

Committee Members Present

Councilor Peter Lachapelle, Chair
Councilor Elaine Lauterborn, Vice Chair
Councilor Ray Varney
Councilor Julien Savoie
Councilor Sandra Keans



Others Present

Police Chief Michael Allen
Jim Grant, Director of Building Safety
Rob Partridge, Business Owner

MINUTES

CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

Thursday May 2, 2013

City Council Chambers

31 Wakefield Street, Rochester, NH

7:00 PM

1. Call to Order

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

2. Public Input

Councilor Lachapelle advised the residents in Council Chambers that they could address the committee at any time during the discussions of the topics at hand and closed this portion of public input at 7:03 PM.

3. Approval of the Codes and Ordinances Committee Minutes

- **April 4, 2013**

Councilor Savoie **MOVED** to **APPROVE** the Committee minutes of April 4, 2013. Councilor Varney seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

4. Chapter 25.17 Of the City Ordinances – Issuance of License and Fees

Councilor Lachapelle asked the Codes and Ordinances Committee to amend the agenda, moving Chapter 25.17 to the top of the agenda. All committee members agreed.

Councilor Lachapelle explained that Jim Grant, Director of Building Safety, had provided an updated 25.17, which would replace it in its entirety. Mr. Grant said that he had morphed the State's ordinance and the fees associated are the fees the State charges. Councilor Lachapelle stated that he had an email from Rob Partridge, owner of Goodfellas Pizzeria, which had come from the State and answered his question of how he should be classified as Class C according to their standards. Mr. Grant explained that his business would be a Class III according to his new proposed ordinance, which is the equivalent of the State's Class C. Mr. Grant said that they had not looked at the ordinances since 2004 and it is probably time for it to be updated.

Mr. Partridge asked if this is a new proposal. Mr. Grant explained that it was and they had further discussion.

Councilor Varney asked Mr. Grant if he could revise this ordinance by using alpha classification instead of numeric. Mr. Grant was willing to make this change.

Councilor Keans asked about the Governor's Inn in regards to their classification. Mr. Partridge also questioned this. Mr. Grant explained that they do have a Class I license as well as a catering license. Mr. Partridge questioned The Garage restaurant. Mr. Grant stated that they are running under the Governor's Inn. Councilor Varney tried to explain the situation to Mr. Partridge and the committee members. Mr. Partridge did not seem satisfied with that answer.

Councilor Lachapelle asked what would Goodfellas Pizzeria be changed to if they followed the State guideline. Mr. Grant explained. The committee discussed the fees are too big of a jump on the new proposal and Councilor Keans asked if the proposed ordinance passed would it take effect July 1, 2013. Mr. Grant stated that in reality it would be another year before it would take effect, due to the licenses expiring in June.

The Codes and Ordinances Committee discussed this further. Councilor Keans asked if the Code Enforcement does anything currently with new business as far as pro-rating the fees if they were to open their establishment a couple months prior to the yearly expiration date. She then asked if it would logical to stagger the renewals. Mr. Grant discussed this further and explained that the Code Enforcement Department does go out to the establishments twice a year to inspect. Councilor Keans explained herself to the committee in regards to her thoughts on pro-rating the licenses.

Mr. Partridge wanted to know how he was going to be classified now. Mr. Grant said Class II.

Councilor Lachapelle wanted to discuss the fees. Councilor Varney suggested starting the highest classification at \$300 and drop from there for the lower classifications, but set a minimum of \$100 with two inspections a year. Mr. Grant felt

that it is time to change some of these fees because of time spent to do the inspections. Councilor Keans asked how long does it take to do an inspection. Mr. Grant gave a few examples. Councilor Varney reiterated his thought on the fees. Councilor Keans thought that Class A was getting a bargain.

Councilor Lauterborn questioned pro-rating the new business when they get their license so close to the annual renewal dates. Mr. Partridge explained that he understood that there is a lot more work to do when inspecting a new establishment, so he could not pose an argument. He did not feel that that aspect should be pro-rated. Councilor Lachapelle did not feel that there were any complaints regarding this.

Councilor Lachapelle wanted this new proposal reviewed by Attorney Wensley and at this time it will stay in committee for the June 6, 2013, meeting. Mr. Grant was not sure if they would be able to fast track the proposal. Letters have already been sent to these establishments. Councilor Lachapelle reiterated that they will keep it in committee.

5. Pawn Shops

Councilor Lachapelle explained that Councilor LaBranche was not in attendance, but he had sent in a letter that he received from the Dover, NH Police Department. This letter was to inform local shops of an item that had recently been stolen, which they were looking for. Chief Allen stated that they do send out this type of letter, but only for certain items and they do go to shops to look for property of higher value.

