

**Adjourned Regular City Council Meeting  
January 7, 2020  
Council Chambers  
7:00 PM**

**COUNCILORS PRESENT**

Councilor Abbott  
Councilor Belken  
Councilor Bogan  
Councilor Gray  
Councilor Hainey  
Councilor Hamann  
Councilor Hutchinson  
Councilor Lachance  
Councilor Lachapelle  
Councilor Rice  
Councilor Walker  
Deputy Mayor Lauterborn  
Mayor McCarley

**OTHERS PRESENT**

Blaine Cox, City Manager  
Katie Ambrose, Deputy City Manager  
Terence O'Rourke, City Attorney  
Peter Nourse, Director of City Services

**COUNCILORS EXCUSED**

**MINUTES**

**1. Call to Order**

Mayor McCarley called the Adjourned Regular City Council Meeting to order at 7:00 PM.

**2. Opening Prayer**

Mayor McCarley called for a moment of silence for search of peace in the world.

**3. Pledge of Allegiance**

Mayor McCarley led the Pledge of Allegiance.

**4. Roll Call**

Kelly Walters, City Clerk, took the roll call. All Councilors were present.

## 5. Acceptance of Minutes

### 5.1 Regular City Council Meeting: December 3, 2019 *consideration for approval*

Councilor Lachapelle **MOVED** to **ACCEPT** the Regular City Council Meeting Minutes of December 3, 2019. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

## 6. Communications from the City Manager

### 6.1 Employee of the Month Award

City Manager Cox announced that Angie Gray, Business & Finance Department, has been awarded the Employee of the Month for January, 2020. He read from her nomination letter and said that Ms. Gray has been employed by the City of Rochester for over 32 years.

### 6.2 City Manager's Report

The City Manager's Report is as follows:

#### **Contracts and Documents:**

- Department of Public Works
  - Baseline Documentation – Conservation Easement – Watershed Parcels in Farmington
  - Colonial Pines Sewer Extension – Phase 2 – Change Order 3
  - Colonial Pines – Phase 2 – Amendment 4
  - Colonial Pines – Phase 3 – Design Engineering Contract
  - Colonial Pines – Security Agreement – Home Owners
  - CWSRF Loan Disbursement # 7 – Sewer & Drainage
  - Geosyntec Consulting – Technical Services 2-Year Contract
  - Wallace Street Ground Water Sampling & Reporting Contract
  - Water Pipe Agreement – Highfields Common
- Economic Development Department
  - CDBG – Cap Weatherization – furnace installation
  - CDBG – Cap Weatherization – heater replacement
  - CDBG – Cap Weatherization – duct repair
  - CDBG - HDC Façade Program – 107 North Main St
  - CDBG – My Friends Place – Release of Funds
  - CDBG – Riverwalk Kayak Launch Grant Release of Funds
  - LDI Project Planning Application
- Finance Department
  - NHDES – Biosolids Facility Amendment
  - NHDES Water Pump Station Supplemental Loan Agreement

- Information Technology
  - Exactitude Arena Security Cameras
  - Systems Engineering – SE Microsoft Cloud Solution Provider
- Legal Department
  - Sale of 0 Broadway Street
  - Sale of 0 Dora Drive
  - Sale of 0 Old Wakefield Road
  - Sale of 5 Lois Street
  - Sale of 10 Lanai Drive
  - Sale of 12 Downfield Lane
  - Sale of 19 Main Street East Rochester
  - Sale 04 24 D'Amours Avenue
  - Sale of 35 Linden Street

**Standard Reports:**

- Monthly Overnight Travel Summary - none
- Permission & Permits Issued
- Personnel Action Report Summary

Mayor McCarley asked if any members of the City Council had any questions for the City Manager. There were no questions.

**7. Communications from the Mayor**

**7.1. Information Only: Mayoral Appointments of Standing Committees and any other Mayoral Committees forthcoming**

Mayor McCarley said that the list of the City Council Standing Committees has been established and has been posted. The Chairman of each Committee is responsible to set a time and location for the Committees to meet which should be discussed with other Committee members as well as the staff liaison in order to ensure the set time and location is fitting for each Committee's members.

Mayor McCarley said she has discussed the idea of reinstating the Tri-City Mayor's Coalition with the other two Mayors of Dover and Somersworth. Mayor McCarley appointed Councilor Lauterborn and Councilor Hainey to serve on the temporary Ad-hoc Committee (Tri-City Mayor's Coalition) which would give the three communities an opportunity to discuss any issues which might be beneficial to work on together.

**8. Presentation of Petitions and Council Correspondence**

**9. Nominations, Appointments, Resignations, and Elections****9.1. Resignation: Don Hamman, Planning Board**

Councilor Walker **MOVED** to **ACCEPT** the resignation of Don Hamann, Planning Board. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**9.2. Mayoral Nomination/Confirm by City Council: Arts and Culture (Government Representative) Term to Expire on 1/2/2022**

Mayor McCarley nominated Councilor Belken to serve on the Arts and Culture Commission with a term to expire on 1/2/2022. Councilor Lachapelle seconded the motion. Councilor Lachapelle **MOVED** that nominations cease and that the City Clerk cast one ballot for Palana Belken. The **MOTION CARRIED** by a unanimous voice vote.

**9.2 Mayoral Nomination/Confirm by City Council: Conservation Commission (Chair) Term to Expire on 1/2/2023**

Mayor McCarley nominated Michael Dionne to serve on the Conservation Commission as Chair for a term to expire on 1/2/2023. Councilor Lachance seconded the nomination. Councilor Walker **MOVED** that all nomination cease and the Clerk cast one ballot for Michel Dionne. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**9.3 Mayoral Nomination/Confirm by City Council: Historic District Commission (City Council Representative) Term to Expire on 1/2/2022**

Mayor McCarley asked if any member of the City Council is interested in serving on the Historic District Commission as the City Council representative, otherwise, she would be willing to serve on the Commission herself. Councilor Lachance nominated Mayor McCarley to serve on the Historic District Commission with a term to expire on 1/2/2022 as the City Council's representative. Councilor Lachapelle seconded the motion. Councilor Walker **MOVED** that nominations cease and the Clerk cast one ballot for Mayor McCarley. The **MOTION CARRIED** by a unanimous voice vote.

