

**CODES AND ORDINANCES COMMITTEE**

Of the Rochester City Council

**Thursday June 5, 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 Derek "Mac" Kittredge

**Others Present**

Councilor Hamann  
Councilor Larochelle  
Councilor Gray  
Councilor Keans  
Sheldon Perkins, Code Enforcement  
Officer  
Lisa Clark, Office Manager,  
Department of Public Works  
Peter Nourse, Commissioner of  
Public Works  
Captain Toussaint, Rochester Police  
Department  
Tom Kaczynski, Resident  
Lynn Kasch, Resident

**MINUTES**

**1. Call to Order**

Councilor Lachapelle called the Codes and Ordinances Committee meeting to order at 7:00 PM. Nancy Carignan, Assistant City Clerk, took a silent roll call. All members were present

**2. Public Input**

Councilor Lachapelle explained that the public could speak during the discussion of the item which they have concerns with. He asked if anyone would like to address the Codes and Ordinances Committee. There was no discussion at that time.

Councilor Lachapelle asked if there were any objections to amending the agenda in regards to moving Chapter 17, water leakage, under "Other Business". There were no objections.

### 3. Approval of the Codes and Ordinances Committee Minutes

- **May 1, 2014 Public Hearing Minutes**

Councilor Lauterborn **MOVED** to **ACCEPT** the Minutes of the Public Hearing on May 1, 2014. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

- **May 1, 2014 Codes and Ordinances Regular Minutes**

Councilor Lauterborn **MOVED** to **ACCEPT** the Committee minutes of May 1, 2014. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

### 4. Other – Chapter 17, Water Leakage

Peter Nourse, Commissioner of Public Works, explained that he is back to address Chapter 17 with the Codes and Ordinances Committee after questions arose from the City Council meeting on June 3, 2014. He stated that he was under the impression that this amendment was passing, but before the vote he was questioned on some of the aspects, which caught him off guard. Mr. Nourse went on to explain how this ordinance came to be.

Mr. Nourse stated that the UAB would abate the sewer portion for water leaking into the ground and they would use that process as leverage to get the leak fixed. In October of 2013 they were notified that they were no longer to bill for sewer if the water was going into the ground and not the sewer.

Mr. Nourse explained an issue that they had with the condominium complex Woodland Green. They had a leak from approximately 2007 to 2012, during which time thirty-three million gallons of water leaked into the ground. This amount of water could sustain the entire City for two weeks. The leak is now fixed, but the Association brought suit against the City in the sum of \$207,000, which the city abated \$50,000.

Mr. Nourse explained his approach in handling these situations through his department procedures and the proposed ordinance would put it in writing.

Mr. Nourse addressed master meters, which are currently used at two mobile home parks, Tara Estates and Pine View. Tara Estates knows they

are leaking water into the ground; however, they have not requested abatements for sewer. Pineview had multiple leaks last year and they did go to the UAB for abatements. He explained that his department will continue to track usage and when they see a spike they will notify the customer, but they should have a time frame to fix it, that being the suggested ninety days.

The first time he presented this ordinance to the Codes and Ordinances Committee, he made changes to the single meter customers per their recommendations. He stated that this ordinance has been tempered as it went back and forth between the UAB and the Codes and Ordinances Committee. In March of 2014 both committees were pleased, but at the June 3, 2014 City Council meeting some questions arose. He is willing to temper this ordinance further if that is what the committee wants.

Councilor Larochelle asked about the \$50,000 that was abated for Woodland Green where they had asked for \$207,000 in abatements. Mr. Nourse explained that they waited too long and were outside the abatement period and they did not fix it for years. Councilor Larochelle stated that we only gave them \$50,000, so the City netted approximately \$150,000.

Councilor Larochelle suggested that they approach this with giving the customer a timeframe to have the leak fixed and if they go outside that timeframe then there will be no abatements.

Mr. Nourse stated that last year they were directed that they are not to charge for sewer if they know there is a leak and that it is going into the ground and not the sewer. He went on explaining that the UAB used these abatements to get the water leaks fixed. Now with the new directive they need to go after the water leakage.

Councilor Larochelle said that if a customer wants to pay, knowing there is a leak, and subsidize the rate payers as long as they are not causing an environment problem, then there is no issue. Councilor Hamann reiterated that at this point they are not getting billed for the sewer. Councilor Larochelle addressed his first suggestion of giving customers a timeframe and after that period they will get billed for the sewer. Mr. Nourse reiterated that they have been told to absolutely not do that. Councilor Larochelle stated that there should be a penalty then. They discussed further.

