

**Regular City Council Meeting
September 1, 2015
COUNCIL CHAMBERS
7:02 PM**

COUNCILORS PRESENT

Councilor Bogan
Councilor Collins
Councilor Gates
Councilor Gray
Councilor Hamann
Councilor Keans
Councilor Lachapelle
Councilor Lauterborn
Councilor Torr
Councilor Varney
Councilor Walker
Mayor Jean

OTHERS PRESENT

City Manager Fitzpatrick
Deputy City Manager Cox
Attorney O'Rourke

COUNCILORS EXCUSED

Councilor Larochelle

MINUTES

1. Call to Order

Mayor Jean called the Regular City Council meeting to order at 7:02 PM.

2. Pledge of Allegiance

Mayor Jean led the Pledge of Allegiance.

3. Opening Prayer

Mayor Jean asked for a moment of silence in honor of all military personnel fighting for our freedom.

4. Roll Call

Kelly Walters, City Clerk, took a roll call. All Council members were present except for Councilor Larochelle, who had been excused.

5. Proclamation: Rochester 12U Slammers Team – Winners of the 2015 Babe Ruth State Championship

Mayor Jean invited the 12U Slammers Team along with their coaches to come forward. Mayor Jean congratulated the team and read aloud a proclamation in their honor.

6. Recess to State of New Hampshire Department of Health and Human Services Public Forum by Sanctuary Alternative Treatment Centers for Proposed Cultivation Operation

Mayor Jean said the State of New Hampshire Department of Health and Human Services has a proposal for a cultivation operation located in North Rochester, where the former Spaulding Fiber Complex was located. It is important to note that this public forum would be conducted by the State; therefore a recess of this meeting is in order. He added that all Zoning and Planning Regulations would still be required of the City. The City Council has no voting authority in this matter as long as regulations are being followed. He called for a recess at 7:10 PM and the City Council exited the stage.

7. Reconvene the Regular City Council Meeting

Mayor Jean reconvened the Regular City Council meeting at 7:49 PM.

8. Acceptance of Minutes

8.1. August 4, 2015, Regular City Council Meeting

Councilor Lachapelle **MOVED** to **ACCEPT** the August 4, 2015, Regular City Council meeting minutes as submitted. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

8.2. August 18, 2015, Special City Council Meeting

Councilor Walker **MOVED** to **ACCEPT** the August 18, 2015, Special City Council meeting minutes as submitted. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

9. Communications from the City Manager

9.1. Employee of the Month Award

City Manager Fitzpatrick stated this month's Employee of the Month is actually the chair of the Self Directed Work Team, designated to choose employees for this award; however, her colleagues surprised her this month with the award. City Manager Fitzpatrick invited the Commissioner of Public Works to come forward along with Lisa Clark, Department of Public Works Office Manager. City Manager Fitzpatrick congratulated Ms. Clark and announced that she had been chosen as the Employee of the Month for September.

9.2. City Manager's Report

City Manager Fitzpatrick gave the following report:

Management Team Meeting minutes:

- July 27, 2015
- August 3, 2015
- August 10, 2015
- August 17, 2015

Contracts and documents executed since last month:

- Economic & Community Development Department
 - Environmental Review – Homeless Center for Strafford County
 - Environmental Review – Public House and Thompson Investment Casting
 - Environmental Review – Spaulding High School elevator project
 - Rochester Housing Authority – ROSS Grant application
- Department of Public Works
 - Community Center – Strafford Regional Planning Commission Lease Renewal
 - Granite Ridge Development Infrastructure Improvements – Change Order 1
 - Household Hazardous Waste Grant Application
 - New Route 125 Pump Station Upgrade Project – Initiation of Operation Certification
 - Project Performance Certificate – Brock Street Reconstruction Project
 - Strafford Square Intersection Improvements –

- Amendment 1
 - Watershed Land Purchase – pending sale
- MIS Department
 - Continuant Managed Services Renewal – Telephone System

Computer Lease/Purchase and Tuition Reimbursements Approved:

- Allen, M – Police
- Tuition Reimbursement – Mears, M – Planning

Additional information enclosed in the City Council packet:

- The Homemakers – thank you for support letter
- State of NH – Department of Health & Human Services – Public Forum Request, Sanctuary ATC
- State of NH – Department of Transportation – Highway Block Grant Aid available

Standard Reports enclosed in the City Council packet:

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

Councilor Varney mentioned that the Brock Street Project is about \$400,000 under the estimated cost and has been completed on time.