**9.4 Mayoral Nomination/Confirm by City Council: Planning**

**Board Regular Member (City Council Representative) Term  
to Expire on 01/02/2022**

Mayor McCarley nominated Dave Walker to serve as the City Council representative to the Planning Board with a term to expire on 1/2/2022. Councilor Lachapelle seconded the motion. Councilor Lachapelle **MOVED** that nomination cease and the Clerk cast one ballot for Dave Walker. Councilor Rice seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**9.5 Mayoral Nomination/Confirm by City Council: Planning  
Board Alternate Member (City Council Representative)  
Term to Expire on 01/02/2022**

Mayor McCarley nominated Don Hamman to serve on the Planning Board as the Alternate City Council representative. Councilor Lachapelle seconded the nomination. Councilor Walker **MOVED** that nomination cease and that the Clerk cast one ballot for Don Hamman. The **MOTION CARRIED** by a unanimous voice vote.

**9.6 Appointment: Rochester Economic Development (Chair)  
Chair Term to Expire on 01/02/2021**

Mayor McCarley nominated Jonathan Shapleigh as the Chair of the Rochester Economic Development Commission, with a term to expire on 1/2/2022.

**9.7 Election: Ward 3 Selectman:****9.7.1 Annette Plaisted - Term to Expire on  
01/02/2022**

Councilor Lachance nominated Annette Plaisted to serve as a Selectman of Ward 3 with a term to expire on 1/2/2022. Councilor Lachapelle seconded the nomination. Ms. Plaisted has been elected by a unanimous roll call vote of 13 to 0. Councilors Hamann, Walker, Hutchinson, Belken, Lachance, Abbott, Gray, Rice, Bogan, Hailey, Lachapelle, Lauterborn, and Mayor McCarley voted in favor of the motion.

**9.7.2 Robin Brown - Term to Expire on**

**01/02/2026**

Mayor McCarley nominated Robin Brown to serve as a Selectman for Ward 3 with a term to expire on 1/2/2026. Councilor Lachapelle seconded the nomination. Ms. Brown has been elected by a unanimous roll call vote. Councilor Hainey, Lauterborn, Abbott, Hutchinson, Rice, Lachance, Walker, Gray, Bogan, Hamman, Belken, Lachance, and Mayor McCarley voted in favor of the motion.

**10. Reports of Committees****10.1 Appointments Review Committee (No Meeting in December)**

No discussion.

**10.2 Codes & Ordinances Committee (No Meeting in December)**

Councilor Lachapelle announced that the next Codes meeting would be held on February 6, 2020, at 6:00 PM. He requested that the City Clerk include the City Council Rules of Order in the Codes packet for that meeting.

**10.3 Community Development Committee****10.3.1 Approval of new COAST bus stops along Washington Street**

Councilor Lauterborn said that COAST bus has been redesigning their entire system based on public input. She said the Community Development Committee unanimously recommended approving this change. Councilor Lauterborn **MOVED** to **APPROVE** the new COAST bus stops along Washington Street. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Lauterborn said the Community Development Committee would be meeting on January 13, 2020, at 6:30 PM in the City Hall Annex building. Councilor Hainey questioned why one of the stops would be removed near the Lilac Mall. Councilor Lauterborn said the decisions were based on low service need in that area.

**10.4 CTE Joint Building Committee (No Meeting in December)**

Mayor McCarley said the CTE Joint Building Committee did not meet in

December; however, there will be a meeting held in January. Mayor McCarley announced that there is a grand opening ceremony scheduled for January 22<sup>nd</sup> at 5:00 PM at the new Creteau Technology Center. She encouraged Council members to attend.

### **10.5 Fidelity Committee of the Task Force on Homelessness**

Councilor Hutchinson announced that the Committee would be meeting at the Somersworth Middle School at 6:00 PM on Thursday, January 9, 2020.

### **10.6 Finance Committee (No Meeting in December)**

No discussion.

### **10.7 Public Safety**

Councilor Walker said the Public Safety Committee met in December and there is one action item. He **MOVED** to **DENY** a request for a speed limit sign to be erected on Nottingham Lane. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

### **10.8 Public Works**

#### **10.8.1 Resolution Authorizing Amendment to Lease Agreement between the City and the Department of Health and Human Services (DHHS) *first reading, consideration for second reading and adoption***

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

#### **Resolution Authorizing Amendment to Lease Agreement between the City and the Department of Health and Human Services (DHHS)**

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

That the City Manager is hereby authorized to agree to an Amendment to the Lease Agreement between the City and DHHS for space within the Community Center. The Amendment includes an extension of the lease until April 30, 2022 and a 2.5% increase in the cost for square foot of the rental payment, bringing

the total revenue amount to Two Hundred Ninety Three Thousand Six Hundred and 04/100 Dollars (\$293,600.04).

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

Councilor Lachapelle **MOVED** to suspend the rules and read the resolution by title only for a second time. Councilor Rice seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley read the resolution for a second time by title only.

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion. Councilor Hainey wished to clarify if this was strictly a two-year lease or if it would include more space to be utilized beyond what is being leased to them currently. Mayor McCarley confirmed that the amount of space would remain the same. Mayor McCarley added that any renovation would be paid for by the Department of Health and Human Services. The **MOTION CARRIED** by a majority voice vote.

Councilor Walker said the new Public Works Committee would be meeting on the third Thursday of the month, which would be January 16, 2020.

