

**City Council Special Meeting
November 16, 2021
Council Chambers
7:12 PM**

COUNCILORS PRESENT

Councilor Abbott
Councilor Beaudoin
Councilor Bogan
Councilor Fontneau
Councilor Gray
Councilor Hainey
Councilor Hamann
Councilor Hunt-Hawkins
Councilor Hutchinson
Councilor Lachapelle
Councilor Rice
Councilor Walker
Mayor Lauterborn

OTHERS PRESENT

Blaine Cox, City Manager
Katie Ambrose, Deputy City Manager
Terence O'Rourke, City Attorney
Chris Miller, Easter Seals
Mike Scala, Dir. Economic Development
Greg Grant, GP Properties
Paul Grant, GP Properties
Betsey Andrews Parker, CEO of CAP

Minutes

1. Call to Order

Mayor Lauterborn called the City Council Special meeting to order at 7:12 PM. Deputy City Clerk Cassie Givara had taken a silent roll call prior to the public hearing, immediately preceding the Special Meeting. All Councilors were present.

2. Resolution Authorizing an Application for Community Development Block Grant – COVID-19 (CDBG-CV) Housing Funding to Support Easter Seals Senior Affordable Housing Project *second reading and consideration for adoption*

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

RESOLUTION AUTHORIZING AN APPLICATION FOR COMMUNITY DEVELOPMENT BLOCK GRANT – COVID-19 (CDBG-CV) HOUSING

**FUNDING TO SUPPORT EASTER SEALS SENIOR AFFORDABLE
HOUSING PROJECT**

- WHEREAS: The 2020-2025 Rochester CDBG Consolidated Action Plan documents rising demand for housing for elderly residents, including residents living on fixed incomes; and
- WHEREAS: HUD Community Development Block Grant CARES Act (CDBG-CV) funds are available through the NH Community Development Finance Authority for housing grants of up to \$1,000,000; and
- WHEREAS: A primary component of the CARES Act is assistance to State, Local, Territorial, and Tribal Governments for the direct impact of the COVID-19 pandemic; and
- WHEREAS: Easter Seals NH owns the location at 215 Rochester Hill Road, Rochester, NH 03867; and
- WHEREAS: Easter Seals NH proposes to construct multiple units of apartments at 215 Rochester Hill Road, Rochester, NH 03867 to serve an income-qualified population of elderly residents; and
- WHEREAS: Easter Seals and its services will benefit a limited clientele made up entirely of elderly residents; and
- WHEREAS: Elderly persons are presumed by HUD to be low- to moderate-income for the purposes of CDBG eligibility; and
- WHEREAS: An application for a CDBG-CV grant has been prepared by Easter Seals on behalf of the City of Rochester and in collaboration with City staff; and
- WHEREAS: A duly-noticed public hearing for the purposes of soliciting feedback from the public and meeting the requirements of the CDBG program was held on November 16, 2021.

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

- I. That the City of Rochester will submit an application for Community Development Block Grant COVID-19 funds of up to \$1,000,000 for the purpose of constructing senior affordable housing units at 215

Rochester Hill Road, Rochester, NH 03867 in partnership with Easter Seals NH.

- II. The City of Rochester hereby adopts a project-specific Anti-Displacement Policy that incorporates and is subordinate to the pre-existing CDBG Anti-Displacement and Relocation Assistance Plan.
- III. The City Manager is authorized to apply for, accept, and expend the CDBG-CV funds of up to \$1,000,000 and to officially represent the City of Rochester in connection with the application, including execution of contracts on behalf of the City and any other related documents necessary or convenient to carry out the intent of said grant agreement (including acting as the certifying officer for HUD environmental documents) without further action of the City Council for the purposes set forth in the grant agreement.
- IV. The City Manager is hereby authorized to enter into agreement(s) with Easter Seals NH as subrecipient for the grant.

