

Codes and Ordinances Committee

Councilor Peter Lachapelle, Chair
Councilor Steve Beaudoin
Councilor Skip Gilman
Councilor Ashley Desrochers
Councilor Tim Fontneau



CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

Thursday, September 7, 2023

31 Wakefield Street, Rochester, NH

Council Chambers

6:00 PM

Agenda

1. Call to Order
2. Public Input
3. Acceptance of the Minutes
 - 3.1 April 6, 2023 *motion to approve* P. 3
4. Amendment to Chapter 7-35 of the General Ordinances of the City of Rochester Regarding the Economic Development Commission P. 7
5. Amendment to Chapter 7-63 of the General Ordinances of the City of Rochester Regarding the Economic Development Reserve Fund P. 11
6. **Discussion:** Amendment to Rules of Order Section 1.6 “Order of Business” to add “14. Other” P. 13
7. **Discussion:** Roll call at subcommittee meetings
8. Other
9. Adjournment

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City Clerk's Office

Codes and Ordinances Committee

Councilor Peter Lachapelle, Chair
Councilor Steve Beaudoin, Vice Chair
Councilor Skip Gilman
Councilor Ashley Desrochers
Councilor Tim Fontneau



CODES AND ORDINANCES COMMITTEE
Of the Rochester City Council
Thursday, April 6, 2023
Council Chambers
6:00 PM

Minutes

1. Call to Order

Chair Lachapelle called the meeting to order at 6:00 PM. Deputy City Clerk Cassie Givara took a silent attendance. All Councilors were present except for Councilor Desrochers, who was excused.

2. Public Input

There was no public input.

3. Acceptance of the Minutes

3.1 March 2, 2023 *motion to approve*

Councilor Beaudoin **MOVED** to approve the minutes of the March 2, 2023 Codes and Ordinances Committee meeting. Councilor Gilman seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

4. Discussion: Potential ordinance regarding “raised speed tables”

Chair Lachapelle said he had discussed this agenda item with the Chair of the Public Safety Committee, and it was decided that it would be added to the next agenda for the Public Safety meeting on April 20 to receive input from the Department of Public Works staff. The item will then come back to the Codes and Ordinances Committee.

5. Discussion: Installation of Noise Ordinance signs at Entrances to City

Chair Lachapelle explained that this item had been raised by a Councilor at a previous City Council meeting. Chair Lachapelle stated that he felt having signs citing the City's noise ordinance at the entryways into the city was not feasible due to the large number of roadways coming into the City, some of which are State roads.

Councilor Beaudoin said he was opposed to the proposal of noise ordinance signs. He pointed out that there are many State laws and local ordinances pertaining to the operation of motor vehicles and it did not make sense to target one specific type of violation. Additionally, such signs are often ignored or overlooked. Councilor Beaudoin clarified that this is not an issue unique to Rochester, and the addition of signs would do little to help.

Councilor Fontneau agreed that such signage would not be beneficial; the Rochester Police Department will address motor vehicle ordinance violations as they encounter them. It is not plausible to post signs for each potential type of motor vehicle violation that could occur in the City.

No action was taken on the item.

6. Amendment to Rules of Order Section 1.6 "Order of Business" #11 "Old Business"

Chair Lachapelle said that he had initiated an amendment to the Order of Business on meetings agendas; however, there had also been suggested edits received from a constituent.

The constituent had suggested changes to section 4.21 "Inaugural Meeting, Order Exercises." The first suggestion is to change the first sentence as follows:

The order of exercises at the *Inaugural* meeting held on the first Tuesday after January 1, or Wednesday, January 2, following the regular municipal election shall be as follows:

Chair Lachapelle stated that he felt this addition was redundant, as the title of the section already specifies that this is pertaining to the Inaugural meeting. Councilor Beaudoin agreed that this suggested amendment was unnecessary given that the word "Inaugural" was already in the title.