## **11. Old Business**

### **11.1 Resolution Changing Funding Source of Various Capital Improvement Project Appropriations from Borrowing to General Fund Unassigned Fund Balance in an amount not to exceed \$2,051,373.08 *second reading and consideration for adoption (2/3 majority vote required)***

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

**Resolution Changing Funding Source of Various Capital Improvement Project Appropriations from Borrowing to General Fund Unassigned Fund Balance in an amount not to exceed \$2,051,373.08**

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



I. CIP FUND 1501

WHEREAS, by virtue of various resolutions adopted by the Mayor and City Council of the City of Rochester, the Mayor and City Council appropriated the sum of One Million Six Hundred Forty Five Thousand Eight Hundred Seventy Five and 55/100 Dollars (\$1,645,875.55) to various City and School Fund 1501 Capital Improvement Project budgets of the City of Rochester, all as more particularly set forth in Exhibit A annexed hereto; and

WHEREAS, the Mayor and City Council of the City of Rochester have determined that the best interests of the City are served by changing the funding source for the projects referenced in Exhibit A annexed hereto from Borrowing, to General Fund unassigned fund balance;

NOW THEREFORE, the Mayor and City Council of the City of Rochester, by adoption of this Resolution, hereby change the funding source for the projects referenced in Exhibit A from Borrowing to General Fund unassigned fund balance.

FURTHER, in accordance with the provisions of RSA 33:9 and Section 45 of the Rochester City Charter, the Mayor and City Council of the City of Rochester, hereby withdraw borrowing authority in the amount of One Million Six Hundred Eighty Three Thousand Three Hundred Thirty Four and 52/100 Dollars (\$1,683,334.52).

II. WATER CIP FUND 5501

**WHEREAS**, by virtue of various resolutions adopted by the Mayor and City Council of the City of Rochester, the Mayor and City Council appropriated the sum of Two Hundred Fifty Three Thousand Three Hundred Seventy Eight and 96/100 Dollars (\$253,378.96) to various Water Fund 5501 Capital Improvement Project budgets of the City of Rochester, all as more particularly set forth in Exhibit A annexed hereto; and

**WHEREAS**, the Mayor and City Council of the City of Rochester have determined that the best interests of the City are served by changing the funding source for the projects referenced in Exhibit A annexed hereto from Borrowing, to General Fund unassigned fund balance;

NOW THEREFORE, the Mayor and City Council of the City of Rochester, by adoption of this Resolution, hereby change the funding source for the projects referenced in Exhibit A from Borrowing to General Fund unassigned fund balance.

**FURTHER**, in accordance with the provisions of RSA 33:9 and Section 45 of

the Rochester City Charter, the Mayor and City Council of the City Rochester, hereby withdraw borrowing authority in the amount of Two Hundred Fifty Three Thousand Three Hundred Seventy Eight and 96/100 Dollars (\$253,378.96).

### III. SEWER CIP FUND 5502

**WHEREAS**, by virtue of various resolutions adopted by the Mayor and City Council of the City of Rochester, the Mayor and City Council appropriated the sum of One Hundred Fifty Two Thousand One Hundred Eighteen and 57/100 Dollars (\$152,118.57) to various Sewer Fund 5502 Capital Improvement Project budgets of the City of Rochester, all as more particularly set forth in Exhibit A annexed hereto; and

**WHEREAS**, the Mayor and City Council of the City of Rochester have determined that the best interests of the City are served by changing the funding source for the projects referenced in Exhibit A annexed hereto from Borrowing, to General Fund unassigned fund balance;

**NOW THEREFORE**, the Mayor and City Council of the City of Rochester, by adoption of this Resolution, hereby change the funding source for the projects referenced in Exhibit A from Borrowing to General Fund unassigned fund balance.

**FURTHER**, in accordance with the provisions of RSA 33:9 and Section 45 of the Rochester City Charter, the Mayor and City Council of the City Rochester, hereby withdraw borrowing authority in the amount of One Hundred Fifty Two Thousand One Hundred Eighteen and 57/100 Dollars (\$152,118.57).

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.

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion. Councilor Walker stated that he supported this action which would result in saving about one and a half million dollars in interest payments.

Councilor Lauterborn requested clarification on a comment made during public input from Tom Willis (former Council member) regarding subsidizing enterprise funds. City Manager Cox replied that is correct.

The **MOTION CARRIED** by a unanimous roll call vote. Councilors Belken, Gray, Hamann, Rice, Lauterborn, Hainey, Lachapelle, Hutchinson,

Walker, Lachance, Abbott, Bogan, and Mayor McCarley voted in favor of the motion.

**11.2 Resolution Authorizing Supplemental Appropriation for Various 2019-2020 Fund 1501 Capital Improvement Projects from General Fund Unassigned Fund Balance in the amount of \$1,520,000.00 *second reading and consideration for adoption (2/3 majority vote required)***

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

**Resolution Authorizing Supplemental Appropriation for Various 2019-2020 Fund 1501 Capital Improvement Projects from General Fund Unassigned Fund Balance in the amount of \$1,520,000.00**

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

That the sum of One Million Five Hundred Twenty Thousand Dollars (\$1,520,000) be, and hereby is, appropriated as part of the City of Rochester 2019-2020 Fund 1501 Capital Improvements Plan budget of the City of Rochester for the following three projects;

- I. Dispatch Center – Radio Improvements Project \$250,000.00
- II. Department of Public Works – Paving Rehabilitation \$1,000,000.00
- III. School Department – CTE Renovation – Additional Equipment \$270,000.00

**Further,** that the sums necessary to fund such appropriation shall be derived from General Fund unassigned fund balance.

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.

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous roll call vote. Councilors Rice, Walker, Belken, Bogan, Lachapelle, Hamann,

Lauterborn, Hainey, Abbott, Gray, Hutchinson, Lachance, and Mayor McCarley voted in favor of the motion.

Councilor Lachance asked if these rehabilitation pavement projects were funding several small projects or to fund one large project. City Manager Cox replied it would pay for several project and that the largest paving project on the list was Salmon Falls Road. Councilor Hutchinson requested a list of the paving projects.

