

**City Council Workshop
November 21, 2023
Council Chambers
6:00 PM**

COUNCILORS PRESENT

~~Councilor Berlin*~~
Councilor de Geofroy
Councilor Desrochers (remote)
Councilor Fontneau
Councilor Gilman
Councilor Gray
Councilor Hailey
Councilor Hamann
Councilor Larochelle
Councilor Malone
Deputy Mayor Lachapelle
Mayor Callaghan

OTHERS PRESENT

Katie Ambrose, City Manager
Terence O'Rourke, City Attorney
Nancy Melia, resident
Susan Rice, resident
human, resident
Peter Nourse, Director of City Services
Shanna Saunders, Director of Planning
Mike Scala, Director of Economic Dev.

COUNCILORS EXCUSED

Councilor Beaudoin

Minutes

1. Call to Order

Mayor Callaghan called the City Council Workshop to order at 6:00 PM. He announced that Councilor Desrochers was connecting remotely to the meeting. Per RSA 91-A, he asked Councilor Desrochers if it was reasonably impractical for her to attend the meeting in person and asked her to state for the record the reason she could not attend. Councilor Desrochers stated that it was reasonably impractical for her to attend in person due to medical reasons. She stated she was alone in the location from which she was connecting, however her daughter was in the house.

Deputy City Clerk Cassie Givara took a silent roll call attendance. The following Councilors were present in Council Chambers: Councilor de Geofroy, Fontneau, Gilman, Gray, Hailey, Hamann, Larochelle, Malone, Lachapelle, and Mayor Callaghan. Councilor Beaudoin was excused. Councilor Desrochers was connecting remotely, as detailed above. **Councilor Berlin submitted his resignation prior to the meeting. This resignation will be on the December 5, 2023 agenda.*

Councilor Lachapelle led the Council in the Pledge of Allegiance.

2. Public Input

Nancy Melia, Ryan Circle resident, addressed Council regarding issues encountered with a neighbor draining an in-ground pool and potential regulations and ordinances to prevent such issues in the future.

Susan Rice, resident, questioned the process taken to choose an organization to operate the Willard Warming Center, the timeline involved with opening the center, and the finances involved.

human, resident, spoke about the proposed Board of Ethics ordinance and questioned passages contained therein. He also referred to the proposed amendments to Chapter 223 and made additional suggestions for edits.

3. Communications from the City Manager

City Manager Katie Ambrose stated that there had been two submissions for online public input as follows: Jan Ogilvie, subject "Homeless" and Nikki Rossie, subject "Nancy Loud School." These submissions have been distributed to all City Councilors.

City Manager Ambrose announced that the Community Development survey for 2023-2024 is now open in order to gather feedback on potential funding opportunities for the Community Development Block Grant (CDBG). This survey can be accessed on Rochesternh.gov under the "Get Involved" tab. It can also be accessed in person at the City Clerk's office, the Assessing office, Welfare, Recreation & Arena, and the Tax/Auto Registration office.

Municipal Offices will be closed Thursday, November 23 and Friday, November 24 in observance of the Thanksgiving holiday. Trash collection will also be delayed one day due to the holiday.

4. Communications from the Mayor

Mayor Callaghan thanked the City Clerk's office and election officials for their work during the Municipal Election as well as the recounts held on Saturday, November 18.

Mayor Callaghan welcomed the newly elected Councilors present at the meeting: Bryan Karolian, Chuck Creteau, David Walker, and Matthew Richardson. Mayor Callaghan said he had also spoken with new Councilors

Patricia Turner and Kevin Sullivan who are out of town and were unable to attend the meeting.

Mayor Callaghan addressed the Council regarding a recent press release from Janet Davis, District 3 NH Executive Councilor, regarding pediatric lead poisoning in the State. Mayor Callaghan referenced discussions that had taken place at the Codes and Ordinances committee regarding lead exposure and he reported that the Board of Health would be coming before Council in January to speak about the issue. There were relevant statistics given for lead exposure in NH. Councilor Desrochers spoke about the importance of lead poisoning education and prevention, and the potential health effects, as well as financial effects, experienced due to exposure.

