



**Regular City Council Meeting  
November 8, 2023  
Council Chambers  
31 Wakefield Street  
6:00 PM**

**Agenda**

- 1. Call to Order**
- 2. Opening Prayer**
- 3. Pledge of Allegiance**
- 4. Roll Call**
- 5. Acceptance of Minutes**
  - 5.1 Regular City Council Meeting: October 3, 2023  
*consideration for approval* P. 9**
  - 5.2 Special City Council Meeting: October 17, 2023  
*consideration for approval* P. 25**
- 6. Communications from the City Manager**
  - 6.1 City Manager's Report P. 29**
- 7. Communications from the Mayor**
  - 7.1. Citation of Merit – Rochester Firefighters, dispatchers,  
and paramedics**
- 8. Presentation of Petitions and Council Correspondence**
- 9. Nominations, Appointments, Resignations, and Elections**
  - 9.1. Municipal Election Vote Returns – Canvass of  
Votes *motion to accept results***
- 10. Reports of Committees**

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**10.1 Appointments Review Committee P. 49**

- 10.1.1 Appointment:** Dennis Raymond – Conservation Commission, Seat I, New Alternate member, *term to expire 1/2/2025 consideration for approval* P. 49
- 10.1.2 Reappointment:** Alexandra Van Binsbergen – Recreation & Arena, Seat C, Regular Member, *term to expire 1/2/2026 consideration for approval* P. 50
- 10.1.3 Reappointment:** Kevin Barry – Recreation & Arena, Seat D, Regular Member, *term to expire 1/2/2027 consideration for approval* P. 50
- 10.1.4 Reappointment:** Dale Bickford – Recreation & Arena, Seat F, Regular Member, *term to expire 1/2/2027 consideration for approval* P. 50

**10.2 Codes & Ordinances Committee P. 51**

- 10.2.1** Amendment to Chapter 7-35 of the General Ordinances of the City of Rochester Regarding the Economic Development Commission *first reading and consideration for adoption* P. 59
- 10.2.2 Committee Recommendation:** To approve the language of the Amendment to Chapter 7-63 Regarding the Economic Development Reserve Fund to be codified into the General Ordinances of the City of Rochester *consideration for approval* P. 61
- 10.2.3** Amendment to Chapter 7-83 of the General Ordinances of the City of Rochester Regarding the Code of Ethics and Conduct for Elected and Appointed Officials – Board of Ethics *first reading and refer to November 21 Workshop for discussion* P. 63

**10.3 Community Development Committee P. 65**

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**10.4 Finance Committee P. 69**

**10.5 Planning Board P. 75**

**10.6 Public Safety P. 85**

**10.6.1 Committee Recommendation:** To remove the broken speed limit sign from Salmon Falls Road and replace it with a 25 mph sign down by the telephone pole *consideration for approval* P. 87

**10.6.2 Committee Recommendation:** To install a streetlight on the existing pole at the intersection of Tebbetts and Roberts Road *consideration for approval* P. 87

**10.6.3 Committee Recommendation:** To add a "dead end" sign at the entrance of Roberts Road *consideration for approval* P. 87

**10.7 Public Works P. 91**

**10.7.1 Resolution Authorizing Supplemental Appropriation of \$17,414.03 to FY24 General Fund CIP Fund for Ground Water Monitoring** *first reading and consideration for adoption* P. 119

**11. Unfinished Business**

**11.1. Resolution Authorizing Transfer of \$250,000 from the General Fund Unassigned Fund Balance to the Trustees of the Trust Fund for the Public Works Large Vehicle Capital Reserve Fund (CRF)** *second reading and consideration for adoption* P. 125

**11.2. Resolution Authorizing Transfer of \$250,000 from the General Fund Unassigned Fund Balance to the Trustees of the Trust Fund for the Fire Department Apparatus Capital Reserve Fund (CRF)** *second reading and consideration for adoption* P. 127

**11.3. Resolution Authorizing Transfer of \$250,000 from the**

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**General Fund Unassigned Fund Balance to the Trustees of the Trust Fund for the Public Buildings Capital Reserve Fund (CRF) *second reading and consideration for adoption* P. 129**

- 11.4. **Resolution Authorizing Donation to the Veterans of Foreign Wars (VFW) Concord in the amount of \$49,640.57 *second reading and consideration for adoption* P. 133**
12. **Consent Calendar**
13. **New Business**
  - 13.1. **Amendments to Chapter 223 of the General Ordinances of the City of Rochester Regarding Streets and Sidewalks *first reading and refer to November 21 Workshop for discussion* P. 135**
  - 13.2. **Resolution Authorizing Supplemental Appropriation of Five Million Seven Hundred Fifty Seven Thousand Six Hundred Ninety Three Dollars (\$5,757,693) in relation to the JUUL E-Cigarette Litigation *first reading and consideration for adoption* P. 187**
  - 13.3. **Resolution Authorizing the Application for and Acceptance of a State of New Hampshire Department of Environmental Services (NHDES) Drinking Water and Groundwater Trust Fund (DWGTF) Loan for the Salmon Falls Water Booster Station Upgrade Project in an amount up to \$3,700,000.00 *first reading and consideration for adoption* P. 191**
  - 13.4. **Resolution Authorizing Acceptance of a Vest Grant from the State of New Hampshire in the amount of \$10,060.88 *first reading and consideration for adoption* P. 195**
14. **Non-Meeting/Non-Public Session**
  - 14.1 **Non-Public Session, RSA 91-A:3,II(d) Land**
15. **Adjournment**

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**Regular City Council Meeting  
October 3, 2023  
Council Chambers  
6:00 PM**

**COUNCILORS PRESENT**

Councilor Beaudoin  
Councilor Berlin  
Councilor de Geofroy  
\*Councilor Desrochers  
Councilor Fontneau  
Councilor Gilman  
Councilor Gray  
Councilor Hainey  
Councilor Hamann  
Councilor Larochelle  
Councilor Malone  
Deputy Mayor Lachapelle  
Mayor Callaghan

**OTHERS PRESENT**

Katie Ambrose, City Manager  
Terence O'Rourke, City Attorney  
Peter Nourse, Director of City Services  
Gary Boudreau, Police Chief

**COUNCILORS EXCUSED/ABSENT**

**Minutes**

**1. Call to Order**

Mayor Callaghan called the Regular City Council meeting to order at 6:00 PM.

**2. Opening Prayer**

Mayor Callaghan asked all to stand for a moment of silence.

**3. Pledge of Allegiance**

Mayor Callaghan asked Councilor Beaudoin to lead the Pledge of Allegiance.

**4. Roll Call**

Kelly Walters, City Clerk, took the roll call attendance. The following Councilors were present in Council Chambers: Councilors Beaudoin, Berlin, de Geofroy, Fontneau, Gilman, Gray, Hainey, Hamann, Larochelle, Malone, Deputy Mayor Lachapelle, and Mayor Callaghan.

Councilor Desrochers remotely connected to the meeting via Teams at 6:16 PM via Teams.

## **5. Acceptance of Minutes**

### **5.1 Regular City Council Meeting: September 5, 2023** *consideration for approval*

Councilor Lachapelle **MOVED** to **ACCEPT** the September 5, 2023, Regular City Council meeting minutes. Councilor Hamann seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

### **5.2 Special City Council Meeting: September 19, 2023** *consideration for approval*

Councilor Lachapelle **MOVED** to **ACCEPT** the September 19, 2023, Special City Council meeting minutes. Councilor Hamann seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

## **6. Communications from the City Manager**

Katie Ambrose, City Manager, extended an invitation to the City Council to attend a celebration in honor of the Route 202A Water Main Extension Project to take place on October 17, 2023 at 10:00 AM (Rain date: October 24, 2023). She gave details of the event and requested that City Councilors directly RSVP to Director of City Services Peter Nourse.

City Manager Ambrose gave an extensive overview of her re-organization plan, which can be found in the September Finance Committee packet materials. She said there is no funding request for the re-organization plan in this fiscal year's budget; however, there will be funding requests made in conjunction with the FY 25 budget cycle.

City Manager Ambrose's report is as follows:

### **6.1 City Manager's Report**

#### **Contracts and documents executed since last month:**

- **Department of Public Works**
  - Estimate, Angela Lane Drainage Improvements – S.U.R.

- Estimate, 125 Milton Rd Demolition – S.U.R.
- Change Order, Opera House egress/remediation – Careno
- Homeowner Option Lien, 129 Franklin Street
- Final project change order, Carbon storage facility – Apex Construction
- Easements, quit claim, & Authorization docs, Round Pond augmentation
- Warranty agreement, Community Center roof restoration
- Addendum to Honeywell contract, removing 45 Old Dover Rd
- Task order, Rt 11 Capacity & safety improvement project
- Scope of Service, Highland St Sidewalk restoration – S.U.R.
- Purchasing waiver, Library roof repair – Industrial Roof Co.
- Installation, operations, and maintenance contracts, Community Center Solar
- 2017 NH NPDES MS4 General Permit 5-year report
- Change Order, Sidewalk construction – S.U.R.
- **Economic Development**
  - CDFA Account Access
  - HUD Certificate of Consistency with consolidated plan.
  - Release of HUD CDBG Funds
  - FY23-34 CAP Weatherization – Old Milton Road
  - Gafney Home Project Status Reports
- **Finance**
  - Contracts for software purchase – Debt Books

**The following standard report has been enclosed:**

- Personnel Action Report Summary

**7. Communications from the Mayor**

**7.1 Proclamation: Extra Mile Day – November 1, 2023**

Mayor Callaghan read the proclamation and declared November 1, 2023, as Extra Mile Day in Rochester.

## **7.2 Public Hearing on 10/17 for ballot question – Shall the city of Rochester allow the operation of Sports book retail locations?**

Mayor Callaghan announced that there would be a Public Hearing on October 17, 2023, relative to the Municipal Ballot question as shown above.

Mayor Callaghan said the PorchFest 2023 Event was successful and he thanked the organizers of the event.

Mayor Callaghan said the November Regular City Council meeting has been delayed by one day due to the Municipal Election. The Regular City Council meeting shall take place on Wednesday, November 8, 2023.

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

No discussion.

## **9. Nominations, Appointments, Resignations, and Elections**

**9.1. Resignation: Steve Beaudoin - Joint Building Committee *consideration for approval***

**9.2. Resignation: Matthew Winders – Historic District Commission, Seat F *consideration for approval***

**9.3. Resignation: Taylor Poro – Ward 2 Selectman *consideration for approval***

Mayor Callaghan stated that if there were no objections the above three resignation would be voted upon all at once.

Councilor Lachapelle **MOVED** to accept the resignations of Steve Beaudoin, Matthew Winders, and Taylor Poro, with regret, as stated above. Councilor Hamann seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

## **10 Reports of Committee**

### **10.1 Appointments Review Committee:**

### **10.2 Codes & Ordinances Committee**



**10.2.1 Committee Recommendation: To add roll call attendance to the agenda for all subcommittee meetings per the City Council Rules of Order *consideration for approval***

Councilor Lachapelle **MOVED** to **APPROVE** the committee's recommendation to add a roll call at subcommittee meetings as stated above. Councilor Beaudoin seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Lachapelle announced the Codes and Ordinance Committee is scheduled to meet this Thursday, October 5, 2023.

**10.3 Community Development Committee**

Councilor Hainey said there is one action item listed under New Business, which is an Amendment to the FY 24 CDBG Action Plan.

**10.4 Finance Committee**

**10.4.1 Resolution Authorizing Transfer of \$250,000 from the General Fund Unassigned Fund Balance to the Trustees of the Trust Fund for the Public Works Large Vehicle Capital Reserve Fund (CRF) *first reading and refer to public hearing October 17, 2023***

Mayor Callaghan read the resolution for a first time as follows:

**Resolution Authorizing Transfer of \$250,000 from the General Fund Unassigned Fund Balance to the Trustees of Trust Funds for the Public Works Large Vehicle Capital Reserve Fund (CRF)**

**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 transfer Two Hundred Fifty Thousand Dollars (\$250,000) to the Trustees of the Trust Funds for the purpose of funding the Public Works Large Vehicles CRF. The source of funding shall be 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.

Mayor Callaghan referred the matter to a Public Hearing to be held on October 17, 2023.

**10.4.2 Resolution Authorizing Transfer of \$250,000 from the General Fund Unassigned Fund Balance to the Trustees of the Trust Fund for the Fire Department Apparatus Capital Reserve Fund (CRF) *first reading and refer to public hearing October 17, 2023***

Mayor Callaghan read the resolution for a first time as follows:

**Resolution Authorizing Transfer of \$250,000 from the General Fund Unassigned Fund Balance to the Trustees of Trust Funds for the Fire Department Apparatus Capital Reserve Fund (CRF)**

**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 transfer Two Hundred Fifty Thousand Dollars (\$250,000) to the Trustees of the Trust Funds for the purpose of funding the Fire Department Apparatus CRF. The source of funding shall be 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.

Mayor Callaghan referred the matter to a Public Hearing to be held on October 17, 2023.

**10.4.3 Resolution Authorizing Transfer of \$250,000 from the General Fund Unassigned Fund Balance to the Trustees of the Trust Fund for the Public Buildings Capital Reserve Fund (CRF) *first reading and refer to public hearing October 17, 2023***

Mayor Callaghan read the resolution for a first time as follows:

**Resolution Authorizing Transfer of \$250,000 from the General Fund Unassigned Fund Balance to the Trustees of Trust Funds for the Public Buildings Capital Reserve Fund (CRF)**

**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 transfer Two Hundred Fifty Thousand Dollars (\$250,000) to the Trustees of the Trust Funds for the purpose of funding the Public Buildings CRF. The source of funding shall be 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.

Mayor Callaghan referred the matter to a Public Hearing to be held on October 17, 2023.

**10.4.4 Resolution for Supplemental Appropriation to FY24 School General Fund Capital Improvement Plan (CIP) in the amount of \$34,000,000 for the Construction of a New School *first reading and refer to public hearing October 17, 2023***

Mayor Callaghan read the resolution for a first time as follows:

**Resolution for Supplemental Appropriation and Authorizing Borrowing Authority Pursuant to RSA 33:9 to the FY24 School General Fund Capital Improvements Plan (CIP) Fund in an amount not to exceed \$34,000,000.00 for the New School Construction Project**

**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 Thirty Four Million Dollars (\$34,000,000) to the FY2024 School General Fund Capital Improvement Plan (CIP) for the purpose of paying costs associated with construction of a new 68,000 square foot elementary school. The new school shall reduce crowding, and will consolidate the Nancy Loud school, and School Street school, and close the modular sections at the William Allen and Chamberlain schools. The

new School shall have a capacity of approximately four hundred and twenty (420) students. The funding sources for this supplemental appropriation shall be derived from the following;

1. **State of New Hampshire Building Aid Grant:** Fifteen Million Seven Hundred Sixty Nine Thousand Five Hundred Eighty Dollars, (\$ 15,769,580).
2. **Local School Capital Reserve Fund (CRF):** One Million Two Hundred Ninety Thousand Dollars, (\$1,290,000).
3. **State of NH Adequacy Grant-Additional Funding:** One Million Four Hundred Thousand Dollars, (\$1,400,000).
4. **General Obligation Bond Funding:** Eight Million Dollars, (\$ 8,000,000).
5. **General Fund Unassigned Fund Balance:** Seven Million Five Hundred Forty Thousand Four Hundred Twenty Dollars. (\$7,540,420)

**Further**, in accordance with the provisions of RSA 33:9, the City Treasurer, with the approval of the City Manager, is hereby authorized to borrow the sum of Eight Million Dollars (\$8,000,000.00) 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 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.

Mayor Callaghan referred the matter to a Public Hearing to be held on October 17, 2023.

**10.4.5 *Committee Recommendation:*** To approve the creation, description, and classification of the Deputy Chief Administrative Officer position *consideration for approval*

Councilor Lachapelle **MOVED** to approve the creation, description, and classification of the Deputy Chief Administrative Officer position. Councilor Hamann seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**10.4.6 *Committee Recommendation:* To approve the creation, description, and classification of the Chief Community Development Officer, Battalion Chief, and Training Officer positions *consideration for approval***

Councilor Lachapelle **MOVED** to approve the creation, description, and classification of the Chief Community Development Officer, Battalion Chief and Training Officer positions. Councilor de Geofroy seconded the motion. The **MOTION CARRIED** by a majority voice vote.

## **10.5 Planning Board**

No discussion.