Councilor Varney asked if the Highway Block Grants that are mentioned in the City Council material have already been budgeted into this Fiscal Year's Budget calculations. Deputy City Manager Cox replied yes.

Councilor Gates asked if the Route 125 Pump Station was a wastewater pump station. City Manager Fitzpatrick replied yes. A brief discussion ensued about the approximate thirty pump stations located in the City, which vary in size and capacity. Commissioner Storer gave details about the rehabilitation of the different pump stations.

Councilor Varney noticed that one of the permits issued by the City Manager's office is for a potential presidential candidate. He spoke about the cost involved with police detail and associated costs with such an event. He suggested that a policy be reviewed for the influx of presidential candidates visiting the City of Rochester in the near future. This matter has been sent to the next Finance Committee meeting.

10. Communications from the Mayor

10.1. Announcement: November 3, 2015 Municipal Election Filing Period:

Begins: Friday, September 4, 2015, at 9:00 AM

Ends: Monday, September 21, 2015, at 5:00 PM

Mayor Jean announced the Municipal Election Filing Period as stated above.

10.2. Announcement: The Supervisors of the Checklist will be in session on September 3, 2015 – Last chance to update voter information prior to the Municipal Election Filing Period:

Mayor Jean announced the Supervisors of the Checklist session as stated above.

Mayor Jean announced that Rochester Veterans Council would sponsor the Annual Flag Retirement Ceremony to be held on September 12, 2015, at the Riverside Rest Home located in Dover, NH, at 10:00 AM.

11. Presentations of Petitions and Council Correspondence

No discussion.

12. Nominations, Appointments, Resignations, and Elections

No discussion.

13. Reports of Committees:

13.1. Codes and Ordinances Committee

Councilor Lachapelle stated that there is one action item which can be found under New Business regarding an Amendment to the General Ordinances Relative to Chapter 50.

Councilor Gates distributed a sample "Aggressive Panhandling" ordinance from the City of Longview, Washington. Councilor Keans cautioned that this ordinance is based upon the Washington State Constitution. The issue of aggressive panhandling has been sent to the October Codes and Ordinances

Committee.

Councilor Varney requested that City staff send the Amendment to Chapter 50 of the General Ordinances to the local engineering firms as a courtesy prior to its adoption.

Councilor Varney requested that the following question be answered from the last Codes and Ordinances Committee meeting: *"There are existing subdivisions, with 1-acre lots [undeveloped], located in the Agricultural Zone. If someone wished to construct a single-family home on such a lot, would the regulations of Chapter 50 apply in those cases?"*

13.2. Community Development Committee

Councilor Gray gave a brief review of the discussion about an Amendment to the General Ordinance relative to "outside dining." He said the owner of the Revolution Restaurant gave a presentation about a proposal for outdoor dining at Factory Court. A discussion ensued about the need of an additional ordinance. The City Attorney agreed that an additional ordinance would be in order for outside dining. This item is being referred to the October Codes and Ordinances Committee Agenda.

Councilor Gray said the Committee discussed the idea of obtaining some type of utility poles for the purpose of hanging banners in specific areas of the City. This idea is costly [\$6,000]; however, the idea is being sent to the Public Works Committee for review.

Councilor Gray said the Committee has been working to establish a Farmer's Market at the Rochester Common. It has been noted that both Care Pharmacy and Arthur's Market have agreed to allow parking for such an event at their locations. It was determined that there is already a City policy in place for use of the Rochester Common and no City Council action is required.

Councilor Gray said the Committee reviewed the CDBG projects.

Councilor Keans said the City spent money rehabbing Hanson Street and erected poles on both ends of Hanson Street for the purpose of hanging banners.

A discussion ensued about the Share Fund. Councilor Varney stated if Rochester tax dollars are supporting some of the Share Fund funds then it should be used for Rochester residents. Councilor Gray said that St. Peter's and other churches in Farmington donate funds and food to Gerry's food pantry. Julian Long, Community Development Coordinator, said that the Share Fund

documents each person in need of services and Rochester CDBG funds are only used for Rochester residents.