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion. Councilor Beaudoin referenced a portion of the financial plan in the packet, which states that it is still unknown where capital funding for offsite infrastructure investment would be sourced. It was stated that these costs could range from \$500,000 to \$750,000 "with no clear path for funding." Councilor Beaudoin asked if there was any further discussion on this funding issue. Chris Miller, Easter Seals, stated that it had originally been determined that the project would require a large enough pump station on the property to warrant municipal ownership of the existing sewer line entering the property. However, upon further review it became evident that Easter Seals would be better off developing a private pump station for the project, and this decision lowered those projected costs significantly. The **MOTION CARRIED** by a unanimous voice vote.

3. Presentation: GP Properties, 45-55 North Main Street

Mike Scala, Director of Economic Development, introduced Greg and Paul Grant from GP properties, owners of 45-55 North Main Street. Greg Grant gave a presentation to Council of the proposed designs for the project being developed on the site of the former Hoffman Building.

Councilor Rice asked how many commercial units would be included in the property. Greg Grant stated that there is one ground-level commercial unit, which they are hoping will be leased by a restaurant. Councilor Rice asked

how many parking spaces are in the rear of the building. Mr. Grant answered that there are 50 parking spaces.

Councilor Beaudoin stated that the proposal indicates that there are 45 residential units in the building. He asked how many 1-bedroom units and how many 2-bedroom units were included in the proposal. Mr. Grant stated that there are 36 two-bedroom, two-bathroom units and the remaining are one-bedroom, or one-bedroom plus office. Councilor Hutchinson inquired what the pricing would be on these units. Mr. Grant responded that these prices are dependent on how the current development progresses, but speculated that the average rent cost would be \$1800.00, with the larger two-bedroom units being more expensive and the smaller one-bedrooms being slightly less.

Councilor Gray asked how much would have been collected in impact fees had they been in effect for this project. Director Scala answered that there would have been no impact fees assessed because the property is in the downtown commercial district which is exempt from impact fees. Councilor Gray asked what the impact fees would have been had the development not been located in the downtown commercial district, and if these impact fees were being assessed at the time of development. Planning Director Shanna Saunders stated that she would gather this information and get back to Council. Mayor Lauterborn clarified that the impact fees are still in effect. Councilor Gray agreed and said that the impact fee ordinance is still active; however, the Planning Board set the impact fees to \$0 and there is no money being collected currently for new development.

3.1 Resolution Granting Community Revitalization Tax Relief to the Properties Located at 45 and 55 North Main Street and 8 Barker Court Under the Provisions of RSA 79-E in Connection with a Proposed Rehabilitation Project *second reading and consideration for adoption*

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

Resolution Granting Community Revitalization Tax Relief to the Properties Located at 45 and 55 North Main Street and 8 Barker Court Under the Provisions of RSA 79-E in Connection with a Proposed Rehabilitation Project

Be it Resolved by the Mayor and City Council of the City of Rochester, as follows:

Whereas, in an effort to stimulate local economic development and enhance City downtowns and Town centers, the New Hampshire Legislature has enacted RSA Chapter 79-E, entitled "Community Revitalization Tax Relief Incentive"; and

Whereas, the City of Rochester adopted the provisions of such Community Revitalization Tax Relief Incentive Program pursuant to RSA Chapter 79-E by Resolution of the City Council on October 7, 2008; and

Whereas, the Lilac City Development, LLC, owner of the so-called 45 and 55 North Main Street and 8 Barker Court in downtown Rochester, is desirous of making use of the benefits of RSA Chapter 79-E and it has, therefore, proposed a substantial rehabilitation project with respect to the structures located upon the so-called 45 and 55 North Main Street and 8 Barker Court; and

Whereas, RSA Chapter 79-E requires that the governing body of the City of Rochester make certain findings and determinations with regard to a proposed substantial rehabilitation project in order for the structure to qualify for the RSA Chapter 79-E Community Revitalization Tax Relief Incentive;

