

City of Rochester Planning Board
Monday, March 20, 2023
City Hall Council Chambers
31 Wakefield Street, Rochester, NH 03867
(These minutes were approved on April 3, 2023)

Members Present

Mark Collopy, *Chair*
Peter Bruckner
Matthew Richardson
Dave Walker
Michael McQuade
Don Hamann
Mark Sullivan

Members Absent

Robert May, *Vice Chair, excused*
Keith Fitts, *excused*
James Hayden, *excused*

Alternate Members Present

Rick Healey
Alexander de Geofroy
Michael McQuade

Staff: Shanna B. Saunders, *Director of Planning & Development*
Ryan O'Connor, *Senior Planner*

(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.)

I. Call to Order

Chair, Mark Collopy called the meeting to order at 6:30 p.m.

II. Roll Call

Senior Planner, Ryan O'Connor conducted roll call.

III. Seating of Alternates

Mr. Collopy asked Mr. Healey to vote in place of Mr. Hayden.
Mr. Collopy asked Mr. McQuade to vote in place of Mr. Fitts.

IV. Communications from the Chair

Mr. Collopy asked that the board members speak directly into their microphones.

V. Approval of Minutes for

- a. February 27, 2023**
- b. March 6, 2023**

A motion was made by Mr. Walker to approve both minutes listed above and seconded by Mr. Hamann. The motion carried unanimously.

VI. Opening Discussion/Comments

A. Public Comment

There were no comments from the public to discuss.

B. Discussion of general planning issues

There were no general planning issues to discuss.

VII. Draft Charitable Gaming Ordinance Presentation

Ms. Saunders presented changes to Charitable Gaming Ordinance. Based on Planning Board input last month Ms. Saunders stated that a minimum of two Electric Vehicle stations will be required at Charitable gaming facilities. Ms. Saunders explained the change of language regarding the purpose of public art. Ms. Saunders stated that 25% of the front façade of the facility be suggested for public art, rather than required.

Ms. Saunders read the Arts and Culture Commission's Chair's letter of support of public art displayed on new developments and facilities.

Ms. Saunders stated that the Planning Department recommends that this ordinance be forwarded to the City Council.

Mr. Walker asked about the language for the public art suggestion of 25% being recommended rather than required. Ms. Saunders confirmed that the 25% of facility façade dedicated to public art is recommended and not required in the current language of the ordinance. Mr. Walker stated he felt the language still lists a requirement of public art rather than recommendation and he recommended further clarification in the ordinance.

Mr. Healey stated that he agreed with Mr. Walker in his recommendation to further clarify the language regarding the use of public art on Charitable Gaming Facilities. Mr. Healey stated that he supported the idea of public art being suggested for more ordinances in other facilities and developments. Ms. Saunders stated that the Planning Department will further review the language in the Charitable Gaming Ordinance and update as necessary.

Mr. Sullivan asked if the easement meant that the public art would be funded and maintained by the City and stated that he did not support the idea of tax dollars being used for public art funding and maintenance. Ms. Saunders responded stating that the current language states that the property owner may petition the City Council, making it up to the City Council to decide on City responsibility and how to fund.

Mr. Walker stated that he recommended to have the applicant incorporate arts on their planned facility plans and that the applicant be held responsible for the funding and maintenance of the art. Ms. Saunders stated that public art and murals can be difficult to maintain and are seldom maintained properly by private owners. Ms. Saunders stated that an easement would give the City an opportunity to bring aesthetically pleasing features on facilities now and in the future.

Mr. Hamann asked if the current Mural Ordinance states that the property owner must maintain art and murals along upon their facilities. Ms. Saunders stated that she would review the Mural Ordinance for exact language of maintaining murals.

Mr. Hamann stated that he recommended that the art be required and not suggested on 25% of the facility and that the property owner pays for the art.

Mr. Richardson asked if the easement gave the City the rights to deciding what art was presented. Ms. Saunders stated that under the Supreme Court's lawsuit, the City cannot regulate content, but characteristics such as size, placement, and lighting can be regulated.