**11.3 Resolution for Supplemental Appropriation and Authorizing Borrowing Authority Pursuant to RSA 33:9 to the Department of Public Works (DPW) Capital Improvements Plan (CIP) Fund, the Sewer CIP Fund, and the Water CIP Fund for the New DPW Facility Project in an amount not to exceed \$4,000,000.00 *second reading and consideration for adoption (2/3 majority vote required)***

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

**Resolution for Supplemental Appropriation and Authorizing Borrowing Authority Pursuant to RSA 33:9 to the Department of Public Works (DPW) Capital Improvements Plan (CIP) Fund, the Sewer CIP Fund, and the Water CIP Fund for the New DPW Facility Project in an amount not to exceed \$4,000,000.00**

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

That the Mayor and City Council of the City of Rochester hereby appropriate an amount not to exceed Four Million Dollars (\$4,000,000.00) for the purpose of paying the costs associated with the completion of the New DPW Facility Project and the appropriation shall be divided amongst three (3) funds as follows: Two Million Dollars (\$2,000,000.00) to the DPW CIP Fund, One Million Dollars (\$1,000,000.00) to the Sewer CIP Fund, and One Million Dollars (\$1,000,000.00) to the Water CIP Fund.

In accordance with the provisions of RSA 33:9, the City Treasurer, with the approval of the City Manager, be, and hereby are authorized to borrow the sum of Four Million Dollars (\$4,000,000.00) through the issuance of bonds

and/or notes, and/or through other legal form(s), such borrowing to be on such terms and conditions as the said Treasurer and City Manager may deem to be in the best interest of the City of Rochester. Such borrowing is authorized subject to compliance with the provisions of RSA 33:9 and Section 45 of the Rochester City Charter to the extent required, necessary and/or appropriate

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.

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion.

Councilor Abbott spoke against the motion. He agreed that a new facility is needed; however, he stated this project should be sent back to the Department in order to get this project back down to the original cost. Councilor Rice agreed that this is an excessive amount of money. He said it seems that over two and half million dollars has been spent on this project without much to show for it. He requested to see what has been expended to the current date on this project. Councilor Gray gave reasons why he agreed that this project is necessary; however, he stated, it is important to have a construction manager in place for a project of this size. He listed the benefits of having a Clerk of the Works manager and/or a joint building Committee that reports back to the City on a regular basis. Councilor Abbott agreed and gave details about the benefits of having a construction manager working for the City to keep the cost of projects down.

Mayor McCarley gave reasons why she supports the project. She did not feel a rush vote was needed; however, she did want to mention that the deadline to reply to this low bid expires on January 21, 2020. If the City misses the deadline then the City would no longer have the construction cost locked in at the current rate. She said that City staff has been working on this project for the last several years and construction costs have been rapidly increasing. She said delaying the process could result in paying a lot more than anticipated for this project than is deemed necessary. She spoke briefly about specifics that may or may not have been spiking the price of the project. She said if the City Council chooses to go back to a redesign, it would spike the cost of the project as well.

Mayor McCarley stated that it is important to set aside a standard contingency for a project of this size; however, the approximately \$2,000,000 set aside for this project as a contingency fund is not likely to be used. This is due to the fact that this is all new construction and there should not be any construction surprises which are likely to happen with rehabilitation projects.

Mayor McCarley said she understood that the project is a lot of money; however, it has been agreed that something must be done about the working conditions at the current facility.

City Manager Cox informed the City Council that this design is based on research and by visiting other communities. He added that the proposed project does not include "extras"; rather the project is based upon what is needed for the Department of Public Works. He reviewed some of the costs involved which are driving the price up further than anticipated and which were not included with the original estimate such as purchasing the property and an increase to construction costs.

Commissioner Nourse addressed the City Council about the proposed building project which he had briefed the City Council upon in more detail at the last City Council meeting. He reiterated that this facility design has no spare office space or vehicle storage space but is designed for what the Department of Public Work's space needs are currently. It is designed to store all of the current Departments vehicles inside and away from the weather which would prolong the life of said vehicles and save the City funds. He reviewed other aspects of the project which are not classified as "extras" but rather based upon what the facility needs are currently. He gave details of how this facility would be built with resilient finishes which would result in a strong facility made to last.

Commissioner Nourse reiterated that the bids came back pretty close which shows that the bid is a reasonable estimate for this project. He added that there is a rapid increase to construction cost and in the last two years the cost of construction has increased by 24%. It is evident that if the City delays the project it will end up being more costly than anticipated. Commissioner Nourse stated that the design is complete and paid for already. It would cost another couple hundred thousand dollars for a re-design of a smaller facility. It would cause another delay of about three to four months and the construction costs would continue to rise. He reminded the City Council that

some of the unanticipated cost were the result of not being able to utilize existing City land but rather the need to purchase land for this project. He gave details of the cost involved with the purchase of land, demolishing a house on that land, and de-commissioning two existing wells on the property. He added that the soil testing has returned favorable results. He reiterated that the City now has a project design and obtained the property to move forward with the project if the City Council approves the supplemental appropriation.

Councilor Lachance asked for clarification on "resilient finishes." Commissioner Nourse gave a detailed explanation of using material that would stand the test of time.

Councilor Lauterborn agreed that the City is in need of a DPW garage; however, she stated that she has voiced her opposition of this plan from the start. She objected strongly to a land purchase for this project when the City already owned land which could have been utilized. She said it is unfortunate that the City has spent all this money on this plan. She reiterated that she will vote no because she has not supported this plan for the project from the start.

Councilor Hainey expressed concerns that if the City does not accept the low bid of \$17,600,000 that the price is only going to increase later.

Councilor Hutchinson understood that by delaying the process the City could potential pay more for construction costs; however, the City has to keep its constituents in mind. He shared one story, about a resident on a strict fixed income. He said he has read many comments posted on social media that were against the City approving this additional funding. He said the tax bills have increased and the City should go back to the drawing board and build a facility with the original estimate of \$16,000,000.

Councilor Rice asked how much of the cost of the project will be new equipment purchases vs existing equipment. Commissioner Nourse replied that most of the existing equipment will be transferred to the new facility; however, new lifts will be purchased as part of the project.

Councilor Gray said there is no question that a new facility is needed; however, the question is how it can be done while controlling the cost involved. He gave other reasons why he is opposed to voting on the matter this evening and said the vote should be tabled until the next council meeting. The City

Council discussed options of delaying the vote; however, it was determined that the low bid expires at 5:00 PM on January 21, 2020 which would be too late for a City Council vote.