## **10.6 Public Safety**

**10.6.1 *Committee Recommendation:* To add a 30-mph speed limit sign on Bernard Road *consideration for approval***

Councilor Lachapelle **MOVED** to **APPROVE** the Committee Recommendation: To add a 30-mph speed limit sign on Bernard Road. Councilor de Geofroy seconded the motion. The City Council briefly discussed the matter. The **MOTION CARRIED** by a unanimous voice vote.

## **10.7 Public Works**

No discussion.

## **11 Unfinished Business**

**11.1 Amendment to Chapter 275 of the General Ordinances of the City of Rochester Regarding Charitable Gaming and Commercial Bingo Halls *second reading and consideration for adoption***

Mayor Callaghan read the Amendment by title only as follows:

**Amendment to Chapter 275 of the General Ordinances of  
the City of Rochester Regarding Charitable Gaming and  
Commercial Bingo Halls**

**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 (deletions struck out additions in **RED**):

**Chapter 275, Table 18, Use Table**

**ADD: Commercial Bingo Hall – Permitted in Highway Commercial and Granite Ridge Zones**

**275-2.1 – Definitions**

**ADD: Collocation: Facilities, equipment, or uses located within the same structure or parcel, often sharing the same driveway and parking facilities.**

**Commercial Bingo Hall: Any hall owned or leased by an individual, corporation, realty trust, partnership, association, or any other person who rents or leases the hall to a charitable organization for the operation of bingo games or Lucky 7, excluding halls owned by any charitable organization or governmental subdivision as defined by RSA 287-E:1.**

**275-20.2 Conditions for Particular Use**

**ADD: Commercial Bingo Hall. Commercial Bingo Halls are permitted only when collocated with Charitable Gaming Facilities or by Special Exception.**

- 1. Facilities and buildings are subject to Parking, Landscaping, and Architectural standards set by Charitable Gaming Facilities as per Zoning Ordinance Regulations 275-20.2**
- 2. The facility is required to submit a safety and security plan subject to approval by the Rochester Fire and Police Departments. The plan shall outline all aspects of life safety to include emergency egress, access, site security, and occupancy limitations.**

**Amendments take effect upon passage.**

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

At 6:16 PM, Mayor Callaghan announced that \*Councilor Desrochers had successfully connected to the meeting remotely. He asked Councilor Desrochers if it was reasonably impractical for her to attend the meeting in person and for what reason (RSA 91-A,III a). Councilor Desrochers confirmed this was true based on medical/illness. Mayor Callaghan asked if Councilor Desrochers was alone in the room (RSA 91-A,III c). Councilor Desrochers replied that she was alone in the room with her dog.

**11.2 Resolution Authorizing Donation to the Veterans of Foreign Wars (VFW) Concord in the amount of \$49,640.57 *first reading and refer to public hearing October 17, 2023***

Mayor Callaghan read the resolution by title only as follows:

**Resolution Authorizing Donation to the Veterans of Foreign Wars (VFW) Concord in the amount of \$49,640.57**

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

That the City of Rochester hereby makes a donation to the Veterans of Foreign Wars (VFW)- Concord in the amount of Forty Nine Thousand Six Hundred Forty Dollars and Fifty Seven Cents (\$49,640.47). The source of funds 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 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.

Mayor Callaghan referred the matter to a Public Hearing to be held on October 17, 2023.

**12 Consent Calendar**

No discussion.

**13 New Business**

**13.1 Resolution Authorizing the Acceptance of a Juvenile Alcohol Grant from the State of New Hampshire in the amount of \$4,240.00 *first reading and consideration for adoption***

Mayor Callaghan read the resolution by title only as follows:

**Resolution Authorizing the Acceptance of a Juvenile Alcohol Grant from the State of New Hampshire in the amount of \$4,240.00**

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

The City hereby accepts a Juvenile Alcohol Grant of Four Thousand Two Hundred Forty Dollars (\$4,240.00.00) from the State of New Hampshire to be used by the Rochester Police Department as part of its New Hampshire Juvenile Court Diversion Network SBIRT Program.

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

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Hamann seconded the motion. The **MOTION CARRIED** by a roll call vote of 13 to 0 as follows: Councilors de Geofroy, Beaudoin, Hamann, Desrochers, Lachapelle, Malone, Berlin, Hailey, Laroche, Gray, Gilman, Fontneau, and Mayor Callaghan voted in favor of the motion.

**13.2 Resolution Authorizing the Acceptance of a JAG Grant from the State of New Hampshire in the amount of \$27,065.00 *first reading and consideration for adoption***

Mayor Callaghan read the resolution by title only for a first time as follows:

**Resolution Authorizing the Acceptance of a JAG Grant from the State of New Hampshire in the amount of \$27,065.00**



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

The City hereby accepts a JAG Grant of Twenty Seven Thousand Sixty Five Dollars (\$27,065.00) from the State of New Hampshire to be used by the Rochester Police Department for the purchase of law enforcement equipment.

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

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Hamann seconded the motion. Mayor Callaghan wished to confirm there were no matching funds required from the City. Chief Boudreau confirmed that no matching funds were required. The **MOTION CARRIED** by a roll call vote of 13 to 0 as follows: Councilors Hainey, Gray, Malone, Gilman, Fontneau, Larochelle, de Geofroy, Desrochers, Berlin, Beaudoin, Hamann, Lachapelle, and Mayor Callaghan voted in favor of the motion.

**13.3 Resolution Amending the Adopted FY 2024 Rochester CDBG "Action Plan for the City of Rochester, N.H." for Community Action Partners and Strafford Nutrition Meals on Wheels *first reading and consideration for adoption***

Mayor Callaghan read the resolution by title only as follows:

**RESOLUTION AMENDING THE ADOPTED FY 2024 ROCHESTER CDBG "ACTION PLAN FOR THE CITY OF ROCHESTER, N.H." FOR COMMUNITY ACTION PARTNERS AND STRAFFORD NUTRITION MEALS ON WHEELS**

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

That the FY 2024 Rochester CDBG "Action Plan for the City of Rochester, N.H." be and hereby is amended to allocate an additional Four Thousand One Hundred Seventy Five and 02/100 Dollars (\$4,175.02) to Community Action Partners for its Weatherization Program and to

allocate an additional Two Hundred Dollars (\$200.00) to Strafford Nutrition Meals on Wheels.

**This Resolution is effective upon adoption.**

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Hamann seconded the motion. The **MOTION CARRIED** by a roll call vote of 13 to 0 as follows: Councilors Berlin, Desrochers, Gray, Fontneau, Hamann, Hainey, Lachapelle, Larochelle, Beaudoin, Malone, Gilman, de Geofroy, and Mayor Callaghan voted in favor of the motion.

**13.4 Resolution Establishing Polling Places and Times for the November 7, 2023 Municipal Election *first reading and consideration for adoption***

Councilor Lachapelle **MOVED** to read the resolution in its entirety. Councilor Hamann seconded the motion. The **MOTION CARRIED** by a roll call vote of 13 to 0 as follows: Councilors Gilman, de Geofroy, Gray, Hainey, Larochelle, Berlin, Lachapelle, Fontneau, Hamann, Beaudoin, Desrochers, Malone, and Mayor Callaghan voted in favor of the motion. Mayor Callaghan read the resolution in its entirety as follows:

**Resolution Establishing Polling Places and Times for the November 7, 2023, Municipal 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 November 7, 2023, ~~State-General~~ **Municipal** Election.

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

**WARD 2: Chamberlain Street School**  
65 Chamberlain Street, Rochester

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

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

**WARD 5: James W. Foley Memorial Community Center a/k/a  
Rochester Community Center**

150 Wakefield Street/Community Way, Rochester

**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. *The Processing of Absentee Ballots shall begin at 10:00 AM on Election Day.***

Councilor Lachapelle **MOVED** to **AMEND** the resolution as follows:

That the following polling places are hereby established for the City of Rochester for the upcoming November 7, 2023, ~~State-General~~ **Municipal** Election.

Councilor de Geofroy seconded the motion. The **MOTION CARRIED** by a roll call vote of 13 to 0 as follows: Councilor Hamann, Desrochers, Gilman, Malone, Fontneau, Laroche, Gray, de Geofroy, Berlin, Hainey, Lachapelle, Beaudoin, and Mayor Callaghan voted in favor of the motion to amend the resolution.

Mayor Callaghan called for a vote on the motion as amended. The **MOTION CARRIED** by a roll call vote of 13 to 0 as follows: Councilors Desrochers, Gray, Hamann, de Geofroy, Beaudoin, Hainey, Lachapelle, Gilman, Malone, Fontneau, Laroche, Berlin, and Mayor Callaghan voted in favor of the motion.

## **14 Non-Meeting/Non-Public Session**

### **14.1 Non-Public Session – Land, RSA 91-A:3, II (d)**

Councilor Lachapelle **MOVED** to enter a Non-Public Session under Land, RSA 91-A:3, II (d), at 6:23 PM. Councilor de Geofroy seconded the motion. The **MOTION CARRIED** by a roll call vote of 13 to 0 as follows: Councilors Laroche, Gilman, Berlin, Beaudoin, de Geofroy, Fontneau, Hamann, Lachapelle, Malone, Desrochers, Gray, Hainey, and Mayor Callaghan voted in favor of the motion.

Councilor Lachapelle **MOVED** to exit the Non-Public Session at 6:58 PM. Councilor Malone seconded the motion. The **MOTION**

**CARRIED** by a roll call vote of 13 to 0 as follows: Councilors Lachapelle, Larochele, Hainey, Desrochers, Gilman, Berlin, de Geofroy, Gray, Malone, Fontneau, Beaudoin, Hamann, and Mayor Callaghan voted in favor of the motion.

Councilor Lachapelle **MOVED** to seal the minutes of the Non-Public Session because disclosure would render the proposed action ineffective. Councilor Hamann seconded the motion. The **MOTION CARRIED** by a 13 to 0 roll call vote as follows: Councilors Malone, Gray, Hamann, de Geofroy, Beaudoin, Desrochers, Lachapelle, Gilman, Hainey, Fontneau, Larochele, Berlin, and Mayor Callaghan voted in favor of the motion.

## **15 Adjournment**

Councilor Lachapelle **MOVED** to **ADJOURN** the Regular City Council Meeting at 6:59 PM. Councilor de Geofroy seconded the motion. The **MOTION CARRIED** by a unanimous roll call vote of 13 to 0 as follows: Councilors Gray, Larochele, Hainey, Desrochers, Gilman, Lachapelle, de Geofroy, Berlin, Fontneau, Beaudoin, Malone, Hamann, and Mayor Callaghan voted in favor of the motion.

Respectfully Submitted,

Kelly Walters, CMC  
City Clerk

**City Council Special Meeting  
October 17, 2023  
Council Chambers  
7:44 PM**

**COUNCILORS PRESENT**

Councilor Beaudoin  
Councilor Berlin  
Councilor de Geofroy  
Councilor Desrochers  
Councilor Fontneau  
Councilor Gilman  
Councilor Gray  
Councilor Hailey  
Councilor Hamann (remote)  
Councilor Larochelle  
Deputy Mayor Lachapelle  
Mayor Callaghan

**OTHERS PRESENT**

Katie Ambrose, City Manager  
Mark Sullivan, Finance Director

**COUNCILORS EXCUSED**

Councilor Malone

**Minutes**

**1. Call to Order**

Mayor Callaghan called the City Council Special meeting to order at 7:44 PM.

**2. Resolution for Supplemental Appropriation and Authorizing Borrowing Authority Pursuant to RSA 33:0 to the FY24 School General Fund Capital Improvement Plan (CIP) Fund in an amount not to exceed \$34,000,000 for the new School Construction Project *second reading and consideration for adoption***

Mayor Callaghan read the resolution for a second time by title only as follows:

**Resolution for Supplemental Appropriation and Authorizing Borrowing Authority Pursuant to RSA 33:9 to the FY24 School General Fund Capital Improvements Plan (CIP) Fund in an amount**

**not to exceed \$34,000,000.00 for the New School Construction Project**

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 Thirty Four Million Dollars (\$34,000,000) to the FY2024 School General Fund Capital Improvement Plan (CIP) for the purpose of paying costs associated with construction of a new 68,000 square foot elementary school. The new school shall reduce crowding, and will consolidate the Nancy Loud school, and School Street school, and close the modular sections at the William Allen and Chamberlain schools. The new School shall have a capacity of approximately four hundred and twenty (420) students. The funding sources for this supplemental appropriation shall be derived from the following;

1. **State of New Hampshire Building Aid Grant:** Fifteen Million Seven Hundred Sixty Nine Thousand Five Hundred Eighty Dollars, (\$ 15,769,580).
2. **Local School Capital Reserve Fund (CRF):** One Million Two Hundred Ninety Thousand Dollars, (\$1,290,000).
3. **State of NH Adequacy Grant-Additional Funding:** One Million Four Hundred Thousand Dollars, (\$1,400,000).
4. **General Obligation Bond Funding:** Eight Million Dollars, (\$ 8,000,000).
5. **General Fund Unassigned Fund Balance:** Seven Million Five Hundred Forty Thousand Four Hundred Twenty Dollars. (\$7,540,420)

Further, in accordance with the provisions of RSA 33:9, the City Treasurer, with the approval of the City Manager, is hereby authorized to borrow the

sum of Eight Million Dollars (\$8,000,000.00) 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 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 **ADOPT** the resolution. Councilor Desrochers seconded the motion.

Councilor Gray stated that he would be voting in favor of the motion. He spoke about ideal enrollment percentages for schools and declining student population. He speculated that with this larger school not at full capacity upon opening, there would be more flexibility in the future for additional enrollment due to potential closure and consolidation of other schools.

Councilor Fontneau thanked Councilor Gray for assisting in his role as State Senator in obtaining the State building aid, which went towards a large portion of the school's total cost. Councilor Fontneau acknowledged the significance of having multiple neighborhood schools throughout the City; however, with the condition of these aging buildings needing to be addressed, it would not be fiscally responsible to rebuild or renovate each individual property. He felt that this new school is a good solution. Councilor Fontneau praised the City's Finance staff for their efforts sourcing multiple funding sourced for this project with only \$8 million being bonded out of the total \$34 million cost.

Councilor Beaudoin recalled that when discussions were originally started regarding the construction of a new school, it was proposed that three neighborhood schools would be closed in the process. He questioned why the current plan only has two schools affected by closures. Councilor Beaudoin expressed multiple concerns with the proposed location on Salmon Falls Road, including traffic issues, potential issue with the requirement for secondary egress, and the lack of testing that has been performed on the water and soil on this site. He speculated that without

proper testing, it could potentially be discovered that the soil cannot support the structure being proposed. Councilor Beaudoin also spoke about potential contamination caused by an undocumented dump site on the property.

The **MOTION CARRIED** by a 10 to 2 roll call vote with Councilors Desrochers, Gray, Hamann, de Geofroy, Hainey, Lachapelle, Fontneau, Larochele, Berlin, and Mayor Callaghan voting in favor and Councilors Beaudoin and Gilman voting opposed.

### **3. Adjournment**

Mayor Callaghan **ADJOURNED** the City Council Special Meeting at 7:54 PM.

Respectfully Submitted,

Cassie Givara,  
Deputy City Clerk





*City of Rochester, New Hampshire*

OFFICE OF THE CITY MANAGER  
 31 Wakefield Street • Rochester, NH 03867  
 (603) 332-1167  
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**CITY MANAGER'S REPORT**  
**October 2023**

Contracts and documents executed since last month:

- **Department of Public Works**
  - NHDOT Sidewalk Maintenance Agreement Rt202/Rt 11 Corridor **P. 31**
  - Change Order, Tara Estates Sewer Pump Station. **P. 32**
  - Change Order, Rt202A Water Main Extension & Tank project – D&C **P. 33**
  - Change Order #11, Rt 202A Water Main – D&C **P. 34**
  - Estimate, Demolition Chlorinator Building – S.U.R. **P. 35**
  - Submetering Utility Billing Agreement – Prescott Estates MHP **P. 36**
  - Change Order, City Hall & Opera House egress remediation – Careno **P. 37**
  - Letter of Commitment, Household Hazardous Waste Day **P. 38**
  - Agreement for Engineering Services, Salmon Falls Sewer Pump Station – Weston & Sampson **P. 39**
- **Economic Development**
  - FY23-24 CAP Weatherization – Tradewind **P. 40**
  - FY24 CAP Weatherization , CDBG Grant **P. 41**
  - FY23-24 RHA Environmental Review **P. 42**
  - Contract for Economic Development Strategic Plan – RKG Services **P. 43**
  - FY23-24 CAP Weatherization – Olde Farm Lane **P. 44**
- **Finance**
  - Engineering Services/Ground Borings @ Nancy Loud School – S.W. Cole Engineering **P. 45**
- **Police**
  - Agreement for engineering services, Dispatch renovations - Weston & Sampson **P. 46**

The following standard report has been enclosed:

- Personnel Action Report Summary **P. 47**

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left blank...*

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City Clerk's Office

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# *City of Rochester, New Hampshire*

PUBLIC WORKS DEPARTMENT

45 Old Dover Road • Rochester, NH 03867

(603) 332-4096

Fax (603) 335-4352

[www.rochesternh.net](http://www.rochesternh.net)

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## INTEROFFICE MEMORANDUM

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**TO:** Katie Ambrose, City Manager  
**FROM:** Peter C. Nourse, Director of City Services  
**DATE:** 02 October 2023  
**SUBJECT:** NHDOT Sidewalk Maintenance Agreement for the NH Rt202/Rt11 Corridor  
**CC:** Terence O'Rourke, City Attorney

Please see attached agreement for your signature. The City's recent water main work on Highland St. impacted some sidewalks which will be replaced as part of the project. This work has triggered this long-term maintenance agreement required of NHDOT. Public Works has been performing winter maintenance on these sidewalks for years but this agreement gives the City authorization to perform longer term maintenance.

