

**CITY COUNCIL SPECIAL MEETING  
December 16, 2014  
COUNCIL CHAMBERS  
9:31 PM**

**COUNCILORS PRESENT**

Councilor Bogan  
Councilor Collins  
Councilor Gates  
Councilor Gray  
Councilor Hamann  
Councilor Keans  
Councilor Lachapelle  
Councilor Larochelle  
Councilor Lauterborn  
Councilor Torr  
Councilor Varney  
Councilor Walker  
Mayor Jean

**OTHERS PRESENT**

City Manager Daniel Fitzpatrick  
Deputy City Manager Blaine Cox

**MINUTES**

**1. Call to Order**

Mayor Jean called the City Council Special Meeting to order at 9:31 PM. Deputy City Clerk Marcia Roddy took a silent roll call. All members were present.

**2. AB 74 Resolution Authorizing City Manager to Provide Letter of Support on Behalf of the City of Rochester, with Respect to a Proposed Amendment to a Conservation Easement, of Which the City is an Executory Interest Holder, Situate on the Westerly Side of New Hampshire Route 11, in the City of Rochester, and to take Additional Actions with Respect to the Same  
First Reading and Adoption**

Councilor Walker **MOVED** to read the resolution by title only for the first time. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by unanimous voice vote. Mayor Jean read the resolution by title only as follows:

**RESOLUTION AUTHORIZING CITY MANAGER  
TO PROVIDE LETTER OF SUPPORT  
ON BEHALF OF CITY OF ROCHESTER,  
WITH RESPECT TO A PROPOSED AMENDMENT TO A  
CONSERVATION EASEMENT, OF WHICH THE CITY IS AN  
EXECUTORY INTEREST HOLDER,**

**SITUATE ON THE WESTERLY SIDE OF NH ROUTE 11,**  
**IN THE CITY OF ROCHESTER,**  
**AND TO TAKE ADDITIONAL ACTIONS WITH RESPECT TO THE SAME**

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

**WHEREAS**, the City of Rochester (the "City") is the Executory Interest Holder under a Conservation Easement Deed granted by Route 11 Investments, Inc., dated May 6, 2010, recorded at Book 3832, Page 179 of the Strafford County Registry of Deeds, such easement covering approximately 46.2 acres of land situate off of the westerly sideline of NH Route 11, in Rochester, NH (the "Easement"); and

**WHEREAS**, the owner of the larger tract on which the Easement is located (the "Property"), at the time of the Easement's creation, was Route 11 Investments, Inc., however the ownership of the portion of the Property on which the Easement is located has recently been transferred to Waterstone Rochester, LLC (the "Property Owner"); and

**WHEREAS**, the Property Owner and the City have entered into an agreement providing for the development, by the Property Owner, of a portion of the Property, located almost entirely outside of the Easement area, including certain infrastructure improvements designed to be ultimately transferred to the City, including specifically a so-called "Frontage Road" running parallel to, and westerly of, NH Route 11 designed to promote better traffic flow and to improve safety on NH Route 11; and

**WHEREAS**, the safest and most efficient design of the said Frontage Road requires that such Frontage Road encroach upon 121 sq. ft. of the currently existing 46.2 Easement area; and

**WHEREAS**, the Property Owner, in order to utilize the safest and most efficient design of the said Frontage Road, proposes to amend the Easement by withdrawing therefrom the aforesaid 121 sq. ft. of the currently existing 46.2 Easement area which would be impacted by the creation/construction of the aforesaid Frontage Road as currently designed, and, by way of compensating for such withdrawal, expanding the Easement area by making an additional 2,000 sq. ft. of the Property, not currently located within Easement area, subject to the terms of such Easement by virtue of an amendment to the current Easement that would both withdraw therefrom the 121 sq. ft. area associated with the Frontage Road that would encroach upon the Easement, and would subject to the terms of the Easement an additional 2,000 sq. ft. of the Property not currently located within Easement area (the amended Conservation Easement being hereinafter referred to as the "Amended Easement"); and

