROGRAM FOR THE FY 2009-2010 CITY OF ROCHESTER
CAPITAL BUDGET APPROPRIATIONS**

**BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF
THE CITY OF ROCHESTER, AS FOLLOWS:**

WHEREAS, by resolution(s) previously adopted by the Mayor and City Council in, and after, June 2009, the sum of Two Million Five Hundred Forty Thousand Dollars (\$2,540,000.00) was appropriated in the City of Rochester's FY 2009-2010 Capital Budget for Neighborhood Stabilization Program purposes; and

WHEREAS, Forty Nine Thousand One Hundred Eighty-Six Dollars and Ninety-Four Cents (\$49,186.94) of the funds appropriated for such purpose are no longer necessary for such purpose, as the so-called Neighborhood Stabilization Program has been completed;

NOW, THEREFORE, the Mayor and City Council of the City of Rochester, by adoption of this Resolution, hereby deauthorize Forty Nine Thousand One Hundred Eighty-Six Dollars and Ninety-Four Cents (\$49,186.94) of the Two Million Five Hundred Forty Thousand Dollars (\$2,540,000.00) previously appropriated for the said the so-called Neighborhood Stabilization Program.

To the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to designate and/or establish such accounts and/or account numbers as necessary to implement the transactions contemplated by this Resolution.

**13.12.2 Resolution De-Authorizing Funds in the Amount of \$74,150
from the Influent Pump Station Upgrades – Headworks**

**RESOLUTION TRANSFERRING FUNDS
TO THE FY 2007-2008 SEWER WORKS
CAPITAL IMPROVEMENTS BUDGET
FROM THE SO-CALLED
INFLUENT PUMP STATION UPGRADES PROJECT BUDGET**

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHESTER, AS FOLLOWS:

WHEREAS, by action of the Mayor and City Council of the City of Rochester in June 2007, a capital improvements budget for the City of Rochester for fiscal year 2007-2008 was adopted, which contained an appropriation (Project# 08533) of Eighty Thousand Dollars (\$80,000.00) for the purpose of a so-called influent mechanical bar screen project (the "Project"), with such project was originally intended to be financed, at the time of such appropriation, from the proceeds of State of New Hampshire CWSRF loan(s); and

WHEREAS, the Rochester City Council has pending on its agenda a resolution designed and intended to change the funding source for the Project from the proceeds of State of New Hampshire CWSRF loan(s), to cash available as a result of cost savings associated with the completion of other Sewer Works capital improvement projects;

NOW, THEREFORE, the Mayor and City Council of the City of Rochester, by adoption of this Resolution, hereby take the following actions with respect to the currently unencumbered sum of Seventy Four Thousand One Hundred Fifty Dollars (\$74,150.00) in cash funding deauthorized with respect to Sewer Works Project # 08532:

(a) Transfer the total of Seventy Four Thousand One Hundred Fifty Dollars (\$74,150.00) of previously appropriated cash funds in the FY 2007-2008 operating budget of the City of Rochester, Sewer Works for Project #08532 to the City of Rochester, Sewer Works Project # 08533); and

(b) Appropriate, as a supplemental appropriation to the FY 2007-2008 CIP Budget of the City of Rochester, Sewer Works, the amount of Seventy Four Thousand One Hundred Fifty Dollars (\$74,150.00) for the purpose of paying for costs associated with the so-called influent mechanical bar screen project, such supplemental appropriation to be drawn in its entirety from the above mentioned transferred cash funds.

To the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to designate and/or establish such accounts and/or account

numbers as necessary to implement the transactions contemplated by this Resolution.