The other suggested amendment was to change the order of the following items:

4. **Roll Call of Councilors-Elect**
5. **Mayor takes Oath of Office**

The constituent had indicated that these items should be reversed in order to follow the same process as the school board and police commission roll calls and oaths on the remainder of the agenda. Chair Lachapelle stated that when the roll call of Councilors is taken at the Inauguration, the last person called is the Mayor. He suggested the following edit for clarification: **"4. Roll Call of Councilors-Elect *and Mayor-Elect.*"** It was stated that this process is the same as roll calls taken at Council meetings; with the Councilors called first and the Mayor last. Chair

Lachapelle **MOVED** to recommend to full Council the amendment to the Rules of Order section 4.21, changing #4 to “Roll Call of Councilors-Elect and Mayor-Elect.” Councilor Beaudoin seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Chair Lachapelle **MOVED** to recommend to full Council an amendment to the Rules of Order section 1.6 “Order of Business,” changing #11. Old Business to “Unfinished Business.” Councilor Beaudoin agreed that this change would bring the terminology in line with what is laid out in Robert’s Rules of Order. Councilor Beaudoin seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

7. Other

Councilor Beaudoin requested an addition to the next Codes and Ordinances meeting agenda to discuss once again adding “Other” as an agenda item at full Council meetings. He referenced an instance at the prior Council meeting where a Councilor had requested an action item be added to the agenda, requiring a 2/3 vote for this suspension of the rules; the 2/3 vote was not received and the Councilor did not have the opportunity to discuss the item. Chair Lachapelle agreed to add the discussion to the next Codes and Ordinances agenda; however, he clarified that the reason the Councilor in question had been denied at the Council meeting was due to the lack of information provided on the topic he wanted to discuss. Chair Lachapelle agreed to add this item to the May 4, 2023 agenda for discussion.

Councilor Beaudoin said he had received a constituent complaint the prior week. The constituent reported that he had attempted to register his vehicle under an LLC and was told that he would need to file a project narrative with the Planning Department in order to do so. The constituent had questioned the statutory authority under which this directive was given. Councilor Beaudoin said that he was given State statutes as well as administrative rules via the City Manager to support what the constituent had been advised; however, Councilor Beaudoin stated he did not agree that these statutes supported such requirements. Councilor Beaudoin indicated that he had reached out to the State DMV to determine if the City has the authority to deny a constituent in this manner. He speculated that, since the City is an agent of the State, they do not have the ability to impose regulations above and beyond what the State requires. He asked if this was a Council-approved policy and asked who had initially issued the directive.

Attorney O’Rourke explained that there have multiple instances of people attempting to register vehicles at addresses where they claim to own a business. He said that there is no follow-up when a business is filed with the Secretary of State’s office to verify if such a business actually exists at the stated address. There have been countless instances where residents of states outside NH have been allowed to register vehicles within the State, to such an extent that there was a class action lawsuit filed against the State of New Hampshire due to lost revenues suffered from other States. There was then a dedicated unit of the State Police formed specifically to investigate registration and title fraud. Attorney O’Rourke clarified that there is no requirement for a resident to file a project narrative, as referenced by Councilor Beaudoin. However, the tax collector does need to determine if there is actually a business at the address where the resident is claiming. In this instance referenced, the tax collector was not able to verify that there was a business at the address where the constituent was trying to register the vehicle. He acknowledged that paperwork may have been filed with the State indicating that there is an LLC at a particular address, however

it does not mean there is a business there. Attorney' O'Rourke suggested that if the resident in question wanted to pursue the matter, the City would turn the issue over to the State Police for further investigation.

Councilor Beaudoin agreed that the issue should be handled by the State Police, but stated that the resident should not be denied the right to register his vehicle while such an investigation occurs. Attorney O'Rourke read an excerpt from the State RSA related to auto registration by a business. He reiterated that the Tax Collector was unable to verify that a business existed at the address the resident claimed, and was doing her due diligence to determine the validity of these claims prior to registration.

Councilor Fontneau inquired if a business has to be registered with the City, even if it is a small home-based business, and if that is the only way to prove that a business exists at a given address. Attorney O'Rourke answered that in order to have such a business, the owner would have to file and be approved for a home occupation. The tax collector would then be able to verify this home occupation exists prior to registering a vehicle in the business name. Councilor Beaudoin surmised that the resident would need to just file the project narrative stating that the business exists. Attorney O'Rourke responded that the business would need to be approved, and the filing of the paperwork alone is not adequate. Councilor Beaudoin speculated that these requirements would add significant time to the startup of a new business. Councilor Fontneau clarified that the project narrative is simply the application through the Planning Department for the first tier of a home occupation, detailing what the occupation will entail.

There was further discussion on what constitutes a home occupation/home business, whether or not these should be filed and approved with the City of Rochester, and what zones would allow certain aspects of a home business, such as a lettered vehicle. Attorney O'Rourke reiterated that if the resident did want to pursue the issue further, the City would hand the matter over to the State police.

Councilor Beaudoin reiterated his questions regarding the authority under which the City was asking for these requirements. Attorney O'Rourke stated that the Councilor would need to make that request through the City Manager.