NHDOT is requesting (2) ink-signed hard copies.

Thank you.

Enclosure:

1. NHDOT - City of Rochester US 202 NH 11 Sidewalk Agreement



*City of Rochester, New Hampshire*  
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11/02/2023



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## INTEROFFICE MEMORANDUM

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**TO:** Katie Ambrose, City Manager

**FROM:** Dana Webber, PE, DPW Engineering

**DATE:** September 29, 2023

**SUBJECT:** Tara Estates Sewer Pump Station Upgrade  
Apex Construction, Inc. Change Order No. 1

**CC:** Peter Nourse, PE, Director of City Services  
Lisa Clark, DPW Deputy Director, Operations & Administration

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Attached please find (1) electronic copy of Change Order No. 1 for the Tara Estates Sewer Pump Station Upgrade. As described in the change order document, additional work includes poly-wrapping the ductile iron pipe and increasing the conduit size for the electrical service at the request of Eversource. Weston & Sampson has reviewed and approved the changes and cost increase.

Apex was awarded this contract for Bid 23-01 in the amount of \$1,376,500.00. The change order will result in an increase of \$2,192.40 to the original contract value.

Funding for this increase in contact value is available in the following CIP Sewer Pump Station Upgrades account:

55026020-772000-23546      \$2,192.40

See the attached change order with contract value adjustment and backup documentation. City Manager signature for approval is required at the bottom of page 1.



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11/02/2023



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## INTEROFFICE MEMORANDUM

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**TO:** KATIE AMBROSE, CITY MANAGER

**FROM:** LISA J. CLARK, DPW DEPUTY DIRECTOR OPERATIONS & ADMINISTRATION

**DATE:** September 29, 2023

**SUBJECT:** D&C Construction Contract Change Order #12  
Rt202A Water Main Extension & Tank Project  
Contract Award – Bid 22-15  
Change Amount \$2,185.00

**CC:** Peter C. Nourse, PE, Director of City Services  
Timothy Goldthwaite, Assistant City Engineer

---

Attached for signature please find (1) one copy of D&C Construction Contract Change Order#12.  
This change is for the contractor to make improvements to the water tank access Road as requested by the City Staff.

The funding this contract change is available in the following account:  
55016010-771000 20635 Available Balance \$416,535.67 This request \$2,185.00

If you have any questions, please let us know, if none please return executed Change Order.



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11/02/2023



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**INTEROFFICE MEMORANDUM**

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**TO:** KATIE AMBROSE, CITY MANAGER

**FROM:** LISA J. CLARK, DPW DEPUTY DIRECTOR OPERATIONS & ADMINISTRATION

**DATE:** ~~August 23, 2023~~ Oct 4, 2023 ljc

**SUBJECT:** D&C Construction Contract Change Order#11  
RT202A Water Main Extension & Tank Project  
Contract Award – Bid #22-15  
\$3,307.50

**CC:** Peter C. Nourse, PE, Director of City Services  
Timothy Goldthwaite, Assistant City Engineer

---

Attached for signature please find (1) one copy of D&C Construction Contract Change Order#11. This change is for a necessary change to the equipment at the new water tank for communications with the water booster station on Washington Street.

The funds are available in the Rt202A Water Extension Account as follows:

55016010-771000-20635

If you have any question, please call, if not please sign and return document to me at the DPW for Distribution



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11/02/2023



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**INTEROFFICE MEMORANDUM**

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**TO:** KATIE AMBROSE, CITY MANAGER  
MARK SULIVAN, FINANCE DIRECTOR

**FROM:** LISA J. CLARK, DPW DEPUTY DIRECTOR OPERATIONS & ADMINISTRATION

**DATE:** October 13, 2023

**SUBJECT:** SUR Construction  
Demolition Chlorinator Building  
Additional Work – Asbestos Removal  
Proposal \$10,730

**CC:** Peter C. Nourse, PE, Director of City Services

---

Attached please find (1) one copy of the SUR Construction Company estimate/ scope of service for signature. As part of the Water Treatment Plant Transmission Upgrade Project a previous scope for demolition of the chlorinator building on Washinton Street was executed in the amount of \$22,695.00. After the asbestos survey was completed, it was determined that mitigation will be required. This scope is for that additional work.

The pricing for equipment and labor is per City of Rochester Bid # 23-26 for Equipment Rental and “On-call Construction Services and Related equipment Rentals”.

Funding is available in the following Water Fund O&M account:  
51601073-543000 Available Balance = \$59, 913. This scope is \$10,730.00

Please execute scope and return to me at the DPW for distribution.



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11/02/2023



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## INTEROFFICE MEMORANDUM

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**TO:** Katie Ambrose, City Manager

**FROM:** Lisa J. Clark, DPW Deputy Director Operations & Administration

**DATE:** October 23, 2023

**SUBJECT:** Charles Prescott Estates MHP  
Submetering Utility Billing Agreement

**CC:** Peter C. Nourse, PE, Director of City Services  
Terence O'Rourke, City Attorney

---

Attached please find (2) copies of the Charles Prescott Estates Submetering agreement. This agreement between Prescott Estates and the City of Rochester is for the City to assume reading and billing of the individual meters within the park for water per RSA 205-A:6. The City Attorney has reviewed and approved the attached for signature.

If you have any question, please call, if not please sign & return document to me at the DPW for Distribution





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11/02/2023



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## INTEROFFICE MEMORANDUM

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**TO:** KATIE AMBROSE, CITY MANAGER

**FROM:** LISA J. CLARK, DPW DEPUTY DIRECTOR OPERATIONS & ADMINISTRATION

**DATE:** October 26, 2023

**SUBJECT:** City Hall & Opera House Egress Remediation Project  
Careno Construction Contract Change #2  
Amount \$2,416.68

**CC:** Peter C. Nourse, PE, Director of City Services  
Michael Riley, Municipal Service Supervisor, Buildings & Grounds

---

Attached please find (1) one copy of the Careno Construction Contract Change Order #2. The amount of the Change is \$2,416.68 and is for work outside of the original bid/contract documents. The work includes additional sprinkler heads, relocation of sprinkler heads, 2 lvl beams and modifications to rafters.

The funding for this change is available in the General Fund CIP Project Account:

15013010-772000-23586 Available balance \$12,815.84, this request #2,416.68

If you have any questions, please let us know, if none please return executed Change Order #2.



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**INTEROFFICE MEMORANDUM**

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**TO: KATIE AMBROSE – CITY MANAGER**

**FROM: LAURA MCDORMAND, ADMIN. SERVICES & UTILTIY BILLING SUPERVISOR**

**DATE: November 1, 2023**

**SUBJECT: 2025 Household Hazardous Waste Day Collection**

**CC: Lisa J. Clark, Deputy Director, DPW**

---

Attached please find (1) one copy of the cover letter and letter of commitment for the 2025 HHW Day event. The State of NH requires that the grant paperwork be submitted and approved a full year in advance of the event.

**Please sign and return the letter of commitment to the Public Works Department.**



# City of Rochester, New Hampshire

PUBLIC WORKS DEPARTMENT

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## INTEROFFICE MEMORANDUM

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**TO:** Katie Ambrose, City Manager

**FROM:** Lisa J. Clark, DPW Deputy Director Operations & Administration

**DATE:** November 2, 2023

**SUBJECT:** Salmon Falls Road Sewer Pump Station Upgrade  
Weston & Sampson Engineers - Conceptual Design Agreement  
Amount \$31,955.00

**CC:** Peter Nourse, PE, Director of City Services  
Dana Webber, PE Assistant City Engineer

---

Attached is an Agreement for Engineering Services (Task Order 2023-5) for the conceptual design of the Salmon Falls Road Sewer Pump Station Upgrade project. This contract is between the City and Weston & Sampson Engineers, Inc. for engineering design services in the amount of \$31,955.00.

Funds are available for this contract in the following Sewer Fund CIP account lines:

- Pump Station Upgrade / Replacement: 55026020-772000-23546 \$17,253.06
- Pump Station Upgrade / Replacement: 55026020-772000-24560 \$14,701.94

If you have any questions, please let me know. If not, please sign Page 4 of the attached agreement. Please return the signed agreement to DPW for distribution. Thank you.

Attachment: Salmon Falls Pump Station Conceptual Design Agreement – Weston & Sampson Task Order 2023-05



11/02/2023

City of Rochester, New Hampshire  
Economic Development Department  
33 Wakefield Street, Rochester, NH 03867  
(603) 335-7522, [www.RochesterEDC.com](http://www.RochesterEDC.com)

## INTEROFFICE MEMORANDUM

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**TO:** Kathryn Ambrose, City Manager

**FROM:** Kiersten Wright, Community Development Coordinator/Grants Manager

**DATE:** September 28, 2023

**SUBJECT:** FY 23- 24 CAP Weatherization Assistance Program- Trade Wind

**CC:** Cassie Givara, Deputy City Clerk

---

Please see attached the environmental review statement for the Community Action Partnership of Strafford County's planned repair and maintenance activities for FY 2023-2024. As per 24 CFR 58, the City of Rochester is the responsible entity for conducting environmental reviews for the Community Action Partnership Strafford County's Weatherization Project. The environmental review statement requires the signature of the City Manager as the City of Rochester authority.

The environmental review statement was prepared by the Community Development Coordinator with assistance from Community Action Partnership.

Thank you very much. Please contact Kiersten with any questions or concerns.



11/02/2023

City of Rochester, New Hampshire  
Economic Development Department  
33 Wakefield Street, Rochester, NH 03867  
(603) 335-7522, [www.RochesterEDC.com](http://www.RochesterEDC.com)

## INTEROFFICE MEMORANDUM

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**TO: Kathryn Ambrose, City Manager**

**FROM:** Kiersten Wright, Community Development Coordinator/Grants Manager

**DATE:** October 10, 2023

**SUBJECT: Signature Request for FY24 CAP Weatherization**

---

Attached is documentation for the FY24 CDBG Grant. As per 24 CFR 58, the City of Rochester is the responsible entity for conducting environmental reviews for its CDBG subrecipients.

This document is for the City and HUD's records indicating that the activity below is Categorically Excluded Subject to Section 58.5 pursuant to 24 CFR 58.35(a).

### **FY24 Community Action Partnership (CAP) of Strafford County Weatherization Program**

This documentation will remain within the City's records for a total of 4 years after the last project within the list is completed and reported to HUD.

Thank you very much. Please contact Kiersten with any questions or concerns.



City of Rochester, New Hampshire  
Economic Development Department  
33 Wakefield Street, Rochester, NH 03867  
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## INTEROFFICE MEMORANDUM

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**TO: Kathryn Amrbose, City Manager**

**FROM:** Kiersten Wright, Community Development Coordinator/Grants Manager

**DATE:** October 5, 2023

**SUBJECT: FY 23- 24 Rochester Housing Authority Environmental Review Statement**

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Please see attached the environmental review statement for the Rochester Housing Authority's planned repair and maintenance activities for FY 2023-2024. As per 24 CFR 58, the City of Rochester is the responsible entity for conducting environmental reviews for the Rochester Housing Authority. The environmental review statement requires the signature of the City Manager as the City of Rochester authority.

The environmental review statement was prepared by the Community Development Coordinator with assistance from Rochester Housing Authority staff.

Thank you very much. Please contact Kiersten with any questions or concerns.



# MEMO

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**TO:** Katie Ambrose, City Manger

**CC:** Mark Sullivan, Deputy Director Finance

**FROM:** Michael Scala, Director of Economic Development

**DATE:** October 7, 2023

**RE: RKG Professional Services Contract (\$35,000.00)**

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Katie:

Please find attached the RKG Services Contract regarding the update to our Economic Strategic Plan.

A waiver request to contract with RKG has previously been submitted and approved by Deputy Director Sullivan.

The total project cost is \$35,000.00. \$25,000.00 will come from the FY23/24 CIP 15011010-776000-24503, and the remaining \$10,000.00 from the ED O&M Consulting Other (11012351-534006) line.

If you are satisfied with the document, please review, sign, and scan back to me.

Thank you,

A handwritten signature in black ink, appearing to be "Michael Scala", written in a cursive style.

Michael Scala  
Director of Economic Development



11/02/2023

City of Rochester, New Hampshire  
Economic Development Department  
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## INTEROFFICE MEMORANDUM

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**TO:** Kathryn Ambrose, City Manager

**FROM:** Kiersten Wright, Community Development Coordinator/Grants Manager

**DATE:** October 26, 2023

**SUBJECT:** FY 23- 24 CAP Weatherization Assistance Program- Olde Farm

**CC:** Cassie Givara, Deputy City Clerk

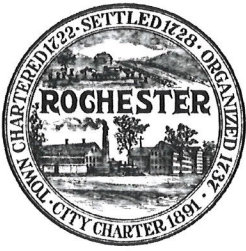
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Please see attached the environmental review statement for the Community Action Partnership of Strafford County's planned repair and maintenance activities for FY 2023-2024. As per 24 CFR 58, the City of Rochester is the responsible entity for conducting environmental reviews for the Strafford Community Action Partnership Weatherization Program. The environmental review statement requires the signature of the City Manager as the City of Rochester authority.

The environmental review statement was prepared by the Community Development Coordinator with assistance from Community Action Partnership.

Thank you very much. Please contact Kiersten with any questions or concerns.





# City of Rochester, New Hampshire

Finance Office

31 Wakefield Street • Rochester, NH 03867-1917  
(603)-509-1908

October 25, 2023

To: Katie Ambrose-City Manager

Fm: Mark Sullivan -Director of Finance

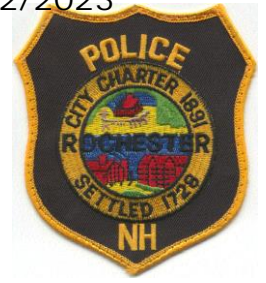
Re: Nancy Loud School-Engineer Services \$14,600

Attached is a proposal from S.W. Cole Engineering regarding geotechnical ground borings around the Nancy Loud School . The preliminary site visit report from S.W. Cole on July 31, 2023 indicated that due to the separation of foundation from floor joists soil movement and settlement is present. As a result, additional geotechnical analysis is warranted to determine extent of soil changes. The geotechnical work scope involves a series of boring explorations 20-30 feet down to analyze subsurface soils. Grand total boring work scope is proposed at \$14,600. The costs of the initial boring work scope is \$9,600, with an option for an additional day of test borings around the site at \$5,000. The initial soil borings will be concentrated around the immediate area of the building. The second day of borings will allow for expanded soil testing further away from the building. The recommendation is to perform the two (2) days of soil borings. A larger sampling will assist in understand the overall soil conditions at the location, which is necessary before future development plans can be considered.

11/02/2023



*City of Rochester, New Hampshire*  
23 Wakefield Street . Rochester, NH 03867  
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[www.rochesterpd.org](http://www.rochesterpd.org)



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**INTEROFFICE MEMORANDUM**

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**TO:** CITY MANAGER KATIE AMBROSE  
**FROM:** Deputy Chief Andrew Swanberry  
**DATE:** 10.27.2023  
**SUBJECT:** Weston & Sampson Engineers, Inc. \$96,000  
Agreement for Engineering Services, Relocation of Dispatch Center, and  
related renovations.  
City of Rochester Police Department, 23 Wakefield Street  
**CC:**

---

Attached please find for your approval, (1) copy of Weston & Sampson Engineering, Inc.'s Agreement for Engineering Services and (1) copy of the Scope of Services and fees for Existing Conditions Documentation, Program Verification & Preliminary Design, and Schematic Design & Cost Estimation regarding the Dispatch Center relocation and related renovations at the Police Headquarters.