Mayor Callaghan announced that the Rochester Christmas tree lighting ceremony would be on Friday, December 1 at 5:30 PM – 6:30 PM in Central Square. The Rochester Christmas parade will take place on Sunday, December 3 at 3:00 PM.

5. Discussion: Amendment to Chapter 7-83 of the General Ordinances of the City of Rochester Regarding the Code of Ethics and Conduct for Elected and Appointed Officials – Board of Ethics

Terence O'Rourke, City Attorney, explained that this amendment is the next step in the process that had been initiated when Council adopted the Code of Ethics. This amendment would establish a Board of Ethics to handle any future complaints. He stated that the draft had been based on Portsmouth's Board of Ethics, which has been in place for quite a while and working well and tailored the ordinance to meet Rochester's needs.

Councilor Lachapelle agreed that the formation of a Board of Ethics is an important next step following the establishment of the Code of Ethics. He clarified that even after adoption, the ordinance will be reviewed by all incoming Councils and can be amended over time if needed.

Councilor Hainey referenced the "Ethics Investigative Officer" (EIO) as listed in the ordinance, which she stated seems to be a crucial part of the committee. She inquired if there will be specialized training for the EIO, and if so, what kind of training would be required. Attorney O'Rourke read an excerpt from the draft ordinance that reads that the EIO chosen by the City Manager and the Board of Ethics would have sufficient experience. These candidates for EIO would need to present their qualifications and experience, and they would likely have legal and/or law enforcement backgrounds. Attorney O'Rourke said that the specific training, if needed, would be handled on a case by case basis dependent on the type of

investigation being undertaken.

Councilor Hainey directed the Council to section 7-85 B (2) and questioned the wording, which seemed to indicate that the review for sufficiency would be handled by the City Attorney, Mayor, and a third member which would be the equivalent of an employee investigating their employer (e.g Superintendent investigating school board, etc). Attorney O'Rourke agreed that this could be problematic and suggested that the third member be interchanged depending on the investigation; such as the Police Chief being the third member in cases involving the City Council and the Superintendent being the third member in matters involving Police Commission, etc.

Councilor Hainey inquired what training would be completed by these three members who are completing the review of sufficiency in order to determine if the complaint warrants investigation or further action. Councilor Hainey expressed the importance of training to help these individuals focus on the facts of the complaint being presented and to disregard any outside bias. Attorney O'Rourke explained that, at this stage in the process, it is not being determined whether someone is right or wrong, but rather the complaint is being reviewed for merit to determine whether a violation occurred. He clarified that the City Attorney is part of this process to assist in this determination.

Councilor de Geofroy agreed with the need for training. He referenced a portion of the Code of Ethics that outlined training, although not explicitly the type of training. He stated that this could be left to the Council to determine the scope of this training.

Councilor Gray stated that the new Council being seated in January should be the ones who discuss and adopt this ordinance amendment and reported that he would vote to table the amendment if it appeared on the December 5, 2023 Regular meeting agenda.

Councilor Fontneau said that the way the ordinance is written does not allow a member of the public to file a complaint directly without going through a City official. However, the complaint must be made in writing and sworn under oath. Councilor Fontneau expressed concern that in these circumstances, the oath would need to be sworn based on secondhand knowledge. Councilor Fontneau asked if a different EIO would be chosen for each case, or if there would be an investigator kept on retainer.

Councilor Fontneau read a portion of the ordinance stating: "The BOE shall take no further evidence on any Complaint but shall make its determination based upon the report received by the EIO." He questioned

whether this would prevent the Board of Ethics from hearing evidence and testimony and said he felt like the current process was too convoluted and allowed too much distance between the evidence being gathered and the Board making the final decision. Attorney O'Rourke explained that in this process, the EIO is like a police officer doing the investigation and the BOE is more like a jury. The ordinance verbiage states that the BOE will not be conducting their own investigation and gathering evidence because this has already been done by the EIO. However, the BOE does hold a public hearing at which time evidence can be presented by the complainant and the accused.