Councilor Gates asked if this directive came from the City Council as to not charging for the sewer if there was a leak. Mr. Nourse explained that

this directive came from the City staff, the Finance Department, and the City Manager.

Councilor Gates felt that they should go back to what it was and referred to Councilor Larochelle's idea of giving customers a period of time to get a leak fixed and if they did not fix it they would not get abatement.

Councilor Varney did not want to go down that path. He felt it was not legal to charge a customer for a service they were not getting. He questioned if Woodland Green knew they had a leak. Lisa Clark, Public Works Office Manager, stated that their usage spiked and they did not take time to invest in fixing the leak. She said that now they have gone to individual meters.

Councilor Varney handed out a marked up version of the proposed ordinance and referred to making this a violation if necessary to get these leaks fixed. He does not feel that shutting water off is the direction that they want. In the case of Tara Estates you would penalize the individuals when it is the park owner's fault.

Councilor Varney expressed that saving water and conservation is another issue. He cited part of the water ordinance addresses emergency measures where fines can be implemented in drought situations and once a drought is declared a \$100 per day fine can be issued for violations of the provisions. He felt that this could be implemented in cases of water leakage. Councilor Larochelle agreed and he would like to see them add some numbers on quantities of water being leaked. The committee discussed that there are some numbers in place, such as ten percent with the master meters. Councilor Larochelle felt it should be more than ten percent. Mr. Nourse said this could be adjusted. Councilor Larochelle explained his viewpoint further.

Councilor Varney mentioned that when individual meters are at plus or minus twenty-five percent the customer gets notified. Ms. Clark stated that this is correct. They discussed the ten percent as referring to the difference in the sum of the master meters. Mr. Nourse and Ms. Clark explained that the master meters are fairly new with the exception of Lilac City Estates, which will be getting done. These meters should be accurate.

Councilor Kittredge referred to part A of this proposed ordinance regarding customers who spend months away during the winter months in other states. Ms. Clark explained that they have had burst pipes and she stated the department does handle these situations when they arise.

Councilor Kittredge asked about customers filling pools. Ms. Clark explained how they handle this situation and they do have a notice regarding this on their bills.

Councilor Larochelle briefly discussed with Mr. Nourse how these water leaks occur. There are various reasons.

Councilor Varney asked that Mr. Nourse take a look at the proposals that he is suggesting and come back to the next meeting taking place on August 7, 2014, as they are not meeting in July. Mr. Nourse said he would do that.

Councilor Lachapelle thanked Mr. Nourse and Ms. Clark for their time. The matter will be staying in committee.

## **5. Proposed Rental Housing Ordinance**

Sheldon Perkins, Code Enforcement Officer of Building, Zoning, and Licensing Services (BZLS), explained to the Codes and Ordinances Committee that they have revised Chapter 44 since he last met with the committee.

Councilor Lauterborn agreed it was a different version, but was not ready to send to the full City Council. She asked who wrote this version. Mr. Perkins said that he and Jim Grant, Director of BZLS, wrote it using the Durham ordinance as a template. She would like to see Durham's ordinance. She also had found several grammatical corrections with the document and she would like to review them with him after the meeting.

Councilor Lauterborn questioned section 44.4 A 1, in regards to a voluntary inspection at the request of the landlord or the tenant. She wanted to know on whose part is it voluntary. Mr. Perkins explained it can be either of them. Councilor Lauterborn asked if this was on a complaint issue. Mr. Perkins explained that it was not; it would be for a regular inspection. Mr. Perkins used the example of a tenant requesting an inspection prior to moving into a dwelling.

Councilor Lauterborn asked about 44.4 A 2, where it states that no interior inspection will be done without the above criteria being met. She referred to the paragraph listed above that section, which outlines a process and an inspection will be scheduled by a compliance officer. Mr. Perkins said

that this would be for a complaint inspection. Councilor Lauterborn explained that it does not read well.

Councilor Lauterborn referred to section 44.5, in which there is a sentence that states that the enforcement process is initiated by the Director or the designee, and if the inspection reveals the dwelling is substandard what is the procedure. Mr. Perkins explained that a complaint would need to be made first. She asked if they were going to jump into enforcement prior to inspecting the dwelling. He stated no, that would not happen; they verify said complaints and notify the property owner or management company. He sends out several notices. He gave an example that when it comes to trash, he usually only gives a few days to clean it up, so in that case it is a first and final notice.