13.3. Joint Building Committee

Councilor Keans gave an update on the status of the new East Rochester School Building. She said the classrooms are completed with the exception of the kindergarten classrooms, which will be painted prior to their first day of school. The playgrounds are completed and fenced off from any construction sites. The media center will not be completed on time for the opening of school; however, the project is progressing along and should be completed soon.

Councilor Torr had some concerns about the construction work being completed after the start of the school year. Councilor Keans assured Councilor Torr that the classrooms are completed and construction areas are secured.

Councilor Torr said the fence did not seem to be a good fit for the property. Councilor Keans agreed and said that the design of the fence is not what had been anticipated by the Committee at the time of purchase.

Councilor Torr said the overall construction project for the East Rochester School is remarkable, especially with the extended winter season that had to be dealt with. Mayor Jean agreed that Hudder Construction and SUR have done an outstanding job. Councilor Gray mentioned that the Clerk of the Works for this project has done an outstanding, job as well.

13.4. Public Safety Committee

Councilor Walker said the traffic concerns in the Maple Street area are being addressed and have been kept in Committee for now.

Councilor Walker **MOVED** to direct City staff to install a "no parking here to crosswalk" sign at the discretion of the Department of Public Works at the North Main Street/Dewey Street crosswalk area. He said the photos in the City Council packet outline the problem. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Walker **MOVED** to install a second "yield" sign on Wakefield Street prior to the turn onto Union Street at the discretion of the Department of Public Works. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a majority voice vote.

Councilor Lachapelle said the minutes have him listed as being present and as being excused. He requested the minutes reflect that he was in attendance of the meeting.

Councilor Torr said the Gaffney Home crosswalk area has been mentioned before; however, the crosswalk issues have not yet been resolved. Mayor Jean recalled that this would be resolved during the Wakefield reconstruction project. It was determined that this could be sent to the Public Safety Committee for a temporary resolution to the problem.

13.5. Public Works Committee

Councilor Torr asked if the Commissioner of Public Works would speak about the City Hall Annex brick wall. Commissioner Storer said the architect investigated this wall last week and discovered that this brick wall does not seem to be bonded to the original building. The architect is scheduled to further investigate this situation on September 8, 2015. He noted that Michelle Mears, Planning Department, and Liaison for the Historic District Commission, would also be present at the meeting.

Councilor Varney asked about the EDA Grant. Commissioner Storer said the eminent domain issue has been resolved without bringing the matter to court. He gave the status of the remaining easements, which have been signed, but not yet recorded. He estimated another week to submit the final paperwork to the State.

Mayor Jean asked if the Franklin Street project is on track to begin construction. Commissioner Storer said the environmental package should be completed by next week and there a few easements to work out. At that point it would be sent to the Conservation Commission for approval. He believed that the Conservation Commission understands that this is a necessary City project. He estimated another four to five weeks until the project would be sent out to bid.

Councilor Collins applauded the Department of Public Works for a job well done at the railroad crossing located on Whitehall Road. Commissioner Storer credited Ken Henderson, Highway Foreman, for completing this project so efficiently. Councilor Walker asked if the railroad company would be sent a bill. Commissioner Storer said a bill could be sent; however, it was doubtful it would be paid.

14. Old Business

No discussion.

15. Consent Calendar

Councilor Walker **MOVED** to **APPROVE** the Consent Calendar as presented. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

15.1. AB 30 Resolution De-Authorizing Appropriation

**form the Municipal Information Services
Department (MIS) Capital Improvement
(CIP) Fund [CC FY16 Resolution 20] – First
Reading, Second Reading, and Adoption**

**RESOLUTION DEAUTHORIZING APPROPRIATION FROM THE
MUNICIPAL INFORMATION SERVICES (MIS) CAPITAL IMPROVEMENT
(CIP) FUND**

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

That the sum of One Hundred Eleven Dollars (\$111.00) of the previous appropriation of funds for the MIS CIP Fund for the Business Office Folder Inserter Project is hereby deauthorized.

Further, that the Mayor and City Council hereby authorize the transfer of One Hundred Eleven Dollars (\$111.00) back to the General Fund unassigned fund balance.