**13.12.3 Resolution De-Authorizing Funds in the Amount of \$15.80
from the Influent Mechanical Bar Screen Project – Headworks**

**RESOLUTION DEAUTHORIZING PORTION OF
INFLUENT MECHANICAL BAR SCREEN PROJECT
FY 2007-2008 CITY OF ROCHESTER, SEWER WORKS
CAPITAL BUDGET APPROPRIATION**

**BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF
ROCHESTER, AS FOLLOWS:**

WHEREAS, by resolution previously adopted by the Mayor and City Council in, June 2007, the sum of Eighty Thousand Dollars (\$80,000.00) was appropriated in the FY 2007-2008 City of Rochester, Sewer Works Capital Budget for influent mechanical bar screen project (the “Project”) purposes; and

WHEREAS, Fifteen Dollars and Eighty Cents (\$15.80) of the funds appropriated for such Project are no longer necessary for such purpose, as the Project has been completed;

NOW, THEREFORE, the Mayor and City Council of the City of Rochester, by adoption of this Resolution, hereby deauthorize Fifteen Dollars and Eighty Cents (\$15.80) of the Eighty Thousand Dollars (\$80,000.00) previously appropriated for the said the Project, thereby leaving an appropriation for such project in the amount of Seventy-Nine Thousand Nine Hundred Eighty-Four Dollars and Twenty Cents (\$79,984.20).

To the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to designate and/or establish such accounts and/or account numbers as necessary to implement the transactions contemplated by this Resolution.

**13.12.4 Resolution De-Authorizing Funds in the Amount of \$15,000
from the Influent Pump Station Hoist Project – Headworks**

**RESOLUTION DEAUTHORIZING A PORTION OF A CERTAIN
FY 2007-2008 ROCHESTER SEWER WORKS
CAPITAL PROJECT IMPROVEMENT BUDGET APPROPRIATION**

**BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF
ROCHESTER, AS FOLLOWS:**

WHEREAS, by resolution previously adopted by the Mayor and City Council, as part of the FY 2007-2008 Sewer Works CIP budget, the sum of Twenty Five Thousand Dollars (\$25,000.00), to be funded by cash, was appropriated for the purpose of the so-called influent pump station hoist project (the "Project"), and a portion of the funds originally anticipated to be necessary for such Project are no longer necessary and/or desired for their original appropriated Project purpose; and

WHEREAS, in light of the fact that the sum of Fifteen Thousand Dollars (\$15,000.00) in the FY 2007-2008 Sewer Works CIP cash appropriation for such Project are no longer necessary and/or desired for the purpose for which it was originally appropriated:

NOW, THEREFORE, the Mayor and City Council of the City of Rochester, by adoption of this Resolution, hereby take the following actions with respect to such previously appropriated Project cash funds referred to above:

Deauthorize the cash appropriation to the Rochester Sewer Works FY 2007-2008 CIP Budget in the Project account (Project # 08534) to the extent of Fifteen Thousand Dollars (\$15,000.00) (thereby leaving an appropriated balance in such Project account of Ten Thousand Dollars (\$10,000.00);

To the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to designate and/or establish such accounts and/or account numbers as necessary to implement the transactions contemplated by this Resolution.

**13.12.5 Resolution De-Authorizing Funds in the Amount of \$103,496.51
from the Headworks and Associated Projects**

**RESOLUTION DEAUTHORIZING PORTION OF
FY 2008-2009 ROCHESTER SEWER WORKS
CIP BUDGET APPROPRIATION**

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHESTER AS FOLLOWS:

WHEREAS, by virtue of a resolution adopted by the Mayor and City Council of the City of Rochester, the Mayor and City Council appropriated the sum of One Million Five Hundred Thousand Dollars (\$1,500,000.00) to the City of Rochester, Sewer Works 2008-2009 CIP budget, for the purpose of providing funds for the so-called influent bar screen unit project (the "Project"); and

WHEREAS, the Project has been completed at a cost leaving the sum of One Hundred Three Thousand Four Hundred Ninety-Six Dollars and Fifty-One Cents

(\$103,496.51) of said appropriation unnecessary and unexpended;

NOW THEREFORE, in light of the excess funding of the aforesaid appropriation in the amount of One Hundred Three Thousand Four Hundred Ninety-Six Dollars and Fifty-One Cents (\$103,496.51) which is unnecessary to complete the Project, the Mayor and City Council of the City of Rochester hereby withdraw and deauthorize One Hundred Three Thousand Four Hundred Ninety-Six Dollars and Fifty-One Cents (\$103,496.51) of aforesaid Project Appropriation.