Councilor Lauterborn suspected that the department is doing this well, but if they want this on the books, they need to have it clearly written.

Councilor Lauterborn asked about 44.6, regarding the appeals process. She stated that this section refers to the Residential Housing Board. Mr. Perkins explained that this would be a board comprised of landlords, a Code Officer, and a member of the Fire Department. He said that it has not been put together yet. Councilor Lachapelle asked if they are going to put a new board together. Mr. Perkins said that is correct. Councilor Lauterborn cited that it should not be in the ordinance if it does not exist. Councilor Varney asked why would they go outside the chain; we should be going through the City management and not an outside board. Councilor Lauterborn agreed.

Councilor Hamann questioned section 44.4 A 3, when it comes to life safety or health issues; why are they waiving the notification to the property owner or management company? Mr. Perkins stated that this is based on an emergency situation. Councilor Hamann said if there is an emergency the landlord should be notified first. Mr. Perkins explained that this only meant that they would not wait three days to inspect in the case of an emergency; they would go right away. Mr. Perkins explained that the landlords still get notified of these situations. Councilor Hamann stated that the tenants should notify the landlords before the BZLS and that should be stated in the ordinance. Mr. Perkins reiterated that this is a draft, but it is the BZLS policy for a tenant to notify the landlord with a certified letter of a complaint before his department does anything. He agreed that it should be in the ordinance.

Councilor Varney asked about absent landlords and are they required to register. Councilor Gray stated that they are to register.

Councilor Lauterborn referred to 44.4 A 2, where the BZLS has fourteen days to notify the landlord verbally or in writing of what should be done. She feels that with these situations everything should be in writing. Mr. Perkins agreed and said he will work with her after the meeting on the grammar issues. He will work on the changes and bring it back to the Codes and Ordinances Committee.

## **6. Animal Control - Cats**

Councilor Lachapelle asked the committee if there were any objections to amending the agenda to allow the discussion of cat complaints to go ahead of the panhandling discussion. There were no objections.

Captain Paul Toussaint addressed the Animal Control Officer's issues pertaining to cats. Councilor Lachapelle asked if Sue Paradis, ACO, should be responding to these cat complaints, because that is not happening. Captain Toussaint agreed, but the problem is that there are a lot of complaints made by phone call. When the ACO gets there, and there is a stray cat in the yard, there is nothing she can do. There is no ordinance for cats running at large, or any ordinance for cats to be registered.

Captain Toussaint referred to a recent cat complaint that was featured in the newspaper. This was brought up at the last Codes and Ordinances meeting. He agreed she should have at least gone to talk to him, but the fact of the matter is he does not know who owns the cats and there are cats all over the place. He went on to explain that she has no authority to trap them or remove them. This is the problem that they are running into. He does not feel that registering cats is an option, but they will enforce any ordinance that the committee chooses. Captain Toussaint wants them to be aware of the process for dog registration, because he does not believe they are aware of what this entails.

Captain Toussaint explained that there are over five thousand dogs in the City of Rochester that need to be registered by April 30<sup>th</sup> every year. There is a portion of residents that do not register their dogs and that is between one thousand and eleven hundred. He reviewed the process for the Codes and Ordinances Committee.

Councilor Lachapelle asked if there are repeat offenders and do they keep track of them. Captain Toussaint said that there were but they do not track them because the fines are the same every year.

Lynn Kasch, resident of Morse Court, addressed the Codes and Ordinances Committee regarding cats. She wanted them to know she had

some ideas on the way to handle them. She gave a compassionate account as to why she feels cats have become an issue, stating that it comes mostly from low income neighborhoods.

Ms. Kasch used to work with Voice for Animals, but is now working with Another Chance for Animal Rescue. She actively works with getting cats spayed or neutered as well as immunized. She had grant money in 2012 to help pay for this.

Ms. Kasch listed reasons why there is a problem in Rochester. She made a recommendation to the committee. They might want to make it mandatory for low income rentals to have their pets spayed or neutered, because this could solve some of the problems

Councilor Lachapelle asked Ms. Kasch if she publicized her organization. She explained that as of right now she has not, but she is planning to because of the grant money that she has been awarded.

Captain Toussaint felt that she is doing great work, but there will still be stray cats. Ms. Kasch explained that long term getting these cats fixed could solve the problem of spaying and ruining property.

Councilor Kittredge wanted Ms Kasch to know he appreciates all that she has done and he wanted to know if she is open to having volunteers to assist her. She stated that that would be appreciated. Councilor Kittredge would like to contact John Nolan from the Rochester Times to do a feature article on her to get the word out.

