

CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

Thursday October 2, 2014

City Council Chambers

31 Wakefield Street, Rochester, NH

7:00 PM

Committee Members Present

Councilor Peter Lachapelle, Chair
Councilor Elaine Lauterborn, Vice Chair
Councilor Ray Varney
Councilor Robert Gates
Councilor Donna Bogan

Others Present

Captain Toussaint
Robert Goldstein
Councilor Gray
Gail Varney

MINUTES

1. Call to Order

Councilor Lachapelle called the Codes and Ordinances Committee meeting to order at 7:00 PM. All committee members were present.

2. Public Input

Councilor Lachapelle asked if anyone from the public wanted to address the Codes and Ordinances Committee at this time.

Gail Varney, resident, addressed the committee regarding the City's annual report. Ms. Varney expressed her concerns with the way the report was bound. Ms. Varney showed the committee copies of the standard format that is used. She explained that this type of the annual report goes back to at least 1874 and there is tradition of having them hard bound so they will hold up. She said these reports get archived in the State Library and the current copy would not last the test of time as would the hard bound copies will and they should shrink them down to the standard size. She would like them to continue the tradition so that it would make a complete set.

Councilor Lachapelle asked the City Clerk's Office to research this issue. Councilor Varney stated that they should address City Manager Fitzpatrick where this initially came from him, as well as check into the State archives.

3. Approval of the Codes and Ordinances Committee Minutes

- **September 4, 2014**

Councilor Gates **MOVED** to **ACCEPT** the Committee minutes of September 4, 2014 with the exception of revising the attendance, adding that Councilor Gates and Councilor Gray were in attendance. Councilor Varney seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

4. Discussion of Home Occupancy Renewals

Councilor Lachapelle stated that Robert Goldstein from the Board of Assessors was present to explain his issues regarding home occupancy renewals.

Mr. Goldstein stated that he would like to see a three or five year renewal on these in-home businesses because currently once they receive this type of license it does not expire and explained why he felt the need to have these renewals. He explained that second hand dealers have to renew. He said that veterans and disabled individuals have to apply every year to get their tax credit. Mr. Goldstein said that having the home occupancy renewal would have the verification that they still meet the criteria.

Councilor Varney asked Councilor Gates if the software that his committee was looking at would be an effective way to track these permits. Councilor Gates stated that the software could help with this. Councilor Varney said that the software could maintain a list of these businesses.

The Codes and Ordinances Committee discussed having Sheldon Perkins, Code Enforcement Officer, look at this and see how many of these businesses are out there.

Mr. Goldstein explained that some of these home businesses expand outside the limits of what was original accepted. Councilor Lachapelle agreed that in some situations they do expand outside the criteria.

Councilor Lachapelle asked if there was a charge for the home occupation license. Mr. Goldstein said yes, there is a charge for the application and an additional charge for the mailing.

Councilor Varney suggested that they find out how many of these home businesses are out there to realize the magnitude of the problem.

Councilor Gray stated that page 1, paragraph four of the minutes indicates how many are in the city and that the home businesses which are for food services and child care are followed up on. He asked how much time and effort would it take for the inspections, and what cost would the City incur. Mr. Goldstein explained the State regulates food and child care. He explained that there would be no inspection; they would just reapply. Councilor Lauterborn questioned why they would not do an inspection. She said that maybe they should be just looking at the offenders. Mr. Goldstein stated that nothing is being done currently to the offenders. They are spoken to, but most of the time nothing is done.

Mr. Goldstein explained that the issue the City had with a certain home occupation could have been dealt with if they had to reapply and were denied. Councilor Lauterborn did not agree because this resident even went against court orders.

Mr. Goldstein said that the veterans and elderly have to reapply to show they meet the requirements for the exemption. He stated that if the home occupation needs to reapply they would need to show they are compliant and he explained how that would work.

Councilor Varney was not in favor of having these home businesses reapplying. Councilor Varney said they could check on these businesses every few years. He felt that the offenders are being taken care of by the Code Enforcement Officer pretty quickly and it might be getting too bureaucratic.

Councilor Lachapelle asked that Mr. Perkins be invited to the next Codes and Ordinances Committee meeting to discuss possibly doing something semi annually for this type of business and maybe he could address the percentages which are food or child care oriented.

Mr. Goldstein explained that currently the home occupation permit stays with the property even if the homeowner moves, but with reapplying it would terminate itself. The Codes and Ordinances Committee discussed this further with Mr. Goldstein. Councilor Lauterborn felt that there are a lot of "maybes" when it comes to this issue. Councilor Bogan suggested if the applicant moves from the property the application should be voided, and maybe they need to change the application. Councilor Gates asked Mr. Goldstein, as well, about this where the application is under the resident's name. Mr. Goldstein explained these are home businesses that are in R1

where they are not permitted and that is the reason for it being listed under the property.

Councilor Gates agreed with Councilor Lauterborn that it should be complaint driven. Mr. Goldstein just wanted the committee to take it into consideration as a recommendation.

Councilor Varney explained the fees for the home occupation application and maybe they need to get feedback from Jim Campbell from the Planning Department.

Councilor Lachapelle stated that this issue will stay in committee until the committee's next meeting. Mr. Goldstein thanked them for their time. Councilor Lachapelle stated that the next Codes and Ordinances Committee meeting will be held November 6, 2014.

5. Panhandling

Councilor Lachapelle asked Captain Toussaint if he had time to review the Concord Ordinance, which has not been challenged by the ACLU.

Captain Toussaint stated that it helps to tighten things up. He cited State RSA 265.40 and he explained this RSA further. He also addressed RSA 644.2 as it pertained to disorderly conduct addressing obstructing traffic, but it is a little loose. Captain Toussaint stated the Concord ordinance makes it cleaner. Councilor Lachapelle asked if this type of ordinance would affect the Fire Department Boot Drive. The committee discussed this further.

Councilor Varney stated per Mr. Perkins that when a business is open and has a parking lot, they consider the parking area as a road way. Captain Toussaint explained the definitions of way and roadway. Councilor Lachapelle asked if they passed an ordinance such as Concord's would the gentleman who stands at the Home Depot be in violation. Captain Toussaint stated that the ordinance would make it cleaner as to rights and duties and he addressed the current statutes. Captain Toussaint said that panhandling has died down in the City.

Councilor Gray asked if RSA 265.40 would make it a violation of panhandling in the Service Credit Union parking lot. Captain Toussaint agreed, but most of the time it would be complaint driven.

Councilor Lachapelle **MOVED** to have Attorney Wensley draft the Concord ordinance in the Rochester format and send it to the full City

Council. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

6. Other

Councilor Varney checked into the home occupation application and stated that it is non-transferable.

Captain Toussaint made himself available to answer other questions from the Codes and Ordinances Committee.

7. Adjournment

Councilor Bogan **MOVED** to **ADJOURN** the Committee meeting at 7:34 PM. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Nancy Carignan
Assistant City Clerk