Now, Therefore, the Mayor and City Council of the City of Rochester, by adoption of this resolution, hereby make the following findings and determinations with respect to the proposed substantial rehabilitation proposal for the so-called 45 and 55 North Main Street and 8 Barker Court properties contemplated by the owner's Community Revitalization Tax Relief Application dated September 29, 2021, to wit:

(1) Any tax relief under the provisions of RSA Chapter 79-E or this resolution that is to be accorded with respect to the so-called 45 and 55 North Main Street and 8 Barker Court properties project shall be accorded only after the property owner grants to the City a covenant pursuant to the provisions of RSA 79-E:8 ensuring that the structure shall be maintained and used in a manner that furthers the public benefits for which the tax relief was granted and in accordance with the requirements of RSA 79-E:8; and

(2) The Mayor and City Council find public benefits under RSA 79-E:7 in the proposed revitalization project proposed with respect to the so-called 45 and 55 North Main Street and 8 Barker Court properties project; and

(3) The proposed substantial rehabilitation project with respect to the aforesaid 45 and 55 North Main Street and 8 Barker Court Main Street properties provides the following public benefits to downtown Rochester:

- I. It enhances the economic vitality of the downtown;
- II. It enhances and improves a structure that is culturally and historically important on a local level, within the context of the City's Historic District and the City center in which the building is located;
- III. It promotes development of downtown Rochester, providing for efficiency, safety, and a greater sense of community, consistent with RSA 9-B;

(4) The specific public benefit is preserved through a covenant under RSA 79-E:8 if the project is implemented consistent with (a) the aforementioned application; (b) compliance with the recommendation to the City Council approved by the Community Development Committee on October 18, 2021 (c) the terms of this resolution; and (d) any other applicable requirements of Chapter 79-E; and

(5) The Mayor and City Council find that the proposed use is consistent with the City's Master Plan and development regulations.

Furthermore, as a result of making such determinations and findings, and subject to the owner's compliance therewith, and with the provisions of RSA Chapter 79-E, the Mayor and City Council hereby grant the requested tax relief for a period of seven (7) years beginning with the completion of the substantial rehabilitation of the structure upon the so-called 45 and 55 North Main Street and 8 Barker Court properties.

Councilor Walker **MOVED** to **ADOPT** the resolution. Councilor Lachapelle seconded the motion. Councilor Beaudoin stated that he would not be voting for this resolution because he felt that there was inadequate parking available for the proposed development along with other oncoming developments and businesses in the area. Councilor Fontneau stated that a parking issue is not necessarily a negative for a City because it is a sign that there is business coming into the City which had not been occurring in the past. Councilor Hainey

stated that there are plans in place to address the parking issues in downtown and there have been solutions discussed. Councilor Walker confirmed that there was a recent parking study conducted which took this development into consideration and indicated that there was not a parking issue. Councilor Walker acknowledged the parking available downtown is spread out. Councilor Abbott spoke about how, in many Cities, walking a distance from a parking space to a restaurant, business, or apartment is accepted as part of the process and often gives an individual opportunities to window shop and patronize businesses on the way to their destination. He said that although there should be a parking management plan developed, the parking issue is a positive problem for the downtown to deal with. Councilor Rice spoke in favor of the development and the other 79-E properties in the downtown area that are bolstering the area's revitalization. The **MOTION CARRIED** by a majority roll call vote with Councilors Hamann Walker, Hutchinson, Hunt-Hawkins, Fontneau, Abbott, Gray, Rice, Bogan, Hainey, Lachapelle, and Mayor Luaterborn voting in favor and Councilor Beaudoin voting opposed.

