

**Special City Council Meeting
May 17, 2016
Council Chambers
7:54 PM**

COUNCILORS PRESENT

Councilor Abbott
Councilor Barnett
Councilor Bogan
Councilor Gates
Councilor Gray
Councilor Keans
Councilor Lachapelle
Councilor Lauterborn
Councilor Torr
Councilor Varney
Councilor Willis
Mayor McCarley

OTHERS PRESENT

City Manager Daniel Fitzpatrick
City Attorney Terence O'Rourke
Chief Michael Allen
Jim Grant, Building, Zoning, and
Licensing Services Director
Tim Wilder, Deputy Fire Chief
Julian Long, Community Development
Coordinator/Grants Manager

MEMBERS EXCUSED

Councilor Hamann

MINUTES

1. Call to Order

Mayor McCarley called the Special City Council meeting to order at 7:54 PM. Kelly Walters, City Clerk, took a silent roll call. All Council members were present except for Councilor Hamann who had been excused.

Mayor McCarley stated that the Non-Public Session scheduled for this evening could be taken off the agenda.

**2. AB 160 Resolution Establishing Policy Regarding City Charter
Section 43-a First Reading and Adoption**

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

RESOLUTION ESTABLISHING POLICY REGARDING CITY CHARTER
SECTION 43-a

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

That in the event that the City Council overrides the budgetary restrictions set forth in City Charter Section 43-a by a two-thirds (2/3) affirmative vote in any given fiscal year then the subsequent fiscal year's budgetary restriction shall be calculated using the previous year's budget submitted to the Department of Revenue Administration to include the amount in excess of the budgetary restriction approved by the override. **CC FY16 5-017 AB 160**

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Bogan seconded the motion. Councilor Gates requested a roll call. Councilor Torr seconded the request.

Councilor Gray gave reasons why he opposed this resolution. He added that there is enough time to have this question placed on a ballot for the voters to have a say on the matter. Mayor McCarley called for vote on the motion. The **MOTION FAILED** by a roll call vote of 2 to 10. Councilors Keans and Councilor Varney voted in favor of the motion. Councilors Gray, Torr, Gates, Barnett, Bogan, Lauterborn, Abbott, Willis, Lachapelle, and Mayor McCarley voted against the motion.

3. AB 158 Resolution Approving Cost Items Associated with Proposed City of Rochester Multi-Year Collective Bargaining Agreement with New England Police Benevolent Association Local 23 (Police Patrol Personnel) First Reading, Second Reading, and Adoption

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

**RESOLUTION APPROVING COST ITEMS ASSOCIATED WITH
PROPOSED
CITY OF ROCHESTER
MULTI-YEAR COLLECTIVE BARGAINING
AGREEMENT WITH
NEW ENGLAND POLICE BENEVOLENT ASSOCIATION
LOCAL 23**

(Police Patrol Personnel)

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

That pursuant to, and in accordance with, the provisions of Chapter 273-A of the New Hampshire Revised Statutes Annotated, the cost items associated with the multi-year year collective bargaining agreement between the City of Rochester and the New England Police Benevolent Association Local 23 Bargaining Unit, covering the period July 1, 2016 to June 30, 2020, as set forth in the proposed contract, and as more particularly detailed on the attached "**EXHIBIT A: NEPBA LOCAL 23 – May 2016**," which includes a summary financial analysis of the annual costs of the contract to the City provided by the Rochester Director of Finance, is hereby approved. The provision of funds necessary to fund the aforementioned, and hereby approved, collective bargaining agreement "cost items" in the first year of the agreement will be contained in the Fiscal Year 2017 operating budget of the City. **CC FY 16 AB 158**

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

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Bogan seconded the motion. Councilor Torr requested a roll call vote. Councilor Lachapelle seconded the request. Mayor McCarley called for a vote on the motion. The **MOTION CARRIED** by a 12 to 0 roll call vote. Councilors Bogan, Abbott, Varney, Willis, Lachapelle, Gray, Barnett, Torr, Gates, Keans, Lauterborn, and Mayor McCarley voted in favor of the motion.

