

Codes and Ordinances Committee

Councilor Peter Lachapelle, Chair
Councilor Elaine Lauterborn, Vice Chair
Councilor Tom Abbott
Councilor Donna Bogan
Councilor Robert Gates



CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

Thursday, Feb. 1, 2017

City Council Chambers

31 Wakefield Street, Rochester, NH

MINUTES

1. Call to Order

Councilor Lachapelle called the Codes and Ordinances Committee to order at 6:00 PM. All Committee members were present. Also present were Councilor Hamann, Councilor Varney, Councilor Walker and City Attorney, Terence O'Rourke

2. Public Input

Councilor Lachapelle opened Public Input at 6:03 pm.

The two residents present for public input intend to speak regarding agenda item #6 "Amendment to Chapter 19.8 *Storage of Containers/Dumpsters.*" Councilor Lachapelle invited them to speak at the time that agenda item is discussed.

Councilor Lachapelle closed Public Input at 6:05 pm.

3. Acceptance of the Minutes: October 5, 2017

Councilor Lauterborn **MOVED** to **ACCEPT** the minutes of October 5 2017 Codes and Ordinances Committee meeting. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

4. Amendment to Chapter 45 *Overnight Parking, Occupancy, and Camping on City owned Property*

Councilor Lauterborn **MOVED** to recommend this amendment to the full Council with the following correction: typo in 45.7 Removal: *Any vehicle parked in violation of this Ordinance ~~by~~ may be ordered towed by the Rochester Police Department at the expense of the owner or custodian of said vehicle.*

Councilor Hamann asked why the Rochester Opera House is singled out in **45.5 Exceptions.**

Councilor Lauterborn explained that there are sometimes traveling bands and

shows that come to the opera house in motor homes and they occasionally stay overnight, leaving early the next morning. The Rochester Opera House does not fall under a special even permit. Further discussion was held.

Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

5. **Amendment to Chapter 63.2** *Passing of Items from the Occupant of a Motor Vehicle*

Councilor Lauterborn **MOVED** to recommend to full Council to repeal 63.2 in its entirety. Councilor Gates seconded the motion. After discussion, the **MOTION CARRIED** by a unanimous voice vote.

6. **Amendment to Chapter 19.8** *Storage of Containers/Dumpsters*

Recommendation was made to full Council to strike the last sentence of 19.8; *“and such containers/dumpsters are stored in such a manner as to be adequately screened from view from any public way.* Full Council did not agree with removing this sentence and it was sent back to committee.

Councilor Lachapelle stated that if this sentence is left as it currently appears, it is going to create a burden on business owners that do not have the room for enclosures as well as the dumpster and/or the 96 gallon carts. Councilor Abbott stated that leaving this in doesn't address the issues of illegal dumping as some of the pictures in the packet show. Enclosures are not going to fix the problems that are depicted in these photos.

At this time Councilor Lachapelle called forward the residents that were present for Public Input on this item.

Kris Kozlowski of Academy Street spoke regarding the tight situation of the street on which he lives. He spoke of the by-law that requires the containers be removed within 24 hours of being emptied. Mr. Kozlowski stated this by-law is unenforceable, as Code Enforcement only enforces this if it is on a private lot. He also spoke about absentee landlords in regards to tenants moving out and the problem with bulk waste. He made suggestions to help fix this. On Academy Street, which is a one-way street, a problem is created on trash/recycle day with all the containers lined up along one side of the street. Mr. Kozlowski made a suggestion that the City designates one particular area on the street to dump the rubbish.

David Clark of Academy Street spoke regarding the problem on the street as well. He stated that Mr. Kozlowski is the only single family home on the street. Mr. Clark owns a duplex next to him. He agrees with the issues brought up by Mr. Kozlowski and wanted to add to it. Mr. Clark stated that what he and Mr. Kozlowski are advocating for is a different approach to high density areas in the City, such as Academy Street. There are also the enforcement concerns of the totes being placed out to early for the pickup the next day, and the 24 hours required for the totes to be removed from the street after the pick-ups have occurred. They both would like to see something in the ordinance that would address their concerns.

Councilor Lachapelle spoke of the congestion of some of the areas in the

City, and stated that as the ordinance is written, anything above 4 units is classified as commercial and would require a dumpster. Unfortunately in these areas, a dumpster would not be viable with the tight constraints of the properties. Councilor Lachapelle also spoke about the challenges of Bulk Waste.

Much discussion ensued on this section. Councilor Lachapelle stated he would like to keep this on the agenda for the March 1st meeting and invite Jim Grant and Joe Devine from Building, Zoning and Licensing to speak and answer questions. Councilor Lauterborn requested that the March 1st meeting start at 7pm rather than 6pm, as there is the Chamber Showcase Event at the Legion that same evening and also stated that several of the councilors attend this event. Councilor Lachapelle agreed that a 7:00 PM start would be ok.