4. Resolution Approving Amendment to the Tri-City Agreement with Community Action Partnership for Warming Center Staffing *first reading and consideration for adoption*

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

Resolution Approving Amendment to the Tri-City Agreement with Community Action Partnership for Warming Center Staffing

WHEREAS: The City of Dover owns a facility that has been outfitted to function as an emergency cold weather warming center at 30 Willand Drive, Somersworth, N.H. ("Warming Center") to be used as an Emergency Extreme Cold Weather Warming Center in the area to provide for the welfare of those in need and meets safety needs related to COVID-19; and

WHEREAS: The Tri-City Partnership, led by the Cities of Dover, Rochester and Somersworth seek to engage the Community Action Partnership of Strafford County ("CAP") to operate the Warming Center on an as needed basis through the 2021 –

2022 winter season; and

WHEREAS: The Cities of Dover, Rochester and Somersworth are supportive of extending the operations of the Warming Center to 7 nights per week and 24 hours per day on all weekends during the 2021 – 2022 winter season;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL THAT:

The City Manager is hereby authorized to enter into an amended and restated agreement with the Cities of Dover, Somersworth, and the Community Action Partnership of Strafford County, for the staffing and operation of the center 7 nights per week and 24 hours per day on weekends through this winter.

AND, FURTHER BE IT RESOLVED THAT:

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 and to establish special revenue, non-lapsing, multi-year fund accounts(s) as necessary to which said sums shall be recorded.

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion. Councilor Rice referenced an article in Foster's which indicated that the City of Dover plans to sell the Willand property next year. He asked what the plans are for next year if the facility is not available. Councilor Lachapelle agreed that there does need to be a plan moving forward; unfortunately, there is not yet a plan in place and staff should not be expected to have a plan in place for unknown circumstances down the road. Councilor Lachapelle suggested the use of ARPA funds to develop a plan to assist the homeless population. Councilor Rice clarified that he does not expect an immediate answer but rather wanted to put the issue on the radar of City staff so they can start discussing the future.

Councilor Beaudoin referenced a portion of the agreement which states that the Willand Warming Center will stay open 24-hours during unexpected extreme weather periods. He asked if the City's cost includes these unexpected openings and, if not, if there was funding available to cover these additional costs. City Manager Cox stated that the original MOU signed by the Tri-Cities in September at a cost of \$50,000 per City would cover the opening of the facility for up to 60 nights during extreme weather events. The amended MOU being voted on this evening would allow the warming center to be open from 5 PM to 8 AM Monday through Friday and 24-hours a day on weekends. He

stated that although there is an additional cost to this amendment, CAP has a proposal which would involve no additional cost to the Tri-Cities. Councilor Lachapelle stated that both Dover and Somersworth have passed this resolution and it is incumbent on Rochester to take action.

Councilor Beaudoin stated that the budget shows "in kind meal donations" and asked where these meals were coming from. Betsey Andrews Parker, CEO of Community Action Partnership, stated that the meals are received by community donations and individually wrapped to adhere to COVID regulations. There will be a sign-up genius released to request these donations and, if an inadequate amount of meals are donated, there will be backup snacks provided.

Councilor Gray asked for a description of a low-barrier shelter for those who may not understand the term. He also asked if the City welfare department was having difficulty placing homeless individuals in shelters. Betsey Andrews Parker stated that the warming center will not refuse anyone who is seeking shelter. This includes those with substance misuse issues who may be under the influence at the time they appear at the shelter, which makes it less safe for them to be unsheltered and exposed to the elements. Ms. Andrews Parker said that there is some additional paperwork required this year which would be considered a barrier; however, individuals seeking the assistance of the warming center will only need to register once for the entire season. She clarified that the center has received funding from the NH Emergency Rental Relief Program to fund the additional bed nights Councilor Beaudoin inquired about earlier. City Manager Cox stated that Welfare Director Todd Marsh has not reported any situations where homeless residents seeking help have been left unsheltered.

Councilor Beaudoin stated that the budget included in the proposal equaled out to \$27,000 per person for one season. He said that he supports the proposal entirely and emphasized that it is necessary; but stated that the City needed to work on developing a plan for the future for when the Willand property is no longer available.

Councilor Rice asked Ms. Andrews Parker if the extreme weather openings had been accounted for in the proposed budget. Ms. Andrews Parker confirmed that the proposal was well-researched and included these extreme weather days as well as holidays and weekends. She stated that last winter, between the Willand Center and the Garrison Hotel shelter, there were over 100 people housed and emphasized the need for the warming center.