To the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to establish and/or designate such accounts and or account numbers as are necessary to implement the transactions contemplated in this Resolution. **CC FY16 RESOLUTION 20 09-01 AB 30**

16. New Business

- 16.1. AB 26 Resolution Accepting Equitable Disbursement from the United States Marshal Service to the Rochester Police Department, and Making a Supplemental Appropriation in Connection Therewith [CC FY16 Resolution 15] First Reading, Second Reading, and Adoption**

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 by title only as follows:

**RESOLUTION ACCEPTING EQUITABLE DISBURSEMENT FROM THE
UNITED STATES MARSHAL SERVICE TO
TO THE ROCHESTER POLICE DEPARTMENT,
AND MAKING A SUPPLEMENTAL APPROPRIATION**

IN CONNECTION THEREWITH

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

That an Equitable Disbursement of Drug Enforcement Agency forfeiture funds from the United States Marshal service in the amount of One Thousand Nine Hundred and 42/100 Dollars (\$1,900.42) to the City of Rochester Police Department is hereby accepted by the City of Rochester.

Further, that the sum of One Thousand Nine Hundred and 42/100 Dollars (\$1,900.42) be, and hereby is, appropriated as a supplemental appropriation to the 2015-2016 operating budget for the City of Rochester Police Department. The source of the sums necessary to fund such appropriation shall be drawn, in their entirety, from the aforesaid Equitable Disbursement of Drug Enforcement Agency forfeiture funds from the United States Marshal to the City of Rochester.

Furthermore, 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 and to establish special revenue, non-lapsing, multi-year fund to which said sums shall be transferred. **CC FY 16 09-01 Resolution 15 AB 26**

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

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

16.2. AB 34 Resolution Approving a Communications Equipment Grant Application to the New Hampshire Department of Safety [CC FY16 Resolution 23] First Reading and Adoption

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 by title only as follows:

RESOLUTION
APPROVING A COMMUNICATIONS EQUIPMENT GRANT APPLICATION
TO THE NEW HAMPSHIRE DEPARTMENT OF SAFETY

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, approve the submission of a grant application in an amount up to \$500,000.00 to the New Hampshire Department of Safety in order to fund necessary communications equipment upgrades in the Police Department's communications command center. **CC FY16 09-01 Resolution 23 AB 34**

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

16.3. AB 29 Resolution Accepting Participation Awards from the Health Trust to the City of Rochester, and Making a Supplemental Appropriation in Connection Therewith [CC FY 16 [Resolution 19] First Read, Second Reading, and Adoption

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 by title only as follows:

RESOLUTION ACCEPTING PARTICIPATION AWARDS FROM
THE HEALTH TRUST
TO THE CITY OF ROCHESTER,
AND MAKING A SUPPLEMENTAL APPROPRIATION
IN CONNECTION THEREWITH

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

That Participation Awards from the Health Trust in the amount of One Thousand Three Hundred Dollars (\$1,300.00) to the City of Rochester is hereby accepted by the City of Rochester.

Further, that the sum of One Thousand Three Hundred Dollars (\$1,300.00) be, and hereby is, appropriated as a supplemental appropriation to the Fiscal Year 2016 General Overhead Budget for the City of Rochester. The source of the sums necessary to fund such appropriation shall be drawn, in their entirety, from the aforesaid Participation Awards.

Furthermore, 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 and to establish special revenue, non-lapsing, multi-year fund to which said sums shall be transferred. **CC FY 16 09-01 Resolution 19 AB 29**

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

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

- 16.4. **AB 27** Amendment to Chapter 17.34 of the General Ordinances of the City of Rochester, entitled *Water Rate and Fee Schedule*, be amended by deleting the portion of said Ordinances entitled *Quarterly Water Rates* and be Replacing such Portion of the Ordinances as Follows: [CC FY 16 Amendment 3] **Second Reading and Adoption**

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

Ordinance Amendment
Relative to Water User Rate

THE CITY OF ROCHESTER ORDAINS:

I. That Chapter 17, Section 17.34 of the General Ordinances of the City of Rochester, entitled "Water Rate and Fee Schedule", be amended by deleting the portion of said ordinance entitled "Quarterly Water Rates" and by replacing such portion of the

ordinance with the following:

