

**Rochester City Council Special Meeting
December 18, 2018
Council Chambers
7:58 PM**

COUNCILORS PRESENT

Councilor Abbott
Councilor Bogan
Councilor Gates
Councilor Gray
Councilor Hamann
Councilor Keans
Councilor Lauterborn
Councilor Torr
Councilor Walker
Councilor Varney
Mayor McCarley

OTHERS PRESENT

Blaine Cox, City Manager
Terence O'Rourke, City Attorney

COUNCILORS EXCUSED/ABSENT

Councilor Hutchinson
Councilor Lachapelle

Minutes

1. Call to Order

Mayor McCarley Called the City Council Special Meeting to order at 7:58 PM. Deputy City Clerk Cassie Givara took the roll. All Councilors were present except for Councilor Hutchinson and Councilor Lachapelle, who were excused.

2. An Ordinance to Revise and Consolidate, Amend, Supplement, and Codify the Ordinances of the City of Rochester *second reading and consideration for adoption (Addendum A)*

Councilor Walker **MOVED** to read the resolution for the second time by title only. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Lauterborn **MOVED** to **ADOPT** the resolution. Councilor Bogan seconded the motion.

City Manager Cox gave a brief overview of the history of this resolution. Council had authorized an appropriation for funds to hire an outside contractor

(General Code) to codify and re-index the City ordinances.

City Clerk Kelly Walters clarified that all the proposed changes to the Code are listed in schedule A, which had been distributed to Council. She stated that there had been a legal review of the ordinances from 1995 through 2018, and if an ordinance was found to contradict an earlier version or if that ordinance was contradictory to state law, it was changed to reflect the updated information.

City Attorney Terrence O'Rourke stated that there had been no substantive changes to the code. The codification process had just fixed inconsistencies, formatting, and numbering. The content and purpose of the codes are just as they appeared when passed by Council. There were some minor updates to definitions within the ordinances to reflect current practice.

Councilor Keans questioned the assertion that there had been no substantive changes to the code. She felt that some of the codes listed were not as she thought they were previously. Councilor Keans asked, if Council were to accept these changes, if it would have to go through an ordinance process.

City Attorney O'Rourke stated that the Ordinance is what had been read for a second time and it is what Council is voting on tonight. The vote will simply take the current City Ordinance and renumber and clean up the inconsistencies. It will not change the substance of any of the existing ordinances.

Councilor Keans stated that there were items listed which she felt did not correctly reflect the way the City currently conducts business and she asked if these would have to go through the ordinance process with a public hearing if they needed to be changed.

City Attorney O'Rourke said that Council is only voting on the re-codification of the ordinances. If Council wanted to substantively change anything within the existing ordinances, it would have to go through the normal process. Attorney O'Rourke suggested adopting the codified ordinances so they can be put online. Any proposed changes to individual ordinances can be made after the re-codification is accepted.

Councilor Abbott disagreed that there had been no substantive changes and referenced an ordinance relating to sewer lines. Councilor Abbott said there had also been definitions deleted from prior ordinances. He requested to see the proposed changes side-by-side with the mark-up on the original version.

Councilor Keans said that she felt these changes needed to be reviewed line by line at a workshop.

Councilor Walker inquired who had made the changes to the Ordinances. City Clerk Kelly Walters stated that there had been a legal review by General Code. The proposed changes had then come back to the City Attorney for a review and had been reviewed by City staff of relevant departments.

Councilor Walker **MOVED** to **TABLE** the motion to adopt the codification of the City Ordinances. Councilor Torr seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Walker suggested that the codification of the ordinances should come back to a workshop and be reviewed section by section so Council can see what changes have been made. City Staff could have a presentation showing the changes made to each section.

City Attorney O'Rourke said that the City had paid General Code to do what Councilor Walker was suggesting and all the changes are shown already in Schedule A.

Mayor McCarley recommended that Council take some time to review Schedule A as a starting point, and then review the Ordinances in comparison to determine if they think any substantive changes have been made. It can then be further discussed at the next workshop.