Weston & Sampson Engineers were selected for City of Rochester Capital Improvements per RFQ 21-19.

Funding for the project is available in the following General Fund CIP Account for this project:

15012030-772000-22521

Please do not hesitate to contact me with any questions or concerns.

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(Kathryn Ambrose, City Manager)

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Andrew R. Swanberry, Deputy Chief

DEPARTMENT	NAME	POSITION	# of Employees	FT	PT	SEASONAL/TEMP	NEW HIRE	REHIRE	RETIREMENT	SEPARATED	STEP (CBA)	COLA (CBA)	MERIT PAY ADJ	NU PAY ADJ	PAY ADJ	PROMOTION	OTHER	MISC. INFO
COMMUNICATIONS	KYLE LIBBY	COMMUNICATIONS SPECIALIST	1	X						X								
DPW	DANIEL CAMARA	GIS MGMT CORRDNATOR	1	X						X								
DPW	KENNETH BRISSON	LEAD FLEET MECHANIC	1	X						X								
DPW	ADAM WILLIAMS	LEAD WW PLANT OPERATOR	1	X						X								
FINANCE	MARK SULLIVAN	FINANCE DIRECTOR	1	X													X	DEPUTY FINANCE DIRECTOR TO FINANCE DIRECTOR
FIRE	ADAM HUGHES	FIRE MARSHAL	1	X													X	RMID DEPUTY FIRE CHIEF TO RMUN FIRE MARSHAL
FIRE	SAM JANELLE	FIREFIGHTER	1	X						X								
FIRE	JACKSON SCHRAMM	FIREFIGHTER	1	X						X								
FIRE	RYAN MARDEN	FIREFIGHTER	1	X						X								
FIRE	DAWSON COTREAU	FIREFIGHTER	1	X						X								
HUMAN RESOURCES	KIMBERLY CONLEY	DIRECTOR OF HUMAN RESOURCES	1	X										X				
HUMAN RESOURCES	KIMBERLY CONLEY	DEPUTY CHIEF ADMINISTRATIVE OFFICER	1	X													X	DIRECTOR OF HUMAN RESOURCES TO DEPUTY CHIEF ADMINISTRATIVE OFFICER
IT	LISA CARLBERG	BUSINESS SYSTEMS ANALYST	1	X			X											
LIBRARY	RACHEL JOHNSON	PER DIEM LIBRARY ASSISTANT	1		X	X	X											
LIBRARY	KATHRINE MITCHELL	LIBRARY PAGE	1		X									X				
LIBRARY	KATHERINE PARKER-WRIGHT	PATRON SERVICES SUPERVISOR	1	X	X									X				
LIBRARY	JESSICA CARROLL	EMERGING TECHNOLOGY SPECIALIST	1	X						X								
LIBRARY	DONNA HYNES	LEAD LIBRARIAN	1	X						X								
LIBRARY	JOSEPH WALKER	TECHNICAL SERVICES LIBRARIAN	1	X						X								
LIBRARY	JENNIFER FOGG	LIBRARY ASSISTANT	1		X					X								
POLICE	THOMAS SEAGER	POLICE SERGEANT	1	X													X	PATROL OFFICER TO POLICE SERGEANT
POLICE	JONATHAN MARSHALL	PATROL OFFICER	1	X							X							
POLICE	LEAH BENOIT	ADMINISTRATIVE TECHNICIAN II	1		X					X								
POLICE	ROBERT BURRELL	PATROL OFFICER	1	X						X								
RECREATION		SUPPORT STAFF 1	2		X	X												TRANSFER FROM CAMP POSITIONS
RECREATION	NORMAN SANBORN	SUPPORT STAFF 2	1		X	X		X										

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City Clerk's Office

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*City of Rochester, New Hampshire*

CITY COUNCIL –  
APPOINTMENTS REVIEW COMMITTEE

31 Wakefield Street • Rochester, NH

03867 (603) 332-2130

[www.RochesterNH.gov](http://www.RochesterNH.gov)

**Appointments Review Committee**

October 17, 2023

City Hall Chambers – Conference Room

5:30 PM

**Committee Members Present:**

James Gray, Chair

Dana Berlin

Laura Hainey

**Committee Members Absent/Excused:**

Amy Malone

Ashley Desrochers

**Minutes**

Chair Gray called the meeting to order at 5:30 PM on October 17, 2023.

Deputy City Clerk Cassie Givara took the roll call attendance. Councilors Gray, Berlin, and Hainey were present. Councilors Malone and Desrochers were absent.

**New appointment(s):**

**Dennis Raymond**

**Conservation Commission, Seat I, New Alternate Member –*Term to expire 1/2/2025***

Mr. Raymond explained that he has lived in Rochester since 2018. He was encouraged to become involved with the Conservation Commission by his neighbor, who is a current member. Mr. Raymond spoke about his philosophy on conservation and the actions toward sustainability he has taken on his property. Mr. Raymond stated that he has attended several Conservation Commission meetings to become acquainted with the process and the work they are reviewing. The Committee discussed with Mr. Raymond the Conservation Committees’ role in particular issues and how the Conservation Commission can work to affect change while working within their purview as well as State law and City Ordinances.

Mr. Raymond explained that sustainability is an issue that he believes in, and he sees the Conservation Commission as an opportunity to help make a positive impact on the land, water, and wildlife within the City. He hoped to use this opportunity to participate in making changes for the greater good.



**Codes and Ordinances Committee**

Councilor Peter Lachapelle, Chair  
Councilor Steve Beaudoin Vice Chair  
Councilor Skip Gilman  
Councilor Ashley Desrochers (excused)  
Councilor Tim Fontneau



**Others Present**

Mike Scala, Director of Economic Development  
Terence O'Rourke, City Attorney

**CODES AND ORDINANCES COMMITTEE**  
Of the Rochester City Council  
**Thursday, October 5, 2023**  
**Council Chambers**  
**6:00 PM**

**Minutes**

**1. Call to Order**

Chair Lachapelle called the Codes and Ordinances meeting to order at 6:00 PM.

**2. Roll Call**

Deputy City Clerk Cassie Givara took the roll call attendance. Councilors Beaudoin, Fontneau, Gilman, and Chair Lachapelle were all present. Councilor Desrocher was excused.

**3. Public Input**

There was no one present for public input.

**4. Acceptance of the Minutes**

**4.1 September 7, 2023 *motion to approve***

Councilor Beaudoin **MOVED** to **ACCEPT** the minutes of the September 7, 2023 Codes and Ordinances Committee meeting. Councilor Gilman seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**5. Amendment to Chapter 7-35 of the General Ordinances of the City of Rochester Regarding the Economic Development Commission (addendum A)**

Chair Lachapelle explained that this item had been kept in Committee because members had additional questions for City staff before they were prepared to make a recommendation.

Councilor Fontneau referred to chapter 7-35, section C (1) and the proposed amendment “Promote the City of Rochester, through advertising, prospect development and other means, as an attractive location for industrial, residential, and business development and/or expansion.” He stated that he felt the role of the Economic Development Commission had always been commercial and business development, and the residential aspect would be a new role for the commission. He expressed concern with using tax dollars to allow the Economic Development Commission to promote residential development, which isn’t normally a benefit to the tax base. Councilor Fontneau stated he would be more comfortable if the wording was changed to indicate the promotion of residential development “when in connection with commercial development.”

Mike Scala, Director of Economic Development, explained that the term “residential” was used as broad term to potentially encompass multiple options in the future. The REDC does not intend to seek out multi-family or strictly residential development, He stated that the goal of the type of development in question would be mixed-use with the potential of a residential component. Director Scala said that he would be open to the addition of verbiage specifying that this covers residential development when in association with business development. Councilor Fontneau **MOVED** to change the verbiage to indicate the promotion of “residential when in conjunction with commercial development.” Councilor Beaudoin seconded the motion.

Councilor Beaudoin echoed Councilor Fontneau’s concerns regarding the REDC promoting residential development and the perception of subsidizing such development. He cautioned against the term “residential,” without the caveat noted by Councilor Fontneau, to avoid single family or multi-family developments. Director Scala agreed that the suggested wording would be less constrictive than the previously mentioned term “mixed-use.” Councilor Beaudoin indicated that although he does not support such mixed-use developments with residential, such as the zoning change authorized at the Granite Ridge, he would be supportive of Councilor Fontneau’s amendment. There was discussion on the probability of a commercial development being proposed with a large residential component. Director Scala stated that the City would consider such a proposal if it was presented, but it was likely that the huge majority of proposals would be mixed-use with a residential component. The **MOTION CARRIED** by a unanimous voice vote. Attorney O’Rourke stated that he would work on the exact verbiage for this passage.

#### **6. Amendment to Chapter 7-63 of the General Ordinances of the City of Rochester Regarding the Economic Development Reserve Fund (Addendum B)**

Councilor Beaudoin directed the Committee to the strikeouts contained in the amendment and stated that the changes go beyond “housekeeping” and minor adjustments. He read an excerpt which states “...encouraging the development of industrial and commercial sites, promoting the City as an attractive location for businesses and residents, and acquisition of land related to the same. The name of the fund is the Economic Development Reserve Fund.” Councilor Beaudoin asserted that State RSA 34:1-a is very limiting with how money from an Economic Development Special Reserve fund can be used. He felt that the acquisition of land would be covered under the referenced statute, however everything else in the statute references



capital expenditures and capital improvements. He suggested that the proposed verbiage of the amendment is too broad and should be reworded in keeping with State law.

Attorney O'Rourke clarified that this verbiage being discussed is, verbatim, the resolution adopted by City Council on July 5, 2022. The only difference between what is being presented now and what was adopted is the formatting and paragraph numbering. The strikeouts referenced have already been approved by Council and deleted from the City ordinances, leaving 7-63 blank. The recommended action is to recommend to Council that the previously adopted resolution be integrated into the City Ordinances as chapter 7-63 so it will have a place to "live" and be referenced. Councilor Beaudoin asked if, based on the wording on RSA 34:1-a, if the REDC would be limited to the acquisition of land. Attorney O'Rourke read directly from RSA 34:1-a "Any city may establish a reserve fund for the maintenance and operation of a specific public facility or type of facility, a specific item or type of equipment, or for any other distinctly-stated, specific public purpose that is not foreign to its institution or incompatible with the objects of its organization. He said this is not contrary to the adopted resolution. Chair Lachapelle reiterated that the verbiage being discussed was already adopted by Council. The action being taken by the Codes committee is simply to recommend the formatting and recommend Council approval for the resolution to be integrated into the City's General Ordinances.

Councilor Fontneau made a minor correction of a redundant word in the passage (~~The name of the fund shall~~ is the Economic Development Reserve Fund). Attorney O'Rourke stated he would make this clerical correction.

Councilor Fontneau questioned the section in paragraph D which reads: "~~Upon said 2/3rds vote expenditure requests may then be presented to City Council.~~" He inquired if "may" was used instead of "shall" for instances in which the REDC may decide not to move forward with a request for proposal from the City Council. The committee discussed this section further and clarified that the REDC cannot expend any money without City Council approval. However, even after a 2/3 vote, they may decide not to move forward with a project and the ordinance should be worded to not require them to go before Council with every project unless money is being expended.

Councilor Beaudoin asked if the money must be allocated for a specific purpose or project before being transferred to the Trustees of the Trust Fund. Attorney O'Rourke stated that was correct. Councilor Beaudoin asked how specific the request needed to be prior to investment and if it could just be a broad request for land. Director Scala clarified that there would be a fully fleshed out project proposal prior to the REDC coming to City Council.

Councilor Beaudoin **MOVED** to recommend to full Council the adoption of Chapter 7-63 into the City Ordinances. Councilor Gilman seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**7. Amendment to Chapter 7 of the General Ordinances of the City of Rochester Regarding the Code of Ethics and Conduct for Elected and Appointed Officials (Addendum C)**

Chair Lachapelle referenced the first of Councilor Beaudoin's suggested edits to section

A, in which he suggested that the proposed Board of Ethics (BOE) be comprised of five members instead of three, and the suggestion that the City Council member serving on the board should be approved by a majority vote of said Council. Chair Lachapelle stated that the Mayor has authority by the City Charter to appoint members to certain boards and commissions without a Council vote.

Councilor Beaudoin spoke about the serious implications of potential ethics violations, and the unlikelihood of this Ethics Board needing to convene for many years. He felt that the current verbiage for membership left out several boards who could potentially be affected, as well as leaving out members of the public. He suggested adding a member of the public to be approved by Council. Additionally, he stated that having the City Attorney involved with the Board of Ethics' process would constitute involving the administration in Council business. However, he felt that there *should* be a fifth ex officio member of the board with a legal background. The Committee discussed the potential difficulty in finding a member of the NH Bar to serve and the potential of replacing this suggestion with two members of the public instead. Attorney O'Rourke explained why he did not feel having members of the public serving on this board would be advisable; the members who are slated to serve are already elected by the public to represent Rochester's residents and their interests. There is also the question of how these members of the public would be vetted. Attorney O'Rourke reiterated that the way the ordinance is currently written, the members are comprised of established City boards and they would hold this BOE position as part of their official duties. A member of the public could be difficult to evaluate and appoint when considering the input of all the three elected boards involved. Attorney O'Rourke cautioned against bringing in members of the public while the BOE is still in its infancy. He suggested establishing the board and getting it up and running before any such changes are made.

Councilor Fontneau emphasized if the Committee recommends to full Council that this ordinance is adopted, that the Board of Ethics should not be established until January 2024 when the new City Council, School Board, and Police Commission are seated. He also suggested that the members have two-year terms to coincide with the elections of new Councilors and related boards.

Councilor Fontneau supported the idea of adding a member of the public to the BOE; although he agreed that there should be a fifth member to avoid tie votes. Councilor Beaudoin stated that because the BOE is an advisory board, even if they experienced a tie vote, it would equate to a failed vote and would still result in the question going to Council for action. Chair Lachapelle suggested that the discussion of membership take place with the full Council to gather more input.

Councilor Beaudoin questioned the portion of section 7-85 "*Complaints, Investigations, and Hearing*" which states "...*Such complaint must be based on personal knowledge and set forth facts with enough specificity and detail for a determination of sufficiency for investigation.*" He felt that if anyone besides the victim themselves were to report a violation, or if the person reporting the violation witnesses it themselves, then it could be considered hearsay. Attorney O'Rourke clarified that if the victim of a violation reports it to a fellow board member who then brings it to the BOE, that would constitute sufficient personal knowledge; this direct information is weighed more heavily than third party information passed through multiple people. Councilor

Beaudoin questioned the requirement for the complainant to sign the written complaint under oath and speculated that, in doing so, the complainant could be in violation if the victim was found to be untruthful. Attorney O'Rourke explained that the person taking the oath is swearing that they were given particular information by the victim, not that they are certain the information given is factual. There was a brief discussion on the legal definition of hearsay.

Councilor Beaudoin read the remainder of the section, which goes on to state "*The Written Complaint must be signed under oath. The Complaint shall be delivered to the City Attorney with a copy to the Mayor and City Clerk.*" He felt that this process unnecessarily involves the City Administration in Council business. He suggested that such complaints be submitted to the City Clerk, who then forwards the complaint directly to the Board of Ethics. Councilor Beaudoin expressed that the way the process works as written would allow the City Attorney and/or Mayor too much authority to determine which complaints to investigate as opposed to allowing the BOE to be an independent body separate from the administration. Chair Lachapelle speculated that it is necessary to have vetting of complaints to determine their validity; otherwise, there could potentially be a large amount of baseless complaints going through the BOE.

Attorney O'Rourke clarified that after a sufficiency review between the City Attorney and Mayor or Deputy Mayor, any complaint received would go to the Ethics Investigative Officer (EIO) prior to going to the Board of Ethics. He explained that the sufficiency review is critical and reported that the City of Portsmouth, upon which the formatting and wording of the Rochester BOE ordinance is based, found that the huge majority of complaints received were without merit; it would not be beneficial to convene the BOE for every single complaint received.