**WHEREAS**, a copy of a plan depicting the areas being withdrawn from and added to the Amended Easement have been provided to the Mayor and City Council, and explained to them by representatives of the Property Owner and the City's administration:

**NOW THEREFORE**, the Rochester Mayor and City Council, by adoption of this resolution, hereby authorize the City Manager of the City of Rochester, or his designee, to sign a letter of support on behalf of the Rochester Mayor and City Council and City administration, to the NH Department of Environmental Services and the NH Attorney General's Office, as well as any and all other regulatory bodies and/or officials having jurisdiction over, and/or with respect to, the proposed amendment to the Easement that would result in the Amended Easement, or an amended Easement in a form deemed by the City Manager, in his sole judgment, to be in the best interests of the City of Rochester. Further the City Manager of the City of Rochester, or his designee, be, and hereby is, authorized to sign, on behalf of the City of Rochester, any and all deeds, and/or other documents, necessary implement and effectuate an amendment to the Easement so as to result in the Amended Easement or an amended Easement in a form deemed by the City Manager, in his sole judgment, to be in the best interests of the City of Rochester.

CC FY 15 AB 74

The City Council discussed the purpose of the easement. Economic Director Karen Pollard answered questions for further explanation on the easement.

Councilor Walker **MOVED TO ADOPT** the resolution. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by majority voice vote.

**3. AB 75 Resolution Authorizing the Finance Director to Serve as Fiscal Agent for the So-Called Community Coalition for Alcohol and Drug Prevention/Bridging the Gap Federal Grant. First Reading and Adoption**

Councilor Walker **MOVED** to read the resolution by title only for the first time. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by unanimous voice vote. Mayor Jean read the resolution by title only as follows:

**RESOLUTION AUTHORIZING FINANCE DIRECTOR  
TO SERVE AS FISCAL AGENT FOR THE SO-CALLED  
COMMUNITY COALITION FOR ALCOHOL AND DRUG PREVENTION/  
BRIDGING THE GAP FEDERAL GRANT**

**BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHESTER, AS FOLLOWS:**

**WHEREAS**, the Community Coalition for Alcohol and Drug Prevention/Bridging the Gap (hereinafter the "Coalition") program has received/will be receiving a federal grant in the approximate amount of One Hundred Twenty Five Thousand Dollars (\$125,000.00) (the "Grant Funds") designed to promote its purposes of promoting alcohol and drug abuse prevention within the community; and

**WHEREAS**, the Coalition has requested that the City of Rochester assist the Coalition in its promotion of its aforesaid purposes, including allowing the City's Finance Director to serve as Fiscal Agent with respect to the Coalition's aforesaid Grant Funds; and

**WHEREAS**, the Mayor and City Council of the City of Rochester are supportive of the purposes and efforts of the Coalition to reduce and/or remediate alcohol and drug abuse prevention within the community, and are desirous of supporting the Coalition's efforts by, among other things, allowing the City's Finance Director to serve as Fiscal Agent with respect to the Coalition's aforesaid Grant Funds;

**NOW THEREFORE**, the Mayor and City Council of the City of Rochester, by adoption of this Resolution authorize the Finance Director of the City of Rochester to serve as the Fiscal Agent with respect to the aforesaid Grant Funds, and further authorize the said Finance Director to take any and all appropriate steps to receive and/or disburse the Grant Funds in a manner consistent with proper accounting procedures, including, but not limited to, applicable rules and/or regulations applicable to the above mentioned federal grant and/or the Grant Funds.

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

CC FY 15 12-16 AB 75

Mayor Jean explained that this grant was discussed at the Finance Committee meeting. The grant was originally managed by the Community Action Commission of Strafford County. This resolution would allow the program to continue but will be managed by the Finance Department.

Councilor Lachapelle **MOVED TO ADOPT** the resolution. Councilor Walker seconded the motion. The **MOTION CARRIED** by unanimous voice vote.

