

**Regular City Council Meeting
November 4, 2015
Council Chambers
7:01 PM**

COUNCILORS PRESENT

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

OTHERS PRESENT

Daniel Fitzpatrick, City Manager
Terence O'Rourke, City Attorney
Chief Allen
Commissioner Storer
Brian Sylvester, Library Director
Peggy Trout, Library
American Legion Color Guard

Minutes

1. Call to Order

Mayor Jean called the meeting to order at 7:01 PM.

2. Pledge of Allegiance

2.1. *Presentation of the Colors:* American Legion Roland E. Patnode Jr. Post 7 *New Hampshire State Champions Color Guard*

The American Legion Roland E. Patnode Jr. Post 7 presented the colors for the City Council meeting.

3. Opening Prayer

3.1. *Opening Prayer:* American Legion Chaplain

A prayer was offered by the American Legion Chaplain.

3.2. *Proclamation:* Veterans Day

Mayor Jean read aloud the Veterans Day Proclamation and presented

the proclamation to the American Legion Color Guard in honor of Veterans Day.

Mayor Jean announced that there would be a Veterans Day Ceremony held at the First Methodist Church on November 11, 2015, at 7:00 PM.

4. Roll Call

Kelly Walters, City Clerk, took the roll call. All Councilors were present.

5. Acceptance of Minutes

5.1. [October 6, 2015, Regular City Council Meeting](#)

Councilor Lachapelle **MOVED** to **ACCEPT** the October 6, 2015, Regular City Council meeting minutes. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

6. Communications from the City Manager

6.1. Employee of the Month Award

6.2. City Manager's Report

City Manager Fitzpatrick invited Brian Sylvester, Library Director and Peggy Trout, Rochester Public Library, to come forward. City Manager Fitzpatrick said Ms. Trout has volunteered her time and planted a small flower garden outside of the Library. He announced that Ms. Trout is the Employee of the Month for November.

City Manager Fitzpatrick gave the following City Manager's Report:

Management Team Meeting minutes:

- September 21, 2015
- October 5, 2015
- October 19, 2015

Contracts and documents executed since last month:

- Department of Public Works
 - Adopt-a-Spot Certificates
 - Bid Award Recommendation – Pavement and Highway Improvement Project
 - City Hall Annex – Oak Point Associates Contract
 - Granite Ridge Development District Infrastructure Improvements – Change Order 2

- Pavement and Highway Improvement Project – Construction Contract
- Rochester Reservoir West End Dam Spillway Modifications – Construction Contract
- Route 125 Pedestrian Bridge – Notice to Proceed
- Water Treatment Plant Upgrade – Engineering Amendment 1
- Finance Department
 - Formax Contract – Inserter/Folder Machine

Standard reports have been enclosed:

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

City Manager Fitzpatrick stated that the Building, Zoning, and Licensing Service Department reported that \$17,000,000 has been collected in building permits for the month of October. Councilor Varney asked if the TIF District(s) could account for at least \$6,000,000 to \$7,000,000 of the \$17,000,000. City Manager Fitzpatrick replied yes.

7. Communications from the Mayor

7.1. Announcement: 7th Annual Rochester Middle School/Veterans Day Celebration to be held on November 10, 2015 [1:30 PM – 2:30 PM]

Mayor Jean announced that the 7th Annual Rochester Middle School/Veterans Day Celebration would be held on November 10, 2015. He invited the public to attend.

8. Presentations of Petitions and Council Correspondence

8.1. Correspondence: Meeting Minutes of the Tri-City Coalition

Mayor Jean said minutes of the Tri-City Coalition meeting could be found in the City Council packet. He asked if Councilor Walker had anything to report back to the City Council. Councilor Walker stated that it had been an organizational meeting and all three communities agreed that the heroin epidemic needs to be addressed.

9. Nominations, Appointments, Resignations, and Elections

No discussion.

10. Reports of Committees:

10.1. Codes and Ordinances

Councilor Lauterborn said the Committee had a lengthy discussion about the Pawnbrokers/Secondhand Dealers Ordinance Amendment and the Outdoor Dining Ordinance Amendment, both of which have been kept in Committee.

Councilor Lauterborn stated that the Recreation and Arena Commission Ordinance Amendment is on this evening's agenda.