Councilor Fontneau spoke about past experience with serving on a similar board of standards in the real estate profession, and how the process worked. He questioned if there should be an additional person besides the Mayor and City Attorney for these sufficiency reviews. Attorney O'Rourke suggested that if the Committee wanted to consider adding a third member, it could work as follows: If the complaint were against someone serving on a City Board, the three members could be the Mayor, City Attorney, and City Manager. If the complaint were against someone on the School Board, the three members could be the City Attorney, Mayor, and Superintendent. If the complaint were against someone on the Police Commission, the three members could be the City Attorney, the Mayor, and the Police Chief. Attorney O'Rourke said he could revise this section to include the third member of the sufficiency reviews. Councilor Fontneau **MOVED** to recommend the amendment to section 7-85 (b) to include this third member. Councilor Gilman seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Beaudoin read the portion of the ordinance which states "*A Complaint will be deemed sufficient if it is determined that the Complaint establishes on its own that it is more probable than not that a violation of the Ethics Code may have occurred...*" He stated that if a complaint is not deemed sufficient, the complainant should be notified of the justification for this insufficiency. The section outlines how, if the complaint is found sufficient, it is referred to the EIO for investigation. Councilor Beaudoin stated that he felt the complaint should be referred to the Board of Ethics for review, and if they felt it warranted further investigation, they could then refer the complaint to an EIO of their choosing. Attorney O'Rourke read an excerpt from 7-84 (A) which reads "...*The City Manager shall have the power to identify and retain an EIO,*

*with approval from the BOE...*” There was a brief discussion on when in the process the EIO would be hired and how the timeline would work. Councilor Fontneau spoke about the prior year’s City Council trial and how the Council took a vote for which he felt unprepared and without hearing any live testimony from either side.

Attorney O’Rourke explained the different bodies involved in the process, likening the EIO to the police/prosecutor, doing the investigative piece and considering charges. The BOE would act as the Grand Jury, deciding whether or not to bring charges. And finally the City Council, School Board, or Police Commission would be the petit jury if a trial was deemed necessary, at which point witnesses could be called and testimony heard. Councilor Beaudoin stated that his understanding of the proposed ordinance would not allow the charged party to question the EIO or the complainant in front of the Board of Ethics. Attorney O’Rourke read the portion of 7-85: D (1) which states “... *the BOE shall hold at least one (1) public hearing at which the EIO, the Complainant, and the Charged Party shall be afforded an opportunity to present oral and written argument to the BOE. The BOE may hear from such other and further parties as it determines appropriate.*” Councilor Beaudoin questioned the phrasing “as it determines appropriate” and felt that the BOE should not be the deciding factor on who is and is not allowed to provide testimony. Chair Lachapelle stated that the whole purpose of the BOE is to gather information to make a determination; the BOE is not likely to disallow anyone from providing information.

Councilor Fontneau stated that he did not see the need for the Ethics Investigative Officer. He speculated that most of these cases brought forward would likely be handled with the BOE hearing testimony from the two involved parties without the need for external investigation. Chair Lachapelle agreed that the entire process as laid out is unlikely to be needed frequently but stated that the format is based on the already established and proven programs of other municipalities and legal review; it is important to maintain the entire process in the ordinance and not remove steps before it is even established.

Councilor Beaudoin agreed that the formation of the Board of Ethics is essential; however, he stated that the City should take the time to ensure that the establishment of the BOE ordinance is done properly and not rushed. Chair Lachapelle clarified that the Code of Ethics has already been established and adopted. He indicated that he felt it would be beneficial to send the BOE ordinance to the full Council for a discussion and further edits as needed. Councilor Fontneau agreed that the BOE document should be sent to full Council without a recommendation from the Codes Committee, but instead as a discussion item. The Committee decided to send the BOE ordinance to the November 8, 2023 City Council meeting for a first reading and referral to the November 21, 2023 City Council Workshop meeting.

There was further discussion on passage “D. Board of Ethics Hearing” section 1, and the final sentence “*The BOE may hear from such other and further parties as it determines appropriate.*” Attorney O’Rourke explained that the BOE would have hired an experienced EIO to carry out the investigation for them; it should not be the purview of the Board of Ethics themselves to determine which witnesses to call and what testimony to hear unless they need further clarification at the time of the hearing. Councilor Beaudoin speculated that by only hearing the report of the Ethics Investigative Officer, the charged party does not have sufficient opportunity to present evidence or testimony which could potentially be exculpatory. Attorney O’Rourke read an excerpt from section C which reads “*The Charged Party shall have an*

*opportunity to provide a response to the Complaint.”* He explained that this is the opportunity for the charged party to provide any such evidence or witnesses on their behalf, at which point the EIO can investigate further.

Councilor Beaudoin **MOVED** to send the Board of Ethics ordinance to the full City Council for a first reading at the November 8, 2023 City Council meeting and a referral to the November 21, 2023 City Council Workshop for discussion. Councilor Fontneau seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

## **8. Other**

Chair Lachapelle stated that the next Codes and Ordinances Committee meeting would take place on November 2, 2023.

## **9. Adjournment**

Chair Lachapelle **ADJOURNED** the Codes and Ordinances Committee meeting at 7:06 PM.

Respectfully Submitted,

Cassie Givara  
Deputy City Clerk

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11/02/2023

**Amendment to Chapter 7 of the General Ordinances of the City of Rochester Regarding the Economic Development Commission**

THE CITY OF ROCHESTER ORDAINS:

That Chapter 7 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows (deletions ~~struck out~~ additions in RED):

**§ 7-35 Economic Development Commission.**

- A. The Economic Development Commission shall consist of 11 members, two of which members shall be ex officio members. Nine of the initial members of the Commission shall be those currently serving on the Commission. Thereafter, three members shall be elected annually for a term of three years with vacancies being filled by the City Council for any unexpired terms. The initial election shall be so arranged that 1/3 of the members may be elected each year. After the initial election, the three annual vacancies shall be filled by the Mayor in accordance with Section 74 of the City Charter. The Economic Development Commission shall recommend at least two persons from the private sector to the Mayor each year as potential nominees. In all cases, election shall be by the City Council. Members shall be chosen for their expertise, experience and abilities in business, industry, finance, real estate, government and law. A majority of the members shall reside within the City of Rochester and up to four of the elected members may reside outside of the City; provided, however, that any elected member residing outside of the City shall maintain a place of business or shall be employed within the City, while serving as a member of the Commission. The Mayor and the Economic Development Director shall be ex officio, nonvoting members of the Commission.
- B. The Chairperson shall be appointed annually by the Mayor, and the Commission shall elect from its members such other officers and committees as it deems necessary.
- C. The Economic Development Commission shall perform the following functions:
- (1) Promote the City of Rochester, through advertising, prospect development and other means, as an attractive location for industrial and business **development and/or** expansion and **residential uses related thereto**;
  - (2) Assist prospects interested in evaluating Rochester as a potential industrial or **commercial** ~~business~~ location; act as the official agent of the City government in matters pertaining to economic development;

**Amendments are effective upon passage.**

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11/02/2023

Amendment to Chapter 7 of the General Ordinances of the City of Rochester Regarding the Economic Development Reserve Fund

THE CITY OF ROCHESTER ORDAINS:

That Chapter 7 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows (deletions ~~struck out~~ additions in RED):

**§ 7-63 Economic Development ~~Special~~ Reserve Fund.**

**A. Statement of purpose.**

(1) ~~The City of Rochester currently serves as the "Host Community" for the Turnkey Recycling and Environmental Enterprises Waste Disposal Facility (TREE) currently operated by Waste Management of New Hampshire, Inc., and located on the Rochester Neck Road. By virtue of its status as Host Community for TREE, the City of Rochester, in addition to incurring significant expenses in connection with such facility, receives significant financial benefits in the form of real property taxes, user fees (in the form of so-called "host community fees") and various other benefits relative to the cost to the City and its inhabitants of the disposal and/or recycling of various solid waste, including reduced and/or eliminated fees for the disposal and/or recycling of solid waste generated within the City of Rochester. It is currently estimated that the permitted capacity of the TREE Waste Disposal Facility (TLR III) will be reached in approximately the year 2023. When such facility is filled to its permitted capacity, it is anticipated that the City will experience a loss in revenues, and the City and its inhabitants will experience increased costs associated with the disposal and/or recycling of solid waste, particularly in the form of reduced and/or lost user fees and reduced property tax revenues, as well as increased costs associated with the disposal and/or recycling of solid waste. Therefore, in an effort to offset the expected loss of revenues and increased costs occurring to the City as a result of the anticipated filling of the TREE Waste Disposal Facility to its permitted capacity and to promote the general fiscal strength and well-being of the City, it is necessary that economic development in the City of Rochester be promoted and/or maintained to ensure the existence and/or expansion of a vibrant economic base for the City and its inhabitants.~~

(2) ~~Therefore, the City Council of the City of Rochester, pursuant to the authority granted by RSA 47:1-b and 47:1-c, hereby establishes a special revenue reserve fund from the specific source identified in Subsection B of this section for capital expenditures or expenditures for capital projects, transfers to capital projects, transfers to capital reserve, or for any other appropriation of a nonrecurring nature in support of economic development as determined by the City Council. The special reserve fund established in Subsection B of this section shall be known as the "City of Rochester Economic Development Special Reserve Fund." No expenditure from said City of Rochester Economic Development Special Reserve Fund shall be made without an appropriation of such funds having been adopted by the Rochester City Council, which appropriation shall provide that such appropriation is for economic development purposes and shall contain a statement and/or finding by the City Council indicating the manner in which it is anticipated that such appropriation is related to the economic development of the City of Rochester.~~

~~B. There is hereby created a non-lapsing budgetary account within the City of Rochester, pursuant to the authority granted to the City by the provisions of RSA 47:1-b, such special reserve fund to be known as the "City of Rochester Economic Development Special Reserve Fund." Such fund shall be funded on an annual basis by the appropriation by the City Council to such special reserve fund of an amount not less than one hundred thousand dollars (\$100,000.) from the funds annually payable to the City of Rochester by Waste Management of New Hampshire, Inc., from the so-called "host community fees" payable to the City pursuant to the provisions of the Host Agreement between the City and Waste Management of New Hampshire, Inc., or of any successor to such agreement. In addition to such minimum funding level, the City Manager may, during any fiscal year of the City, upon written notification to, and appropriation by, the City Council,~~

~~transfer to said City of Rochester Economic Development Special Reserve Fund unappropriated host community fees in an amount not to exceed the difference between the total amount of host community fees received from Waste Management of New Hampshire, Inc., during such fiscal year and the amount of such host community fees previously appropriated by the Rochester City Council during such fiscal year (having in mind the minimum funding/appropriation requirement provided for herein and any other appropriation of such fiscal year's host community fees by the City Council during such fiscal year).~~

A. By Resolution adopted on July 5, 2022, the City Council established a Non-Capital Reserve Fund pursuant to RSA 34:1-a for the purpose of encouraging economic development within the City, encouraging the development of industrial and commercial sites, promoting the City as an attractive location for businesses and residents, and acquisition of land related to the same. The name of the fund is the Economic Development Reserve Fund.

B. The City Council, at its sole discretion, may appropriate funds into said Economic Development Reserve Fund through supplemental appropriations or the annual budgeting process, however, in no case shall said annual appropriation be less than One Hundred Thousand Dollars (\$100,000.00). Revenue sources can be Waste Management Host Fee Revenues, or General Fund Unassigned Fund Balance. In addition, other unanticipated revenue sources, and proceeds from transactions that were originally derived from the Economic Development Reserve Fund, may also be appropriated into the fund upon a majority vote of the City Council.

C. Pursuant to RSA 34:6, the Trustees of Trust Funds shall have custody of all non-capital reserves transferred to the Economic Development Reserve Fund. The Trustees of the Trust Fund will hold the monies appropriated to the Economic Development Reserve Fund in a separate liquid investment account. Appropriations made to the Economic Development Reserve Fund will be submitted to the Trustees of the Trust Fund within the same fiscal year of the appropriation.

D. Pursuant to RSA 34:10, the City Council names the Economic Development Commission as its agent to carry out the objects of the Economic Development Reserve Fund. All expenditures made by the Economic Development Commission shall be made only for or in connection with the purposes for which said Fund was established and only in accordance with §7-38-40 of the City Code. All requests for expenditures shall be approved by the 2/3rds vote of the Economic Development Commission prior to being presented to City Council for final approval. Upon said 2/3rds vote expenditure requests may then be presented to City Council. Expenditure requests shall identify expense categories, or specific project scope detail. General administrative, travel and conference activities shall be ineligible expense activities. Expenditure requests can be presented as part of the annual budget process, or through supplemental appropriations. All approved expenditures shall follow the City's Purchasing Policy.

E. The City Council may dissolve the Economic Development Reserve Fund at its sole discretion. Upon dissolution of any portion of said fund appropriated from the General Fund said funds will lapse to surplus (General Fund Unassigned Fund balance) and cannot be repurposed directly to a different capital fund or project.

**Amendments are effective upon passage.**

11/02/2023

**Amendment to Chapter 7 of the General Ordinances of the City of Rochester Regarding the Code of Ethics and Conduct for Elected and Appointed Officials**

THE CITY OF ROCHESTER ORDAINS:

That Chapter 7 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows (deletions ~~struck out~~ additions in RED):

**ARTICLE XI**

**Code of Ethics and Conduct for Elected and Appointed Officials**

**§ 7-83 Board of Ethics.**

- A. A Board of Ethics (“BOE”) is hereby created. This BOE shall consist of three (3) persons: one member shall be appointed by the Mayor from the City Council, one member shall be appointed by the Chair of the School Board from the School Board, and one member shall be appointed by the Chair of the Police Commission from the Police Commission.
- B. Each BOE Member selected is required to serve unless the BOE Member is the subject of the Complaint, has a conflict of interest, or is excused due to unavailability or exceptional causes (such as a health issue).
- C. The BOE Members shall elect a chairperson and the BOE may adopt such rules for the conduct of its business as it sees fit. The BOE shall have the power to draw upon City departments for reports and information and stenographic and clerical help.

**§ 7-84 Ethics Investigation Officer.**

- A. The position of Ethics Investigation Officer (“EIO”) is hereby created. The City Manager shall have the power to identify and retain an EIO, with approval from the BOE, to assist with the investigation and prosecution of any Complaint which has been referred for investigation. The EIO, with approval of the BOE, shall have sufficient experience and training to conduct the investigation.

**§ 7-85 Complaints, Investigations, and Hearing.**

- A. **Complaint Requirements.** Any City official may submit a written complaint alleging one or more violations of the Code of Ethics and Conduct for Elected and Appointed Officials (“Ethics Code”). Such complaint must be based on personal knowledge, and set forth facts with enough specificity and detail for a determination of sufficiency for investigation. The Written Complaint must be signed under oath. The Complaint shall be delivered to the City Attorney with a copy to the Mayor and City Clerk. The City Attorney shall promptly provide a copy of the Complaint to the Charged Party.
- B. **Review for Sufficiency.**
  - 1. A Review for Sufficiency of the Complaint will be completed within thirty (30) days of receipt. This review will be based on the allegations contained in the Complaint and the immediately available public meetings or records referenced in the Complaint.
  - 2. The City Attorney, Mayor, and City Manager in the case of a City Board, the City Attorney, Mayor, and Superintendent in the case of the School Board, or the City Attorney, Mayor, and Police Chief in the case of the Police Commission shall conduct the Review of Sufficiency, except in cases in which the Mayor is the subject of the Complaint. Complaints against the Mayor, School Board Chair, or Police Commission Chair shall be reviewed by the City Attorney and the Deputy Mayor, School Board Vice Chair, or Police Commission Vice Chair, respectively.
  - 3. If the Complaint is deemed insufficient, the Complainant will be notified in writing of that

decision with a copy provided to the Charged Party. A Complaint will be deemed sufficient if it is determined that the Complaint establishes on its own that it is more probable than not that a violation of the Ethics Code may have occurred.

4. If the Complaint is deemed sufficient for further investigation, it shall be referred to the EIO for further action and all parties will be notified of this step through communication in writing.

- C. Investigation Phase. The EIO shall be provided the full cooperation of the City government to conduct such investigation as may be necessary to determine whether any violation may have occurred and next steps. The Charged Party shall have an opportunity to provide a response to the Complaint.

The EIO's investigation shall be completed within forty-five (45) days of the date of referral unless the Charged party and the Chair of the BOE mutually agree to a longer period.

The EIO shall provide a written report with the conclusions reached in the completed investigation to the BOE. The EIO shall provide a non-binding recommendation as to the disposition of the Complaint to the BOE. Thereafter, all action with regard to the Complaint shall be taken by the BOE.

- D. Board of Ethics Hearing.

1. The BOE shall take no further evidence on any Complaint, but shall make its determination based upon the report received by the EIO. However, the BOE shall hold at least one (1) public hearing at which the EIO, the Complainant, and the Charged Party shall be afforded an opportunity to present oral and written argument to the BOE. The BOE may hear from such other and further parties as it determines appropriate.

2. Any party may be represented by legal counsel at his or her own expense at any stage of proceedings related to the Ethics Code.

