

CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

Thursday March 6, 2013

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

Jim Grant, Director of BZLS
Councilor Larochele
Councilor Gray
Dan Wensley, City Attorney
TJ Jean, Mayor
Lisa Clark, Office Manager, Department
of Public Works
Peter Nourse, Commissioner of Public
Works
George Pelletier, Resident
Tom Kaczynski, Resident

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; *Councilor Kittredge arrived at 7:10 PM.*

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 at this time. There was no discussion at that time.

Councilor Lachapelle explained to the Codes and Ordinances Committee that they were going to enter into Non-Meeting Consultation with Legal Counsel under RSA 91-A:2 (d). He asked if there were any objections. Seeing no objections, Councilor Gates **MOVED** to enter into the Non-Meeting for legal consult at 7:04 PM. Councilor Varney seconded the motion. The **MOTION CARRIED** by a 5 to 0 voice vote. Nancy Carignan, Assistant City Clerk, took a roll call. Councilors Lachapelle, Lauterborn, Varney, Gates, and Mayor Jean voted in favor of the motion. *Councilor Kittredge arrived after roll call and entered into Non-Meeting at that time.*

Councilor Gates **MOVED** to exit the Non-Meeting at 7:30 PM and resume the Codes and Ordinances Committee meeting. Councilor Kittredge seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

3. Approval of the Codes and Ordinances Committee Minutes

- **February 6, 2014**

Councilor Lauterborn **MOVED** to **ACCEPT** the Committee minutes of February 6, 2014. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

4. Water Policies

Peter Nourse, Commissioner of Public Works, distributed a revised draft of Ch. 17 of the General Ordinances to the committee members. He explained that at last month's Codes and Ordinances Committee meeting his original proposed ordinance was recommended to go to full council for adoption with one exception: no single metered customers, primarily residential customers would be penalized. He explained that he revised the language of 17.34 (b), to indicate this. He stated that the Department of Public Works would send out an advisory letter for a potential leak, but the customer would not be penalized if they were paying their bill.

Councilor Lauterborn questioned why the ordinance did not differentiate between residential and multi-residential. Mr. Nourse addressed this for her.

Mr. Nourse stated that the ordinance was altered after meeting with the Codes and Ordinances Committee and the UAB Committee. The UAB Committee approved the wording of the ordinance with the acceptance of adding "C", which would soften the language on the leakage. This would reflect that no penalty would be imposed as long as the resident responded to the leak within a seven day period.

Councilor Lauterborn appreciated Mr. Nourse's efforts in revising the ordinance and this ordinance made sense to her.

Councilor Larochelle asked how much of an issue is this to the City. Mr. Nourse explained that this was an issue with the larger users, such as users with master meters or multi-unit meters, and there are some major leaks within the City when it comes to these users.

Mr. Nourse explained that this ordinance proposal came as a directive of the Finance Committee and the City Manager due to abatements. He said that if the water leak is not going into the sewer you can not charge for it. Councilor Larochelle stated that there should be no abatement if they are doing it knowingly.

Mr. Nourse stated that the UAB supports that a customer should pay up front with the exception of the overage that is being appealed. He has incorporated this into the standard operating procedures.

Councilor Lachapelle addressed the time period for appeals. He asked Mr. Nourse about the 180 days versus the 90 days. Mr. Nourse explained that the UAB favors the 90

days. He explained that currently the water and sewer differ on days and that they should read the same pertaining to the next billing cycle.

Councilor Varney asked if this meant that every appeal that goes over the 90 days will be sent to the City Council because he does not want to see that happen. Lisa Clark, Department of Public Works Office Manager, explained that it should not get to that point. Ms. Clark said that before that would happen the customer would have resolved the issue, paid the bill, or appealed the bill.

Councilor Varney expressed his concerns about a resident that had been charged for sewer for twenty-five years and was not on City sewer. Ms. Clark explained that this resident did not know when he bought the house that he was not on sewer and that the issue has been resolved.