Councilor Varney stated that the intent was not to change the existing ordinances in any way. If Council believes that they are not conducting business in the manner which the ordinances state, that is not what is being approved this evening. Councilor Varney did request the mark-up showing which changes had been made for the next workshop meeting.

3. Resolution Authorizing Supplemental Appropriation to the Fiscal Year 2018-2019 Police Department Capital Improvement Project (CIP) Fund in the Amount of \$33,906 for the Replacement of a Police Interceptor SUV *first reading, consideration for second reading and adoption*

Mayor McCarley clarified that the City does have insurance on their vehicles, but stated that there were very few of these vehicles available for purchase and the insurance money will be going back into the general fund.

Councilor Varney said that there would be a supplemental appropriation required for this vehicle purchase, regardless of whether or not there was an insurance reimbursement.

Councilor Walker **MOVED** to read the resolution for the first time 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 by title only as follows:

Resolution Authorizing Supplemental Appropriation to the Fiscal Year 2018-2019 Police Department Capital Improvements Project (CIP) Fund in the Amount of \$33,906 for the Replacement of a Police Interceptor SUV

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

That Thirty Three Thousand Nine Hundred Six Dollars (\$33,906.00) is hereby appropriated as a supplemental appropriation to the Fiscal Year 2018-2019 Police Department Capital Improvements Project Fund to pay for costs and expenditures related to replacement of one (1) Police Interceptor SUV. The supplemental appropriation shall be derived in its entirety from the General Fund unassigned fund balance.

To the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to establish and/or designate such multi-year, non-lapsing accounts and or account numbers as are necessary to implement the transactions contemplated in this Resolution.

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

Councilor Walker **MOVED** to **ADOPT** the resolution. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Varney asked City Manager Cox about a Granite Ridge Project spreadsheet which showed the debt service for Phase I and Phase II along with the payback. Councilor Varney asked if the spreadsheet was available on the Economic Development website under the TIF district. City Manager Cox stated he didn't believe the spreadsheet was online. Councilor

Varney requested that it be posted online for those who have inquired about the payback.

Councilor Gates referenced a request he had made for a historical accounting of the tax rate for the City of Rochester and asked where this information can be found for any constituents wishing to review it. City Manager Cox stated that the tax data can be found on the City Manager's page of the Rochesternh.net site under budgets.

4. Non-Public/Non-Meeting

5. Adjournment

Councilor Walker **MOVED** to **ADJOURN** the City Council Special Meeting at 8:16 PM. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully Submitted,

Cassie Givara
Deputy City Clerk

Code Adoption Ordinance

An Ordinance to Revise and Consolidate, Amend, Supplement, and Codify
The Ordinances of the City of Rochester

The City of Rochester ordains:

§ 1-3. Adoption of Code.

The ordinances of the City of Rochester of a general and permanent nature adopted by the City Council of the City of Rochester, as revised, codified and consolidated into chapters and sections by General Code, and consisting of Chapters 1 through 275, inclusive, are hereby approved, adopted, ordained and enacted as the "Code of the City of Rochester," hereinafter referred to as the "Code."

§ 1-4. Code supersedes prior ordinances.

This ordinance and the Code shall supersede the City Code adopted June 6, 1995, and all other general and permanent ordinances enacted prior to the enactment of this Code, except such ordinances as are hereinafter expressly saved from repeal or continued in force.

§ 1-5. Continuation of existing provisions.

The provisions of the Code, insofar as they are substantively the same as those of the ordinances in force immediately prior to the enactment of the Code by this ordinance, are intended as a continuation of such ordinances and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinances.

§ 1-6. Copy of Code on file.

A copy of the Code has been filed in the office of the City Clerk and shall remain there for use and examination by the public until final action is taken on this ordinance, and if this ordinance shall be adopted, such copy shall be certified to by the Clerk of the City of Rochester by impressing thereon the Seal of the City, as provided by law, and such certified copy shall remain on file in the office of the Clerk to be made available to persons desiring to examine the same during all times while said Code is in effect.

§ 1-7. Amendments to Code.

