

SPECIAL CITY COUNCIL MEETING
February 19, 2013
COUNCIL CHAMBERS
8:15 PM

MEMBERS PRESENT

Councilor Hervey
Councilor Hynes
Councilor Keans
Councilor Labranche
Councilor Lachapelle
Councilor Lauterborn
Councilor Larochele
Councilor Reed-Erickson
Councilor Savoie
Councilor Torr
Councilor Varney
Councilor Walker
Mayor Jean

OTHERS PRESENT

Daniel Fitzpatrick, City Manager
Blaine Cox, Deputy City Manager
Dan Wensley, City Attorney

MINUTES

1. Call to Order

Mayor Jean called the Special City Council Meeting to order at 8:15 PM.

2. Communications from the Mayor

2.1 Acceptance of Resignation, Cathy Taylor, Arts and Cultural Commission

Councilor Lachapelle **MOVED** to accept the resignation of Cathy Taylor from the Arts and Cultural Commission. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

3. Resolution Authorizing the Issuance of Refunding Bonds Dated as of February 19, 2013

Deputy City Manager Cox gave a brief overview of the process Rochester finances capital improvements through the issuance of bonds. He acknowledged Bill Fazioli, the City's Bonded Debt Financial Advisor from Public Financial Management [PFM]. It is a very complex process. In order to prepare and carry out the process in an effective legal manner, the City assembles a financial team of experts specializing in municipal bonds. The team consists of City Finance staff, bond legal counsel, and a financial advisor. One of the roles of the financial advisor is to monitor ongoing municipal bond conditions and to provide advice to the City. Late last year, Mr. Fazioli

and his team at PFM began to review and determine whether the City of Rochester needed to refinance any existing debt.

Mr. Fazioli gave a PowerPoint presentation of the Refunding Overview. Following the presentation, Mayor Jean asked Mr. Fazioli if his company hires an independent CPA to verify the savings. Mr. Fazioli said that is correct; it is part of the process that they engage a separate CPA firm that verifies that the savings are valid. That additional fee is built into the refinancing issue.

Councilor Savoie asked Mr. Fazioli what the timeline would be to re-fund. Mr. Fazioli said the goal is to be in the market by mid- to late March while rates are still at a fairly low level.

Councilor Keans remarked that she was surprised there is a demand for municipal bonds. Mr. Fazioli said that investors like them as they are income-producing investments. He said that every six months or so people get a check and they do not have to pay income taxes on the dividends. There is safety and predictability in municipal bonds.

Councilor Walker **MOVED** to read the resolution by title only for the first time. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by unanimous voice vote.

CITY OF ROCHESTER, NEW HAMPSHIRE
A Resolution
Authorizing the Issuance of Refunding Bonds
dated as of February 19, 2013

WHEREAS, the City of Rochester, New Hampshire (the "City") issued certain Bonds dated July 15, 2004, the outstanding principal amount of which is \$4,755,000 (the "Refunded Bonds"); and

WHEREAS, the Refunded Bonds are subject to redemption prior to their stated maturity on July 15, 2014 (the "Redemption Date"); and

WHEREAS, it appears likely that bonds issued today would have a net interest cost less than the net interest cost on the Refunded Bonds; and

WHEREAS, the City may be able to realize debt service savings by issuing certain refunding bonds (the "Refunding Bonds"), the proceeds of which would be utilized to refund or advance refund the Refunded Bonds and to pay certain other costs relating thereto;

NOW THEREFORE, BE IT RESOLVED that the City, acting by and through its City Council, hereby authorizes the issuance of Refunding Bonds pursuant to the provisions of RSA 33:3-d, the proceeds of which shall be utilized to refund or advance refund the Refunded Bonds, to pay the redemption premium, if any, applicable thereto, any principal and interest coming due on the Refunded Bonds prior to the Redemption Date,

and to pay the costs of issuance of the Refunding Bonds, including any costs of credit enhancement; provided, however, that such refunding is only authorized to the extent that the same will achieve a net present value debt service savings in an amount equal to at least three percent (3%) of the outstanding principal amount of the Refunded Bonds; and

IT IS FURTHER RESOLVED that the City Treasurer, with the approval of the City Manager, is hereby authorized to issue the aforesaid Refunding Bonds by entering into a Bond Purchase Contract with such bond purchaser or underwriter as they may deem appropriate in connection with the issuance of the Refunding Bonds to evidence the City's approval of the terms and conditions of the Refunding Bonds; and