ADDITIONALLY, to the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to designate and/or establish such accounts and/or account numbers as necessary to implement the transactions contemplated by this Resolution.

13.12.6 [Former 13.8] Resolution Authorizing the Change of Funding Source in the amount of \$79,984.20 from the Clean Water Revolving Funds [CWSRF] - *Moved to the Consent Calendar*

**RESOLUTION CHANGING FUNDING SOURCE
OF FY 2007-2008 SEWER WORKS
CAPITAL IMPROVEMENTS BUDGET
INFLUENT MECHANICAL BAR SCREEN PROJECT**

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHESTER, AS FOLLOWS:

WHEREAS, by action of the Mayor and City Council of the City of Rochester in June 2007, a capital improvements budget for the City of Rochester for fiscal year 2007-2008 was adopted, which contained an original appropriation (Project# 08533) of Eighty Thousand Dollars (\$80,000.00) for the purpose of a so-called influent mechanical bar screen project (the "Project"), with such project was originally intended to be financed, at the time of such appropriation, from the proceeds of State of New Hampshire CWSRF loan(s); and

WHEREAS, the Rochester City Council has determined that the best interests of the City are served by changing the funding source for the Project from the proceeds of State of New Hampshire CWSRF loan(s), to cash;

NOW, THEREFORE, the Mayor and City Council of the City of Rochester, by adoption of this Resolution, hereby change the funding source for the Project from the proceeds of State of New Hampshire CWSRF loan(s), to cash.

To the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to designate and/or establish such accounts and/or account numbers as necessary to implement the transactions contemplated by this Resolution.

13.12.7 [13.9] Resolution Authorizing Transfer of Funds in the Amount of \$5,834.20 From Sewer Cash Account [08534] to the Sewer Project Account [08533] - *Moved to the Consent Calendar*

**RESOLUTION TRANSFERRING A
DEAUTHORIZED PORTION OF A CERTAIN
FY 2007-2008 ROCHESTER SEWER WORKS
CAPITAL PROJECT IMPROVEMENT BUDGET APPROPRIATION**

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHESTER, AS FOLLOWS:

WHEREAS, by resolution previously adopted by the Mayor and City Council, as part of the FY 2007-2008 Sewer Works CIP budget, the sum of Twenty Five Thousand Dollars (\$25,000.00), to be funded by cash, was appropriated for the purpose of the so-called influent pump station hoist project (the "Project"), and a portion of the funds originally anticipated to be necessary for such Project are no longer necessary and/or desired for their original appropriated Project purpose; and

WHEREAS, by resolution adopted/to be adopted by the Mayor and City Council on this Nine Thousand One Hundred Sixty-Five Dollars and Eighty Cents (\$9,165.80) of said Project appropriation was deauthorized, and a portion of the deauthorized cash funds are to be transferred to the so-called Sewer Fund fund balance, thereby leaving a balance of untransferred deauthorized cash Project funds in the amount of Five Thousand Eight Hundred and Thirty-Four Dollars and Twenty Cents (\$5,834.20); and

WHEREAS, the Mayor and City Council have determined that untransferred deauthorized cash Project funds, in the amount of Five Thousand Eight Hundred and Thirty-Four Dollars and Twenty Cents (\$5,834.20), can be best utilized by transferring such funds to FY 2007-2008 CIP Budget of the City of Rochester, Sewer Works Project # 08533 for the purpose of the so-called influent mechanical bar screen project;

NOW, THEREFORE, the Mayor and City Council of the City of Rochester, by adoption of this Resolution, hereby take the following actions with respect to the aforesaid Five Thousand Eight Hundred and Thirty-Four Dollars and Twenty Cents (\$5,834.20) in untransferred deauthorized cash Project funds:

Transfer such untransferred deauthorized cash Project funds, in the amount of Five Thousand Eight Hundred and Thirty-Four Dollars and Twenty Cents (\$5,834.20) to the FY 2007-2008 CIP Budget of the City of Rochester, Sewer

Works Project # 08533 for use in connection with the so-called influent mechanical bar screen project.