3. The BOE shall issue a written decision within thirty (30) days of the final public hearing with findings and a disposition, dismissal, or referral for further action if a violation found. If a violation has been found, the BOE shall recommend a sanction or penalty and refer the matter to the City Council, School Board, or Police Commission for disposition, sanction, or other action as set forth in the Ethics Code.

**§ 7-86 Conflict Between Ethics Code and this Article.** To the extent a conflict arises between the Ethics Code and this Article, this Article shall prevail.

**Amendments are effective on January 1, 2024.**



# Rochester City Council

## Community Development Committee

### MEETING MINUTES

**Laura Hainey, Chair**  
**Harlan "Skip" Gilman**  
**Tim Fontneau**  
**Amy Malone**  
**John Larochele**

<b>Meeting Date:</b>	Monday, October 16, 2023	
<b>Members Present:</b>	Laura Hainey Harlan "Skip" Gilman John LaRochele Tim Fontneau	<b>Members Absent:</b> Amy Malone
<b>Staff Members Present</b>	<b>Kiersten Wright</b> , Community Development Coordinator	

Call to order: Councilor Hainey called to order at 6:05pm.

Roll Call: See attached roll call list. Councilor Malone was absent from the meeting.

<b>PUBLIC INPUT</b>	<b>No Public Input</b>
<b>Approval of Minutes- September 18, 2023</b>	Councilor Fontneau moved to approve September minutes. Motion passed by all present.
<b>Update on FY25 CDBG/Municipal Funding Applications</b>	<p>The Community Development Coordinator informed the committee that since the application period opened on October 4, 2023 for FY25 CDBG and Municipal Funded projects, they has received 8 Letters of Intent (LOI) to Apply (Due at the end of October) and 1 application. Currently only 1 of the LOI's is from a group that is not receiving funding from the City of Rochester.</p> <p>Applications are due by November 17, 2023 and the new committee members will have meetings in January and February to meet with applicants.</p> <p>Councilor Hainey inquired if we know how much the city will be receiving in CDBG Funds for FY25. The Community Development Coordinator informed the committee that there she has not been informed of the amounts at this time, and may not be informed until spring of 2024 as HUD reviews many factors to determine the exact amount each year. The Community Development Coordinator explained that funding has varied year to year and that in FY24 the funds had decreased from the year before.</p>

<p><b>Pickleball Court Updates from Rec Department</b></p>	<p>The Community Development Coordinator informed the committee that there have been updates on the Pickleball Court/Teen Seating Project. A timeline of the project was provided by the Director of the Rec Department. Plans are to have the project start late spring of 2024. Currently the Rec Department is waiting on an RFP for the project to start.</p>
<p><b>Other Business</b></p>	<p>The Community Development Coordinator informed the committee that the Share Fund had approached Mike Riley from Facilities about applying for a grant to build a wall in the Community Center providing more private space for Share Fund to meet with clients who are looking for assistance and possibly a new walk-in Freezer. Mr. Riley reached out about possibly applying for this grant with The Share Fund. The Community Development Coordinator will be joining a few webinars this week to see exactly what this grant will entail as it may require the City to be the fiscal sponsor as it is a city owned building. This may require the approval of the committee and city council prior to applying.</p> <p>A discussion about the November Community Development Committee meeting occurred. Meetings for the committee are typically held the 3rd Monday of the month which in November is the week of Thanksgiving. Many councilors were unsure if they would be able to attend due to travel. Motion made by Councilor Hainey to cancel the November meeting and was seconded by Fontneau. Motion carried by all present to cancel November Community Development Committee meeting</p>

Meeting Adjourned at: 6:55pm

**Next Meeting** – Monday, December 18, 2023, at 6:00 p.m., Cocheco Conference Room, City Hall Annex, 33 Wakefield St.

**Topics:** TBD

<b><u>ATTENDANCE SHEET</u></b>			
<b><u>Date:10/16/2023</u></b>			
<b><u>Name</u></b>	<b><u>Title</u></b>	<b><u>Present</u></b>	<b><u>Excused</u></b>
Councilor Hailey	<i>Chair</i>	x	
Councilor Gilman	<i>Vice Chair</i>	x	
Councilor Fontneau	<i>Member</i>	x	
Councilor Malone	<i>Member</i>		x
Councilor Larochelle	<i>Member</i>	x	
<b><u>Others Present</u></b>			
Kiersten Wright	Community Development Coordinator	x	

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## Finance Committee

## Meeting Minutes

Meeting Information

Date: October 10, 2023

Time: 6:00 P.M.

Location: 31 Wakefield Street

**Committee members present:** Mayor Callaghan, Councilor Gray, Councilor Hainey, Deputy Mayor Lachapelle, and Councilor Larochelle

**City staff present:** City Manager Katie Ambrose. Finance Director Mark Sullivan.

**Others Present:** Tom Kaczynski, resident.

Agenda & Minutes**1. Call to Order**

Mayor Callaghan called the Finance Committee meeting to order at 6:00 PM.

Deputy Mayor Lachapelle led the Committee in the Pledge of Allegiance.

Deputy City Clerk Cassie Givara took the roll call attendance. Councilors Gray, Hainey, Larochelle, Deputy Mayor Lachapelle, and Mayor Callaghan were present. Councilors Beaudoin and Hamann were excused.

**2. Acceptance of Minutes: August 2023**

Councilor Lachapelle **MOVED** to **ACCEPT** the minutes of the August 8, 2023 Finance Committee meeting. Councilor Larochelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**3. Public Input**

Tom Kaczynski, resident, addressed the Committee regarding the level of the undesignated fund balance and the use of this money.

**4. Unfinished Business:**

DRAFT

#### **4.1.1 Review- FYE23 General Fund Unassigned Fund Balance City & School (addendum A)**

Mark Sullivan, Finance Director, referred to a summary contained in the packet detailing the forecasted FY23 Unassigned Fund Balance contributions. There is an estimate that this balance will increase by \$8.3 million, bringing the total to an estimate just over \$38 million. He also detailed how the fund is comprised related to current assets versus current liabilities and explained that there should be a healthy ratio between these two; for every dollar of liability there should be at least \$1.50-\$2 in assets to ensure ongoing operations. Director Sullivan summarized the cash flow issues and problems which could be experienced if this ratio falls below the figures referenced. He stated that the \$38 million equates to approximately 4-months of operational cash flows.

Director Sullivan directed the committee to the FY23 Additions to Fund Balance contained in the packet, itemizing the major drivers to annual surplus on both the City and School sides.

Councilor Gray referenced the City Ordinance which governs the threshold limitations of the fund balance and actions which should be taken if this balance exceeds the threshold. He asked that this information be distributed and detail given to the proposed actions that are proposed to be taken to reduce this balance. Director Sullivan referred to the page in the packet detailing the proposed FY24 actions and their subsequent reductions to the fund balance. He explained that there is a plan in place to meet the 17% policy threshold.

Councilor Larochelle spoke about the projections of borrowing rates, which are projected to increase significantly. He emphasized the need for the City to project well into the future for budgeting. He suggested that maintaining a high fund balance level in the present could alleviate the need to borrow money at these high rates in the future.

Mayor Callaghan asked for clarification on how much of the \$38 million fund balance is cash and assets versus liabilities. Director Sullivan stated that the current assets are cash and cash equivalents, meaning there is a pooled cash account encompassing all the enterprise funds, water, sewer, Community Center fund, Arena fund, and all other multi-year funds. The majority of the current assets contain a significant portion of actual cash; however, he reminded that the City raises the property taxes annually in June and these funds received are allocated to the following fiscal year. The current liabilities are the amounts owed as of June 30<sup>th</sup> to a variety of vendors, payroll, etc.

Mayor Callaghan asked how the interest accrued on investments is reported. Director Sullivan said any interest received on investments comes into the general fund as non-property tax revenue into the General Fund which helps to lower the tax rate in the fiscal year in which it is received.

## **5. New Business:**

### **5.1.1 NH DHS Community Center Lease Recommendation**

DRAFT

Director Sullivan referenced a recommendation from Lisa Clark, Department of Public Works Deputy Director of Operations. The current DHHS lease at the Community Center expires in April of 2024. Deputy Director Clark is recommending a new 5-year term at \$21.93 per square foot. Director Sullivan referred to a memo from Ms. Clark detailing the justification for this increase as well as comparable leases for DHHS throughout the State. The Department of Public Works is requesting that the Finance Committee endorse this increase and direct the City manager to negotiate the new lease terms.

Councilor Lachapelle expressed concern at the requested 3% annual increase. He stated that the City is providing the utilities, snow removal, and custodial staff for the DHHS space, and the City's costs have been increasing steadily. He suggested that the City could request a 5% increase based on these additional services provided. Director Sullivan stated that DPW had completed a comprehensive review to arrive at the requested figures, and he stated that there is a significant increase in the cost being charged per square foot. Given these amounts, DPW felt the 3% annual increase was fair. Councilor Gray reported that he had assisted in the research and gathered the figures for other DHHS leases throughout the State. He stated that the annual 3% escalator seems standard throughout these State contracts. Councilor Gray emphasized the need for these shorter leases to allow for the City to renegotiate if there are increased costs being experienced.

Councilor Lachapelle **MOVED** to recommend that the City Manager negotiate the DHHS lease as detailed in the DPW memo. Councilor Gray seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Hailey asked if the current DHHS lease includes storage space or if this was an addition in the new lease term. Director Sullivan stated that the current lease does include storage space and that the cost per square foot is requested to be increased from \$3.29 to \$3.39.

City Manager Ambrose clarified that she is able to negotiate this lease without a recommendation to full Council for a vote; however, she will report back on the outcome of the new lease in the City Manager's report in the City Council packet.

## **Reports from Finance & Administration**

### **5.2.1 Monthly Financial Report Summary-September 30, 2023**

Director Sullivan explained that the month of September ended approximately 25% completed and the non-property tax revenues are trending to this 25%. Expenses on the General Fund are slightly higher at the start of the fiscal year due to multiple items being encumbered; however, this is not a concern at this point and is typical at this stage of the fiscal year. Police and Fire dispatch continue to trend over budget. This will continue to be monitored and reviewed. Enterprise funds are trending to budget on expenses as well as the special revenue funds.

### **5.2.2 NHMA Article – Taking the Mystery out of Fund Balance**

DRAFT

There was no discussion on the NHMA article included in the packet.

**6. Other**

There was no discussion under “other.”

**7. Adjournment**

Mayor Callaghan **ADJOURNED** the Finance Committee meeting at 6:25 PM.

Respectfully Submitted,

Cassie Givara  
Deputy City Clerk

<b>FYE23 ESTIMATED ACTUALS</b>	<b>AMOUNTS</b>	<b>NOTES</b>
FYE22 MS535	\$29,873,654	Audited
FYE23 Estimated Change in Unassigned Fund Balance	\$8,379,450	Unaudited
<b>FYE23 Estimated Unassigned Fund Balance Total</b>	<b>\$38,253,104</b>	
<b>FYE23 SUMMARY</b>		
FYE23 Estimated General Fund Expenditures	\$114,000,000	Unaudited
Unassigned Fund Balance Estimated Percentage	33.56%	Unaudited
Unassigned Fund Balance Policy Low Balance 8%	\$9,120,000.00	Unaudited
Unassigned Fund Balance Policy High Balance 17%	\$19,380,000.00	Unaudited
<b>Over (Under) High Policy Threshold-17%</b>	<b>\$18,873,104.00</b>	
<b>FY24 ACTIVITY</b>		
FY24 O&M Adopted Budget Use of Fund Balance	\$5,814,100	Adopted
FY24 Supplemental Recommendation New School Building	\$7,540,240	PENDING
FY24 Supplemental Recommendation City Capital Reserve Funds	\$750,000	PENDING
FY24 Supplemental Community Center Solar Project	\$546,000	Adopted
FY24 Supplemental Recommended Bond Funding Changes	\$0	PENDING
FY24 Transfer to Waste Management Closure Fund	\$0	PENDING
<b>Recommendations</b>	<b>\$14,650,340</b>	
<b>Balance</b>	<b>\$23,602,764</b>	
<b>Percentage</b>	<b>20.70%</b>	

<b>Estimated Additional Allocation to Meet 17% Policy High Threshold</b>	<b>\$4,222,764</b>
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<b>FYE23 ADDITIONS TO FUND BALANCE (Unaudited)</b>	<b>AMOUNTS</b>
<b>City Largest Contributions (Reductions)</b>	
Interest Income Revenue	\$1,179,673
Motor Vehicle Permits Revenue	\$728,112
Building Permits Revenue	\$586,832
Host Community Fees Revenue	\$265,995
Salary & Benefits	\$1,196,515
Property Tax Abatements	(\$848,118)
Transfer to Economic Development Non Capital Fund	(\$1,382,928)
All Other City Net Changes	(\$1,763,092)
<b>Net City Contribution (Reduction)</b>	<b>(\$37,011)</b>
<b>School Largest Contributions (Reductions)</b>	
State of NH Adequacy Grant Revenue	\$889,831
Local Property Tax Reduction-DRA	(\$889,831)
Esser Funding	\$1,375,370
Salary & Benefits	\$5,656,664
Tuition to Private Schools/Student Transportation	\$2,028,875
All Other Net Changes	(\$644,448)
<b>Net School Contributions (Reductions)</b>	<b>\$8,416,461</b>

<b>Net City &amp; School Contribution (Reduction)</b>	<b>\$8,379,450</b>
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**City of Rochester Planning Board**  
Monday, October 2, 2023  
City Hall Council Chambers  
31 Wakefield Street, Rochester, NH 03867  
*(These minutes were approved on October 16, 2023)*

Members Present

Mark Collopy, *Chair*  
Robert May, *Vice Chair*  
Alan Dews  
Matthew Richardson  
Dave Walker  
Peter Bruckner  
Don Hamann

Members Absent

Michael McQuade, *excused*  
Keith Fitts, *excused*

Alternate Members Present

Alexander de Geofroy  
James Hayden  
Rick Healey

Staff: Shanna B. Saunders, *Director of Planning & Development*

(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. They may be copied for a fee.)

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**I. Call to Order**

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

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**II. Roll Call**

Planning Department Director, Shanna B. Saunders, conducted roll call.

**III. Seating of Alternates**

Mr. Collopy asked Rick Healey to vote in place of Keith Fitts.

**IV. Communications from the Chair**

Mr. Collopy stated that there were no communications from the Chair.

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**V. Approval of Minutes**  
**A. September 11, 2023**

*A motion was made by Mr. Walker to approve the September 11, 2023, Planning Board meeting minutes and seconded by Mr. Hamann. The motion carried unanimously.*

**B. September 18, 2023**

*A motion was made by Mr. Walker to approve the September 18, 2023, Planning Board meeting minutes and seconded by Mr. Hamann. The motion carried unanimously.*

**VII. 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. Continued Applications**

**A. [Tuck Realty Corporation/EWST, LLC, 0 Autumn Street](#) (by Jones & Beach Engineers, Inc./Ian MacKinnon) 23-Lot Major Subdivision Case# 104 – 10 – R1 – 22  
**Public Hearing/ ACCEPTANCE/FINAL DECISION\*****

Mr. Ian MacKinnon, Jones & Beach Engineers, presented the project and summarized the amendments that resulted from the third-party review for the proposed project. Mr. MacKinnon briefly explained the Conditional Use Permit and requested Waivers. Mr. MacKinnon stated that the two requested Waivers are for pipe velocities and the groundwater recharge requirement with the City of Rochester. Mr. MacKinnon explained why the waivers are being requested. Mr. MacKinnon explained the proposed drainage plans and reviewed findings from the Stormwater review. Mr. MacKinnon explained that a similar waiver was submitted to the NHDES (New Hampshire Department of Environmental Services) for an Alteration of Terrain Permit and was approved and the permit has been received. Mr. MacKinnon stated that the Conservation Commission recommend approval of the Conditional Use Permit.

Mr. Collopy opened the Public Hearing.

Fred Leonard, 10 Sandina Drive, introduced himself and stated that there was a petition signed by residents of the abutting development to the proposed property. This petition was included in the Planning Board members' information packets. Mr. Leonard stated his concerns for the proposed project regarding the connection of the new development to the existing development on Sandina Drive. Mr. Leonard requested that the connection of both developments be pedestrian-traffic only. Mr. Leonard explained the families that currently live in the Sandina Drive cul-de-sac and their concerns for increased traffic. Mr. Leonard stated his concerns for home valuation changes.