4. **AB 157 Resolution Approving Cost Items Associated with Proposed City of Rochester Multi-Year Collective Bargaining Agreement with New England Police Benevolent Association Local 123 (Communications Personnel) First Reading, Second Reading, and Adoption**

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

**RESOLUTION APPROVING COST ITEMS ASSOCIATED WITH
PROPOSED
CITY OF ROCHESTER
MULTI-YEAR COLLECTIVE BARGAINING
AGREEMENT WITH
NEW ENGLAND POLICE BENEVOLENT ASSOCIATION
LOCAL 123
(Communications Personnel)**

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

That pursuant to, and in accordance with, the provisions of Chapter 273-A of the New Hampshire Revised Statutes Annotated, the cost items associated with the multi-year year collective bargaining agreement between the City of Rochester and the New England Police Benevolent Association Local 123 Bargaining Unit, covering the period July 1, 2016 to June 30, 2020, as set forth in the proposed contract, and as more particularly detailed on the attached "**EXHIBIT A: NEPBA LOCAL 123 – May 2016**," which includes a summary financial analysis of the annual costs of the contract to the City provided by the Rochester Director of Finance, is hereby approved. The provision of funds necessary to fund the aforementioned, and hereby approved, collective bargaining agreement "cost items" in the first year of the agreement will be contained in the Fiscal Year 2017 operating budget of the City. **CC FY 16 AB 157**

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

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Bogan seconded the motion. Mayor McCarley called for a vote on the motion. The **MOTION CARRIED** by a 12 to 0 roll call vote. Councilors Torr, Keans, Varney, Gates, Barnett, Gray, Bogan, Lauterborn, Abbott, Lachapelle, Willis, and Mayor McCarley voted in favor of the motion.

5. AB 161 Resolution Authorizing Supplemental Appropriation to the 2015-2016 Rochester Police Department CIP Fund for Cruiser Camera Systems Replacement First Reading, Second Reading, and Adoption

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

by a unanimous voice vote. Mayor McCarley read the resolution by title only for the first time as follows:

**RESOLUTION AUTHORIZING SUPPLEMENTAL APPROPRIATION
TO THE 2015-2016 ROCHESTER POLICE DEPARTMENT CIP FUND FOR
CRUISER CAMERA SYSTEMS REPLACEMENT**

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

That a sum not to exceed Fifty Eight Thousand Dollars (\$58,000.00) be, and hereby is, appropriated as a supplemental appropriation to the 2015-2016 City of Rochester Police Department CIP Fund, for the purpose of providing funds necessary to pay costs and/or expenditures associated with the replacement of the Cruiser Camera Systems and provided further that funds for such supplemental appropriation shall be derived as follows: Twenty Thousand Dollars (\$20,000.00) from the FY2016 General Overhead Contingency Account and Thirty Eight Thousand Dollars (\$38,000.00) from the Rochester Police Department FY 2016 Operating Budget.

Further, that the transfer of Fifty Eight Thousand Dollars (\$58,000.00) from the FY 2016 General Fund Operating Budgets stipulated above to the FY 2016 Police Department CIP Fund stipulated above is hereby authorized;

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 05-17 AB 161**

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

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Bogan seconded the motion. Councilor Keans asked about the General Overhead Contingency Account. City Manager Fitzpatrick said it is a specific line item. Mr. Connors said that it is a Contingency Account in General Overhead. The **MOTION CARRIED** by a unanimous voice vote.

6. **AB 159** Resolution Authorizing US Department of Justice "COPS" Grant Application on Behalf of the Rochester Police Department **First Reading and Adoption**

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

RESOLUTION AUTHORIZING U.S.
DEPARTMENT OF JUSTICE "COPS" GRANT
APPLICATION ON BEHALF OF THE
ROCHESTER POLICE DEPARTMENT

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

That the Mayor and City Council of the City of Rochester, by adoption of this Resolution, approve the submission of a grant application by the Rochester Police Department to the U.S. Department of Justice, Office of Community Oriented Policing Services (COPS) Grant Program. **CC FY 16 AB 159**

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Bogan seconded the motion. Councilor Keans opposed the resolution and said this was not included in the Police Department's budget presentation. She added that there is a stipulation to receiving this grant funding that would require the City of Rochester to pay for the police officers in the fourth year of the grant. Councilor Willis agreed.

Chief Allen said this opportunity came about after the Police Department's budget presentation. This is a time sensitive matter and there was not enough time to send this request to the Finance Committee to review first. He said during the budget presentation it was clear that there has been a significant increase in arrests since 2012. This would be an opportunity to hire two officers at a reduced cost to the taxpayers over the next couple of years. The last time a police officer position was added to the department was back in 2009. He distributed a spreadsheet, which should have been included with the City Council packet material.

Councilor Keans said the Police Department has experienced multiple vacancies since 2009 and seldom carried a full complement of officers on staff. Chief Allen said that is correct. Councilor Keans wished to confirm that the COPS Grant opportunity becomes available fairly regularly. Chief Allen replied that the grant opportunity usually becomes available each year; however, the grant guidelines can vary from year to year. The purpose for the Police Department seeking this grant is to expand the proactive

initiatives in the City. He gave details of the service demands placed on the department with the amount of increased arrests and service calls. He gave details of how he would utilize one of the additional officers at the elementary school in order to educate the students on drug and violence prevention.