Mr. Richardson asked who would be putting up the artwork on the easement. Ms. Saunders answered that the current language states that the applicant is responsible for the artwork, and that the applicant can petition the City Council for the City to take over the artwork under an easement.

Mr. Richardson asked if the easement is for maintaining the art and if the property owner is not maintaining artwork properly. Ms. Saunders responding yes and stated that the idea of the easement is to keep the artwork maintained, to keep the art aesthetically pleasing long term.

Mr. Richardson asked that if the property owner put up the art, if the City is still responsible for the easement. Ms. Sanders responded no and explained that the property owner is responsible, but the property owner can petition the City to provide and maintain art in the easement.

Mr. O'Connor read the section of the Mural Ordinance pertaining to the requirement to maintain murals.

Mr. Walker asked if the section pertained to only public property. Ms. Saunders responded stating that the ordinance pertains to public and private property.

Mr. Walker asked if this ordinance would apply to the artwork discussed in the Charitable Gaming Ordinance. Ms. Saunders stated that the Mural Ordinance requirements only pertain to Murals and not other artwork types, such as statues or sculptures.

Mr. Collopy asked that if there were no language for public art in the ordinance, could the property owner, in the future, request that the City take over maintenance. Ms. Saunders responded saying that by giving the City the enabling language now, that if a property owner were to ask the City to take over a piece of art, it would be case by case.

Mr. Collopy stated that the concern of how public art easements will be funded and maintained will, ultimately, be the City Council's decision.

Mr. de Geofroy asked how other artwork, such as statues will be calculated into the required 25% of building façade. Mr. de Geofroy stated that Mural Ordinance requires monitoring of the content and that it could be imposed that the content is being regulated, thus violating the first amendment right. Ms. Saunders responded stated that the Mural Ordinance cannot regulate content due to the ruling of the Supreme Court of the United States stating that cities cannot regulate content. Mr. de Geofroy stated that he does not feel that the City should be regulating content, but that it is concerning to require public artwork and not have a say on what artwork is presented to the public.

Ms. Saunders stated that the Planning Department would better define the coverage of different art types, such as statues.

Mr. Sullivan asked for clarification on the easement being for long term maintenance and not for upfront cost. Ms. Saunders read the portion of the proposed ordinance stating that the property owner can petition the City to maintain public art space. Mr. Sullivan asked if the intent was to have the property owner pay for the initial artwork on the required 25% of the building's façade. Ms. Saunders answered yes.

Mr. Sullivan stated that he understood that the final decision for funding would be up to the City Council with regards to Public Art Easements.

Mr. Bruckner stated that he encourages sculptures and artwork other than paintings and murals and recommended more language be included in the ordinance regarding the amount of coverage with regards to other artwork types.

Ms. Saunders summarized proposed updates from the Planning Board to the Draft Charitable Gaming Ordinance and stated that the Planning Department would present an updated Draft Charitable Gaming Ordinance at the next Planning Board meeting.

Mr. Healey asked if the regulation of content were up to the landowner. Ms. Saunders responded yes, that the landowner can regulate their own content, but the City cannot.

Ms. Saunders stated that updated Draft Charitable Gaming Ordinance will be presented at next Planning Board meeting and that the ordinance will be recommended to be passed on to City Council for review at that time.

VIII. Draft Solar Ordinance Presentation

Mr. O'Connor stated that the Draft Solar Ordinance is planned to be voted upon in the current Planning Board meeting and moved on the City Council for decision. Mr. O'Connor summarized the updates that were made to the Draft Solar Ordinance from the last Planning Board meeting recommendations. Mr. O'Connor stated that an additional edit was included to better protect the City from solar installations that are not in compliance with state statutes.

Mr. Sullivan asked for confirmation that the language in the ordinance does not put the staff in position of interpreting state law. Mr. O'Connor and Ms. Saunders both responded stating that was correct. Ms. Saunders stated that third party review would be available if necessary.

Mr. Healey stated that the ordinance included language about solar tracker's noise and asked what type of noise the solar trackers made and if the language in the ordinance was necessary. Mr. O'Connor responded that the solar trackers – because they track the brightest point in the sky, do make a humming noise from the motor that turns them and that when in large quantities of trackers, the noise is more significant. Ms. Sanders gave an example of a plot of land that contains large solar panels and that the solar panels move more frequently when weather is cloudy.

