

City of Rochester Planning Board
Monday January 25, 2021
Virtual Meeting

(These minutes were approved on February 1, 2021)

Members Present

Nel Sylvain, *Chair*
Mark Collopy, *Vice Chair*
Peter Bruckner
Terry Dwyer
Tim Fontneau
Robert May
Daniel Rines
Mark Sullivan

Members Absent

David Walker, absent

Alternate Members Present

Donald Hamann
Paul Giuliano
Lance Whitehill

Staff: Shanna B. Saunders, *Director of Planning & Development*
Crystal Galloway, *Planning Administrative Assistant II*

(These are the legal minutes of the meeting and are in the format of an overview of the meeting. A recording of the meeting will be on file in the City clerk's office for reference purposes. It may be copied for a fee.)

Mr. Sylvain called the meeting to order at 7:00 p.m. and made the following statement:

Good Evening, as Chairperson of the Planning Board I am declaring that an emergency exists and I am invoking the provisions of RSA 91-A:2, III (b). Federal, state, and local officials have determined that gatherings of 10 or more people pose a substantial risk to our community in its continuing efforts to combat the spread of COVID-19. In concurring with their determination, I also find that this meeting is imperative to the continued operation of City government and services, which are vital to public safety and confidence during this emergency. As such, this meeting will be conducted without a quorum of this body physically present in the same location.

Providing public access to the meeting by telephone: At this time, I also welcome members of the public accessing this meeting remotely. Even though this meeting is being conducted in a unique manner under unusual circumstances, the usual rules of conduct and decorum apply. Any person found to be disrupting this meeting will be asked to cease the disruption. Should the disruptive behavior continue thereafter, that person will be removed from this meeting. The public can call **857-444-0744** and use conference code **843095**. Some meetings will allow live public input, however you must have pre-registered online, otherwise, the meeting will be set to allow the public to "listen-in" only, and there will be no public comment taken during the meeting. (Please note: In order to notify the meeting host that you would like to speak, press 5* to be recognized and unmuted)

Public Access Troubleshooting: If any member of the public has difficulty accessing the meeting by phone, please email crystal.galloway@rochesternh.net.

Roll Call: Please note that all votes that are taken during this meeting shall be done by Roll Call vote.

Let's start the meeting by taking a Roll Call attendance. When each member states their name, also please state whether there is anyone in the room with you during this meeting, which is required under the Right-to-Know law. Additionally, Planning Board members are required to state their name each time they wish to speak.

The Planning Secretary conducted the roll call. All Planning Board members were present with the exception of Mr. Walker, who was absent. In addition, all Planning Board members indicated that they were alone in the location from which they were connecting remotely.

III. Seating of Alternates

Mr. Hamann voted in place of Mr. Walker.

IV. Communications from the Chair

There were no communications from the Chair.

V. Suggested Zoning Amendment - Murals

Ms. Saunders told the Board the Arts and Culture Commission reviewed the ordinance and only had one change. They would prefer the word "graffiti" not be used to describe vandalism because it is becoming a recognized art form.

Ms. Saunders read the following letters of support into the record:

To whom it may concern:

I would like to announce my support for passage of the murals ordinance as recommended by the Arts and Culture Commission. It is important that mural be defined and to be separate from the sign ordinance.

Murals are creative. They display everyday life and scenery and leave a trail of history within a city. Murals paint a picture of society created from stories, values and change. Mural simply don't and can't meet the requirements of the sign ordinance. Signs are designed to promote business.

I would like to thank you for your consideration.

Sincerely,
Jamie Kinsley, 11 Duquette Street, Rochester, NH

Dear Planning Board Members:

As a member of the Commission for Arts and Culture, I am writing to express my support of the Murals Ordinance, which is scheduled to be reviewed at your January 25th meeting.