Mayor Lauterborn called for a vote on the amendment. The **MOTION CARRIED** by a unanimous voice vote.

5. Adjournment

Mayor Lauterborn **ADJOURNED** the Special City Council meeting at 7:43 PM.

Respectfully Submitted,

Cassie Givara
Deputy City Clerk

REPEAL THIS ENTIRE SECTION

§ 275-27.3

Impact fees.

A. Purpose. This section is enacted pursuant to RSA 674:16 and 674:21: [Amended 1-7-2020]

(1) To assess new development for its proportionate share of the public capital facility costs.

B. Authority. [Amended 1-7-2020]

(1) Impact fees may be assessed to new development to compensate the City of Rochester and the School Department for a proportionate share of the cost of the capital facility needs occasioned by new development. Any person who seeks a building permit for new development may be required to pay an impact fee in the manner set forth herein.

(2) The Planning Board may, as a condition of approval of any subdivision or site plan, and when consistent with applicable Board regulations, require an applicant to pay an impact fee for the applicant's proportional share of public facilities affected by the development.

(3) Nothing in this section shall be construed to limit the authority of the Planning Board or the City to require exactions for off-site improvements, other conditions of approval, or to assess other fees governed by other statutes, ordinances, or regulations.

C. Definitions. For the purposes of this section, the following terms shall have the meanings indicated:

IMPACT FEE

A fee or assessment imposed upon development, including subdivision or building construction, in order to help meet the needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the City of Rochester or the Rochester School Department, including and limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; stormwater, drainage and flood control facilities; public road systems and rights-of-way; municipal office facilities; public school facilities; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public library facilities; and public recreational facilities not including public open space. [Amended 1-7-2020]

NEW DEVELOPMENT

(1) An activity that results in any one of the following:

(a) The creation of a new dwelling unit or units;

(b) The conversion of a legally existing use, or additions thereto, which would result in a net increase in the number of dwelling units;

(c) Construction resulting in a new nonresidential building or a net increase in the floor area of any nonresidential building; or

(d) The conversion of an existing use to another use if such change results in an increase in the demand on public capital facilities that are the subject of impact fee assessments. [Amended 1-7-2020]

(2) New development shall not include the replacement of an existing manufactured home or the reconstruction of a structure that has been destroyed by fire or natural disaster where there is no change in size, density, type of use, and where there is no net increase in demand on public capital facilities.

OFF-SITE IMPROVEMENTS

Highway, drainage, sewer, or water upgrades or improvements that are necessitated by a development but which are located outside the boundaries of the property, as determined by the Planning Board during the course of subdivision or site plan approval. [Added 1-7-2020]

D. Assessment methodology.

(1) Proportionality. The amount of the impact fee shall be calculated by the Planning Board to be a proportional share of municipal capital improvement costs which is reasonably related to the capital needs created by the development, and to the benefits accruing to the development from the capital improvements financed by the fee. The Planning Board may prepare, adopt, or amend studies or reports that are consistent with the above standards, and which define a methodology for impact fee assessment for public capital facilities, and impact fee assessment schedules therefor.

(2) Existing deficiencies. Upgrading of existing facilities and infrastructure, the need for which is not created by new development, shall not be paid for by impact fees.

E. Administration.

(1) Accounting. In accord with RSA 673:16, II, and 674:21, V(c), impact fees shall be accounted for separately, shall be segregated from the City's general fund, may be spent upon order of the City Council, and shall be used solely for the capital improvements for which they were collected, or to recoup the cost of capital improvements made in anticipation of the needs which the fees were collected to meet. In the event that bonds or similar debt instruments have been or will be issued by the City of Rochester or the Rochester School District for the funding of capital improvements that are the subject of impact fee assessment, impact fees from the appropriate related capital facility impact fee accounts may be applied to pay debt service on such bonds or similar debt instruments.