Councilor Lachapelle recommended to send it back to Council informing them there have been no changes recommended, that toters/dumpsters need to be screened, and let codes enforce it.

Councilor Abbot **MOVED** to send it back to Council with the last sentence stuck again and let them vote it down. Councilor Gates seconded the motion. **MOTION CARRIED** with a majority voice vote.

7. **Review of Council Rules of Order**

Councilor Lachapelle recommended adding a new number **12** to be titled **Consent Calendar** under **Section 1.4 Order of Business**. **Consent Calendar** would appear between **Old Business** and before **New Business**. He stated that Council is doing this currently when there are de-authorizations or similar so it makes sense to have it under **Order of Business**. **New Business** would become **13**, **Other** would become **14**, and **Adjournment** would be **15**.

Councilor Lachapelle **MOVED** to create new #**12** labeled **CONSENT CALENDAR** under **Section 1.4 Order of Business**. Councilor Lauterborn seconded the motion. **MOTION CARRIED** with a unanimous voice vote.

Councilor Lauterborn spoke regarding the proposed addition to Rules of Order **New 4.25, Cancellation or Postponement of Meetings Item C**. She stated that she felt 5:00 PM was a little late for making that final decision to cancel. She liked that it was stated that the City Clerk is to notify Council Members of cancellation/postponement, and that an e-mail can be sent asking them to respond. Those who don't reply by a certain time would receive a phone call. Discussion was held about the cut-off time to make the final decision to cancel or postpone the meeting.

Councilor Gates **MOVED** to accept **4.25 Cancellation or Postponement of Meeting** with the amendment to **Item C** to change the decision time to **3:00 pm from 5:00 pm**. Councilor Bogan seconded the motion. **MOTION CARRIED** with a unanimous voice vote.

Councilor Hamann spoke regarding **Section 4.12 Ordinances and Resolutions**. He stated that to his knowledge Council has "suspended the rules and read by title only for a second time" every single reading for the past 10 years. If Council is going to suspend the rules every single time, why not change the rules once? Councilor Lauterborn stated that some items are read and sent to committee. If it's a money issue it has to go to a public hearing and on some of the bigger financial issues Council does not suspend the rules. Rules are usually

suspended on routine business items. More discussion was held on how to write this in as an exception to the rules. Councilor Lachapelle stated that we can keep this in committee and have City Attorney O'Rourke look at it further and write something up for the next Codes and Ordinances Committee meeting on March 1st.

Councilor Hamann brought up **Section 4.14 Elections by Ballot**. He inquired why boards and committees are still using paper ballots. Why, as elected officials, are they voting privately? Councilor Lauterborn stated that these are volunteer boards, people are putting their names forward without expectation of compensation, and we don't want to create an embarrassing situation. Councilor Lachapelle stated that when Council does use a paper vote, City Attorney O'Rourke and the City Manager collect the votes, count them, and the City Manager makes the announcement. For example: 12 to 1, Councilor Walker won. This way it isn't known who the 1 was. Councilor Hamann stated this is why he has a problem with this voting method. Councilor Hamann stated that the public is already losing faith and said if elected officials are there to publicly make decisions he think they should be making decisions publicly.

Councilor Varney stated that when considering the process for volunteer appointments to boards and commissions, it is not particularly rigorous now. Does the appointments committee ever turn anyone down? Perhaps not more than once or twice. Rochester is a small city, and Council doesn't want to hurt anyone's feelings or create animosity. It only takes a few minutes to do a paper ballot; if they are done monthly and Council stays up to date on nominations, they won't have 15-20 elections in one night.

Councilor Walker stated that he understands when there are two people running for one position, there needs to be a paper ballot, but when there is only one, Council shouldn't have to do this. Councilor Lauterborn pointed out that right in the Rules of Order it states "Single candidates upon nominations ceasing will be elected by City Council Voice vote that the City Clerk Cast one ballot for that candidate."

Councilor Bogan stated that on the next Appointments Committee agenda they have nine appointments, so at the following Council Meeting there will have to be 9 ballots.

Councilor Lachapelle asked if anyone on committee would like to make a change to that. He reminded Councilor Hamann that he can make any recommendations he wants at the meeting.

Councilor Lachapelle asked to entertain a motion to recommend the two changes; **1.4 Order of Business #12 Consent Calendar**; and addition of **NEW 4.25 Cancellation or Postponement of Meeting** made to the Council Rules of Order to the full Council. Motion was **MOVED** by Councilor Bogan and seconded by Councilor Gates.

8. Other

There was no new business under Other.

9. Adjournment

Councilor Gates **MOVED** to **ADJOURN** the Committee meeting at 7:00 PM. Councilor Lauterborn seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Susan Morris
Assistant City Clerk