IT IS FURTHER RESOLVED that an Escrow Contract and such other documents as shall be required in connection with the issuance of the Refunding Bonds shall be signed on behalf of the City by the aforementioned individuals, or such other individuals as may be required by state law or as may be specified by bond counsel; and engage such other professionals (including a Financial Advisor, Escrow Agent, Verification Agent and Paying Agent), and to do such other things as are necessary to consummate the aforesaid refunding; and

IT IS FURTHER RESOLVED that all actions heretofore taken by the City consistent with the foregoing are hereby confirmed, ratified and approved.

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

4. Resolution Accepting \$57,000 PSNH Rebate Check, Approving Change of Funding from Cash to Grant [PSNH Rebate Check], and Approving a Transfer [\$57,000] back to the Sewer Fund

Councilor Walker **MOVED** to read the resolution by title only for the first time. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by unanimous voice vote.

RESOLUTION ACCEPTING GRANT FROM PSNH
TO CITY OF ROCHESTER,
CHANGING A FUNDING SOURCE FOR THE ROCHESTER WASTE WATER
TREATMENT WORKS
SO-CALLED BLOWER PROJECT
AND MAKING A BUDGET TRANSFER IN CONNECTION THEREWITH

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

I. **THAT**, by adoption of this resolution, the Mayor and City Council of the City of Rochester hereby formally accept a cash grant to the City of Rochester by Public Service of New Hampshire in the amount of Fifty-Seven Thousand Dollars (\$57,000.00) in recognition of the energy saving advanced technology components utilized by the City of Rochester, Public Works Department, Waste Water Treatment Works in connection with 2009-2010 Capital Improvement Project and its implementation of the so-called Blower Project; said grant funds to be deposited in an account created, and/or designated by the Finance Director

II. **WHEREAS**, by virtue of a two (2) resolutions adopted by the Mayor and City Council of the City of Rochester, the Mayor and City Council appropriated the sum of Seven Hundred Thousand Dollars (\$700,000.00) to the City of Rochester, Public Works Department, Waste Water Treatment Works 2009-2010 Capital Improvement Project budget, accounts # 550201-471000-10526 (cash sources) and 550205-471000-10526 (grant sources), for the so-called Blower Project, and authorized the payment of the sums necessary to fund such appropriation from various cash and grant sources; and

WHEREAS, by virtue of a subsequent deauthorization resolutions adopted by the Mayor and City Council of the City of Rochester, the Mayor and City Council deauthorized the sum of Twenty-Six Thousand One Hundred Twenty-Three Dollars and Fifty-Five Cents (\$26,123.55) of the Three Hundred and Six Thousand Dollars (\$306,000.00) previously appropriated by the Mayor and City Council to the City of Rochester, Public Works Department, Waste Water Treatment Works 2009-2010 Capital Improvement Project budget, accounts # 550201-471000-10526 (cash sources) for the so-called Blower Project, thereby reducing the total appropriated amount for such project from such account to Two Hundred Seventy-Nine Thousand Eight Hundred Seventy-Six Dollars and Forty-Five Cents (\$279,876.45); and

WHEREAS, the cash portion of the remaining Two Hundred Seventy-Nine Thousand Eight Hundred Seventy-Six Dollars and Forty-Five Cents (\$279,876.45) total appropriated amount from such account includes sums of over Fifty-Seven Thousand Dollars (\$57,000.00) in cash drawn from the so-called Sewer Fund fund balance;

NOW THEREFORE, in order to utilize the Fifty-Seven Thousand Dollars (\$57,000.00) cash grant from PSNH to pay a portion of the costs associated with the so-called Blower Project, the Mayor and City Council of the City of Rochester hereby take the following actions with respect to account # 550201-471000-10526: (a) reduce the portion of the funding source for the so called Blower Project to be paid from cash drawn from the so-called Sewer Fund fund balance, to the extent of Fifty-Seven Thousand Dollars (\$57,000.00); (b) add, as a new funding source for the appropriated funds in account # 550201-471000-10526, funds derived from the cash grant to the City of Rochester by Public Service of New Hampshire in the amount of Fifty-Seven Thousand Dollars (\$57,000.00) as referenced above; and (c) transfer to the so-called Sewer Fund fund balance, from account # 550201-471000-10526, to the extent of Fifty-

Seven Thousand Dollars (\$57,000.00), funds originally derived from cash from the so-called Sewer Fund fund balance.