The presence of murals in our downtown spaces is an invaluable asset to Rochester's continued economic growth and community development, reinforcing our identity as a city that embraces and supports the arts. Murals have a unique ability to strengthen our sense of community through a shared engagement with art in public spaces. They lend vibrancy and character to otherwise dull or unattractive structures, energizing and

revitalizing our downtown. And, of course, they make an exciting and lasting impression on visitors, increasing traffic to downtown businesses and attracting creative minds who will continue to invest in our community. I initially visited New Hampshire in 2011 as a prospective graduate student at UNH, and my first impression of the area was a walk around Portsmouth. The first sign that this was the right move for me wasn't the charming New England atmosphere or the student reading that I attended that evening. It was the stunning variety of murals and street art, a tangible presence of the arts as a fundamental component of the community. I had been looking for a place to study for the next two years, but after walking around a city where art was so fundamental it was absorbed into its very structure, visible at every turn, I immediately started looking into establishing New Hampshire residency with plans to stay long term. If this hadn't been my first impression of New Hampshire, it's very likely I would not be here today.

Sadly, many of those same murals I admired ten years ago are not in terrible disrepair, which is an absolute travesty and only serves to underline the importance of the Murals Ordinance in establishing guidelines for maintenance and touch-up. Additionally, making the Commission for Arts and Culture the first point of contact for applicants would help ensure that all long-term installations utilize weather-resistant materials and techniques appropriate for long term use.

I believe that the proposed Mural Ordinance, with the Commission for Arts and Culture as the first point of contact, will establish a thorough but streamlined application process that will encourage and assist artists who wish to contribute to the vibrancy of our city. This is truly an important step forward in our community development as Rochester continues to embrace art in unique and fresh ways.

Sincerely,
Katie O'Connor
Poet Laureate, Rochester Commission for Arts and Culture

Amy Marie Regan said she has been volunteering in Rochester for the past nine years since starting the Rochester Museum of Fine Arts in 2011. She said their mission is to make art accessible to everyone in the community as well as to attract artists to Rochester.

Ms. Regan said in looking at the newly adopted Downtown Master Plan, Art and Culture is a key asset. She said as a long standing member of the Arts and Culture Commission she is ready to oversee any mural that is presented to the Commission to ensure it is within the scope of the City and that it is properly installed and cared for long term.

Mr. May said he fully supports the use of murals within the city but is concerned about hurdles being put up for artists needing to go before the Planning Board, the Arts and Culture Commission, and at times, the Historic District Commission.

Mr. Fontneau agreed with Mr. May and asked that the roll the Planning Board has be clarified.

Mr. Bruckner said the ordinance has been well crafted, however the Board should monitor the process over the next year to see if the process can be lightened up in any way

Mr. Sylvain asked if the ordinance has been reviewed the legal counsel. Ms. Saunders said it had and was approved.

A motion was made by Ms. Dwyer and seconded by Mr. Bruckner to approve the Zoning Amendment for Murals. The motion carried unanimously by a roll call vote.

VI. Impact Fee Discussion

Ms. Saunders explained that over the last few meetings there have been impact fee waiver requests and at the last meeting the Board discussed drafting some changes to the ordinance.

Mr. Sylvain asked who drafted the criteria for the ordinance. The City Attorney, Terrence O'Rourke said it would have been the Board when they originally drafted many years ago and then made amendments in 2020 and in March of 2019. Mr. Sylvain said he doesn't recall the Board discussing criteria and the amendments were not brought back to the Board. Ms. Saunders reminded the Board they make the recommendation for approval but the City Council has the final say and vote so there may have been changes.

Mr. Fontneau asked if it is possible to make an amendment to set a time frame for existing lots of record prior to a certain date are not subject to impact fees. Mr. O'Rourke explained there is a large difference between having a lot created before a certain date and having a subdivision or site plan approved. He said the reason the City has impact fees is because a lot that is developed has impacts on city services and if someone is developing a lot now even though it may have been created in 1971 it will have impacts on services now. Mr. Fontneau said the issue the Board is seeing is there are a number of waiver requests coming for larger subdivisions because the development was approved but they haven't started building yet. Mr. O'Rourke explained it would have to be a development that is within the five year exemption and also has active and substantial completion. He said if they don't have active and substantial development then they shouldn't get the waiver for the impact fees.