Councilor Walker requested that the Sign Ordinance be sent back to the Codes and Ordinances Committee for review. He felt the 15% citywide voter turnout at the November 3, 2015, Municipal Election, had been a result of lack of signage throughout the City. The City Council debated the matter and the City Attorney confirmed that he did not believe the City could allow political signs in the City's rights-of-way because of current legislation prohibiting placing any political signs in the public rights-of-way. Mayor Jean agreed that the Sign Ordinance could be further reviewed at the next Codes and Ordinances Committee meeting.

10.2. Community Development

Councilor Gray said the Committee discussed the Courage Wall Project and Julian Long, Economic Development Coordinator, gave a status update of the current CDBG projects.

10.3. Finance Committee Meeting

Mayor Jean said the Committee reviewed the School Department's request to create a Capital Reserve Fund; however, this has been kept in Committee.

Mayor Jean said the Fire Department has notified the Finance Committee about a fire engine in need of repair. The estimated cost is \$20,000 and it will be paid out of funds within the Fire Department's budget.

Mayor Jean said there is a certain parcel of land adjacent to the Dynasty Restaurant which was the right-of-way of what is formally known as Olde Farm Lane. He **MOVED** that the City Council authorize the City Manager to direct staff to follow its policy in order to sell this small parcel of land. Councilor Lachapelle asked if a utilities easement would be retained by the City. Mayor Jean replied yes. Councilor Lachapelle seconded the motion. The **MOTION**

CARRIED by a unanimous voice vote.

10.4. Joint Building Committee

Councilor Keans said the East Rochester School Project is close to completion. The Committee discussed snow removal issues. She invited the City Council to attend the East Rochester Open House on December 2, 2015.

10.5. Public Works Committee

Councilor Varney reported that there were no action items coming out of the Public Works Committee.

Councilor Varney asked if the Commissioner of Public Works had been contacted by the School Department regarding the snow removal. Commissioner Storer replied no. Mayor Jean agreed to have staff follow up on the matter.

Councilor Walker announced that the October Public Safety Committee meeting had been canceled due to lack of obtaining a quorum; however, the Public Safety Committee meeting is scheduled to meet on November 18, 2015.

Councilor Gates requested that the traffic light issue at Cocheco Estates be added to the next Public Safety agenda. He requested that staff have a status update on the matter from the Department of Transportation.

Mayor Jean requested having the Committee seek information as to why there are no streetlights located on Davis Boulevard. This will be on the next Public Safety Committee agenda.

11. Old Business

No discussion.

12. Consent Calendar

No discussion.

13. New Business

- 13.1. AB 54 Resolution Accepting JAG Grant in the Amount of \$20,264 Managed Through the City of Somersworth – First Reading, Second Reading and Adoption**

Councilor Lachapelle **MOVED** to read the resolution for the first time by title only. 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.

RESOLUTION ACCEPTING
US DEPARTMENT OF JUSTICE,
BYRNE JUSTICE ASSISTANCE GRANT,
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 a U.S. Department of Justice, Justice Assistance grant (Grant No. 2015-DJ-BX-0271) in the amount of Twenty Thousand Two Hundred Sixty-Four Dollars (\$20,264.00) to the City of Rochester, Police Department, for the purpose of providing funds to upgrade the current cruiser fleet with in-cruiser camera and video storage (the "Project"), all as more particularly set forth in the application for such grant and the notice of award thereof, is hereby accepted by the City of Rochester, and such funds shall be assigned to an account(s) the number(s) of which is/are to be established by the Finance Director in the 2015-2016 operating budget of the City of Rochester, Police Department. Further, that the sum of Twenty Thousand Two Hundred Sixty-Four Dollars (\$20,264.00) be, and hereby is, appropriated as a supplemental appropriation to the City of Rochester, Police Department operating budget, with such sums to be placed in a special non-lapsing reserve account to be established/designated by the Finance Director, such funds to be used exclusively for Project purposes. Further, that the source of the sums necessary to fund such appropriation shall be drawn, in their entirety, from the aforesaid grant. Such grant program shall be administered by the City of Somersworth as fiscal agent for this multi-jurisdictional Justice Assistance grant.