III. 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 suspend the rules and read the resolution by title only for the second time. Councilor Walker seconded the motion. The **MOTION CARRIED** by unanimous voice vote.

Mayor Jean read the resolution by title only for the second time.

Councilor Varney **MOVED** to adopt the resolution. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by unanimous voice.

5. Resolution Authorizing the Rochester Police Department to Apply for the New Hampshire Competitive Homeland Security Grant

Withdrawn by Police Department

6. Request to Install a Sign within the Public Right-of-Way

Mayor Jean reminded the Council of a request made a few months ago from the Laurion family to erect a sign on the corner of Winter Street and Columbus Avenue advertising the Professional Arts Center. At that time, the Council recommended that the sign be moved away from Columbus Avenue a bit so that the line of sight was not diminished and to not incorporate lights on the side to illuminate the sign. Mayor Jean said that the owners have come back with a proposal for consideration by the Council in which the sign illuminates from within and has no external lighting shining up on it. Drawings were provided for the Council to review.

The Council discussed the placement of the sign and the lighting. The Councilors agreed to invite Mr. Laurion to attend a Council meeting to further discuss the sign.

Councilor Lachapelle **MOVED** to postpone ruling on the proposed sign until the next City Council Workshop and to invite Mr. Laurion to attend. Councilor Varney seconded the motion. The **MOTION CARRIED** by unanimous voice vote.

7. Roadway Name Change: Ten Rod Road Annex to Lumber Way

Councilor Walker **MOVED** to approve the change the name of Ten Rod Road Annex to Lumber Way. Councilor Lachapelle seconded the motion.

Councilor Varney asked why this road needs a name since there does not appear to be an address there. Councilor Walker said there is a loading area for

Brock's on that road. Mayor Jean said that the lumber dock would actually be #14 Lumber Way.

There being no further discussion, the **MOTION CARRIED** by unanimous voice vote.

8. Police Commission Draft Memorandum of Understanding

Mayor Jean explained the Police Commission's Memorandum of Understanding that was entered into with the City Council under the management of City Manager Steele in 2006. The document outlines the powers and authority that are vested with each body as it relates to their respective duties. The Commission and Council have come to an agreement to amend the Memorandum of Understanding to include two new provisions.

One is to establish that the Police Commission will submit to the City Manager at least ten (10) days prior to the City Manager's submission of the Operating Budget to the Council any salary increases they will be contemplating for the following fiscal year. This would allow the Council to see in advance the amount of increases, if any, that the Commission chooses to budget for and the Council would subsequently budget for them in the budgeting process. The Council would have no authority to increase, decrease, or change whatever the Commission decides, however it would show the Council what the Commission is planning and the Council could take action on what authority it does have to make changes in the operating budget to accommodate those increases.

Mayor Jean said that the second piece basically says that this Memorandum will supercede any other memorandums that had been enter into and by virtue of that it amends the Memorandum that is currently in force to include these items.

The purpose at the Special meeting is to take a public vote to enter into this agreement. The Commission has done the same and all of the signatures have been obtained.

Councilor Lachapelle **MOVED** to accept the Memorandum of Understanding. Councilor Walker seconded the motion. The **MOTION CARRIED** by majority voice vote.

Mayor Jean said that as a result of agreeing to these changes, the proposed increases in the Police Command Staff salaries will go into effect. Any and all wage claims that have been submitted on behalf of the Command Staff relative to the City administration not paying will be withdrawn. There are signed releases to that effect to protect the City.

Councilor Varney **MOVED** to transfer Six Thousand Two Hundred Seventy-six Dollars and ninety-six cents (\$6,276.96) from Account No. 11080050-511050 ("Vacancies") to Account No. 12010053-511099 ("Salary Adjustments"). Mayor Jean pointed out that the rollup costs were not included in that amount and it should actually be Seven Thousand Six Hundred Twenty Dollars and twenty-three cents (\$7,620.23).