Councilor Desrochers acknowledged the layers and complexity of the draft ordinance; however, she stated that she felt the complex nature of the process was beneficial and necessary due to the complex nature of potential cases and the need to thoroughly review and investigate.

Councilor de Geofroy read an excerpt of the Code of Ethics stating, "Any City Official may submit a written complaint." He stated that he felt this verbiage was not exclusionary of the public making a complaint, however it does not detail a mechanism for such a complaint to be made by the public. He questioned if there should be further details added to the ordinance outlining if and how the public could submit a complaint. Attorney O'Rourke clarified that the City Council owns this ordinance and can make changes as they deem appropriate. He explained that this ordinance is in its infancy and untested. City Staff felt it was best to establish the Board of Ethics and work out the kinks and see the process in action before opening the process up to the public; which could potentially lead to weaponization of the code.

6. Discussion: Amendments to Chapter 223 of the General Ordinances of the City of Rochester regarding Streets and Sidewalks

Mayor Callaghan praised Peter Nourse, Director of City Services, and his staff for the thorough work and great effort put into the amendments being presented.

Director Nourse read a memo explaining the history and reasoning behind the proposed amendments to Chapter 223. He explained that he had reviewed all State RSAs in formulating these amendments as well as collaborating with multiple City departments. There has also been a legal review by the City Attorney of all proposed changes.

Councilor de Geofroy agreed that the amendments were very thorough and well done, but asked if there would be a final review for grammatical and spelling errors. Attorney O'Rourke stated that, even if the ordinance is adopted by Council, there will be further review between the legal

department and City Clerk's office to correct and non-substantive changes such as spelling, punctuations, and grammar. These minor changes will be made before the ordinance is submitted for publication on eCode.

Councilor Fontneau asked if the City Attorney had reviewed the amendments. He also referenced a comment made at public input that some of the verbiage equated to the City forgoing its autonomy. Director Nourse confirmed that the City Attorney had reviewed the amendments. He read excerpts of the ordinance outlining the authority given to the City Council.

*Councilor Gray explained that here is a situation on the Planning Board in which two members of the board are newly elected City Councilors and therefore their terms on the Planning Board will be expiring when their Council terms begin. This will leave the Planning Board understaffed to start the new year. He stated that Councilor Berlin, who has now resigned from Council, was a member of the Appointments Review Committee and other members may be unable to attend meetings. He expressed concern about having a quorum of the Appointments Committee convene and requested that alternates be appointed by the Mayor. Councilor Gray requested that these appointments be made by the Mayor so the Appointments Review Committee can meet on December 28 to take care of any remaining business. Mayor Callaghan agreed to appoint additional members to the Appointments Review Committee.

7. Presentation: Parking Review Group

Shanna Saunders, Director of Planning, outlined the history of the Parking Review Group and detailed the six actions contained in the mission statement. Director Saunders summarized the parking studies and analysis which had been completed and the findings thereof. Ms. Saunders detailed multiple aspects of the groups work, including parking space inventory and availability in the City, the potential of constructing a parking garage, the concept of permit parking being offered in the City, and the metering and monetization of parking in the downtown area.

Mike Scala, Director of Economic Development, spoke further about recommendation of permitting a portion of Rochester's parking spaces to better manage underutilized public parking on the outskirts of the downtown district. Director Scala gave an overview of where the permitted spaces would be located, the costs associated and who would qualify, as well as the process involved with obtaining a permit.

Director Saunders spoke about the concept of "shared parking" in which a residential developer is paired with a commercial business owner to

arrange and agreement for the business' available parking in which it would be used for residential at night and commercial use during the day. She clarified that no inquiries have been made regarding interest in this shared parking, but it is a potential option for the future.

Director Saunders spoke about the recommendations regarding parking enforcement; including extending the hours for parking enforcement in the City and increasing the fine amounts for tickets issued.

Ms. Saunders detailed the recommendations for future work and analysis regarding City parking, including the formation of a long-term parking committee, continued parking counts annually, and future reassessments of the need for a parking structure such a garage, time limits on parking, permitted parking, and metered parking. She spoke about next steps to be undertaken.