(2) Assessment. All impact fees imposed pursuant to this section shall be assessed at the time of Planning Board approval of a subdivision plan or site plan. When Planning Board approval is not required, or has been made prior to the adoption or amendment of the impact fee ordinance, impact fees shall be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with development, as determined by the Building Inspector. Impact fees shall be intended to reflect the effect of development upon municipal and/or school facilities at the time of the issuance of the building permit. [Amended 1-7-2020]

(3) Security. In the interim between assessment and collection, the Building Inspector may require developers to post bonds, issue letters of credit, accept liens, or otherwise provide suitable measures of security so as to guarantee future payment of assessed impact fees.

(4) Collection. Impact fees shall be collected as a condition for the issuance of a certificate of occupancy. If no certificate of occupancy is required, impact fees shall be collected when the development is ready for its intended use. Nothing in this section shall prevent the Building Inspector, with the approval of the Planning Board, and the assessed party from establishing an alternate, mutually acceptable schedule of payment. [Amended 1-7-2020]

(5) Refund of fees paid. The current owner of record of property for which an impact fee has been paid shall be entitled to a refund of that fee, plus accrued interest, under the following circumstances:

(a) When either the full or partial portion of the impact fee, whichever is applicable, has not been encumbered or legally bound to be spent for the purpose for which it was collected within a period of six years from the date of the full and final payment of the fee; or

(b) When the City of Rochester or, in the case of school impact fees, the Rochester School District has failed, within the period of six years from the date of the full and final payment of such fee, to appropriate its proportionate non-impact fee share of related capital improvement costs.

F. Appeals.

(1) A party aggrieved by a decision made by the Building Inspector regarding the assessment or collection of impact fees authorized by this section may appeal such decision to the Planning Board.

(2) In accord with RSA 676:5, III, appeals of the decision of the Planning Board in administering this section may be made to Superior Court, as provided in RSA 676:5, III, and 677:15.

G. Waivers. The Planning Board may grant full or partial waivers of impact fees where the Board finds that one or more of the following criteria are met with respect to the particular public capital facilities for which impact fees are normally assessed:

(1) An applicant may request a full or partial waiver of school impact fees for those residential units that are lawfully restricted to occupancy by senior citizens age 55 or over in a development that is also maintained in compliance with the provisions of RSA 354-A:15, Housing for Older Persons. The Planning Board may waive school impact fee assessments on such age-restricted units where it finds that the property will be bound by lawful deeded restrictions on occupancy by senior citizens age 62 or over for a period of at least 20 years. [Amended 1-7-2020]

(2) A person may request a full or partial waiver of impact fees for construction within a subdivision or site plan approved by the Planning Board prior to the effective date of this section. Prior to granting such a waiver, the Planning Board must find that the proposed construction is entitled to the five-year exemption provided by RSA 674:39, pursuant to that statute. This waiver shall not be applicable to phases of a phased development project where active and substantial development, building and construction has not yet occurred in the phase in which construction is proposed. [Amended 3-5-2019]

(3) The Planning Board may agree to waive all or part of an impact fee assessment and accept in lieu of a cash payment a proposed contribution of real property or facility improvements of equivalent value and utility to the public. Prior to acting on a request for a waiver of impact fees under this provision that would involve a contribution of real property or the construction of capital facilities,

the Planning Board shall submit a copy of the waiver request to the City Council for its review and consent prior to its acceptance of the proposed contribution. The value of contributions or improvements shall be credited only toward facilities of like kind and may not be credited to other categories of impact fee assessment. The applicant shall pay all costs incurred by the City for the review of such proposal, including consultant and counsel fees.

(4) The Planning Board shall waive all of an impact fee assessment for properties located in the Downtown Commercial District, with the district boundaries defined as the boundaries that exist at the time of the approval of this amendment.

[Amended 1-7-2020]

(5) The impact fee assessment for accessory dwelling units shall be waived with the stipulation that this waiver is reviewed every two years.

[Added 1-7-2020]