Chief Allen stated that after checking with other communities he would like to see a holding period from twenty-one days to thirty days. He went on to explain why they have these holding periods; it is because of the time it takes to look into these cases, sometimes two to three weeks. This holding period is designed to protect the victims. Chief Allen gave some statistics to Councilor Savoie, which he had asked for at the previous meeting. This information is from 2012 data and it can be found in the packet. Councilor Keans asked if he could provide a further breakdown. Chief Allen explained and stated that it is a significant amount, because property crime is very high and they did see an increase in 2012.

Chief Allen went on to explain that he would like the Codes and Ordinances Committee to implement an electronic filing system added to the City Ordinance, Chapter 34. He handed out a packet from a company which handles software that can be used exclusively for this type of electronic filing, but it does come with fees for the business owners and the system would not cost the Police Department anything. If the committee is interested he can have the company come to a meeting to make a presentation. Chief Allen explained that the state of Maryland passed a law that all shops had to use this software. He gave the committee statistics regarding this type of software and the recovery was significant due to this community using it. The software is effective, but it will cost the shops \$250.00 per year. The city of Manchester uses more expensive software, but they fund it with drug forfeiture money. Chief Allen suggested that it could be tacked onto the yearly fee; at this time our fees are low.

Councilor Savoie asked how we compare with the City of Dover. Chief Allen stated that Rochester has the highest rate of this type of crime in the Seacoast area, but the recovery rates are similar to Dover, NH. Chief Allen said that they are just touching the surface and a system needs to be put into place; however, they are doing a good job despite the lack of a stronger ordinance.

Councilor Lachapelle agreed that the reporting would be a good thing and asked if a three to five day hold would be appropriate. Chief Allen stated that this does not give the Police Department enough time and explained in some cases a crime does not get identified right away. He said some of the victims do not notice right away because they are out of town or it is an item they do not use on a regular basis. Councilor Lachapelle understood. Chief Allen stated that this software is not a bad idea for these shops; it would make their business more transparent. Councilor Varney would like a two to three week holding period. The Codes and Ordinances Committee briefly discussed how this would affect the shops that fall under the exclusions, Chapter 34.9, which includes flea markets.

Councilor Lauterborn questioned if the Police Department was too busy to go out to these shops then why not use the same type of letter as Dover, NH, or email them. Chief Allen does not feel this is an effective way to deal with the issue, but in some cases they have sent out a letter if it is a big ticket item.

Councilor Keans thought the waiting period was too long. Chief Allen explained further how a database would be effective. He stated that Salem, NH has the problem of the items that are being pawned are from individuals that are not residents they are out of jurisdiction, approximately eighty-five percent. Councilor Lachapelle understood this issue. Councilor Lachapelle reiterated he liked the idea of the electronic filing. Chief Allen said this will make the dealers more accountable for their transactions. He also said this would be a national database, so they would be able to cross-check items.

Councilor Savoie discussed compliance issues with Chief Allen and he explained that if they were not compliant fines would be enforced. He went on to discuss how that would be done and the Codes and Ordinances Committee continued with a brief discussion. Chief Allen reiterated that the electronic filing it to protect the citizens of the community.

Councilor Keans was in favor of a two week holding, but thought the cost of the software would be too much. She felt the electronic reporting would be a better option. Councilor Lachapelle agreed and does not want to take action until they get more feedback.

Councilor Keans asked about flea markets when it comes to this issue. Chief Allen did not think they were an issue. Councilor Savoie did not think they carried the same type of items of this crime.

Councilor Savoie asked if the holding period should be targeting certain items. Councilor Varney felt it should be everything.

Chief Allen wanted to find a resolution to this issue because it has been in committee too long. Councilor Varney did not feel that the committee could add the \$250.00 on top of the electronic filing. He asked about coming up with other funds, which Chief Allen touched on briefly.

Councilor Savoie agreed with Chief Allen as long as it is a trial period. He went on to ask if the shops should give input as to what items should be held. Chief Allen explained that they should exempt certain items, but everything else should be included in the holding period. Councilor Varney asked if he could bring back a revised ordinance with the exemptions. The Codes and Ordinances Committee requested that a fourteen-day holding period be included; this would be a fourteen calendar day period. Councilor Lauterborn wanted to see if this could work for now. Chief Allen stated that he would be bringing back a revised proposal.

The Codes and Ordinances Committee will be reviewing pawn shops again at the June 6, 2013, meeting.

6. Panhandling

Councilor Lachapelle explained to the committee members that Attorney Wensley reviewed the proposed ordinance from the Police Department and stated that it looked good. The committee members took a moment to review the ordinance where they were just receiving it today. Chief Allen said this proposal was to focus more on the conduct verses the location.