To the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to designate and/or establish such accounts and/or account numbers as necessary to implement the transactions contemplated by this Resolution.

13.12.8 [13.10] Resolution Authorizing Transfer of Funds in the Amount of \$9,165.80 from the Sewer Cash Account [08534] to the Sewer Fund - *Moved to the Consent Calendar.*

RESOLUTION TRANSFERRING TO THE SEWER FUND, FUND BALANCE, A DEAUTHORIZED PORTION OF A CERTAIN FY 2007-2008 ROCHESTER SEWER WORKS CAPITAL PROJECT IMPROVEMENT BUDGET APPROPRIATION

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHESTER, AS FOLLOWS:

WHEREAS, by resolution previously adopted by the Mayor and City Council, as part of the FY 2007-2008 Sewer Works CIP budget, the sum of Twenty Five Thousand Dollars (\$25,000.00), to be funded by cash, was appropriated for the purpose of the so-called influent pump station hoist project (the "Project"), and a portion of the funds originally anticipated to be necessary for such Project are no longer necessary and/or desired for their original appropriated Project purpose; and

WHEREAS, by resolution adopted by the Mayor and City Council on this date Fifteen Thousand Dollars (\$15,000.00) of said Project appropriation was deauthorized, and a portion of the deauthorized cash funds in the amount of Five Thousand Eight Hundred and Thirty-Four Dollars and Twenty Cents (\$5,834.20) have/are to be transferred to the FY 2007-2008 CIP Budget of the City of Rochester, Sewer Works Project # 08533, the so-called influent mechanical bar screen project, thereby leaving a balance of un-transferred deauthorized cash Project funds in the amount of Nine Thousand One Hundred Sixty-Five Dollars and Eighty Cents (\$9,165.80); and

WHEREAS, the Mayor and City Council have determined that un-transferred deauthorized cash Project funds, in the amount of Nine Thousand One Hundred Sixty-Five Dollars and Eighty Cents (\$9,165.80), should be returned to the so-called Sewer Fund fund balance;

NOW, THEREFORE, the Mayor and City Council of the City of Rochester, by adoption of this Resolution, hereby take the following actions with respect to the

aforesaid remaining Nine Thousand One Hundred Sixty Five Dollars and Eighty Cents (\$9,165.80) deauthorized cash Project funds:

Transfer such un-transferred deauthorized cash Project funds, in the amount of Nine Thousand One Hundred Sixty Five Dollars and Eighty Cents (\$9,165.80) to the so-called Sewer Fund fund balance.

To the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to designate and/or establish such accounts and/or account numbers as necessary to implement the transactions contemplated by this Resolution.

14. Other

15. Non-Meeting

15.1 Consultation with Legal Counsel, RSA 91-A: 3 II (e)

Councilor Lachapelle **MOVED** to enter into a Non-Meeting Session under Consultation with Legal Counsel, RSA 91-A: 3 II (e) at 9:30 PM. Councilor LaBranche seconded the motion. The **MOTION CARRIED** by a unanimous roll call vote. Councilors Reed-Erickson, Keans, Lauterborn, Walker, Lachapelle, Savoie, Laroche, Savoie, Laroche, Torr, Hynes, Hervey, LaBranche, Varney, and Mayor Jean voted in favor of the motion.

Councilor Lachapelle **MOVED** to exit the Non-Meeting at 9:49 PM. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

16. Adjournment

Councilor Walker **MOVED** to **ADJOURN** the Regular City Council meeting at 9:49 PM. Councilor Keans seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Kelly Walters

City Clerk