Councilor Lachapelle asked if the Codes and Ordinance Committee wanted to recommend the new water ordinance proposal to the full City Council.

Councilor Lauterborn **MOVED** to recommend the revised water ordinance to the full City Council. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Larochelle expressed his concerns with ordinance 17.26 C. This ordinance “states that on a multi-line, if one customer does not pay their bill, and one or more may be innocent the customer’s water could be shut off because of the one customer that is not paying”. Mr. Nourse explained that most multi line customers are mobile home parks. Ms. Clark explained that this is very infrequent; however there are a few within the City. Councilor Larochelle asked if the multi-line section should still be in the ordinance. Councilor Varney stated that it should be left alone for now. Councilor Lachapelle agreed.

Councilor Larochelle asked if he could make a motion to strike 17.26 C, as a non-member. Councilor Lachapelle stated that he would have to do this at the City Council level.

5. Proposed Rental Housing Ordinance

Jim Grant, Director of Building, Zoning, and Licensing Services (BZLS), explained to the Codes and Ordinances Committee that earlier in the day he had met with the Rochester Property Owners Association in regards to this ordinance. He stated that they were a good group to talk to and appeared to be receptive to this type of ordinance. He did not feel that this group would be penalized by this ordinance.

Mr. Grant stated that the group discussed making this a voluntary compliance. He said the buildings would be inspected and receive a certificate stating that they were in compliance. When all is said and done, this could help them if they have any court issues.

Mr. Grant explained that the association had a slight issue with the fee schedule. He said that the housing ordinance needs to be tweaked. He added that the property owners association would draft something more suitable and get back to him. He stated that it could be a two month process and he would like this issue held in committee at this time.

Mr. Grant informed the Codes and Ordinances Committee that the fire on February 27, 2014, on Pine Street could have been avoided if the rental unit had working fire detectors and this program would have helped in this situation.

George Pelletier, resident and landlord, addressed the Codes and Ordinances Committee about the proposed ordinance. He mentioned that the current State law would have addressed the Pine Street fire. He had concerns that the City would have to hire more employees to do these yearly inspections and enforce the ordinance.

Mr. Pelletier explained that in some situations there is legally nothing the landlord can do. If the property has a lot of outside clutter, the landlord can not legally remove it. Councilor Lachapelle agreed and said that the property owners association could be helpful in drafting an ordinance that would protect tenants and landlords.

Councilor Lachapelle stated that this proposed ordinance will be staying in committee at this time. Mr. Pelletier explained that he had to go to “codes” [BZLS] to help him with his property issues and he thanked the Codes and Ordinances Committee for their time.

Mayor Jean questioned the process of holding a hearing with the enforcement process. Mr. Grant explained this would be an informal mediation type of situation and maybe it can be removed from the ordinance. Mayor Jean did not want a municipal employee to have to deal with this.

Councilor Gates asked if the BZLS goes to inspect a building and finds an apartment uninhabitable do the tenants have to move right away and, if they do, who pays for this? He asked if the City was liable and if anyone gets hurt due to the residence being uninhabitable is the City also liable. Mr. Grant discussed this further with Councilor Gates. Councilor Lachapelle said that this was more of a question for legal counsel. Councilor Kittredge added that some of the damages are a result of the tenant and not the landlord. He added it is hard to have these tenants removed.

Councilor Lachapelle reiterated that the issue is staying in committee and there may be an update by next month’s meeting.

6. Panhandling Ordinance Discussion

Councilor Lachapelle explained that the panhandling issue will be staying in committee because they are seeking further information on this topic.

Councilor Varney asked Nancy Carignan, Assistant City Clerk, to obtain from the Police Department copies of the panhandling brochure, which they had provided him. He would like the full City Council to have a copy.

7. Other

No other business was discussed at this time.

8. Adjournment

Councilor Lauterborn **MOVED** to **ADJOURN** the Committee meeting at 8:10 PM. Councilor Kittredge seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Nancy Carignan
Assistant City Clerk