Mr. Healey asked for clarification on the language in the ordinance regarding the Historic District. Mr. O'Connor stated that the Historic Commission would have a say in the impact to historic buildings of the solar trackers.

A motion was made by Mr. Hamann and seconded by Mr. Bruckner to recommend the Draft Solar Ordinance to be passed onto City Council for approval .

Mr. Sullivan asked if the motion included the additional edit that was explained in Mr. O'Connor's presentation. Mr. Hamann stated yes.

Motion carried unanimously.

IX. Review Capital Improvements Plan, Fiscal Year 2024

Ms. Saunders gave overview of criteria and the current CIP Proposals. Ms. Saunders stated that weighing responses of Capital Improvement Plans was declined by the City Manager at this time, but that changes can be made in the future. Ms. Saunders stated there are currently nine criteria that are scored at a maximum of five points each. Ms. Saunders stated that Capital Improvement Plans (CIP) must meet the goals and objectives of the City's Master Plan. Ms. Saunders explained the CIP scoring sheet and stated that three Planning Board members would be required on the CIP Committee. Ms. Saunders provided a further overview through a Planning Department Capital Project Request example for a Land Use Master Plan. Ms. Saunders explained the multiple scoring categories on the CIP scoring worksheet. Ms. Saunders reviewed development patterns within the City of Rochester.

Mr. de Geofroy asked for clarification if the criteria for regarding a 10-year lifespan and cost of over \$10,000. Mr. de Geofroy stated that there are multiple project request within the book that do not have a 10-year lifespan. Ms. Saunders responded that projects may be a multi-stage project or that there was a plan in motion with the City Manager.

Mr. Sullivan stated that some projects within the Capital Improvements Plan Book are not Capital Improvements but are instead called Capital Purchases. Capital Purchases are moved into the CIP book because requests have run multiple years and if a department head does not get to finish the project request within the fiscal year, then requests are moved into multi-year fund. Mr. Sullivan stated that 5-year lifespans are typical with some project types, such as technology upgrades. Ms. Saunders stated that the criteria policy may need updating to include instances regarding technology and vehicles.

Mr. de Geofroy asked if there was a section that defines what the different priority or need categories are, such as Maintenance, Need, Desirable, and Mandatory. Ms. Saunders answered that there is not a stated definition and that the department heads determine priority in the request.

Mr. Sullivan explained that Mandatory items are those that cannot be avoided, Essential ones are those that the department head feels are essential to get perform job tasks but are not considered mandatory. Mr. Sullivan explained that the category is meant to be a way for department heads to exemplify the priority of their requests.

Mr. de Geofroy stated that he feels it would help the scorers determine scores if there were stated definitions of these categories.

Mr. de Geofroy stated that department heads have different styles in completing requests and that the request are not consistent and do not contain the information to address all the criteria on the scoring sheet. Ms. Saunders stated that, moving forward, there would be more interaction with department heads and the CIP committee, so that if there were further questions regarding project request that the committee could gain further clarification by asking the department heads.

Ms. Saunders asked the Planning Board members to total the scores on their scoring sheet for the request by the Planning Department. Ms. Saunders asked that the Planning Board members to review another request submitted by the Department of Public Works and score it on their worksheets.

Mr. Sullivan asked if the Board could review an information technology (IT) request because the scoring would be different.

Ms. Saunders stated that after reviewing multiple CIP requests and scoring each one that the requests will self-prioritize based on score. Ms. Saunders stated that the CIP review and scoring will help the department heads to better represent their department and prioritize needs for changes when submitting future requests.

Ms. Saunders asked Mr. Sullivan if there was an example in the CIP book that he would recommend review. Mr. Sullivan responded that he would like the Board members to review and score the request regarding IT Security. Mr. Sullivan stated that IT Security scored very low in comparison to other 2 requests that were reviewed, yet was very important.

Mr. de Geofroy stated that a missing criterion could be Risk Mitigation.