Councilor Kittredge asked if she had traps for the feral cats. She said she did, but they are all loaned out at this time.

Councilor Lachapelle does not want to pass an ordinance at this time to register cats, but he wishes that he had one hundred more concerned residents as Ms. Kasch who is doing a great job.

Councilor Varney asked if the ACO is referring individuals to Ms. Kasch. Captain Toussaint said yes, she was, and that Ms. Paradis had a network of people she works with.

The Codes and Ordinances Committee thanked Ms. Kasch for her time and effort.

## **7. Panhandling – Discussion**



Councilor Lachapelle stated that they have received some numbers from the Rochester Police Department regarding the amount of complaints that they have received for panhandling. The Codes and Ordinances Committee reviewed this information.

Councilor Lachapelle explained that he has not heard back from Attorney Wensley regarding this issue, so he will plan to make an appointment with him so that they can discuss where they stand.

Councilor Lauterborn was concerned that nothing has come forth at this time. She was under the impression after the last ordinance was repealed they were going to move quickly to get another one in place.

The committee asked Captain Toussaint about the panhandling complaints where they appear to be down. He is speculating that the panhandling is still happening, but fewer citizens are taking the time to report it.

Councilor Lauterborn asked about the Concord ordinance. Councilor Varney stated that Attorney Wensley needed to review this with the ACLU.

The Codes and Ordinances Committee discussed panhandling in the medians. Captain Toussaint said they could only enforce a violation if then panhandlers were interfering with traffic. They can stand in the median and hold signs. Councilor Gates questioned if a car is stopped at a traffic light can a panhandler approach the car. Captain Toussaint said they can and the only violation they could get them for would be jaywalking if they are crossing back and forth in the street, but this is a grey area.

## **8. Smoking on the Common Complaint**

Councilor Lachapelle explained that they received an email complaint, but he considered it a dead issue. The committee passed an ordinance in respect to smoking on the Common already.

## **9. Chapter 42 Certification**

Councilor Lachapelle cited that they were not going to certify Chapter 42, at this time. They need to review the chapter and they will deal with it at the August 7, 2014, meeting.

## **10. Other**

Councilor Larochelle addressed the committee in regards to the amount of false alarms that the Fire Department has to handle. When they go to false alarms they are rolling out the trucks, which is costly. He went on to mention that most of these false alarms are due to less than adequate security systems. Currently an owner can get up to six false alarms per year before they are threatened with a \$100 fine. The Codes and Ordinances Committee discussed penalties and lockouts.

Councilor Varney asked for a summary of these calls. Councilor Larochelle said he would work on this.

Councilor Lachapelle asked Councilor Larochelle to draft something and bring it back to the next meeting. He said that maybe they should be looking at this in the form of a service charge.

Councilor Lauterborn and Councilor Lachapelle received an email from Mark Hourihane of Hourihane and Cormier Real Estate regarding real estate signs. He was questioning the sign ordinance as it pertains to corner signs. He suggests that if they are not legal that the City communicates this to the Strafford County Board of Realtors.

Councilor Gray asked that this information be sent to Crystal DeButts in the Planning Department so that the Planning Board can look at it.

Councilor Lauterborn believed that Mr. Hourihane is complying with our ordinance, but there are other agencies that are not.

Councilor Kittredge questioned the Veterans tax credit in regards to who qualifies. He read a list of wars and conflicts to the committee. Councilor Lachapelle said that this is defined by the state.

Councilor Kittredge wanted to know why the City ordinance 40.4 did not include the same Veterans as the tax abatement so they do not receive a credit when it comes to building permits. He wanted to know if one of the committee members would help him draft an amended ordinance because he felt it should read as the tax credit eligibility.

Councilor Gray disagreed with this credit because ultimately the rest of the tax payers have to absorb these credits and if they are already getting one property credit do they need another credit.

Mr. Perkins state that the BZLS, does honor Veterans that receive the tax credit.

Councilor Gates understood that the tax credit is a yearly abatement and how would that work with building construction and how many Veterans are actually pulling permits. If the BZLS is already honoring it does the committee really need to do anything.

Councilor Varney disagreed with the state law in the way it has become too liberal. The Codes and Ordinances Committee discussed the terminology.

### **11. Adjournment**

Councilor Lauterborn **MOVED** to **ADJOURN** the Committee meeting at 8:26 PM. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Nancy Carignan  
Assistant City Clerk