**4. AB 76 Resolution Ratifying and Confirming Prior Action by the Rochester City Council and Authorizing the City Manager to Execute Appropriate Documents to Implement the Intent and Purpose of Such Prior Action First Reading and Adoption**

Councilor Walker **MOVED** to read the resolution by title only for the first time. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by unanimous voice vote. Mayor Jean read the resolution as follows:

**RESOLUTION RATIFYING AND CONFIRMING PRIOR ACTION  
BY THE ROCHESTER CITY COUNCIL AND AUTHORIZING  
THE CITY MANAGER TO EXECUTE APPROPRIATE DOCUMENTS  
TO IMPLEMENT THE INTENT AND PURPOSES OF SUCH PRIOR ACTION**

**BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHESTER, AS FOLLOWS:**

**WHEREAS**, under date of January 22, 1974, by virtue of a Resolution by the Mayor and City Council, authority was to sell and convey the so-called "Railroad Round House" (property located on Columbus Avenue, Upham street and Knight Street) (the "Property") for the sum of \$50,000 and further, to authorize the Mayor and Finance Committee to complete the details of the sale, and further providing that John Shaw, as Mayor of the City of Rochester, be empowered to execute and sign the proper instruments or deed to convey the Property, see **Exhibit A** annexed hereto; and

**WHEREAS**, that subsequent to the adoption of the aforesaid Resolution the records of the City of Rochester Assessor have contained a copy of an unexecuted deed of the aforementioned Property from the City of Rochester to one "Peter Nichols of Danforth Street in the City of Portland, County of Cumberland and State of Maine", which deed was prepared for signature by the then Mayor of the City of Rochester, John Shaw; and

**WHEREAS**, apparently from a time shortly subsequent to the passage of the aforementioned Resolution and the preparation of the unsigned draft of deed of the Property to "Peter Nichols", the assessor's records for the City of Rochester with respect to the Property has listed the name of the aforesaid "Peter Nichols" as owner of such Property, and the taxes on such Property have since that date, and until the present date, appear to have been paid on said Property by the said "Peter Nichols"; and

**WHEREAS**, despite the foregoing circumstances, the records at the Strafford County Registry of Deeds fail to contain an executed and/or recorded deed from the city of Rochester to the said "Peter Nichols" in the form of the unsigned deed referred to above and contained in the records of the city of Rochester Assessor; and

**WHEREAS**, on information and belief, as represented to the city by the aforementioned Peter Nichols and/or his representatives, the signed original of the above-mentioned deed from the City to the said Nichols has apparently been inadvertently destroyed, mislaid and/or lost; and

**WHEREAS**, the aforesaid "Peter Nichols" has sometimes, and more formerly, also been known by the name "Michael S. Nicholos", and wishes to have the current Mayor and City Council of the City of Rochester ratify and affirm the actions of the Mayor and City Council of the City of Rochester taken on January 22, 1974, and to implement the purpose and intent of the same by conveying to the said Michael S. Nicholos, a/k/a Peter Nichols, the aforementioned Property by duly signed and properly executed deed of the City of Rochester;

**NOW, THEREFORE**, the Mayor and City Council of the City of Rochester, by adoption of this Resolution, hereby ratify and confirm the actions of the Mayor and City Council of the City of Rochester, as reflected in the adoption o f the above-referenced January 22,

1974 Resolution with regard to the Property, and further, authorize the City Manager to execute a deed to the said Michael S. Nicholas a/k/a Peter Nichols, of the aforesaid Railroad Round House property, such deed to be upon such terms and conditions as to its contents as the City Manager of the City of Rochester deems to be in the best interests of the City of Rochester, and further authorizes the said City manager to execute and sign, on behalf of the City of Rochester, such additional documents as may be necessary to implement effectuate the purpose and intent of this Resolution, as well as the purpose and intent of the above referenced Resolution of January 22, 1974, with respect to said Railroad Round House property.

CC FY 15 12-16 AB 76

Councilor Lachapelle **MOVED TO ADOPT** the resolution. Councilor Walker seconded the motion. The **MOTION CARRIED** by unanimous voice vote.