Councilor Gates questioned if additional police vehicles would be needed if the City were to obtain two additional police officers. Chief Allen replied no. Councilor Gates asked if there would be any other significant cost associated with obtaining two additional police officers with this grant. Chief Allen stated that the spreadsheet gives details of the cost per year. He reviewed the figures for the City Council.

Councilor Willis asked what is the date of the grant deadline. Chief Allen stated that the grant must be submitted by June 20, 2016, and he would be notified if the grant has been awarded to the City by late summer/early fall. Councilor Willis asked if the estimated cost of year-one had been included with the budget calculations. Chief Allen replied no, the department recently became aware of this grant opportunity after the budget presentation.

Councilor Bogan asked what would happen if one or both of the police officers did not work out for employment with the City. Chief Allen replied that the funding would be for the employment position not the person; a replacement could be hired if one or both employees did not work out for the City of Rochester. The City Council briefly discussed other cost relative to uniforms and equipment.

Councilor Abbott pointed out that it is likely that the City would only be paying half of the first year requirement since the grant and hiring process would take up much of the first six months of the fiscal year.

Councilor Keans **MOVED** to **TABLE** the motion. Councilor Torr seconded the motion. Councilor Gates **MOVED** to **POSTPONE** this matter until the first Regular City Council meeting in June. Councilor Willis seconded the motion. A discussion ensued about the differences between the two motions. City Manager Fitzpatrick confirmed that the motion to table is the higher priority motion; however, in this case, it is an improper motion because the "table" motion should only be used to set something aside for the current meeting. The City Council discussed the matter further. Mayor McCarley called for a vote on the motion to postpone. The **MOTION CARRIED** by a unanimous voice vote.

7. AB 162 Memorandum of Understanding with the Rochester

Housing Authority Motion to Approve the City of Rochester Entering into a Memorandum of Understanding with the Rochester Housing Authority to jointly Prepare and Submit an Assessment of Fair Housing to the US Department of Housing and Urban Development

Councilor Lachapelle **MOVED** to **APPROVE** the Memorandum as stated above. Councilor Bogan seconded the motion. Councilor Gates asked what is meant by fair housing and what does the Housing and Urban Development plan to do with the data which is collected.

Councilor Lauterborn stated that fair housing usually means that the landlord cannot discriminate against a potential renter. The Community Development Committee recommended this action to the full City Council because this is one of the requirements of accepting the CDBG Block Grant funding.

Councilor Torr spoke against the motion. Councilor Willis asked who would conduct the study. Councilor Lauterborn referred to page 127 of the City Council packet material and stated that each agency would be submitted this information individually. This "agreement" would streamline the process by allowing these two particular agencies to submit the information only one time. Councilor Willis asked which agency would be expending staff time on such data. Mr. Long, Community Development Coordinator/Grants Manager, said the workload would be shared between the Housing Authority and the City of Rochester. Mr. Long said that he would be the individual assigned to this task on the City side, as the administrator of the CDBG Block Grant. He added that all HUD funded agencies must complete an assessment of fair housing. The first assessment is not due until 2019. Councilor Varney asked if the City could charge some of the staffing time involved back to the CDBG fund. Mr. Long replied yes, all the staffing time involved would be funded by the grant.

Councilor Gates asked what is affirmatively furthering fair housing. Mr. Long explained that it is basically being proactive against discrimination.

Councilor Gates said there had been a recently issued fair housing act, which apparently defines segregation as a high concentration of persons of a particular race or religion. He feared that HUD may use such data to dictate, regardless of zoning ordinances within the City, where low housing homes can be situated in the City.

Mayor McCarley called for a vote on the motion. The **MOTION CARRIED** by a majority voice vote.

8. AB 163 Programmatic Agreement with the New Hampshire Division of Historical Resources Motion to Approve

Councilor Lachapelle **MOVED** to **APPROVE** the Programmatic Agreement with the New Hampshire Division of Historical Resources. Councilor Bogan seconded the motion. Councilor Lauterborn stated that this program would streamline the process involved with filing the Entitlement Program (Community Development Block Grant Program) paperwork for the Community Development Coordinator/Grants Manager.

Councilor Willis asked if the Historic District Commission weighed in on this topic. Councilor Lauterborn stated that Community Development had just learned about this process and the Committee had not discussed notifying the Historic District Commission as of yet. Councilor Keans gave more information about how this would speed up the process in order to have federal projects start within a more reasonable timeframe. The City Council briefly discussed the matter.

Mayor McCarley called for a vote on the motion. The **MOTION CARRIED** by a majority voice vote.