8. Adjournment

Chair Lachapelle announced that the next Codes and Ordinances Committee would take place on May 4, 2023.

Chair Lachapelle **ADJOURNED** the Codes and Ordinances Committee meeting at 6:24 PM.

Respectfully Submitted,

Cassie Givara,
Deputy City Clerk

09/01/2023

Amendment to Chapter 7 of the General Ordinances of the City of Rochester Regarding the Economic Development Commission

THE CITY OF ROCHESTER ORDAINS:

That Chapter 7 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows (deletions ~~struck out~~ additions in RED):

§ 7-35 Economic Development Commission.

- A. The Economic Development Commission shall consist of 11 members, two of which members shall be ex officio members. Nine of the initial members of the Commission shall be those currently serving on the Commission. Thereafter, three members shall be elected annually for a term of three years with vacancies being filled by the City Council for any unexpired terms. The initial election shall be so arranged that 1/3 of the members may be elected each year. After the initial election, the three annual vacancies shall be filled by the Mayor in accordance with Section **74** of the City Charter. The Economic Development Commission shall recommend at least two persons from the private sector to the Mayor each year as potential nominees. In all cases, election shall be by the City Council. Members shall be chosen for their expertise, experience and abilities in business, industry, finance, real estate, government and law. A majority of the members shall reside within the City of Rochester and up to four of the elected members may reside outside of the City; provided, however, that any elected member residing outside of the City shall maintain a place of business or shall be employed within the City, while serving as a member of the Commission. The Mayor and the Economic Development Director shall be ex officio, nonvoting members of the Commission.
- B. The Chairperson shall be appointed annually by the Mayor, and the Commission shall elect from its members such other officers and committees as it deems necessary.
- C. The Economic Development Commission shall perform the following functions:
- (1) Promote the City of Rochester, through advertising, prospect development and other means, as an attractive location for industrial, **residential**, and business **development and/or** expansion;
 - (2) Assist prospects interested in evaluating Rochester as a potential industrial or **commercial** ~~business~~ location; act as the official agent of the City government in matters pertaining to economic development;

Amendments are effective upon passage.

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City Clerk's Office



City of Rochester, New Hampshire
 Office of Economic & Community Development
 33 Wakefield Street, Rochester, NH 03867
 (603) 335-7522, www.rochesterredc.com

Rochester Economic Development Commission
 Minutes – May 11, 2023
 Rochester City Hall
 33 Wakefield Street, Rochester, NH

Members Present: Whitney Apgar, Janet Davis, Ron Poulin, Kris Ebbeson, Jonathan Shapleigh, Marsha Miller

Members Absent: Kristen Bournival, Tim Jones, Tanya Hervey

Others Present: Jennifer Marsh, Mike Scala, Carole Glenn, Barbara (Public)

- A. B and C: Chairperson Shapleigh called the meeting to order at 4:02pm.

Meeting Minutes

- A. Roll call attendance was taken as part D of the preamble.
- B. Marsha made a motion to approve the December minutes. Kris seconded the motion. Roll call was taken, all in favor.
- C. Public Input
 Barbara noted a lot of the committees within town are beginning meetings and they've mentioned they would like to reach out to the REDC. She specifically mentioned that housing has been a topic of interest.
- D. REDC Website
 Website link: <https://rochesterredc.com/>
 Jenn shared the Economic Development website. Carole provided an update on site changes and site maintenance issues. The ED office has been discussing what options are available with the change of site maintenance.
 Ron noted the site is purely informational. Mike noted another option would be to have a whole new site designed. Mike and Ron noted it would be beneficial to get analytics on who visits the site and how frequently people visit the site. Jonathan asked if a new site was going to be used, would it have to go out to bid. Mike noted the price would depend if it went out to bid or not. Marsha commented she would rather move to a more local host for the site, instead of a corporate company. She also noted the current site seems to be targeted toward Business development.
 The group agreed the object is for information and a call to action.
 Carole noted the current contract expires at the end of July. The current contract company would like a decision by end of May. Jenn noted pushback would be required to extend decision time until the end of June due to the short notice.
 Barbara noted there are other local groups also looking for websites/ways to share information to Rochester residents. Jonathan noted the site under discussion would be for Economic Development only. Ron suggested speaking with Matt about adding a resources tab to the City website for other groups.