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. **CC FY16 11-04 AB 54**

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

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

**13.2. AB 56 Amendments to Chapter 3 and Chapter 21
of the General Ordinances of the City of Rochester
Regarding the Recreation and Arena Commission
– First Reading and Adoption**

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

**AMENDMENTS TO CHAPTER 3 AND CHAPTER 21 OF THE GENERAL
ORDINANCES OF THE CITY OF ROCHESTER REGARDING THE
RECREATION AND ARENA COMMISSION**

THE CITY OF ROCHESTER ORDAINS:

That Chapter 3 and Chapter 21 of the General Ordinances of the City of Rochester regarding the Recreation and Park Commission as well as the Arena Advisory Commission currently before the Rochester City Council, be amended as follows:

3.10 Recreation and Arena Commission.

(a) The composition, functions, powers, duties of the Recreation and Arena Commission shall be as provided by Chapter 21 of the Ordinance.

3.13 [Deleted].

**CHAPTER 21
RECREATION AND ARENA**

21.1 Definitions.

(a) ----

(b) ---

(c) Commission. The Rochester Recreation and Arena Commission. This commission shall consist of thirteen (13) members to be nominated by the Mayor and elected by the Council, in accordance with the provisions of Section 74 of the Rochester City Charter, as follows: one member from the City Council, one member from the school board, and eleven (11) interested citizens. Up to two (2) members of the Commission may be a non-resident of the City of Rochester provided, that at the time of election of such individual to the Commission, such individual is associated with communities or

organizations utilizing the Rochester Arena facilities or has other specialized skills related to the provision of recreational services.

(d) Director. The City Manager, in accordance with the provisions of Sections 15 and 18 of the Rochester City Charter, shall appoint a Director of Recreation and Arena for the City of Rochester, who shall be the department head of the Rochester Department of Recreation and serve as the Arena Director.

21.2 Conduct Prohibited in Parks and Arena. [Add "arena" to all sections as needed]

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21.3 Function of Commission.

(a) The Commission shall act as advisory body to the Director.

(b) Aid, assist, and advise the Director in formulating plans for maintaining, equipping, operating, and regulation of the recreational facilities, related programs and the arena facility and advise the City Council in establishing a fee schedule for the use thereof.

(c) The Commission shall inform itself of ways and means by which its plans and programs for development and use of the recreational facilities and arena facility may best be achieved and may advise the Director, the City Council, and public of the manner in which such objectives may best be accomplished.

21.4 Term and Officers of Commission.

The terms of the City Council and School Board Commissioners shall be commensurate with their terms of service on their respective boards. Commencing January, 2016, five (5) Commissioners shall be appointed for a two (2) year term and six (6) Commissioners shall be appointed for a three (3) year term. Thereafter, all appointments and reappointments shall be for a term of three (3) years.. The Mayor shall appoint the chairman and the commission shall, from its own members, elect a secretary and other necessary officers to serve for one year or until their successors are elected.

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21.6 Use of Parks and Arena. [Add "arena" to all sections as needed]
The effective date of these amendments shall be upon passage.

CC FY 16 AB 56 11-04

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

Walker seconded the motion.

Councilor Varney questioned the process of demolishing the two active committees and creating one new committee without knowing when the new Committee members would be appointed. He noted that the term limits would be different at the establishment of the Commission. The City Council had a lengthy debate and it was determined that Chris Bowlen, Director of the Recreation and Arena Departments, would gather Statements of Interest from all current members. The Appointments Review Committee is to review the Statement of Interest at the next Committee meeting.

Councilor Larochelle noted that three members of the Arena Commission have submitted Statement of Interest forms for the Arena Commission. It was determined that the three members should submit new Statements of Interest forms for the Recreation and Arena Commission.

Councilor Lachapelle noted that the Amendment stipulates that the Recreation and Arena Commission would become effective on January 1, 2015.

Councilor Varney requested that the Amendment be ready for final review and certification at the next Codes and Ordinance Committee meeting. He said there are several places in the Ordinances that must be amended properly. The **MOTION CARRIED** by a unanimous voice vote.

13.3. AB 59 Henderson and City Concrete Wetlands Mitigation

13.3.1. AB 59-a Resolution Authorizing City Manager to Negotiate and Enter into Agreement(s) with Southeast Land Trust of New Hampshire with Regard to Conservation/Mitigation Issues Related to the So-Called Henderson Property - First Reading, Second Reading and Adoption

Councilor Walker **MOVED** to read the resolution for the first time by title only. 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.