Mayor McCarley said to go back to the table in order to get a lower construction cost is the same as starting over. Councilor Abbott understood that concept and gave more details about what is entailed with a construction manager which gives the City more opportunity to control the costs. City Manager Cox felt the City Council would have control over cost because any change orders must be sent to the City Council, and staff is watching the project closely. Councilor Abbott gave details why he strongly disagreed that it would be the same result and reiterated that a construction manager would be obligated to control costs for the City.

Mayor McCarley said that all building projects in the City have an assigned Clerk of the Works; however, she wished to clarify if the City Councilors speaking against this project actually think it is possible to accomplish going back to the table and hiring a new construction manager by January 21, 2020. Councilor Abbott understood that it would not be possible, and if the project is delayed to find a construction manager it would basically be a start over for this project. The City Council continued to debate the matter.

Commissioner Nourse wished to clarify that the low bid is for the "shell" of the building for \$17,674,000 and \$2,213,920 are the soft-costs for furniture, HVAC, and other small projects that are being managed in-house to save costs; this brings the figure up to \$19,887,920.

Councilor Lachapelle spoke in favor of the motion. Mayor McCarley requested a vote on the motion. Councilor Walker requested a roll call vote. Councilor Lachapelle seconded the request.

Councilor Gray **MOVED** to **TABLE** the **MOTION**. Councilor Abbott seconded the motion. Mayor McCarley said the motion to table is not debatable and she called for a vote on tabling the motion. The **MOTION FAILED** by a roll call vote of 3 to 10. Councilors Hutchinson, Abbott, and Gray voted in favor of the motion. Councilors Hamann, Walker, Belken, Lachance, Rice, Bogan, Hailey, Lachapelle, Lauterborn, and Mayor McCarley voted against the motion.



Mayor McCarley said the motion to table failed and she called for vote on the motion to adopt. Councilor Walker requested a roll call vote. Councilor Lachapelle seconded the request.

The **MOTION CARRIED** to **ADOPT** the resolution with a two-thirds majority roll call vote of 9 to 4 as follows: Councilors Hainey, Rice, Lachapelle, Walker, Bogan, Hamann, Belken, Lachance, and Mayor McCarley voted in favor of the motion. Councilors Lauterborn, Abbott, Hutchinson, and Gray voted against the motion.

**11.4 Amendment to Chapter 275 of the General Ordinances of the City of Rochester Regarding the Impact Fee Ordinance**  
***second reading and consideration for adoption***

Councilor Lachapelle **MOVED** to read the Amendment by title only for a second time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley read the Amendment by title only for a second time. *See attached* - Addendum A.

Councilor Lachapelle **MOVED** to **ADOPT** the Amendment. Councilor Walker seconded the motion.

Councilor Gray gave reasons why he has concerns with the language of the Amendment to the Impact Fees that relates to the Schools. He said it doesn't make sense to impose an impact fee on development, on behalf of the schools, when in fact the student population is decreasing. The School Department could even be seeking to consolidate some of the schools in order to deal with the reduction in student population.

City Attorney O'Rourke clarified that this Amendment does not have an effect on what Councilor Gray's concerns are referencing. The Impact Fees currently include a fee or assessment based upon development to compensate the City, which includes the School Department. This Amendment is specifically correcting the existing language as follows:

§275-27.3 Impact fees.

- A. Purpose
- B. Authority

Impact fees may be assessed to new development to compensate the City of Rochester and the School District **Department** for the ~~proportional share of capital facilities generated by new development in the City of Rochester~~ **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.

And to clarify the definition as follows:

#### C. Definitions

##### 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.

City Attorney O'Rourke reiterated that the schools are a part of City government and the ordinances need to be amended to clarify that fact which will also matches up with the preceding sections. Councilor Gray disagreed and questioned how an impact fee can be charged for the schools when the school's footprint is potentially being reduced. Mayor McCarley clarified that Councilor Gray's concern is not about the grammatical correction but a fundamental disagreement with the impact Fees being collected on behalf of the school department itself.

Councilor Abbott said that the schools are included in the Impact Fees and improvements are still being made to schools. He gave the example of the \$20,000,000 upgrade to the Creteau Technology Center.

Mayor McCarley called for a vote on the motion. The **MOTION CARRIED** by a majority voice vote.

#### **11.5 Amendment to Chapter 275 of the General Ordinances of the City of Rochester Regarding Conditional Uses Within the Downtown Commercial District *second reading and consideration for adoption***

Councilor Lachapelle **MOVED** to read the Amendment by title only for a second time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley read the Amendment by title only

as follows:

**Amendment to Chapter 275 of the General Ordinances of the City of Rochester Regarding Conditional Uses Within the Downtown Commercial District**

**THE CITY OF ROCHESTER ORDAINS:**

That Chapter 275, Section 21.4.I of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows:

I. Multifamily dwellings/developments in Downtown Commercial District as referenced in Chapter 275-20.2 (K)(4) shall:

- 1) Have a sprinkler system installed as required by building and fire codes.
- 2) Shall reserve a space to allow for a duct system as required by building codes.

**These amendments shall take effect upon passage.**

Councilor Lachapelle **MOVED** to suspend the rules and read the Amendment by title only for the second time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Councilor Lachapelle **MOVED** to **ADOPT** the Amendment. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**11.6 Amendment to Chapter 275 of the General Ordinances of the City of Rochester Regarding Residential Uses Within the Downtown Commercial District *second reading and consideration for adoption***

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

**Amendment to Chapter 275 of the General Ordinances of the City of Rochester Regarding Residential Uses Within the Downtown Commercial District**

THE CITY OF ROCHESTER ORDAINS:

That Chapter 275, Section 20.2.K. (4) of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows:

4) Downtown Commercial District. Within the Downtown Commercial (DC) District, multifamily is allowed with the following restrictions:

(a) For parcels fronting on the streets noted below, ground floor space of 30' multiplied by the building frontage, or 700 square feet, whichever is greater, shall be reserved for non-residential uses as permitted in the DC District, unless otherwise required to comply with state building code and/or fire code. Any area excluded due to building code and/or fire code shall not count toward the minimum. This applies to the entire portion of the building fronting on the street. The remaining area of the first floor may contain residential units as a conditional use.