Ms. Saunders reviewed the Staff Recommendation for the project and stated that the Third-Party Stormwater review was provided to the Planning Board members for their review. Ms. Saunders stated that Autumn Street has now been reviewed 4 separate times due to design plan changes. Ms. Saunders



explained the Waivers and Conditions of Approval and stated that many of the Conditions of Approval came from the Stormwater Review. Ms. Saunders stated that she emailed the applicant regarding “drip trenches” in order to help with infiltration and stated that these trenches would be added to the plans. Ms. Saunders reviewed the General and Subsequent Conditions of Approval listed on the Staff Recommendation. Ms. Saunders addressed the petition and thanked the abutters for presenting their concerns. Ms. Saunders explained that the City Departments support a road connection for vehicle traffic and explained that new developments are required by regulation to look into connections with surrounding developments to include in their plans. Ms. Saunders stated that the City Departments agreed that a gate could be installed, but prior to the City accepting the road, the gate must be removed for Fire and Police, as well as City plowing and trash pick-up services to go through, as needed.

Mr. Walker asked if Sandina Drive had sidewalks in the development. Mr. McKinnon stated that there are approximately 3-foot-wide sidewalks on the west side of the development, but that he is unsure if they stretch the entire road. Ms. Saunders stated that the sidewalks only partially run up the road.

Mr. Walker asked why the proposed development would sidewalks has sidewalks to nowhere. Ms. Saunders stated that sidewalks on Sandina Drive could potentially be a public project for the future. Mr. Walker stated that he Would rather not have sidewalks go up to the cul-du-sac and stopping.

Mr. Dews asked for clarification on the Third-Party comments regarding the compliance of Chapter 219 Stormwater Regulations that mimic State standards. Mr. Dews stated that the proposed project’s review stated that the project does not meet standards and asked if there was an additional waiver for this concern. Mr. McKinnon explained that he reviewed the Stormwater Report and noticed an error in relation to what has been recently accepted by the stormwater center and brought the concern to the Planning Department and the Department of Public Works and explained the drainage and wetlands within the proposed project plans.

Mr. Dews stated his recommendation for having sidewalks all the way down to Autumn Street for instances such as bus stops for children. Mr. McKinnon asked for clarification to where he would propose the sidewalks. Mr. Dews responded stating that the sidewalks would run along the development’s access road and continue into Autumn’s ROW to meet at the entrance. Mr. McKinnon said that adding the additional pavement and level landing could be done and will be discussed as a plan change. Mr. Dews stated that if sidewalks are not built, that he recommends paving a platform for children that may wait for a bus stop. Mr. McKinnon stated that they would be open to discussing this change with the Department of Public Works.

Mr. Hayden stated that he did not see erosion control details or callouts in the plans for the inlet protections. Mr. McKinnon stated that the last sheet in the plans should include the erosion control plan, but if plans do not show callouts, that the final plans can be edited to include the necessary callouts.

Mr. Hayden stated that he noticed that the plans show less than 18 inches of separation between the drainage and water line. Mr. McKinnon stated that those changes have been commented and discussed with the Department of Public Works and will be verified in the final plan submittal.

Mr. Hayden asked if houses and driveways were included in the drainage analysis. Mr. McKinnon responded that they were included and explained how the analysis was reviewed and what was included. Mr. McKinnon also explained drainage plan changes that will be made in the final plan set.

Mr. Hayden stated that given the seasonal high-water table that he does not recommend drip edges. Ms. Saunders stated that there are drip edges on most developments in town and offer a way to assist in drainage.

Mr. Collopy stated that he understood the concerns of the abutters, but that he did not feel that a connection to Sandina Drive would be used as a thruway for the proposed development’s traffic. Mr.

Collopy stated his support for installing sidewalks. Ms. Saunders reviewed the locations of the sidewalks. Mr. Collopy stated that he does support City's decision and reasoning to connect the proposed and current developments.

Ms. Saunders stated that she understands that Autumn Street is on the Department of Public Works' radar for sidewalk installation and that she would mention the sidewalks that are currently in Sandina Drive to the Department of Public Works.

Mr. Dews stated that the details in the plans for pipe bedding are not to standard and requested that the plans be reviewed, and those standards be met. Mr. McKinnon stated that he would review the plans.

Mr. Hamann stated his understanding of the abutters' concerns and stated that he feels that a connecting road may be safer because it gives more room for larger vehicles and trucks that may need to proceed through the neighborhood, rather than turning around.

Mr. de Geofroy stated that he supports a gate being installed to protect the Sandina Drive residents from construction vehicles using their road.

Ms. Saunders reviewed the plan modifications that have been added to the Conditions of Approval.

Mr. Collopy stated that a vote is required for a Conditional Use Permit, two waiver requests, and the application and its plan changes.

*A motion was made by Mr. Walker to approve the Conditional Use Permit and seconded by Mr. Hamann. The motion carried unanimously.*

*A motion was made by Mr. Walker to approve both Waiver Requests and seconded by Mr. Hamann. The motion carried unanimously.*

*A motion was made by Mr. Walker to accept and approve the application with conditions in the Staff report and as stated during the meeting and seconded by Mr. Hamann. The motion carried unanimously.*

**B. 42 Front Street, LLC, 42 Front Street (by Norway Plains Assoc./Ashley Rowe) 2-Lot subdivision. Case# 102 – 41 – R2 – 23 **Public Hearing ACCEPTANCE/FINAL DECISION\*****

Mr. Ashley Rowe, Norway Plains Associates, presented the project and explained the timeframe of the project submission. Mr. Rowe explained the Third-Party Wetland Review that was conducted and stated his summary of the wetlands' review.

Mr. Collopy opened the Public Hearing.

Mr. Bruce Belles, 34 Front Street, an abutter to the project, stated his concerns for drainage for the lot. Mr. Belles explained the neighborhood's layout and how the water typically drains in the area. Mr. Belles explained the drainage assistance that he has on his own property. Mr. Belles explained the pictures he provided of standing water around the lot that is being proposed. Mr. Belles stated his concerns for future drainage issues with the lot development.

Ms. Saunders stated that Planning Board members were provided the letter regarding the wetlands' review and explained that wetlands are delineated with different criteria. Ms. Saunders listed some of the criteria. Ms. Saunders explained that the reviewer stated that the land may have been a wetland

previously, but due to historical filling of the wetlands that it is not a jurisdictional wetland at this time. Ms. Saunders stated that staff met, discussed, and decided that there is historic filling in multiple, multiple locations across the City and therefore we will accept the wetland is non-jurisdictional and that they're recommending that the foundation be a slab foundation and not full foundation. Ms. Saunders stated that a shed on the newly proposed lot is being required to be moved as a Precedent Condition for this project. Mr. Rowe stated that the client will move the shed when given an approval. Ms. Saunders stated that the shed requirement is the only Plan Modification.

Mr. Walker verified the timing of the wetlands review and stated that if the review was performed in June or July during the increased rainfall, the lot would have had increased wetland area and that he does not support the development of a lot with increased drainage issues.

Mr. Rowe stated that a drainage plan will be included in any plan set and explained that the third-party reviewer mentions that the neighborhood has been formatted to increase drainage to the proposed lot. Mr. Rowe stated that the reviewer is highly noted and that he stated that there are no jurisdictional wetlands. Mr. Rowe stated that a drainage plan is being included to alleviate the current drainage issues.

Mr. de Geofroy stated his support of Mr. Walker's comments and stated that he is concerned about the potential negative impacts to abutters as also stated in the third-party reviewer's findings. Mr. de Geofroy asked how the drainage plan would be reviewed to be sure that the drainage concerns are addressed adequately. Ms. Saunders responded that drainage plan changes are recommended in the Plan Modifications and explained the process for drainage plan review within the Planning Department.

Mr. Healey stated that he sees standing water on the lot through Google Street View and that drainage seems to be high in the property. Mr. Healey stated that the lot will require filling and asked is the lot has access to City water and sewer services. Ms. Saunders responded yes. Mr. Rowe stated that he is aware of the required filling that is necessary. Mr. Healey stated his concerns for future purchasers and developers of the proposed lot.

Mr. Hayden stated that he felt drainage could be mitigated through fillings and changes to grading. Mr. Hayden stated that the Planning Board is not responsible for deciding wetlands and that the property would have to return for drainage plans for any future development.

Mr. Walker stated that he is not questioning the results of the review by the Third-Party company and stated his concerns of the drainage to the property. Mr. Walker asked where the water would go in the proposed drainage plans. Mr. Rowe explained the installation of the culvert and that the culvert directs the water down the street and to the river. Mr. Rowe explained the current drainage with the culvert and stated that the drainage does not work as planned but will be upgraded.

Mr. Dews stated that he noticed the headwall and contours in the plans in the back of the property, but asked if there was a reason that the inverts were not included in the plans. Mr. Rowe responded that inverts are not typically included in subdivision maps but can be provided.

Mr. Dews asked what type of pipe is shown in the plans. Mr. Rowe responded that the pipe is concrete.

Mr. May stated that he has safety concerns with future construction. Mr. May asked if there was a part of the Zoning Ordinance that would be violated in creating a marginally wet building site. Ms. Saunders stated that there is nothing in the zoning ordinance on creating a wet building site. Ms. Saunders stated that if the property was a wetland, the next concern would be about how much buildable area is on the lot, but in this circumstance the property is not considered a jurisdictional wetland and thus the property can be considered building area. Mr. May stated his concerns for the future in approving this proposed project.

Mr. Rowe explained that  $\frac{3}{4}$  of the lot is high and does not hold water and that the water goes down the sides of the lots and makes its way to the culvert. Mr. Rowe stated that the area of the proposed building has water significantly deeper than at the bottom of the property. Mr. Rowe stated that the area of the of lot that has drainage concerns is a small portion of the lot.

Mr. Collopy explained that the Planning Board members are considering if there are other affected by this proposed lot. Mr. Rowe stated that the lot was originally a buildable lot, but the "bowl" has been created by other lots being built up.

Mr. Walker stated his view that if the lot was a buildable lot previously and it was not built on, that there is a reason for not building on the land.

*A motion was made by Mr. Dews to accept and approve the application with the conditions as stated and seconded by Mr. Richardson. The motion carried with an 8 to 1 vote. Mr. Walker opposed.*

## VIII. New Applications

### A. Jonathan & Judith Mott, 350 Chestnut Hill Road (by Norway Plains/Randy Tetreault) Lot Line Revision Case# 203 – 7&8 – A – 23 **Public Hearing ACCEPTANCE/FINAL DECISION\***

Mr. Glenn Griswold, Norway Plains Associates, present both the 2-Lot subdivision and the Lot-Line Revision applications for 350 Chestnut Hill Road. Mr. Griswold explained the property line that is being changed to increase frontage for the newly subdivided lot. Mr. Griswold stated that the Conservation Commission approved the Conditional Use Permit that is necessary for the driveway to the newly created lot.

Mr. Collopy opened the Public Hearing.

Ms. Patricia Taylor, 368 Cross Road, asked how the proposed driveway would impact her lot and how it would be designed on the newly created lot.

Mr. David Veno, 361 Cross Road, stated that he appreciates the work that the Motts have done to the property. Mr. Veno explained the history of the lot, stating that Milton Appleby put the property in a conservation easement in 2007. Mr. Veno explained that the Conservation Easement calls for the property to be unable to be subdivided.

Ms. Saunders reviewed staff recommendation and listed the plan modifications and waiver requests. Ms. Saunders stated that the waiver requests are the same for the Lot-Line Revision application and for the 2-Lot Subdivision and that staff supports the waiver requests. Ms. Saunder noted that the Staff Recommendation listed the incorrect conditions and modifications. Ms. Saunders stated that staff recommends approval of the Lot – Line Revision application.

Ms. Saunders reviewed the staff recommendation and plan modifications for the 2-Lot subdivision. Ms. Saunders stated that the Conservation Commission reviewed the application for placement of a driveway and reviewed the conservation documents for the parcel and found that the easement does not apply to the entire lot.

Mr. Griswold responded to Ms. Taylor's question about impacts to her property. Mr. Griswold explained the layout of the plans to the parcel and location of the proposed driveway.

Ms. Saunders stated that a Condition of Approval can be added to require legal counsel to review the Conservation Easement documentation for the lot.

Mr. Walker asked for clarification of which lot was being created with the subdivision. Mr. Griswold explained the lot that is being created and how the lot-line revision will allow for the required frontage of the newly created lot.

Mr. Walker asked if the newly proposed lot was within the restriction of the covenants. Mr. Griswold stated that the lot is not part of the conservation easement and explained the property lines.

Ms. Saunders stated the land stretches much farther than what is seen on the map. Mr. Griswold stated that the lot stretches to the Farmington town line.

Mr. Walker as for verification of the covenants and if they pertain to the lot that is being created. Ms. Saunders stated that per the review of the Conservation Commission, the proposed lot is not perceived to be part of the conservation easement.

Mr. Walker stated that he felt that legal counsel should be consulted before the Planning Board votes on the application.

Mr. Hayden stated that septic systems are to be kept 50 feet from the wetland buffer and recommended a location for a 4K septic system.

Mr. Dews verified the plans that read that 48.6 acres of land will remain in conservation easement. Mr. Griswold responded that was correct. Mr. Dews stated his support in having the conservation easement's documents reviewed by legal counsel.

Mr. Walker asked how long it would take to have the conservation easement's documents reviewed by legal counsel. Ms. Saunders stated that review of the documents by counsel can be added as a condition of approval and the documents can be reviewed within the next 2 weeks.

Mr. Walker asked what happens if the lot is found to be in the conservation easement. Ms. Saunders stated that the applicant would not be able to meet that condition of approval and they cannot move forward and would have to return to the Planning Board with an amendment.

*A motion was made by Mr. Walker to accept and approve the Lot-Line Revision with the conditions as stated and added and seconded by Mr. Hamann. The motion carried unanimously.*

**B. Jonathan & Judith Mott, 350 Chestnut Hill Road (by Norway Plains/Randy Tetreault)  
2-Lot Subdivision Case# 203 – 7&8 – A – 23 **Public Hearing ACCEPTANCE/FINAL  
DECISION\*****

This application was discussed and reviewed in conjunction with the Lot - line Revision application.

*A motion was made by Mr. Walker to accept and approve the subdivision application with the conditions as stated and added and seconded by Mr. Hamann. The motion carried unanimously.*

**C. CEM 3 Holdings II, LLC (Douglas Morton), 146 Old Dover Road (by Berry Surveying/Joe Berry) 2-Lot Subdivision Case# 140 – 72 – R1 – 23 **Public Hearing ACCEPTANCE/FINAL DECISION\*****

Mr. Joe Berry, Berry Surveying and Engineering, presented the 2-lot subdivision application. Mr. Berry explained that the subdivision is to subdivide the existing house on the lot from the rest of the parcel. Mr. Berry explained the plans and requirements for lot size that are being met, as well as what utilities are available at the property. Mr. Berry explained the concern of a shed being on the property line and stated that the shed has since been demolished.

Mr. Collopy opened the Public Hearing.

Mr. Everett Howard, 16 Quarry Drive, stated his concerns with his yard being flooded since construction on the property. Mr. Howard stated that there is a waterway through his yard with the excavation of 146 Old Dover Road. Mr. Howard asked how to submit pictures for the Planning Board to review. Mr. Collopy stated that pictures can be sent to the Planning Department, and they will add to the application and will be able to be reviewed by engineers.

Ms. Saunders reiterated that this application is for the subdivision of the proposed lot at the front of the lot, where a home is currently located.

Mr. Howard stated that he recommended that members of the Planning Board visit the lot to witness the drainage concerns.

Mr. Berry showed Mr. Howard the proposed lot that is being reviewed at this current meeting and explained that further development will be brought to the Planning Board in the future.

Mr. Dews asked what was happening with Lot 72-1 and stated his concern with destabilization of the lot. Ms. Saunders stated that the owner of the lot is seeding for re-vegetation. Mr. Dews recommended that the lot be visited to make sure the re-vegetation is happening correctly.

Mr. Dews asked for clarification of the location of the driveway that is present. Mr. Berry explained the history of a looped driveway that was present and the current build of the driveway and gravel area. Mr. Dews stated that he recommended that the plans show that the space be loamed and seeded.

Ms. Saunders reviewed the staff recommendation and conditions of approval for the proposed subdivision.

*A motion was made by Mr. Walker to accept and approve the application with conditions as stated and seconded by Mr. Hamann. The motion carried unanimously.*

**D. Tedeschi Contracting, LLC (David Tedeschi), 9 State Street (by Stonewall Surveying/Ray Bisson) 2-Lot Subdivision Case# 131 – 16 – R2 – 23 **Public Hearing ACCEPTANCE/FINAL DECISION\*****

Mr. Raymond Bisson, Stonewall Surveying, presented the 2-lot subdivision application. Mr. Bisson explained the history of the lots and explained changes that have been made to the lot. Mr. Bisson showed plans and explained possible housing layouts. Mr. Bisson stated that the lot already has 2 driveways.