RESOLUTION AUTHORIZING CITY MANAGER TO NEGOTIATE AND ENTER INTO AGREEMENT(S) WITH SOUTHEAST LAND TRUST OF NEW HAMPSHIRE

WITH REGARD TO CONSERVATION/MITIGATION
ISSUES RELATED TO THE SO-CALLED HENDERSON PROPERTY

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 Southeast Land Trust of New Hampshire ("SELT"), and any other necessary/appropriate entity and/or entities, relative to several mitigation/conservation issues (including the existing so-called "Walmart" conservation easement, the "NH DOT Spaulding Turnpike" project, and a part of the so-called "Safran" project) in which the City has interests and which involve land owned by the City of Rochester, and known, and/or referred to, as the so-called 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, in furtherance of such Agreement(s), a Conservation Easement Deed(s) between the City and SELT and to take any and all such additional actions, and/or to execute any and all such additional documents, as are necessary and/or appropriate to effectuate the intent and purposes of this Resolution. **CC FY 16 AB 59-a 11-04**

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion. Councilor Varney said the City is placing 38 acres of the original 49 acres into a Conservation Easement. He questioned if the City would have enough land left to address the wetlands issue in this area. Karen Pollard, Economic Development Manager, stated that the land in question [Henderson Property] had already been used for mitigation and the remainder that was available had been used to mitigate the land for the Granite State Business Park. She confirmed that there is no more Henderson Property available for mitigation.

Ms. Pollard said the Conservation Commission is aware that Phase II of the Granite State Business Park will require mitigation for the wetlands as well and the Conservation Commission has already identified parcels of land for this purpose.

Councilor Torr questioned if the City would ensure that a permanent right-of-way be accessible on this parcel of land in order to reach the well the located on the property. Mayor Jean agreed to have City staff look into the matter. The **MOTION CARRIED** by a unanimous voice vote.

13.3.2. AB 59-b Resolution Authorizing City

**Manager to Negotiate and Enter into Agreement(s) with State of New Hampshire, NH Department of Transportation, with Regard to Conservation/Mitigation Issues Related to the So-Called City Concrete Property and Providing for the Transfer of Such Property to the City of Rochester -
First Reading and Adoption**

Councilor Lachapelle **MOVED** to read the resolution for the first time by title only. 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.

**RESOLUTION AUTHORIZING CITY MANAGER TO
NEGOTIATE AND ENTER INTO AGREEMENT(S) WITH
STATE OF NEW HAMPSHIRE, N.H. DEPT. OF TRANSPORTATION,
WITH REGARD TO CONSERVATION/MITIGATION
ISSUES RELATED TO THE SO-CALLED CITY CONCRETE PROPERTY,
AND PROVIDING FOR THE TRANSFER OF SUCH PROPERTY
TO THE CITY OF ROCHESTER**

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

WHEREAS, the State of New Hampshire is the current owner of a certain tract of land situate off of the Chestnut Hill Road in Rochester, New Hampshire, such tract consisting of approximately 49 acres, and being known, and referred to, as the City Concrete property; and

WHEREAS, the State of New Hampshire, acting through its Department of Transportation, has for a number of years been involved in a project known and described as the "NH DOT Spaulding Turnpike" project, which project, involved the widening of the said Spaulding Turnpike, primarily within the City of Rochester; and

WHEREAS, in connection with the "NH DOT Spaulding Turnpike" project the State of New Hampshire was required, by State and Federal authorities, to mitigate the impacts of such project by creating approximately 38.85 acres of wetlands mitigation area, said replacement mitigation area originally being planned by the State to be located on the aforesaid City Concrete property; and

WHEREAS, the City of Rochester operates, as part of its public water

distribution system a water production well located on the so-called Henderson property (which consists of approximately 165.49 acres), owned by the City, and situate on NH route 11, in relative close proximity to the so-called City Concrete property; and

WHEREAS, the public water system needs of the City are such that the City is desirous of creating a second State licensed water distribution well for use in connection with its public water distribution system; and

WHEREAS, The City Concrete property has been identified as an appropriate site for the location of a second State licensed water distribution well for use in connection with the City's public water distribution system; and