<u>17.34 Water Rate and Fee Schedule</u>					
<u>Quarterly Water Rates</u>					
Residential Customers without exemption:	\$4.81	per 100 cu. ft. of water use			
Residential Customers with exemption:	\$2.05				
Commercial and industrial customers:	\$4.74				
Unmetered Residential Customers:					
Per quarter per unit without exemption:	\$126.71				
Per quarter per unit with exemption:	\$63.35				
Minimum Fee:					
Per quarter per unit without exemption:	\$18.00				
Per quarter per unit with exemption:	\$14.42				
II. That this ordinance amendment shall take effect on October 1, 2015					
CC FY16 <u>Amendment 3</u> AB 27					

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

- 16.5. AB 31** Amendment to Chapter 50 of the General Ordinances of the City of Rochester regarding *Stormwater Management and Erosion Control* and currently before the Rochester City Council, to be amended as follows: [CC FY 16 Amendment 4] **First Reading and Refer to a Public Hearing**

Councilor Walker **MOVED** to read the Amendment by title only for the first time. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the Amendment by title only for the first time by title only. [*This can be found as an attachment to the City Council meeting minutes.*]

Council discussed the timeframe of the Public Hearing. It was determined that the matter would be sent to a public hearing prior to the September City Council Workshop and a subsequent Special City Council meeting following the Public Hearing.

16.6. AB 28 Creation of an Accountant 1 Position under Non-Union [Pay Grade 9] – Motion to Approve

Councilor Lachapelle **MOVED** to approve the creation of an Accountant 1 position under Non-Union [Pay Grade 9]. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

16.7. AB 32 Resolution Establishing Polling Places and Times for the November 3, 2015, Municipal Election [CC FY16 Resolution 21] First Reading and Adoption

Councilor Walker **MOVED** to read the Resolution in its entirety. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the resolution in its entirety as follows:

RESOLUTION ESTABLISHING POLLING PLACES AND TIMES FOR THE NOVEMBER 3, 2015, MUNICIPAL ELECTION

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

That the following polling places are hereby established for the City of Rochester Municipal Election to be held on November 3, 2015.

WARD 1: [Tara Estates/Club House](#)
53 Eagle Drive, East Rochester

WARD 2: [St. Mary's Parish Center](#)
71 Lowell Street, Rochester

WARD 3: [Briar Ridge Estates/Club House](#)
2 Roseberry Lane/Briar Ridge Estates, Rochester
Located behind Park Office located at 40 Lilac Drive

WARD 4: [Rochester Home Depot](#)
280 North Main Street, Rochester

WARD 5: [Rochester Community Center](#)

150 Wakefield Street/Community Way, Rochester
Located on the Chestnut Hill Road Side of Building

WARD 6: Elks Lodge #1393

295 Columbus Avenue, Rochester

Further, that in accordance with RSA 659:4, and Section 47 of the City Charter – All polling places shall be open from 8:00 A.M. to 7:00 P.M., on said Election Day.

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

16.8. AB 24 Amendment to Chapter 63 of the General Ordinances of the City of Rochester Regarding Rights and Duties of Pedestrians [CC FY16 Amendment 5] Second Reading, and Adoption

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

AMENDMENT TO CHAPTER 63 OF THE GENERAL ORDINANCES OF THE CITY OF ROCHESTER REGARDING RIGHTS AND DUTIES OF PEDESTRIANS

THE CITY OF ROCHESTER ORDAINS:

That, in order facilitate the safe and free flow of motor vehicle traffic on the ways within the City, Chapter 63 of the General Ordinances of the City of Rochester regarding Rights and Duties of Pedestrians and currently before the Rochester City Council, be amended as follows:

63.2 The Passing of Items to or from the Occupant of a Motor Vehicle on a Roadway.

(a) **Definitions.** For the purpose of this Section, the following definitions apply:

(1) **Pass/Passing.** Distributing any item to, receiving any item from, or exchanging any item with the occupant of a motor vehicle that is located

in the roadway.

(2) **Roadway.** All ways within the City as that term is defined in RSA 259:125, II. This definition excludes privately owned property not open for public use or generally maintained for the benefit of the public, areas in which parking is permitted in the City, and property maintained specifically for drive-thru or drive-up transactions.

(3) **Item.** Any physical object.

(b) **Prohibitions on Roadways.** It shall be unlawful to violate any of the prohibitions set forth below in the City.

(1) No person shall knowingly distribute any item to, receive any item from, or exchange any item with the occupant of any motor vehicle when the vehicle is located in the roadway.