- viii. Union Street
- ix. North Main Street south of North Main Street Bridge
- x. South Main Street
- xi. Wakefield Street south of Columbus Avenue
- xii. Hanson Street
- xiii. Museum Way
- xiv. Columbus Avenue (from Summer Street to South Main Street)

(b) The first floor commercial space may be split into different commercial uses totaling the required square footage.

(c) DC Zone District parcels not fronting on the above streets may contain multifamily use and units on all floors without restrictions.

**These amendments shall take effect upon passage.**

Councilor Lachapelle **MOVED** to read the Amendment by title only for the second time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Councilor Lachapelle **MOVED** to **ADOPT** the Amendment. Councilor Walker seconded the motion. City Attorney O'Rourke stated that the version of the Amendment in the packet gives the option of 700 or 800 square feet; however, the correct footage is 700 square feet which is what the Planning Board recommended. This will be reflected in the meeting minutes. The **MOTION CARRIED** by a unanimous voice vote.

**11.7 Supplemental Appropriation to the Rochester School Department in the amount of \$1,335,993 *second reading and consideration for adoption***

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

**Supplemental Appropriation to the Rochester School Department in  
the amount of \$1,335,993.00**

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

That the amount of One Million Three Hundred Thirty Five Thousand Nine Hundred Ninety Three Dollars (\$1,335,993.00) is hereby appropriated as a supplemental appropriation to the Rochester School Department for the purpose of paying costs associated with unanticipated special education costs. The funding for this supplemental appropriation shall be derived in its entirety from the General Fund Unassigned Fund Balance.

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

Councilor Lachapelle **MOVED** to read the resolution by title only for the second time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Hutchinson seconded the motion.

Councilor Lachapelle **MOVED** to **AMEND** the resolution to be reduced by \$298,000 to a new amount of \$1,038,000 due to a reimbursement of Catastrophic State Aid.

Councilor Gray asked specific questions about students transitioning in/out of the School District. Kyle Repucci, Superintendent of Schools, replied that some students are transitioning in/out of the School District for only part of the day, so there is still an out of district cost. Councilor Gray asked more specific questions about two students in particular who were placed in out-of-district placements by DCYF or the Juvenile Justice System. Additionally, he asked about another student who moved to Rochester and was already at an out-of-district placement. He expressed concerns about what money had been budgeted prior to this transition for that individual student. He said specifically the term "transitioning back" sounds like there should have been an IEP in place with funding set aside in each of these cases. It seems there should have been decreases in funding request and not increasing request for such cases. Mr. Repucci briefly explained that it is part of the IEP process and if the

individual students in question had their IEP's amended prior to transitioning back to the Rochester School District, the City of Rochester is responsible for those costs increases. He reiterated that these transitions are for partial times of the day/week and the School District is responsible for amended IEPs.

Councilor Gray expressed concern that the School Department only sent the District's Special Education snapshot which does not include other significant changes to the School Department's budget such as the \$270,000 the City Council authorized to purchase new equipment for the CTE facility and other state related funding increases. It seems a better decision could have been made if those other increase/decreases were included with an overview of the School Department's budget rather than just what is happening in the Special Education portion of their budget. He spoke against voting on this resolution this evening.

Mayor McCarley called for a vote on the Amendment to reduce the cost of the Supplemental Appropriation to \$1,038,000. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley called for a vote on the main motion as Amended. The **MOTION CARRIED** by a majority voice vote.

**The amended version is as follows:**

**Supplemental Appropriation to the Rochester School Department in the amount of \$1,038,000.00**

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

That the amount of One Million Three Hundred Thirty Eight Thousand Dollars (\$1,038,00.00) is hereby appropriated as a supplemental appropriation to the Rochester School Department for the purpose of paying costs associated with unanticipated special education costs. The funding for this supplemental appropriation shall be derived in its entirety from the General Fund Unassigned Fund Balance.

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

**12. Consent Calendar**

No discussion.

**13. New Business**

**13.1 Resolution Granting Community Revitalization Tax Relief to the Property Located at 10 South Main Street Under the Provisions of RSA 79-E in Connection with a Proposed Rehabilitation Project *first reading and refer to public hearing 1/21/20***

Councilor Lachapelle **MOVED** to read the resolution by title only for a first time and refer the matter to a Public Hearing on January 21, 2020. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley read the resolution by title only for a first time as follows:

**Resolution Granting Community Revitalization Tax Relief to the Property Located at 10 South Main Street 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 10 South Main Street, LLC, owner of the so-called 10 South Main Street 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 structure located upon the so-called 10 South Main Street; 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 10 South Main Street property contemplated by the owner's Community Revitalization Tax Relief Application dated December 16, 2019, 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 10 South Main Street property 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 10 South Main Street property project; and

(3) The proposed substantial rehabilitation project with respect to the aforesaid 10 South Main Street 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; and

IV. It increases the availability of residential housing in the urban center.

(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 December 17, 2019; (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 10 South Main Street property.

**13.2 Resolution Establishing Polling Places and Times for the February 11, 2020 Presidential Primary *first reading, consideration for second—reading and adoption***

Councilor Lachapelle **MOVED** to read the resolution for a first time in its entirety. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley read the resolution in its entirety as follows:

**Resolution Establishing Polling Places and Times for the February 11, 2020 Presidential Primary Election**

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

That the following polling places are hereby established for the City of Rochester for the upcoming 2020 Primary Election.