Councilor Varney amended his motion and **MOVED** to transfer Seven Thousand Six Hundred Twenty Dollars and twenty-three cents. Councilor Lachapelle seconded the motion.

Councilor Lauterborn asked if the Police Commission has already agreed to this Memorandum and have they signed it. Mayor Jean said yes, they have. By this transfer the public is being made aware of the fact that this is costing the City an additional Seven Thousand Dollars as a result of the Police Commission's actions.

Councilor Walker said that by doing this transfer the Council is doing what it scolded the Police Commission for doing many years ago. He said they are basically taking vacant positions and paying that out in raises. Mayor Jean said that is correct, but what has changed in this regard is that the authority remains with the Police Commission to increase those salaries and they have done that. Because of this, the Council has forced this transfer to occur so it is transparent to the public so they understand there is an increase happening. He said that in years past, this would get consumed with internal transfers and the public did not have the transparency needed for such transactions.

Councilor Walker said that he agrees that the Police Commission can set wages and raises, but they can only set raises and wages to what is budgeted by the City Council and once the budget is closed they should not be giving out more raises and increases and expecting the City of Council to pay for them. He said he disagrees with this Memorandum of Understanding (which is why he did not vote for it) and said he is not going to vote for these transfers, either.

Councilor Varney said he will vote for the salary increases, but that it is distasteful that the Council has to cover for the Police Commission once again. He said that three times within the past year they have come to the Council asking for more money for salaries. The first time was when they promoted two from the Command Staff; they came back again and asked for a 2.5% increase, which they were given in the budget, and now they are asking for a total increase of 3.25%. He said he is not confident this is going to stop and that even though there is a Memorandum of Understanding, there is not much to stop them from breaking that agreement and coming back asking for more. For that matter, he added, in the budget this coming year they could ask for 15%, so where would the City Council stand then. He said this has gone on for a long time and this is just another example.

Councilor Walker asked for a roll call vote. Councilor Labranche seconded the motion. The **MOTION CARRIED** by a 10 to 2 roll call vote. Councilors Varney, Keans, Hynes, Reed-Erickson, Labranche, Hervey, Lauterborn, Laroche, Lachapelle, and Mayor Jean voted in favor of the motion. Councilors Savoie and Walker voted against the motion.

9. Resolution Accepting a Federal Emergency Management Agency Grant and Making a Supplemental Appropriation and a Related Budget Transfer in Connection Therewith

Councilor Lachapelle **MOVED** to suspend the rules and read the resolution by title only for the first time. Councilor Walker seconded the motion. The **MOTION CARRIED** by unanimous voice vote.

FEDERAL EMERGENCY MANAGEMENT AGENCY GRANT
AND MAKING A SUPPLEMENTAL APPROPRIATION
AND A RELATED BUDGET TRANSFER
IN CONNECTION THEREWITH

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

I. That a Federal Emergency Management Agency ("FEMA") grant in the amount of Ninety-Seven Thousand Seven Hundred Three Dollars (\$97,703.00) to the City of Rochester, Fire Department, for the purpose of paying costs associated with the acquisition of thirty-seven (37) sets of firefighter gear, is hereby accepted, and such grant funds shall be assigned to a special non-lapsing account established/designated by the Finance Director in the 2012-2013 fiscal-year operating budget of the Rochester Fire Department for such purpose.

II. Further, that the sum of One Hundred Eight Thousand Five Hundred Fifty-Eight Dollars (\$108,558.00) be, and hereby is, appropriated as a supplemental appropriation to the 2012-2013 fiscal year operating budget for the City of Rochester, Fire Department, such funds to be used in connection with the aforesaid acquisition of thirty-seven (37) sets of firefighter gear, and to be assigned to a special non-lapsing account established/designated by the Finance Director in the 2012-2013 fiscal-year operating budget of the Rochester Fire Department for such purpose.

Furthermore, that the source of the sums necessary to fund such supplemental appropriation shall be drawn, to the extent of Ninety-Seven Thousand Seven Hundred Three Dollar (\$97,703.00), from the above mentioned FEMA grant to the City of Rochester, and to the extent of Ten Thousand Eight Hundred Fifty-Five Dollars (\$10,855.00) from funds to be transferred by the City Manager acting through the Finance Director from the 2012-2013 fiscal year operating budget for the City of Rochester, Fire Department, for the purpose of paying costs associated with the acquisition of thirty-seven (37) sets of firefighter gear, from the 2012-2013 operating budget of the Rochester Fire Department (account 511002 "salaries-part time"), which transfer of funds is, by adoption of this resolution, approved.