Any and all additions, deletions, amendments or supplements to the Code, when adopted in such form as to indicate the intention of the City Council to make them a part thereof, shall be deemed to be incorporated into such Code so that reference to the "Code of the City of Rochester" shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be adopted, they shall thereafter be inserted in the Code as amendments and supplements thereto.

§ 1-8. Publication; filing.

The Clerk of the City of Rochester, pursuant to law, shall cause to be published, in the manner required by law, notice of the adoption of this ordinance. A copy of the Code of the City of Rochester shall be maintained in the office of the Clerk for inspection by the public at all times during regular office hours. The enactment and publication of this ordinance, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-9. Code to be kept up-to-date.

It shall be the duty of the City Clerk, or someone authorized and directed by the Clerk, to keep up-to-date the certified copy of the Code required to be filed in the Clerk's office for use by the public. All changes in said Code and all ordinances adopted subsequent to the effective date of this codification which shall be adopted specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances are included as supplements to said Code.

§ 1-10. Sale of Code.

Copies of the Code, or any chapter or portion of it, may be purchased from the Clerk or an authorized agent of the Clerk upon the payment of a fee to be set by the City Council. The Clerk may also arrange for procedures for the periodic supplementation of the Code.

§ 1-11. Altering or tampering with Code; penalties for violation.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of the Code or to alter or tamper with such Code in any manner whatsoever which will cause the law of the City of Rochester to be misrepresented thereby. Anyone violating this section or any part of this ordinance shall be subject, upon conviction, to a fine as provided in § 1-1 of the Code.

§ 1-12. Severability of Code provisions.

Each section of the Code and every part of each section is an independent section or part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof. If any provision of this Code or the application thereof to any person or circumstances is held invalid, the remainder of this Code and the application of such provision to other persons or circumstances shall not be affected thereby.

§ 1-13. Severability of ordinance provisions.

Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

Code Adoption Ordinance

§ 1-14. Repealer.

All ordinances or parts of ordinances inconsistent with the provisions contained in the Code adopted by this ordinance are hereby repealed; provided, however, that such repeal shall only be to the extent of such inconsistency, and any valid legislation of the City of Rochester which is not in conflict with the provisions of the Code shall be deemed to remain in full force and effect.

§ 1-15. Ordinances saved from repeal.

The adoption of this Code and the repeal of ordinances provided for in § 1-14 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any ordinance adopted subsequent to September 4, 2018.
- B. Any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this ordinance brought pursuant to any legislative provision.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred.
- F. Any ordinance providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place or any portion thereof.
- G. Any ordinance appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond or other instruments or evidence of the City's indebtedness.
- H. Ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract or obligation.
- I. The levy or imposition of taxes, assessments or charges.
- J. The annexation or dedication of property or approval of preliminary or final subdivision plats.
- K. Ordinances providing for local improvements or assessing taxes or special assessments therefor.
- L. All currently effective ordinances pertaining to the rate and manner of payment of salaries and compensation of officers and employees.

Code Adoption Ordinance

- M. Any legislation relating to or establishing a pension plan or pension fund for municipal employees.
- N. Any ordinances adopting or amending a zoning map or otherwise rezoning property.
- O. Any ordinance or portion of an ordinance establishing a specific fee amount for any license, permit or service obtained from the City.
- P. Any ordinance or portion of an ordinance establishing or amending sewer or water rates or charges.

§ 1-16. Changes in previously adopted ordinances.

- A. In compiling and preparing the ordinances for publication as the Code of the City of Rochester, no changes in the meaning or intent of such ordinances have been made, except as provided for in Subsection B hereof. Certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the City Council that all such changes be adopted as part of the Code as if the ordinances had been previously formally amended to read as such.
- B. The amendments and/or additions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this ordinance. (Chapter and section number references are to the ordinances as they have been renumbered and appear in the Code.)

§ 1-17. When effective.

This ordinance shall take effect upon passage and publication as required by law.

§ 1-18. Incorporation of provisions into Code.

The provisions of this ordinance are hereby made part of Chapter 1 of the Code of the City of Rochester, to be titled "General Provisions, Article II, Adoption of Code."

Adopted this _____ day of _____ 2018