**WARD 1: East Rochester Elementary School**  
773 Portland Street, East Rochester

**WARD 2: St. Mary's Parish Center**  
71 Lowell Street, Rochester

**WARD 3: Gonic Elementary School**  
10 Railroad Avenue, Rochester

**WARD 4: McClelland Elementary School**  
59 Brock Street, Rochester

**WARD 5: Rochester Community Center**  
150 Wakefield Street/Community Way,  
Rochester  
*Located on the Chestnut Hill Road Side of Building*

**WARD 6: Elks Lodge #1393**

295 Columbus Avenue, Rochester

**Further, that in accordance with RSA 659:4, and Section 47 of the City Charter – All polling places shall be open from 8:00 A.M. to 7:00 P.M., on said Election Day.**

Councilor Lachance asked about the issues at the Ward 2 Polling Location which had been discussed at prior meetings. Kelly Walters, City Clerk, replied that she recently met with the reverend at St. Mary Church and worked out a plan to prepare for a large voter turnout by utilizing the main entrance hallway to set up voter registration, a greeter table, and to have ample room for long lines.

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

**~~13.3~~ Resolution Authorizing Certain Renumbering on Milton Road *first reading, consideration-for-second-reading-and adoption-refer to a public hearing***

Councilor Lachapelle **MOVED** to read the resolution by title only for a first time and refer the matter to a Public Hearing on January 21, 2020. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley read the resolution by title only for a first time as follows:

**Resolution Authorizing Certain Renumbering on Milton Road**

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

That the following addresses on Milton Road will be renumbered as follows:

66 Milton Road becomes 68 Milton Road

68 Milton Road becomes 70 Milton Road

70 Milton Road becomes 72 Milton Road

These changes are made in order to be in compliance with the standards articulated by the National Emergency Number Association and RSA 231:133 and 133-a.

**13.4 Resolution Authorizing Acceptance of \$1,250.00 from the State of New Hampshire Juvenile Court Diversion Network and Supplemental Appropriation in Connection Therewith *first reading, consideration for second reading and adoption***

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

**Resolution Authorizing Acceptance of \$1,250.00 from the State of New Hampshire Juvenile Court Diversion Network and Supplemental Appropriation in Connection Therewith**

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

That One Thousand Two Hundred Fifty Dollars (\$1,250.00) is hereby accepted from the State of New Hampshire Juvenile Court Diversion Network to be used for costs associated with the Summer Teen Travel Camp.

Further, the amount of One Thousand Two Hundred Fifty Dollars (\$1,250.00) is hereby appropriated as a supplemental appropriation to the Rochester Police Department operating budget.

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

Councilor Lachapelle **MOVED** to suspend the rules and read the resolution by title only for the second time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion. Councilor Hailey asked what is involved with the Summer Teen Travel Camp. Chief Toussaint gave details about the Summer Teen Travel Camp which is an extension of the City's Teen Night Event. This is a resolution to accept the State funding Juvenile Court Diversion Network which is earmarked for such programs. Councilor Rice asked how many teens attend the Teen Night Program. Chief Toussaint replied that the Teen Nights (one Saturday night a month during the school year) attendance ranges from 150 to 250

students throughout the School year. The **MOTION CARRIED** by a unanimous voice vote.

**13.5 Resolution Confirming Results of the December 6, 2019 Public Auction *first reading, consideration for second reading and adoption***

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

**Resolution Confirming Results of the December 6, 2019 Public Auction**

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

That the following result of the December 6, 2019 Public Auction is confirmed as follows:

<b><u>Property</u></b>	<b><u>Purchaser</u></b>	<b><u>Amount</u></b>
24 Cherokee Drive	Danziger Properties	\$1,000.00

Councilor Lachapelle **MOVED** to suspend the rules and read the resolution by title only for the second time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion. Councilor Hailey asked if that money would go into the General Fund. City Manager Cox replied yes, because it is unanticipated revenue. The **MOTION CARRIED** by a unanimous voice vote.

**14. Other**

Councilor Hutchinson requested an update on the creation of an Extreme Emergency Weather Shelter. City Manager Cox stated that there is now an Extreme Weather Shelter Permitting process in place. He added that no one has come forward to apply for a permit as of yet. City Manager Cox said communication is ongoing with the City's Welfare Department to see how many folks are seeking assistance. He added that the number is still fairly low and the City has been able to accommodate those who have sought out assistance. City Manager Cox announced that Dover has had a couple of warming facilities set up and the City has sent some residents to those facilities. Mayor McCarley said that could be discussed at the next

Task Force Committee meeting on Thursday evening.

### **15. Non-Public/Non-Meeting**

Councilor Lachapelle **MOVED** to enter into a Non-Public Meeting under RSA 91-A 3 II d, Land, at 8:54 PM. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous roll call of 13 to 0. Councilors Gray, Belken, Hamann, Rice, Lauterborn, Hainey, Lachapelle, Hutchinson, Walker, Lachance, Abbott, Bogan, and Mayor McCarley voted in favor of the motion.

Councilor Lauterborn **MOVED** to exit the Non-Public Meeting at 9:27 PM. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Lauterborn **MOVED** to seal the minutes because disclosure would render the proposed action ineffective. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous roll call. Councilors Bogan, Rice, Walker, Lachapelle, Lauterborn, Hutchinson, Gray, Hamann, Hainey, Abbott, Beleken, Lachance, and Mayor McCarley voted in favor of the motion.

### **16. Adjournment**

Councilor Lachapelle **MOVED** to **ADJOURN** the Regular City Council meeting at 9:29 PM. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Kelly Walters, CMC  
City Clerk

**Amendment to Chapter 275 of the General Ordinances of the City of Rochester Regarding the Impact Fee Ordinance**

THE CITY OF ROCHESTER ORDAINS:

That Chapter 275 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows

**Article 27  
Miscellaneous Provisions**

**[Amended 7-7-2015]**

**§ 275-27.1 Buffers for residential property.**

- A. All nonresidential development, including any parking and storage areas, shall be screened/buffered from any adjacent residential property situated to the side or rear as stipulated by the Planning Board under site review. The Board may stipulate plantings and/or fencing, as reasonably appropriate. See Figure 27-A, Screening Between Commercial and Residential Uses, as an example.
- B. All multifamily development, consisting of three units or more, including parking areas, shall be screened/buffered from any adjacent single-family dwellings situated to the side or rear as required by the Planning Board under site review. The Board may stipulate plantings and/or fencing, as reasonably appropriate. This requirement does not apply in situations where multifamily development is specifically designed to integrate with single-family dwellings in mixed-use developments.