City of Rochester, New Hampshire
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E. Review of ED Fund Proposal

Mike reviewed the updated proposal for the guideline on how to apply for and use the Economic Development Reserve Fund. Members of the REDC will be given time to review at home to be ready to discuss in depth at the June Meeting. Once approved by REDC, it will be presented to City Council for comment. REDC members can email Mike directly with comments.

Jonathan asked if there were additional uses of funding to be added, such as land.

Jonathan asked if there were any particular projects in mind for use of the Fund, soon after the proposal is accepted and approved by REDC. Jenn noted the funds are with the idea to flip and make more funds to keep a cycle of projects, instead of using the funds to acquire and hold onto real estate.

F. REDC Housing Discussion & Ordinance

Mike reviewed the changes/revisions to the REDC Ordinance. Marsha moved approval of the ordinance update, Kris seconded. All in favor.

G. June City Council Workshop Meeting

Jonathan will be presenting at the June 20th meeting with a quick update and summary on what has been going on in REDC. He will also review the ordinance update and ED Fund proposal to the Council at that time. Jenn noted if any slides are wanted for the presentation, Carole can provide some. Other REDC members are invited to attend and watch the meeting.

H. Waiver Request and LOS for REDC master plan update

Jonathan will be proceeding with a waiver request for updating the master plan using RKG. The ED Fund would be used to pay for the update.

Marsha moved to approve the use of \$25,000 from the ED Fund to update the master plan, Janet seconded. All in Favor.

Marsha moved to approve the waiver to proceed with RKG for the master plan update, Kris seconded. All in Favor.

I. Other

Marsha asked about membership and meeting attendance. A new secretary for the REDC will need to be selected at the June meeting and a membership spot will be open starting in July.

Kris made a motion to adjourn at 4:49 pm, Marsha seconded. All in favor.

The next meeting will be May 25 at 4pm.

Respectfully Submitted,
 Whitney Apgar

09/01/2023

Amendment to Chapter 7 of the General Ordinances of the City of Rochester Regarding the Economic Development Reserve Fund

THE CITY OF ROCHESTER ORDAINS:

That Chapter 7 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows (deletions ~~struck out~~ additions in **RED**):

§ 7-63 Economic Development ~~Special~~ Reserve Fund.

A. Statement of purpose.

~~(1) The City of Rochester currently serves as the "Host Community" for the Turnkey Recycling and Environmental Enterprises Waste Disposal Facility (TREE) currently operated by Waste Management of New Hampshire, Inc., and located on the Rochester Neck Road. By virtue of its status as Host Community for TREE, the City of Rochester, in addition to incurring significant expenses in connection with such facility, receives significant financial benefits in the form of real property taxes, user fees (in the form of so-called "host community fees") and various other benefits relative to the cost to the City and its inhabitants of the disposal and/or recycling of various solid waste, including reduced and/or eliminated fees for the disposal and/or recycling of solid waste generated within the City of Rochester. It is currently estimated that the permitted capacity of the TREE Waste Disposal Facility (TLR-III) will be reached in approximately the year 2023. When such facility is filled to its permitted capacity, it is anticipated that the City will experience a loss in revenues, and the City and its inhabitants will experience increased costs associated with the disposal and/or recycling of solid waste, particularly in the form of reduced and/or lost user fees and reduced property tax revenues, as well as increased costs associated with the disposal and/or recycling of solid waste. Therefore, in an effort to offset the expected loss of revenues and increased costs occurring to the City as a result of the anticipated filling of the TREE Waste Disposal Facility to its permitted capacity and to promote the general fiscal strength and well being of the City, it is necessary that economic development in the City of Rochester be promoted and/or maintained to ensure the existence and/or expansion of a vibrant economic base for the City and its inhabitants.~~

~~(2) Therefore, the City Council of the City of Rochester, pursuant to the authority granted by RSA 47:1 b and 47:1 c, hereby establishes a special revenue reserve fund from the specific source identified in Subsection **B** of this section for capital expenditures or expenditures for capital projects, transfers to capital projects, transfers to capital reserve, or for any other appropriation of a nonrecurring nature in support of economic development as determined by the City Council. The special reserve fund established in Subsection **B** of this section shall be known as the "City of Rochester Economic Development Special Reserve Fund." No expenditure from said City of Rochester Economic Development Special Reserve Fund shall be made without an appropriation of such funds having been adopted by the Rochester City Council, which appropriation shall provide that such appropriation is for economic development purposes and shall contain a statement and/or finding by the City Council indicating the manner in which it is anticipated that such appropriation is related to the economic development of the City of Rochester.~~