(2) This Section shall not apply to the distribution, receipt or exchange of any item with the occupant of a motor vehicle on privately owned property not open for public use or generally maintained for the benefit of the public, areas in which parking is permitted in the City, and property maintained specifically for drive-thru or drive-up transactions.

(3) This Section shall not apply to any law enforcement officer acting in the scope of his official duty.

(4) This Section shall not apply to the distribution, receipt or exchange of any item with the occupant of a motor vehicle located in the roadway in order to assist the occupant after a motor vehicle accident, with a disabled motor vehicle or where the occupant is experiencing a medical emergency.

(c) **Penalty.** A person found in violation of this Section shall be fined as follows:

(1) 1st Offense: Not less than \$500.00.

(2) 2nd Offense: Not less than \$750.00.

(3) 3rd and subsequent Offenses: Not less than \$1,000.00.

(d) **Severability.** If any provision of this section is declared invalid or unconstitutional by any Court of competent jurisdiction, the remaining provisions shall be severable and shall continue in full force and effect.

The effective date of this amendment shall be upon passage.
CC FY16 Amendment 5 AB 24

Councilor Walker **MOVED** to **ADOPT** the resolution. Councilor Lachapelle seconded the motion.

Councilor Varney **MOVED** to **AMEND** the Amendment by reducing the first offense from \$500.00 to \$25.00 in light of the fact some folks from out of town would not know about the ordinance. Councilor Torr seconded the motion. The **MOTION CARRIED** by an 8 to 4 show-of-hands vote, the first voice vote was unclear.

The City Council debated the fines for the subsequent offenses and how to notify the public of the new ordinance. Councilor Varney suggested delaying the effective date.

Councilor Gray **MOVED** to reduce the subsequent fines as follows:

- 2nd Offense: Not less than ~~\$750.00~~ **\$250.00**
- 3rd and subsequent Offenses: ~~Not less than \$1,000.00~~
Not less than \$500.00; nor more than \$1,000.00

Councilor Lachapelle seconded the motion. Councilor Walker questioned if this ordinance would include parking lots. Attorney O'Rourke replied that it would include the roadway within a parking lot and gave details of the restrictions. The **MOTION CARRIED** by a 9 to 3 show-of-hands vote, the voice vote was unclear.

Mayor Jean called for a vote on the motion to adopt the Amendment as amended by the City Council. The **MOTION CARRIED** by a majority voice vote. The Amendment has been amended as follows:

**AMENDMENT TO CHAPTER 63 OF THE GENERAL ORDINANCES OF THE
CITY OF ROCHESTER REGARDING RIGHTS AND DUTIES OF
PEDESTRIANS**

THE CITY OF ROCHESTER ORDAINS:

That, in order facilitate the safe and free flow of motor vehicle traffic on the ways within the City, Chapter 63 of the General Ordinances of the City of Rochester regarding Rights and Duties of Pedestrians and currently before the Rochester City Council, be amended as follows:

63.2 The Passing of Items to or from the Occupant of a Motor Vehicle on a Roadway.

(a) **Definitions.** For the purpose of this Section, the following definitions apply:

(1) **Pass/Passing.** Distributing any item to, receiving any item from, or exchanging any item with the occupant of a motor vehicle that is located

in the roadway.

(2) **Roadway.** All ways within the City as that term is defined in RSA 259:125, II. This definition excludes privately owned property not open for public use or generally maintained for the benefit of the public, areas in which parking is permitted in the City, and property maintained specifically for drive-thru or drive-up transactions.

(3) **Item.** Any physical object.

(b) **Prohibitions on Roadways.** It shall be unlawful to violate any of the prohibitions set forth below in the City.

(1) No person shall knowingly distribute any item to, receive any item from, or exchange any item with the occupant of any motor vehicle when the vehicle is located in the roadway.

(2) This Section shall not apply to the distribution, receipt or exchange of any item with the occupant of a motor vehicle on privately owned property not open for public use or generally maintained for the benefit of the public, areas in which parking is permitted in the City, and property maintained specifically for drive-thru or drive-up transactions.

(3) This Section shall not apply to any law enforcement officer acting in the scope of his official duty.

(4) This Section shall not apply to the distribution, receipt or exchange of any item with the occupant of a motor vehicle located in the roadway in order to assist the occupant after a motor vehicle accident, with a disabled motor vehicle or where the occupant is experiencing a medical emergency.