## **5. Adjournment**

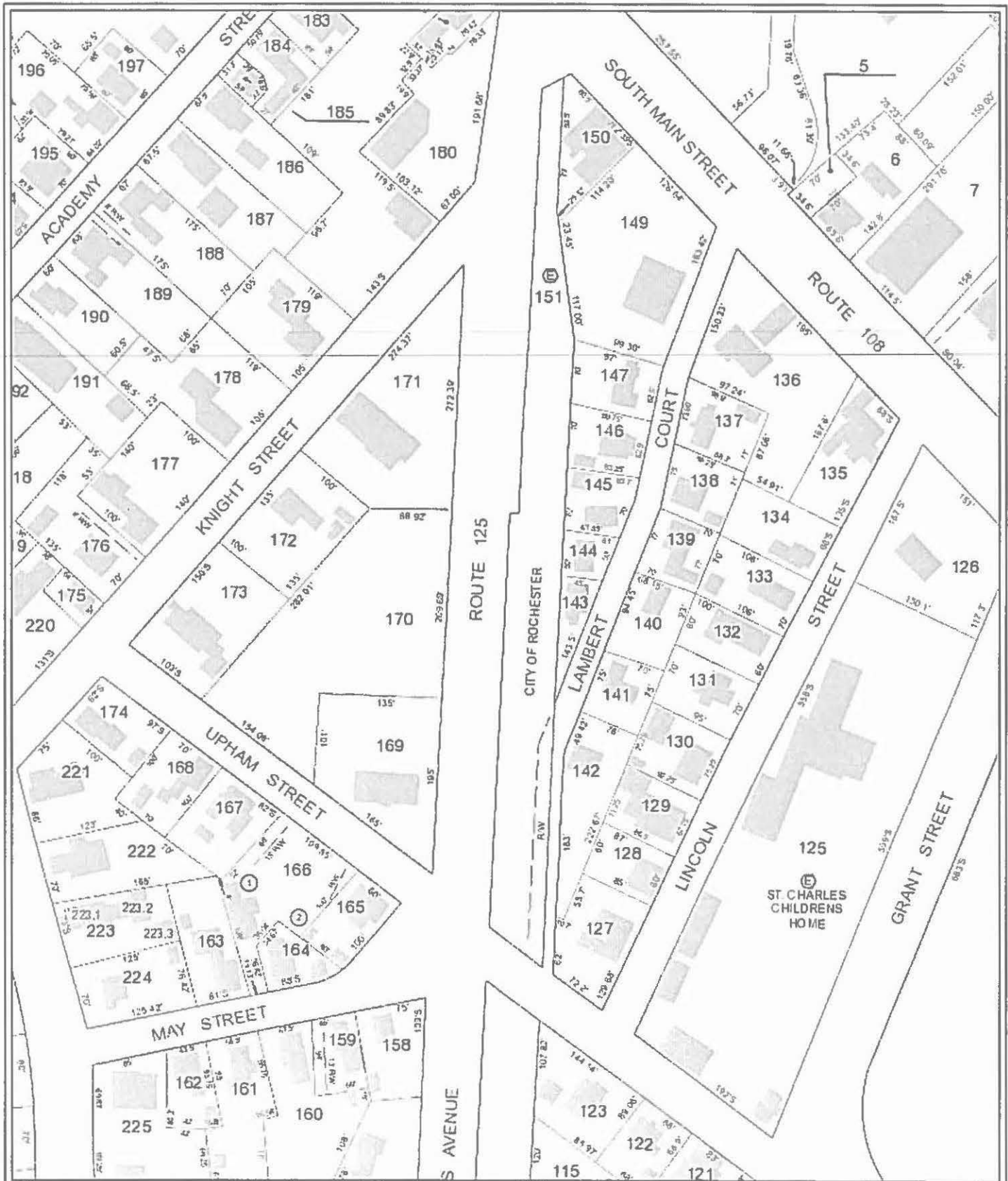
Councilor Lachapelle **MOVED TO ADJOURN** the Special Meeting at 9:43 PM. Councilor Walker seconded the motion. The **MOTION CARRIED** by unanimous voice vote.

Respectfully submitted,

*Marcia H. Roddy*

Deputy City Clerk

# EXHIBIT A



Rochester, NH  
1 Inch = 149 Feet  
December 02, 2014



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