Mr. Sullivan stated that some items that a department head views as mandatory may score very low in comparison to Master Plan items. Mr. Sullivan asked if IT Security was considered any less important than other requests because it scores low according to the criteria worksheet.

Mr. Walker stated that IT Security could be even more important than the others and that he felt that could be a fallacy with the scoring sheet criteria because an opinion is being put on score. Ms. Saunders stated that different committee members will score items differently and all those differences will be part of an overall score that will provide an average of sorts.

Mr. de Geofroy stated his concern that there is not a criterion that adequately addresses the dimensions of categories. Ms. Saunders stated that the CIP committee will put results in a report and present to the City Council. Ms. Saunders stated that the City Council makes the ultimate decisions of CIP request. Ms. Saunders further explained the process of the Capital Improvement Projects and the responsibilities of the CIP Committee.

Mr. Bruckner stated his concern that the criteria carry the same value, but that he feels some criteria should carry more importance than others. Ms. Saunders stated that, at this time, that the criteria are not currently being weighted differently. Ms. Saunders stated that with consistency in scoring, there will be consistency in prioritization. Mr. Bruckner stated that each individual will have their own score and Ms. Saunders agreed.

Mr. Sullivan gave an example of Planning Board members being on the committee and asked if the committee would total individual scores and vote on items. Ms. Saunders responded saying that yes, after the scoring prioritizes the list of submittals the CIP can move things around by vote.

Mr. Sullivan asked how individual committee members' score viewpoint will be taken into consideration fairly against City Council members. Ms. Saunders stated that scoring is done individually to be sure that voices are represented equally. Ms. Saunders explained that the CIP is simply a set of recommendations to the City Council stating that the City Council will have the final say of priority of requests.

Mr. Sullivan asked how the scores and data from all CIP requests will be grouped together. Ms. Saunders answered that the final scores will be shown on a collective excel spreadsheet, with respective rank number and presented to the City Council for deliberation.

Mr. Hamann stated his concern that the criteria is not weighted and because of that, the scores could not properly show priority between different requests. Ms. Saunders stated that she will

present the idea of weighing the criteria to the City Manager again due to the feedback of the Planning Board.

Ms. Saunders explained that the scores will be public record whoever the scorers individual identity are anonymous.

Mr. Sullivan stated that he feels that adding a risk assessment criterion would be beneficial. Mr. Sullivan stated that he feels that some departments will be concerned about the current scoring format and that he hopes that the City Manager will take input from stakeholders.

Mr. de Geofroy stated that he supports having a process for scoring CIP requests but feels that there are still details to be worked out. Mr. de Geofroy suggested that when scores are aggregated from the committee members that the scoring data be calculated and shown statistically.

Mr. Bruckner asked for clarification on whether the scores, or the priority category will be more represented after every individual is done scoring. Ms. Saunders responded that Mr. de Geofroy's idea of presenting the data statistically would be a good way to show how decisions were made. Ms. Saunders stated that at the end of the review of the CIP committee, the requests will be ranked by scores based on the committee's answers on the scoring sheet.

Mr. Hamann stated that the City Council will only look at current fiscal year for current budgeting purposes. Ms. Saunders stated that the CIP process will give the City Council more transparency and a chance to see future costs when making decisions.

Mr. Sullivan stated that there has always been transparency regarding future costs. Mr. Sullivan stated that there is a 6-year summary of all data and expenditures. Mr. Sullivan stated that a main focus is monitoring bond appropriations so that requests do not spike, and that debt service is not severely affected. Mr. Saunders apologized saying transparency was not the correct term, but instead there would be more discussion.

Mr. Walker stated that he agreed that the City Council will be more concerned with the cost for the current fiscal year because the current cost will be what decides the tax rates. Mr. Walker stated that there are many factors that are included in making a budget. Ms. Saunders stated that the scoring will only be for the current fiscal year and not for the future years.

Mr. Walker stated that nuance of bonding and change to cash must be considered in CIP decision making. Ms. Saunders stated that purpose of CIP is to bring info about how project requests relate to the master plan and other criteria to the CIP Committee, but that it is solely up to the City Council to assign funding sources to projects.