(c) **Penalty.** A person found in violation of this Section shall be fined as follows:

(1) 1st Offense: Not less than \$25.00.

(2) 2nd Offense: Not less than \$250.00.

(3) 3rd and subsequent Offenses: Not less than \$500.00; nor more than \$1,000.00.

(d) **Severability.** If any provision of this section is declared invalid or unconstitutional by any Court of competent jurisdiction, the remaining provisions shall be severable and shall continue in full force and effect.

**The effective date of this amendment shall be upon passage.
CC FY16 Amendment 5 AB 24**

**16.9. *AB 35 Resolution Authorizing Supplemental
Appropriation to the Department of Public**

**Works Capital Improvements Fund for the
Emergency Repairs to the Route 125
Pedestrian Bridge [CC FY16 Resolution 22]
First Reading, Second Reading, and Adoption**

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 SUPPLEMENTAL APPROPRIATION
TO THE DEPARTMENT OF PUBLIC WORKS CAPITAL IMPROVEMENTS
FUND FOR EMERGENCY REPAIRS
TO THE ROUTE 125 PEDESTRIAN BRIDGE**

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

That a sum not to exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) be, and hereby is, appropriated as a supplemental appropriation to the City of Rochester Department of Public Works Capital Improvements Fund, for the purpose of providing funds necessary to pay costs and/or expenditures associated with the emergency repairs to the Route 125 pedestrian bridge required by the bridge's placement on the New Hampshire Department of Transportation's Municipal Red List, which demands closure of said bridge, and provided further that funds for such supplemental appropriation shall be derived in their entirety from the General Fund unassigned 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. **CC FY16 09-01 Resolution 22 AB 35**

Mayor Jean summarized the emergency bridge repair and the need to expedite the process.

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

Councilor Walker **MOVED** to **ADOPT** the resolution.

Commissioner Storer explained that it was decided to seek funding not to exceed \$250,000. He said rehabilitation options have been sought; however, it does not seem realistic. He noted that the cost of a new bridge is estimated at \$80,000 and the repair and replacement would be excess of that amount and no guarantees. He listed reasons why repairing the bridge is not a feasible option.

Councilor Varney said there is an estimated \$13,000,000 remaining in the General Fund Balance.

Commissioner Storer briefed the City Council about other bridgework that may be completed under budget this fiscal year. He reiterated that it would cost about \$80,000 for a new bridge, estimated \$25,000 for engineering, and up to \$75,000 for installation of the bridge. He explained that this is an emergency supplemental appropriation and work has begun to get the bridge design completed as soon as possible. He estimated fifteen to sixteen weeks for completion of the project. Councilor Keans spoke about the poor design of the existing bridge. Commissioner Storer explained the heightened design is meant to minimize the potential "spray" effect of passing vehicles onto pedestrian traffic.

Mayor Jean called for a vote on the motion to adopt. The **MOTION CARRIED** by a unanimous voice vote.

Mayor Jean commended Commissioner Storer and the Department of Public Works for addressing this issue so quickly. City Manager Fitzpatrick agreed and gave details of the work already done to ensure safety of the public.

Councilor Collins announced that Fred W. Hall, Distinguished World War II Veteran, will be celebrating his 95th birthday this September 22, 2015.

Councilor Varney asked if the MS1 is available to set the tax rate. Deputy City Manager Cox replied no, an extension has been requested. The estimated date is now targeted for the end of September.

17. Non-Meeting/Non-Public Sessions:

17.1. Non-Meeting, Consultation with Legal Counsel, RSA 91-A 2 I (b)

Councilor Lachapelle **MOVED** to enter a Non-Meeting, Consultation with Legal Counsel, RSA 91-A 2 I (b) at 8:51 PM. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous roll call vote of 12 to 0. Councilors Bogan, Collins, Varney, Walker, Lachapelle, Gray, Hamann, Gates,

Keans, Torr, Lauterborn, and Mayor Jean voted in favor of the motion.

Councilor Walker **MOVED** to exit the Non-Meeting at 9:05 PM. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

18. Other

No discussion.

19. Adjournment

Councilor Walker **MOVED** to **ADJOURN** the Regular City Council meeting at 9:05 PM. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Kelly Walters
City Clerk