Councilor Fontneau acknowledged that there is a perception of a parking problem in Rochester, regardless of whether the analysis shows it to be the reality or not. However, with continued development and expansion in the downtown area, there will be additional parking needs encountered in the near future. Councilor Fontneau spoke about the importance of establishing the parking committee and beginning the process by monetization of parking and permitting in particular areas, such as North Main Street.

Councilor de Geofroy referenced a comment made by Director Scala regarding the first ½ hour of metered parking being 25 cents and increasing thereon. Councilor de Geofroy inquired about the potential of allowing the first fifteen minutes of parking to be at no cost for convenience of business patrons who are just stopping by briefly. Director Scala responded that the management of a no-fee-per-time-period structure is very difficult to maintain and enforce. Director Scala also discouraged the establishment of specific spaces for delivery and pick-up due to the high demand for spaces in the downtown area.

Mayor Callaghan inquired about the possibility of residents paying for permitted spaces and how it would be handled if all permitted spaces were taken. Director Scala stated that the permit guarantees the right to park overnight, however it does not guarantee a specific parking space. Director Scala stated explained that the permitted parking would be in an area where all the spaces are not typically taken. He stated that in some circumstances, those who paid for permits would need to be park in a designated "permit only" lot, it just may not be as convenient to their residence.

City Manager Ambrose referred to past conversations regarding a

downtown traffic study which would review the direction and flow of traffic in the downtown area as well as the orientation of parking spaces in this area. Director Saunders said there was discussion by the Parking Review Group on these traffic considerations. She explained that there had been studies conducted to review items such as lane reductions and head-in parking and there were potential design plans reviewed as well. It was found that each design concept would result in a reduction of parking in this crucial downtown area. Therefore, it was decided that this changes in traffic would not be part of the recommendations coming from the Parking Review Group.

8. Department Reports

Councilor Gray asked for the Mayor to recognize him following the discussion on department reports regarding a different matter.

Mayor Callaghan recognized Councilor Gray and allowed him to address Council.

Councilor Gray inquired about the now vacant Ward 6, Seat A Council seat following the resignation of Councilor Berlin. He stated that past practice is that vacancies are filled at the next regular meeting following an election with the candidate who won that vacant seat. Councilor Gray requested that this be put on the City Council Regular meeting agenda for December 5. Attorney O'Rourke explained that following the December regular meeting, there would only be one workshop meeting prior to the Inauguration, and there is the potential that this final workshop meeting in December would be canceled. Due to these circumstances, there would be no need to appoint someone to the vacant seat. Councilor Gray reiterated that the past practice of Council has been to swear in the winning candidate from the election at the next regular meeting and he stated that the City Charter also stipulates this process. Attorney O'Rourke clarified that the Charter outlines the process for situations when the seat had been vacated prior to the election and the winning candidate would be sworn in to office at the next regular meeting; however, Councilor Berlin resigned following the election. Councilor Gray felt that the Charter does not preclude the swearing in of the winning candidate and again requested that this item be placed on the December 5 agenda. Attorney O'Rourke clarified that the Council can proceed as they see fit, however seating someone for one meeting or potentially less does not serve a purpose.

Councilor Desrochers posited a parliamentary inquiry. She referred to the two discussions initiated by Councilor Gray at this evening's meeting and inquired if such discussions were authorized at a workshop meeting without being previously added to the agenda. Mayor Callaghan stated that these discussions are not authorized.

9. Non-public/non-meeting

9.1. Non-Public Session – Land, RSA 91-A:3, II (d)

There was no non-public meeting held this evening.

10. Adjournment

Councilor Lachapelle **MOVED** to **ADJOURN** the City Council Workshop meeting at 7:41 PM. Councilor de Geofroy seconded the motion. The **MOTION CARRIED** by a 11 – 0 roll call vote with Councilors Hainey, Gray, Malone, Gilman, Fontneau, Larochelle, de Geofroy, Desrochers, Hamann, Lachapelle, and Mayor Callaghan voting in favor.

Respectfully Submitted,

Cassie Givara,
Deputy City Clerk