WHEREAS, the State has indicated its willingness to transfer title to the City Concrete property to the City, so as to permit it to be used as the a second State licensed public drinking water distribution water production well for use in connection with the City's public water distribution system, in exchange for the location of the of the 38.85 acres of wetlands mitigation area related to the "NH DOT Spaulding Turnpike" project, to be located on the so-called Henderson property; and

WHEREAS, the Mayor and City Council of the City of Rochester are desirous of effectuating the transfer of the so-called City Concrete property to the City of Rochester for use in connection with the establishment of second State licensed water production and distribution well for the City's public water distribution system, and, in exchange, to accommodate the location of the of the 38.85 acres of wetlands mitigation area related to the "NH DOT Spaulding Turnpike" project, on the so-called Henderson property;

NOW THEREFORE, by adoption of this Resolution, the Mayor and City Council of the City of Rochester, hereby authorize the City Manager, on behalf of the City of Rochester ("City"), to negotiate and enter into an Agreement or Agreements with State of New Hampshire, acting on its own behalf and/or through its Department of Transportation, and any other necessary/appropriate entity and/or entities, relative to the exchange and transfer of the title of the so-called City Concrete property to the City of Rochester in exchange for the City's authorization for the location of approximately 38.85 acres of wetlands mitigation area on land owned by the City of Rochester and known, and/or referred to, as the so-called Henderson property, located on NH Rte. 11, in Rochester, such acreage, as well as additional Henderson property acreage, to be subjected to a Conservation Easement to be granted by the City to the Southeast Land Trust of New Hampshire ("SELT"). Such Agreement and/or Agreements(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, be, and hereby is, authorized, in furtherance of such Agreement and/or Agreements, to take any and all such additional actions, and/or to execute any and all such additional documents, as are necessary to effectuate the intended purposes of this Resolution. **CC FY 16 AB 59-b 11-04**

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

13.4. AB 58 Acceptance of the November 3, 2015, Election Vote Returns as Presented by the City Clerk *[Vote Returns will be distributed prior to the November 4, 2015, Regular City Council Meeting]* and the Announcement of the Municipal Election Recount Period - Move to Accept the 2015 Municipal Election Vote Returns and Confirm the Beginning of the Recount Period

Kelly Walters, City Clerk, gave a brief overview of the Election Results. She thanked the City Clerk's staff, Department of Public Works, Election Officials, and other employees who assisted in making the Election Day run smoothly. Ms. Walters announced that there would be a recount period starting on November 5, 2015, and ending on November 12, 2015. Any candidates interested in requesting a recount should contact the City Clerk's office during that timeframe.

Councilor Lachapelle **MOVED** to **ACCEPT** the Official Vote Returns of the November 3, 2015, Municipal Election. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Councilor Collins asked about the Ward 5 figures. Ms. Walters agreed to check into the matter.

Following the Non-Meeting, Ms. Walters distributed a revised Return of Votes Sheet for the City Council's review. Councilor Lachapelle **MOVED** to **ACCEPT** the revised Return of Votes as presented by the City Clerk. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

A discussion ensued about the existing polling locations. It was determined that the Ward 1 and Ward 3 polling locations would be sent back to the Codes and Ordinances Committee for further review.

Councilor Walker suggested that since the National Guard Armory renovation is now complete, it would be wise to find out if it could be used

for the Ward 4 polling location. Ms. Walters agreed to check into the matter and report back to the Codes and Ordinances Committee with more information.

Councilor Keans suggested that the City Clerk check into the availability of the dance studio located in the Gonic Mill, for a potential Ward 3 polling location. Ms. Walters concurred.

14. Non-Meeting

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

Councilor Lachapelle **MOVED** to enter into the Non-Meeting, Consultation with Legal Counsel, RSA 91-A:2,I(b). Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous roll call vote. Councilors Gray, Laroche, Lauterborn, Keans, Bogan, Varney, Hamann, Torr, Collins, Lachapelle, Gates, Walker, and Mayor Jean voted in favor of the motion.

Councilor Lachapelle **MOVED** to exit the Non-Meeting at 8:26 PM. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

15. Other

The Municipal Election Day Vote Returns were revised. Please see New Business 13.4.

16. Adjournment

Councilor Lachapelle **MOVED** to **ADJOURN** the Regular City Council meeting at 8:29 PM. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Kelly Walters
City Clerk