Additionally, the unexpended and unencumbered balance of account 511002 "salaries-part time" of the 2012-2013 fiscal year operating budget of the Rochester Fire Department is, to the extent of Ten Thousand Eight Hundred Fifty-Five Dollars (\$10,855.00), reduced upon the implementation of this Resolution.

III. 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 are necessary to implement the transactions contemplated by this Resolution.

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 unanimous voice vote.

Mayor Jean read the resolution by title only for the second time.

Councilor Varney **MOVED** to adopt the resolution. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by unanimous voice.

10. Consent Agenda Items:

- 10.1 Resolution De-Authorization in the Amount of \$1,395.90 from the Strafford County Sheriff's Department Grant "Underage Drinking"**

**RESOLUTION DEAUTHORIZING PORTION OF UNDERAGE DRINKING
GRANT 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 Five Thousand Dollars (\$5,000.00) to the City of Rochester, Police Department, for the purpose of providing funds for enforcing underage drinking laws, funding such appropriation with funds from a U.S. Department of Justice, Justice Assistance Grant program grant ("JAG" grant); and

WHEREAS, the deadline for expending such funds has expired and there remains unexpended funds in such appropriation account the amount of One Thousand Three Hundred Ninety-Five Dollars and Ninety Cents (\$1,395.90); and

NOW THEREFORE, in light of the excess funding of the aforesaid appropriation in the amount of (when a previous deauthorization in the amount of Forty-Four Dollars and Sixty=-Seven Cents is taken into account) which funds may no longer be expended under the terms of the aforesaid grant, and leaving the aforesaid appropriation with One Thousand Three Hundred Ninety-Five Dollars and Ninety Cents (\$1,395.90) in excess funding, the Mayor and City Council of the City of Rochester hereby withdraw and deauthorize One Thousand Three Hundred Ninety-Five Dollars and Ninety Cents (\$1,395.90) of the acceptance of the aforesaid grant funds, as well as of the abovementioned appropriation for enforcing underage drinking laws through the above referenced program.

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.

10.2 Resolution De-Authorization Funds in the Amount of \$854.10 from the Strafford County Sheriff's Department Grant for "Party Dispersal"

**RESOLUTION DEAUTHORIZING PORTION OF
"PARTY DISPERSAL" GRANT 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 Two Thousand Two Hundred and Fifty Dollars (\$2,250.00) to the City of Rochester, Police Department, for the purpose of providing funds for enforcing drinking laws through a so-called "party dispersal" program, and funding such supplemental appropriation with grant funds administered by the Strafford County Sheriff's Department; and

WHEREAS, the time period for the conduct of the aforesaid "party dispersal" program has concluded, and funds may no longer be expended for such purpose and be reimbursed by said grant funds; and

WHEREAS, the funds expended for said "party dispersal" program from said grant funds during its grant period totaled One Thousand Three Hundred Ninety Five Dollars and Ninety Cents (\$1,395.90), leaving an unexpended, and un-expendable, balance in such grant account of Eight Hundred and Fifty-Four Dollars and Ten Cents (\$854.10);

NOW THEREFORE, in light of the excess funding of the aforesaid appropriation in the amount of Eight Hundred Fifty-Four Dollars and Ten Cents (\$854.10), which funds may no longer be expended under the terms of the aforesaid grant, and leaving the aforesaid appropriation with Eight Hundred Fifty-Four Dollars and Ten Cents (\$854.10) in excess funding, the Mayor and City Council of the City of Rochester hereby withdraw and deauthorize Eight Hundred Fifty-Four Dollars and Ten Cents (\$854.10) of the acceptance of the aforesaid grant funds, as well as of the abovementioned appropriation for enforcing drinking laws through the above referenced so-called "party dispersal" program.

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 Varney **MOVED** to adopt the Consent Agenda. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by unanimous voice vote.

11. Adjournment

Councilor Walker **MOVED** to adjourn the meeting at 8:50 PM. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by unanimous voice vote.

Respectfully submitted,

Marcia H. Roddy
Deputy City Clerk