~~**B.** There is hereby created a non-lapsing budgetary account within the City of Rochester, pursuant to the authority granted to the City by the provisions of RSA 47:1 b, such special reserve fund to be known as the "City of Rochester Economic Development Special Reserve Fund." Such fund shall be funded on an annual basis by the appropriation by the City Council to such special reserve fund of an amount not less than one hundred thousand dollars (\$100,000.) from the funds annually payable to the City of Rochester by Waste Management of New Hampshire, Inc., from the so-called "host community fees" payable to the City pursuant to the provisions of the Host Agreement between the City and Waste Management of New Hampshire, Inc., or of any successor to such agreement. In addition to such minimum funding level, the City Manager may, during any fiscal year of the City, upon written notification to, and appropriation by, the City Council,~~

~~transfer to said City of Rochester Economic Development Special Reserve Fund unappropriated host community fees in an amount not to exceed the difference between the total amount of host community fees received from Waste Management of New Hampshire, Inc., during such fiscal year and the amount of such host community fees previously appropriated by the Rochester City Council during such fiscal year (having in mind the minimum funding/appropriation requirement provided for herein and any other appropriation of such fiscal year's host community fees by the City Council during such fiscal year).~~

A. By Resolution adopted on July 5, 2022, the City Council established a Non-Capital Reserve Fund pursuant to RSA 34:1-a for the purpose of encouraging economic development within the City, encouraging the development of industrial and commercial sites, promoting the City as an attractive location for businesses and residents, and acquisition of land related to the same. The name of the fund shall is the Economic Development Reserve Fund.

B. The City Council, at its sole discretion, may appropriate funds into said Economic Development Reserve Fund through supplemental appropriations or the annual budgeting process, however, in no case shall said annual appropriation be less than One Hundred Thousand Dollars (\$100,000.00). Revenue sources can be Waste Management Host Fee Revenues, or General Fund Unassigned Fund Balance. In addition, other unanticipated revenue sources, and proceeds from transactions that were originally derived from the Economic Development Reserve Fund, may also be appropriated into the fund upon a majority vote of the City Council.

C. Pursuant to RSA 34:6, the Trustees of Trust Funds shall have custody of all non-capital reserves transferred to the Economic Development Reserve Fund. The Trustees of the Trust Fund will hold the monies appropriated to the Economic Development Reserve Fund in a separate liquid investment account. Appropriations made to the Economic Development Reserve Fund will be submitted to the Trustees of the Trust Fund within the same fiscal year of the appropriation.

D. Pursuant to RSA 34:10, the City Council names the Economic Development Commission as its agent to carry out the objects of the Economic Development Reserve Fund. All expenditures made by the Economic Development Commission shall be made only for or in connection with the purposes for which said Fund was established and only in accordance with §7-38-40 of the City Code. All requests for expenditures shall be approved by the 2/3rds vote of the Economic Development Commission prior to being presented to City Council for final approval. Upon said 2/3rds vote expenditure requests may then be presented to City Council. Expenditure requests shall identify expense categories, or specific project scope detail. General administrative, travel and conference activities shall be ineligible expense activities. Expenditure requests can be presented as part of the annual budget process, or through supplemental appropriations. All approved expenditures shall follow the City's Purchasing Policy.

E. The City Council may dissolve the Economic Development Reserve Fund at its sole discretion. Upon dissolution of any portion of said fund appropriated from the General Fund said funds will lapse to surplus (General Fund Unassigned Fund balance) and cannot be repurposed directly to a different capital fund or project.

Amendments are effective upon passage.

SECTION 1.6 ORDER OF BUSINESS

a) The order of business for Regular meetings of the City Council shall be as follows:

1. Call to order
2. Pledge of Allegiance
3. Prayer
4. Roll Call
5. Approval of the minutes of the previous meeting(s)
6. Communications from the City Manager
7. Communications from the Mayor
8. Presentation of Petitions and Council Correspondence [and Disposal thereof by Reference or Otherwise]
9. Nominations, Appointments and Elections
10. Report of Committees
11. Unfinished Business
12. Consent Calendar
13. New Business
14. Other
- 14-15. ___ Adjournment

b) New Business: Items requiring Council action may be introduced by any member of the City Council, but may not be acted upon at the meeting in which they are introduced unless the items are properly filed in accordance with Article 4, Section 4.1 herein. The Council may act upon said items if they have not been filed in advance by suspending Council Rules by a two-third (2/3) vote of the City Council.