Mr. Walker stated his concern with the current process and felt that there needed to be changes. Mr. Sullivan suggested that the City Manager and Deputy City Manager should meet with department heads to better understand the department head's CIP requests.

Mr. Walker stated that he feels that the projects cannot be scored linearly.

Mr. de Geofroy suggested that alternative techniques to scoring projects be investigated and Mr. de Geofroy offered to research and send ideas to the Board members. Ms. Saunders stated that the different scoring ideas would be discussed in a future workshop session.

Mr. Collopy stated other cities are performing these tasks and that a city representative of a similar size city to Rochester may be able to give better incite to scoring, or prioritizing.

Mr. Sullivan stated that he previously suggested that the City of Rochester follow the model that the City of Dover uses for Capital Improvement Plans. Mr. Sullivan stated that Dover's model required that the City Council and Planning Board deliberate separately. Mr. Sullivan stated that breaking down the CIP projects could be more beneficial than submitting all information to the City Council at once.

Mr. Collopy stated that he feels presenting something new could be beneficial and that change may not be effective right away, but will in time.

Mr. Hamman stated his concern regarding elections and major turnovers in City Councilors that may not be aware of budget processes for the City of Rochester.

Mr. Sullivan stated that the Finance Department offers an introductory walk through with new councilors, but being presented with a Capital Improvement Plan as big as the City of Rochester's can be intimidating.

Ms. Saunders asked the Board if the review of the Capital Improvement Plan could be continued in the April Workshop meeting, giving time for further updates and thanked the Board for their input.

Mr. Sullivan asked what the board was doing to review the current year's projects. Ms. Saunders stated that the Board will discuss the Capital Improvement Plan input at the next meeting. Mr. Sullivan stated that it may be too late to get recommendations for the City Manager to incorporate, but not too late to directly give recommendations to the City Council. Ms. Saunders stated that she will present further information at the April 3rd Planning Board meeting.

X. Review of Inspections and Surety for February 2023

Ms. Saunders reviewed Inspections for February 2023 and stated that because of winter snow conditions, earthmoving has halted in the city. Ms. Saunders stated that the Planning Department reached out to the Department of Public Works regarding the lack of inspections and the Department of Public works stated that they are still monitoring sites to be sure that there has been no catastrophic blowout or sluffing of fill piles but that most sites have moved on the the building work and away from site work for the winter. Ms. Saunders stated that unless DPW can interact with the site superintendent or other development representative, the inspectors have not been logging these as inspections. Ms. Saunders stated that construction has moved interior, therefore there are no external inspections being performed at this time.

Ms. Saunders stated that the new Planning Department administrator sends multiple letters for various deadlines such as expiring surety and expiring NODs and final conditions. Ms. Saunders stated that the Planning Department is working actively on projects, such as Clarke Brook, that are nearly complete for final signoff.

XI. Other Business

A. Planning Update

Ms. Saunders stated that the Parking Review Group is hosting their Poster Session this coming Wednesday, March 22, 2023, from 6pm to 8pm. Ms. Saunders invited all member of the Planning Board to attend. Ms. Saunders stated that the event is a rolling open house and that there is no timed presentation. Ms. Saunders stated that the Parking survey is still available and that the study will be closed within a couple weeks. Ms. Saunders stated that the feedback from the event and surveys will be forwarded to the third-party parking review for input and the Parking Review Group will begin to create Action Items regarding parking changes. Ms. Saunders thanked the Rochester Performing Arts Center to allow the City of Rochester to host this event.

B. Other

Mr. Hamann stated that he thought the development on Route 11 for the new car dealership was meant to be at the far end of the lot but is currently being developed closer to the Planet Fitness and asked if there were any changes to the plan of this development. Ms. Saunders responded stating that the work is proceeding as proposed and approved.

X. Adjournment

A motion was made by Mr. Walker and seconded by Mr. Bruckner to adjourn the meeting at 8:05pm. The motion carried unanimously.

Respectfully submitted,

Jaclyn Millard,
Administrative Assistant II

and

Shanna B. Saunders,
Director of Planning & Development