9. Resolution Ordering the Elimination of a Hazardous Building at 13 Magic Avenue in Rochester, New Hampshire First Reading and Adoption

Councilor Abbott requested to be recused from the discussion and voting on the matter. Mayor McCarley confirmed that Councilor Abbott would be recused from this matter. Councilor Lachapelle **MOVED** to read the resolution by title only. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley read the resolution by title only as follows:

RESOLUTION ORDERING THE ELIMINATION OF A HAZARDOUS BUILDING AT 13 MAGIC AVENUE IN ROCHESTER, NEW HAMPSHIRE

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

WHEREAS, the building located at 13 Magic Avenue, Map 103, Lot 17 is owned by The Sebastina Trust by Order of the Strafford County Superior Court (Houran, J.), May 10, 2016; and

WHEREAS, the building at 13 Magic Avenue, due to neglect, inadequate maintenance, and dilapidation is no longer structurally sound as the structural integrity has been compromised; and

WHEREAS, the building at 13 Magic Avenue is physically damaged and remains in unsanitary condition with no water or sewer service and no fire protection measures; and

WHEREAS, the building at 13 Magic Avenue in the City of Rochester exists in a hazardous condition and is a hazardous building in violation of New Hampshire RSA Chapter 155-B, Hazardous and Dilapidated Buildings; and

WHEREAS, in the interest of public safety and pursuant to RSA 155-B, the City Council may order the owner of the hazardous building to raze and remove the structure;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rochester that:

A. The Sebastina Trust, George Blaisdell, Trustee, owner of the property located at 13 Magic Avenue in Rochester, is hereby ordered to:

1) Demolish the building at 13 Magic Avenue in the City of Rochester, remove and properly dispose of all materials and existing debris on, in or around the building, with the exception of slabs to eliminate the collection of surface water. Substantial demolition must begin within twenty (20) calendar days of receipt of this order and be completed within forty-five (45) calendar days of said receipt.

B. The City Council hereby Orders the building at 13 Magic Avenue, be razed and removed pursuant to the authority granted under RSA 155-B.

C. The Order shall be served upon the owner pursuant to RSA 155-B:4.

D. The City Council states a Motion for Summary Enforcement of this Order will be made to the 7th Circuit Court-District Division-Rochester unless corrective action is taken or an answer is filed within twenty (20) days of service of this Order upon the owner. Any costs, attorney's fees, or expenses incurred by the municipality may be enforced as a lien against the subject property and any other property owned by the same owner in the State pursuant to RSA 155-B:9, II. If the building contains personal property or fixtures, these items may be removed prior to demolition of this building.

E. The City Manager is hereby directed to take all other actions provided for under RSA 155-B.

F. This Resolution takes effect upon its passage. **CC FY16 5-017 AB 164**

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Attorney O'Rourke addressed the City Council concerning 13 Magic Avenue. He introduced Jim Grant, Director of Building, Zoning, and Licensing Services and Tim Wilder, Deputy Fire Chief – Fire Protection. Mr. Grant gave a PowerPoint presentation of the history and hazardous situation of 13 Magic Avenue. He strongly recommended that the City Council adopt this resolution. The **MOTION CARRIED** by a unanimous voice vote, *with Councilor Abbott recused from the vote.*

10. Appointments:

10.1. Appointment: Troy Dillow, Rochester Economic Development Commission

Mayor McCarley nominated Troy Dillow to serve as a Regular Member of the Rochester Economic Development Commission [term to expire on 01/02/2018]. Councilor Lachapelle **MOVED** that nominations cease. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Councilor Keans gave the City Council information regarding this recommendation. Mr. Dillow is now appointed as a Regular Member of the REDC by a unanimous ballot vote of 12 to 0.

10.2. Appointment: Christine DeAngelis, Rochester Economic Development Commission

Mayor McCarley nominated Christine DeAngelis to serve as a Regular Member of the Rochester Economic Development Commission [term to expire on 01/02/2019]. Councilor Lachapelle **MOVED** that nominations cease. Councilor Bogan seconded the motion. Mayor McCarley gave the City Council information about work Ms. DeAngelis has done for the REDC over the last six months, in anticipation of serving as Regular Member. The **MOTION CARRIED** by a unanimous voice vote. Ms. DeAngelis is now appointed as a Regular Member of the REDC by a unanimous ballot vote of 12 to 0.

11. Non-Public Session

11.1. Non-Public Session, RSA 91-A:3,II (a) Personnel

Mayor McCarley cancelled the Non-Public Session earlier in the meeting.

Councilor Gray suggested that the matter concerning establishing a policy regarding City Charter Section 43-a be sent to the next Codes and Ordinances Committee for discussion about placing the question on a ballot.

12. Adjournment

Councilor Lachapelle **MOVED** to **ADJOURN** the Special City Council Meeting at 8:45 PM. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Kelly Walters, CMC
City Clerk