**Figure 27-A, Screening Between Commercial and Residential Uses**

**§ 275-27.2 Cemeteries.**

Pursuant to RSA 289:3, III, there shall be no construction, excavation, or development, nor placement of any buildings, structures, signage, or parking, inside or within 25 feet of a known burial site or within 25 feet of the boundaries of an established burial ground or cemetery. For the purposes of this section, the term "excavation" shall include the disturbance to a depth of 12 inches or more of soil for activities such as landscaping, utility trenching, tree planting, etc. No healthy tree with a diameter at breast height of eight inches or more may be cut or removed within 25 feet of any established burial ground or cemetery except by special exception for good cause and with appropriate mitigation. No new chain-link fence shall be installed in or around any cemetery.

**§ 275-27.3 Impact fees.**

A. Purpose. This section is enacted pursuant to RSA 674:16 and 674:21, ~~in order to:~~

- ~~(1) Promote public health, safety, convenience, and welfare;~~
- ~~(2) Ensure that adequate and appropriate public facilities are available;~~
- ~~(3) Provide for the managed development of the municipality and its environs;~~
- ~~(4) Mitigate the impact of development of land that would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire protection, or other public services, or necessitate the excessive expenditure of public funds for the supply of such~~

services; and-

~~(5) Ensure the proper arrangement and coordination of streets.~~

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

B. Authority.

- (1) Impact fees may be assessed to new development to compensate the City of Rochester and the School District **Department** for the ~~proportional share of capital facilities generated by new development in the City of Rochester~~ **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 off-site improvements to public facilities affected by the development.
- (3) ~~Nothing in this section shall be construed to limit the existing authority of the Planning Board to disapprove proposed development which would require an excessive expenditure of public funds, or which would otherwise violate applicable ordinances and regulations. Nothing in this section shall be construed to limit the Planning Board's authority to require off-site work to be performed by the applicant, in lieu of paying an impact fee, or the Board's authority to impose other types of conditions of approval. Nothing in this section shall be construed to affect types of fees governed by other statutes, ordinances or regulations.~~ **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.

**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 net increase in floor area and such change creates a net increase~~ in the demand on public capital facilities that are the subject of impact fee assessments, ~~unless waived by the Planning Board.~~
- (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 its size, density or type of use, and where there is no net increase in demand on public capital facilities.

## **OFF-SITE IMPROVEMENTS**

**Off-site improvements means 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.**

### **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. ~~In determining the amount of the impact fee, when the net increase in floor area has~~



~~triggered the fee, the calculations shall use only the net increase in floor area.~~

- (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; ~~provided, however, that in projects where off-site improvements are to be constructed simultaneously with a project's development, and where the City has appropriated the necessary funds to cover such portions of the work for which it will be responsible, the City may advance the time of collection of the impact fee to the issuance of a building permit.~~ 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.
- (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 ~~62~~ 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.
- (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 at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

- (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 is responsible, when there is a change in use, for determining the net increase on public capital facilities and may agree to waive the entire fee if it determines that its collection and administration will exceed its value to the City.~~

**(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.**

**(5) The impact fee assessment for accessory dwelling units shall be waived with the stipulation that this waiver is reviewed every two (2) years.**

**§ 275-27.4 Lots split by municipal boundaries.**

For lots split by municipal boundaries the provisions of RSA 674:53 shall apply. In applying dimensional controls to that portion of the lot within Rochester, the dimensions of the entire lot shall be considered without reference to the City line.

**§ 275-27.5 Rivers and shoreland protection.**

(Note that listed rivers are subject to change.)

- A. Shoreland protection. Provisions of the New Hampshire Comprehensive Shoreland Protection Act, RSA 483-B, apply to bodies of water included under that Act.
- B. Rivers management. The Isinglass River and the Cocheco River are protected under the New Hampshire Rivers Management and Protection Program, RSA 483.

**§ 275-27.6 Lots split by zoning district boundaries.**

Where the boundary line of a zoning district divides a lot in single or joint ownership at the time of passage of the ordinance establishing the boundary line, the following provisions shall apply:

- A. The uses and other standards for either district may, at the option of the owner, extend beyond the zoning boundary line up to a maximum distance of 100 feet from that zoning boundary line. For any area in which this allowance is used, for any period of time in which this allowance is used, that area shall be treated as if its zoning designation were the zone that is being extended.

- B. The provisions of Subsection **A** of this section shall not apply to a lot divided by the Recycling Industrial Zoning District boundary line. In the case of a lot divided by the Recycling Industrial Zoning District boundary line, the uses and regulations permitted and/or applicable to the Recycling Industrial Zoning District shall not be extended into the adjoining zoning district.
- C. Overlay districts. The provisions of this section shall not apply to overlay districts.

**§ 275-27.7 Temporary noncompliance.**

The Director of Building, Zoning, and Licensing Services is authorized to approve a temporary permit/approval for a noncomplying structure or a noncomplying use incidental to a development where it is reasonably required for that development on a temporary basis. The permit/approval may be issued where the Director of Building, Zoning, and Licensing Services reasonably determines that:

- A. The temporary structure or use will not be counter to the public interest.
- B. The temporary structure or use will not harm any abutter.
- C. The temporary structure or use will not be counter to the spirit of this chapter.
- D. Proper safeguards are taken.
- E. A reasonable time frame has been established.
- F. No reasonable alternative is available.
- G. Appropriate surety has been provided to ensure compliance with the conditions above.

**§ 275-27.8 Planned unit developments.**

Four planned unit developments (PUDs) were approved by the City of Rochester under a City ordinance which is no longer in effect, Section 42.32, Planned Unit Developments, adopted December 5, 2001, and amended December 7, 2004. The creation of new planned unit developments is not permitted under this chapter. The four approved PUDs, including Secretariat Estates, Highfield Commons, the Homemakers, and the Villages at Clark Brook (the original names), may be built in accordance with the provisions of Section 42.32 of the former Zoning Ordinance and the approved master plans for each of those PUDs.

**These changes shall be effective upon passage.**