Councilor Keans asked about panhandlers on private property. Is an establishment such as K-Mart considered private property? Chief Allen said it was and if they are asked to leave and they do not the police can get involved.

The Codes and Ordinances Committee discussed this ordinance further and Chief Allen gave them examples of other community's issues. He said there are more and more people panhandling then before, because it is easy to do and they are making money.

Councilor Lachapelle asked the committee members if they had any other questions. Councilor Lauterborn thought they needed to look at Chapter 31.3, aggressive panhandling and review the definitions. She asked Chief Allen if any of these have been challenged in court and found to be a civil right issue. The committee discussed that whatever they do, it can always be challenged.

Councilor Varney felt that Attorney Wensley would approve this ordinance. He added that a minor spelling error needed to be corrected. Councilor Keans felt the fifty foot distance was too far. Chief Allen explained that a lot of the information he proposed came from looking at Concord, NH, ordinances. Councilor Keans stated she was not

against the ordinance she just thought if the “public way” was twenty feet from an ATM machine; they do have the right to be there. Chief Allen cited if they were aggressively panhandling then they would be in violation. Councilor Keans was still concerned about the public way. Councilor Varney said they would need to be recklessly doing something to be found in violation. Chief Allen said that the ordinance was pretty descriptive as to defining aggressive behavior.

Councilor Lachapelle asked if there was a motion to bring this ordinance to the full Council. Councilor Lauterborn **MOVED** to bring this to the full Council. Councilor Varney seconded the motion. The **MOTION CARRIED** with a majority vote by 3 to 2.

7. Rules of Order

Councilor Lachapelle explained that he had forwarded his suggested changes to Attorney Wensley and he had sent them back with changes that he had made. He had asked that under 1.3, page four, the “ballot vote” be removed and have by a “roll call vote” added. Section 1.5 will be a brand new section all together.

Councilor Keans questioned the Public Meetings and Public Hearings. Councilor Lauterborn asked if this proposal’s intent is for the public input at these meetings needs to come from Rochester residents only. The Codes and Ordinances Committee discussed this proposal further.

Councilor Keans stated that the statute requires a Public Hearing notice be placed in the newspaper. It is agreed that this is the case.

Councilor Lachapelle also made a proposed change at the end or section 4.7 pertaining to residents who live Rochester will not be able to give public input during meetings. He said that he mirrored some of the information from other communities.

The Codes and Ordinances Committee discussed these changes and it is for the residents and businesses of Rochester to have input at Workshop meeting and Committee meetings and this is the way they will conduct their business under the rules of order.

Councilor Savoie thought that out of town residents might have valuable input and he disagreed fundamentally. He thought that they should be given less time to speak instead of not allowing them speak at all; currently they are given five minutes. Councilor Lauterborn wanted a provision for an expert to speak on major topics. Councilor Savoie agreed. Councilor Varney explained that the Council can do this by suspending the rules and getting a two-thirds vote. Councilor Lauterborn agreed. Individuals that are invited to speak and are not residents are on the agenda so this change would not affect them.

The Codes and Ordinances Committee have further discussion on this matter. Councilor Lachapelle asked if there was a motion on the table to bring this proposal to the full Council. Councilor Varney **MOTIONED** to bring the proposed changes to the

full Council. Councilor Lauterborn seconded the motion. The **MOTION CARRIED** with a majority vote by 3 to 2.

8. Other

Councilor Lachapelle wanted to bring to the committee's attention, 2.9 under Roberts Rules of Order, which came from the request of City Manager Fitzpatrick, where a citizen has requested to have supplemental documents included in the minutes of Council or Committee meetings. Councilor Lauterborn believes this stems from the last meeting where a resident asked for a very large informational report to be added to the official minutes

Councilor Lachapelle explained Kelly Walters, City Clerk, has advised him that it should be added as an addendum to the packet and not in the minutes. The committee member discussed this further. Councilor asked if the Council would need to vote to have it added to the official minutes. The committee members discussed this further as to how the State Legislature handles this situation. Councilor Savoie wanted to know if it is attached as an official document.

Councilor Lauterborn questioned if it should be added under 4.24 in the Rules of Order if it is something that they are going to do. She also explained that she never got the document that is being questioned from the last City Council meeting and she would like to get it. Councilor Lachapelle explained that it was attached to the packet. Councilor Lachapelle stated that before they debate this any further he would like to request more clarification from City Manager Fitzpatrick on this issue and bring it back at the next meeting on June 6, 2013.

Chief Allen reviewed with the committee members that he is having his department work with Kelly Walters, City Clerk, on the Codification with the software that they are currently using.

9. Adjournment

Councilor Savoie **MOVED** to **ADJOURN** the Committee meeting at 8:35 PM. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Nancy Carignan
Assistant City Clerk