Mr. Hamann reminded the Board that at the time they voted on the fees the code already existed but the Board didn't look at it. He said they only looked at what they wanted for fees and the five year waiver for existing developments. Mr. O'Rourke said Mr. Hamann is correct, the code has been on record since 2007 but the Board never adopted impact fees until 2019.

Mr. Sylvain asked if the Board can adjust the fees. Mr. O'Rourke said they can do partial and full waivers but it's according to the limits on Section G under impact fees of the Ordinance. He went on to explain the Board can make adjustments to the fee schedule however, they would have to justify the changes.

A discussion ensued regarding making exceptions to the ordinance.

Mr. Giuliano said impact fees are a deterrent to development and they come at a time when vacancy rates are at historic lows in the city. He asked if it is possible for the city to postpone imposing impact fees on any application. Mr. O'Rourke said the Board could get rid of impact fees.

Ms. Dwyer said there is a lot of development going on right now in the city. Ida Circle is a 32-lot subdivision, and Baily Drive just put a new foundation in phase two of the Great Woods subdivision.

Mr. Sylvain said he doesn't believe the whole package was presented to the Board originally by Mr. Mayberry and City Staff at the time.

Mr. Sylvain requested all documents that come from the City for changes to any Ordinance so this issue doesn't happen again.

After the discussion the Board decided to leave the document as is for now and make any necessary changes down the road.

VII. Opening Discussion/Comments

A. Public Comment

Tom Willis of 35 Shakespeare Road is before the Board to raise the issue of getting Chesley Farm Estates roads accepted. He said he met with the Public Works Director in September to go over the remaining items to be completed.

Mr. Willis said it is his intent to start the process to obtain rights to the surety, hire the City's contractor and take as much corrective action as the surety allows.

Mr. Willis said he wants to establish a time table for the developer to respond. He said there are 21 homes that have been paying full property tax for the last 10 years but they're not receiving city services.

Mr. Sylvain asked staff to talk to Public Works about what needs to be done. Ms. Saunders told the Board Public Works has received a quote from a local firm to complete the work. She said Public Works gave the quote to the developer three weeks ago but has not gotten a response back.

Ms. Saunders and Public Works are drafting a letter that gives the developer a certain date in which to reply by or the City will be using the surety money to complete the work. She agreed to keep the Board and Mr. Willis informed as progress moves forward.

B. Discussion of general planning issues

There were no issues to be discussed.

VIII. Approval of minutes

A motion was made by Mr. Collopy and seconded by Mr. Hamann to approve the January 4, 2021 meeting minutes with the changes as discussed. The motion carried unanimously by a roll call vote.

IX. Consent Agenda

A. Lydall, Inc., 134 Chestnut Hill Road - Extension

B. Waste Management of NH, 214 Rochester Neck Road – Extension

Ms. Saunders explained Lydall is asking for an extension to June of 2021. She said staff has been working with them regarding changes that have to be made to their portable water system. Ms. Saunders said they are going before the Minor Site Review Committee with some changes to the utility infrastructure amendments.

Ms. Saunders explained Waste Management is asking for an extension to February 2022 as they are not sure if they will need to move forward with the project.

A motion was made by Mr. Collopy and seconded by Mr. Hamann to approve the consent agenda. The motion carried unanimously by a roll call vote.

X. Review of December 2020 Surety and Inspections

Ms. Saunders reviewed the list of inspections conducted by Public Works for the month of December. She went on to review the surety list with the Board, saying all sureties are current and up to date.

XI. Other Business

A. Release of surety for Coyote Creek, Map 216 Lots 2&3 in the amount of \$6,626.50 plus interest

Ms. Saunders told the Board both the Planning Department and the Department of Public Works have reviewed and signed off on the as-builts.

A motion was made by Ms. Dwyer and seconded by Mr. Collopy to release surety in the amount of \$6,626.50 plus interest. The motion carried unanimously by a roll call vote.

B. Other

There was no other business to discuss.

XII. Adjournment

A motion was made by Mr. Collopy and seconded by Ms. Dwyer to adjourn at 8:21 p.m. The motion carried unanimously by a roll call vote.

Respectfully submitted,

Crystal Galloway,
Planning Administrative Assistant II

and

Shanna B. Saunders,
Director of Planning & Development