Mr. Collopy opened the Public Hearing. There were no comments from the public.

Ms. Saunders explained the application and reviewed the recommended conditions of approval. Ms. Saunders explained that one of the conditions is to provide drainage plans and that the City of Rochester adopted Chapter 216, the new Stormwater Chapter to meet the EPA MS4 permit requirements. Ms. Saunders explained what is and is not affected by the adoption of the chapter. Ms. Saunders stated that the Planning Staff recommend approval of the 2-lot subdivision.

Mr. Walker asked if there was a home on the lot. Mr. Bisson stated that there was a mobile home, but it has been removed, as well as the 2 garages that were present have been removed.

Mr. Dews asked if there was a reason that water and sewer is not shown in the plans. Mr. Dews also stated that the plans do not explain how the power will be supplied to the lots in the plans. Mr. Bisson explained that the power lines are all overhead.

Mr. Dews asked how the conditions of utilities being underground will be met. Mr. Bisson stated that a power line would have to be placed on the other side of the road to be run underground. Mr. Dews stated that he recommended to add these utilities to the plans. Ms. Saunders stated that utilities can be added to the plan as a condition of approval.

*A motion was made to accept and approve the 2-lot subdivision application with the conditions as stated and seconded by Mr. Hamann. The motion carried unanimously.*

## **IX. Other Business**

### **A. Planning Update**

Ms. Saunders stated that the Planning Department and the Department of Public Works held a couple different Public Hearings including one for state-funded highway safety project at Old Dover Road and Tebbets Road and the other for state-funded Route 108 complete streets project. Ms. Saunders stated that both Public Hearings were recorded and can be watched from the City's website.

### **B. Other**

Mr. Walker stated his concern for regulations restricting the Planning Board to review properties with drainage issues. Mr. Walker stated that he recommended a change to the regulation to prevent the approval of projects that could cause further drainage issues, Mr. Walker cited the application by 42 Front Street that was mentioned in tonight's meeting. Ms. Saunders stated that complications arise with the fact that the lot was historically filled.

Mr. May stated that the restriction stems from State Law and not the City of Rochester's regulations.

Mr. Dews stated that he felt that, with an upgrade to grading, the drainage concern could be mitigated.

Mr. Walker explained his concern for approving the application with restrictions. Ms. Saunders explained the increase of high-water concerns throughout the City of Rochester.

Mr. Richardson stated that he lived at the property across from 42 Front Street and stated that the lot has not always had drainage issues.

Mr. de Geofroy stated that he felt that if the lot can be changed in grading, then the drainage issues can be fixed and thus making it harder for the Planning Board to deny based on drainage concerns.

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**X. Adjournment**

*A motion was made by Mr. Walker and seconded by Mr. Hamann to adjourn the meeting at 8:18pm. The motion carried unanimously.*

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Respectfully submitted,

Jaclyn Millard,  
*Administrative Assistant II*

and

Shanna B. Saunders,  
*Director of Planning & Development*



**Public Safety Committee  
Draft Meeting Minutes  
October 18, 2023  
6:00 PM  
Council Chambers**

**Members Present**

Councilor Peter Lachapelle, Chair  
Councilor Skip Gilman  
Councilor Dana Berlin  
Councilor Alexander de Geofroy

**Members Absent**

Councilor Amy Malone

**Others Present**

Jarrold Norris, P.E. Assistant City Engineer  
Gina Golden-Silvestro, GIS/AM Technician  
Deputy Chief Andrew Swanberry, PD  
Chief Dennis Dube, FD  
Diane Laurenza, 172 Chestnut Hill Road  
David Smith, 588 Salmon Falls Road

Councilor Lachapelle brought the meeting to order at 6:00 PM.

**Roll Call**

Councilor Lachapelle took the roll call attendance. Councilors de Geofroy, Berlin, Gilman, and Lachapelle were all present. Councilor Malone was absent.

- 1. Approve Minutes from September 20, 2023 Public Safety Meeting**  
***Councilor Lachapelle MOVED to approve the minutes from September 20, 2023. Councilor Gilman seconded the motion. MOTION CARRIED by unanimous voice vote.***

- 2. Chestnut Hill Road-Speed Trailer**

Councilor Lachapelle asked the committee if agenda item #13 could be moved up on the agenda, members of the public were present to discuss this item. Diane Laurenza who lives at 172 Chestnut Hill Road was present to discuss the speeding concern on Chestnut Hill Road, she has lived there for 17 years. She brings her granddaughter to the bus stop and she said she feels like she is on the side of Route 16. The school bus driver now picks her up on the other side of the road for safety reasons. Ms. Laurenza would like a speed trap or more police presence. Councilor Lachapelle stated that he remembers the speed trailer being on Chestnut Hill Road. Deputy Chief Swanberry said that the speed trailer was out on Chestnut Hill Road for 3 weeks in May-June 2023. The average speed was 38 mph, there is a speed issue. Deputy Chief Swanberry said he has already asked for increased patrols in the area. Councilor Lachapelle asked Ms. Laurenza if there was a certain time of day that there is a speeding issue. Ms. Laurenza stated that any time after high school is out and after 3:00 PM. She also said that the Police are welcome to park in her driveway. Councilor de Geofroy asked if this was relatively new with the speeding getting bad, Ms. Laurenza said not really, she noticed more since she has been bringing her

granddaughter to the bus stop. Councilor de Geofroy said the reason he asked is to see if anything has changed. Ms. Laurenza said yes since the mall on Route 11 went up. Councilor Lachapelle asked Deputy Chief Swanberry the dates that the speed trailer was on Chestnut Hill Road. Deputy Chief Swanberry stated May 18 to June 8, 2023. Councilor Lachapelle said that the Police will do more directed patrols and there are more police on the road since they get fuel at the Public Works Department on Chestnut Hill Road. Deputy Chief Swanberry will update the committee next month.

### 3. Public Input

There was not public present for public input.

### 4. Flashing Lights and Raised Table Policy Discussion (kept in Committee)

Councilor Lachapelle summarized the issue and stated that Councilor Berlin and Councilor de Geofroy have made a couple of modifications to the policy. Councilor Berlin said there were just a few numerical edits and clarifying information. **Councilor Berlin MOVED to send the Flashing Lights and Raised Table Policy document to the Technical Review Group (TRG) for review and discussion and recommendations, then have it sent back to the Public Safety Committee when they are done. Councilor de Geofroy seconded the motion. MOTION CARRIED by unanimous voice vote.** Councilor Lachapelle asked if there is any further discussion. Councilor de Geofroy asked if the committee would also be sending this to Codes & Ordinances. Councilor Lachapelle responded by stating only TRG for now. After they make their recommendations then it may go to legal for drafting ordinance based upon TRG's recommendation along with the other public committees.

### 5. Chestnut Street-Speed Control (kept in committee)

Councilor Lachapelle summarized the issue. This is part of the raised table policy, kept in committee.

### 6. Highland Street Eastern Avenue-Left Turn Green Light (kept in committee)

Councilor Lachapelle summarized the issue. Mr. Norris stated that when he spoke to NHDOT the improvements could not be warranted with the data they had, the last traffic count was 2021 from the Strafford Regional Planning Commission they are updated every 3 years, the next one will be in 2024. Councilor Lachapelle said this was State jurisdiction and that the City has done what they could, this item will be removed from the agenda.

### 7. Rangeway Drive-Speed Control (kept in committee)

Councilor Lachapelle summarized the issue. He said this will be kept in committee; it is part of the speed table.

### 8. Pickering Road/Railroad Avenue (kept in committee)

Councilor Lachapelle summarized the issue, he said they were looking at some modifications to the area. Mr. Norris looked to see if there was any funds available to place a Rectangular Rapid Flashing Beacon (RRFB) at the intersection to help the

vehicles see when pedestrians are there to cross the road. Mr. Norris said there is a project that the Public Works Department will be doing to rehab the sidewalks on Railroad Avenue in the Spring, there will be funds available for the Rectangular Rapid Flashing Beacon at that time. Councilor Lachapelle said if there is already a project slated for the Spring and if there are funds available, should not need a vote from the full council.

#### **9. Pickering Road/Brickyard (kept in committee)**

Councilor Lachapelle summarized the issue. Mr. Norris stated that they are still reviewing this location for a crosswalk.

#### **10. Salmon Falls Road-Electronic Sign Placement**

Councilor Lachapelle summarized the issue, he stated that he was informed that this electronic sign was damaged. Councilor Berlin asked if someone from the City had to go pick up the pieces. Councilor Lachapelle asked Mr. Norris if this sign could be repaired at the location. Mr. Norris said he would have to talk to the vendor about this. Councilor Lachapelle said the sign needs to be removed in his opinion and when repaired placed downtown somewhere. **Councilor Berlin MOVED to remove the broken sign from Salmon Falls Road and place with a 25 mph sign down by the telephone pole. Councilor de Geofroy seconded the motion. MOTION CARRIED by unanimous voice vote.**

#### **11. Emergency Call Boxes-Union Street Parking Lot**

Councilor Lachapelle summarized the issue. No public present to discuss. Councilor Berlin suggests removal of item from committee agenda. Item removed. No action.

#### **12. Roberts Road-Street Light**

Councilor Lachapelle summarized the issue. There are street lights on Tebbetts but not on Roberts Road. Mr. Norris said it is a dead end street and relatively a long street. Fire Chief Dube said one should be placed at the intersection for safety. **Councilor Lachapelle MOVED to install a street light on the existing pole at the intersection of Tebbetts and Roberts Road. Councilor de Geofroy seconded the motion. MOTION CARRIED by unanimous voice vote.**

#### **13. Roberts Road-Sign**

Councilor Lachapelle summarized the issue. A resident of Roberts Road is looking for a “not a through street” or “dead end” sign to be installed at the beginning of Roberts Road near Tebbetts, there is a large amount of traffic that comes down the road and turns around. **Councilor de Geofroy MOVED to add a “dead end” sign at the entrance of Roberts Road. Councilor Gilman seconded the motion. MOTION CARRIED by unanimous voice vote.**

#### **14. Broad Street-Stop Sign**

Councilor Lachapelle summarized the issue. A resident of Broad Street called the Public Works Department saying the “stop” sign was missing. Councilor Lachapelle

asked about a white stop line. Deputy Chief Swanberry said that the white line itself without the “stop” sign is not enforceable. There was no evidence that there was ever a stop sign there. Deputy Chief Swanberry said this is not a problem area, it is not on their radar. No action was taken.

**15. Other**

**Autumn Street/Salmon Falls Road**

Councilor Gilman said there is a resident of Autumn Street looking for a sidewalk. Councilor Lachapelle said that there may be a Capital Improvement Project in the future. Mr. Norris said he could not speak definitively, but its being discussed. Councilor Gilman said the resident was talking about speed as well. Deputy Chief Swanberry said that the speed trailer was out there by the substation. This was kept in committee, Deputy Chief Swanberry will get the speed trailer data for next month.

Councilor Lachapelle said that the next Public Safety Committee Meeting will be held on November 15, 2023.

**Councilor Lachapelle ADJOURNED the meeting at 6:46 PM.**

The minutes were respectfully submitted by Laura McDormand, Admin. Services & Utility Billing Supervisor

## Raised Speed Table Policy

### Preamble

This policy is designed to establish procedures and guidelines for the implementation of raised speed tables within the city of Rochester. Requests for raised speed tables must meet all criteria detailed within this policy *and* must be approved by the city council before implementation. Please note that while a request might meet the criteria within this policy, it is to be used only as an initial guideline. As such, each individual request will be evaluated on a case-by-case basis.

### Raised Speed Table Guidelines

1. Speed limit on street must be 25 MPH or below, or must be located within a school zone
2. Street must not be a dead-end (*Excluding school zones*)
3. Street or street segments must be no shorter than 500 feet in length (segment defined as an area of the same street between consecutive intersections. (*Excluding school zones*))
4. Speed table must be no closer than 200 feet from a stop sign or intersection
5. Speed table must be no closer than 75 feet from a residential or commercial driveway (*Excluding school zones*)
6. Annual Average Daily Traffic (AADT) rate must be above 2000 vehicles per day (If data available) (*Excluding school zones*)
 

AADT rates can be referenced at New Hampshire Department of Transportation's Transportation Data Management System:  
<https://nhdot.public.ms2soft.com/tcds/tsearch.asp?loc=Nhdot&mod=TCDS>
7. Speed table must include a crosswalk (either at an existing crosswalk or in a location that allows for the addition of a crosswalk with no alterations to the surrounding sidewalk infrastructure)
8. Speed Tables are not permitted in the following zoning districts (*Excluding school zones*):
  - a. Agricultural
  - b. Highway commercial
  - c. General industrial
  - d. Airport special
  - e. Recycling industrial
  - f. Office commercial
9. Other traffic calming measures must be implemented, and data collected, to assist the body in making a decision (speed trailer, police detail, etc.) (please note: this line item is not used in determining eligibility)
10. Requests that meet conditions 1-9 above must be sent to the technical review group for determination of eligibility
11. Public hearing must be scheduled if 1-10 are met, prior to a formal council vote
12. IF APPROVED: speed table design and implementation must comply with all state and federal regulations

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City Clerk's Office

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**Public Works and Buildings Committee**  
**City Hall Council Chambers**  
**Meeting Minutes**  
**October 19, 2023**

**MEMBERS PRESENT**

Councilor Jim Gray, Vice Chairman  
Councilor John Larochelle  
Councilor Alexander de Geofroy  
Councilor Steve Beaudoin

**MEMBERS ABSENT**

Councilor Donald Hamann, Chairman (excused)

**OTHERS PRESENT**

Peter C. Nourse PE, Director of City Service  
Dan Camara, Coordinator GIS & Asset Mgmt.  
John Sykora, Weston & Sampson  
Tim Labrie, Weston & Sampson  
Jackie Raab, 23 Grove Street, East Rochester

**MINUTES**

Councilor Gray called the Public Works and Building Committee to order at 7PM

**1. Approval of September 21, 2023, Meeting Minutes**

*Councilor Beaudoin made a motion to accept the minutes of the September 21, 2023, meeting as presented. Councilor de Geofroy seconded the motion. Councilor Larochelle requested to amend on page 7 under lead update its states reference to lead it states it nowhere close to maximum contaminant level (MCL). It should read he stated that this is nowhere close to the action level for lead. Councilor Beaudoin amended the motion to reflect this change. Councilor de Geofroy seconded the motion. The motion passed unanimously.*

*Ms. McDormand took the roll call attendance. Councilor Beaudoin, de Geofroy, Larochelle and vice chair Gray were all present. Councilor Hammann was excused.*

**2. Public Input**

Jacke Raab lives at 23 Grove Street, East Rochester and was present to discuss the Waste Management Host agreement. Ms. Raab requested that the next negotiation of the Waste Management contract add additional yard waste pickups. Mr. Nourse stated that the current schedule is two times in the spring and two times in the fall. The dates in 2023 are the first and third week of May and first and second week of November. Mr. Nourse noted you can also drop off leaf waste at the residential drop off Monday, Wednesday, Friday and Saturdays. Mr. Nourse also mentioned that bagged leaves can go in the trash toter if there is room. Councilor Gray suggested an email blast regarding the leaf pickup information. Also Ms. Raab wanted to thank Mr. Nourse for the water line work that was completed on

Highland Street, she has already noticed an improvement.

### 3. Sewer System Master Plan Update by Weston Sampson Engineers

Mr. Nourse stated that the Sewer System Master Plan (SSMP) was commissioned by the City in 2021. This plan is a long-term effort to identify and control infiltration and inflow into the City's sewer system and determine how we need to grow sewer infrastructure to accommodate future growth of the city. Infiltration/inflow takes up valuable capacity in the sewer pipes which limits growth, and requires increased electricity and chemicals use at the pump stations and treatment plant. Mr. Nourse noted it cost the taxpayers millions of dollars if not corrected. Mr. Nourse stated that infiltration is the introduction of clean groundwater into sewer system through aged pipes and manholes and inflow is the introduction of clean water into the system through sump pumps, roof and foundation drains or cross connections between road drainage systems and the sewer system. Mr. Nourse noted that deliberate inflow is illegal per Chapter 200 of the City's ordinances. Mr. Nourse further mentioned that a sewer system master plan is a requirement of the City's Administrative Order on Consent (AOC) towards its obligations under the Great Bay General Permit for nitrogen. Mr. Nourse stated that Weston and Sampson are the City's consulting engineers for this effort and they have provided the two past updates to this Committee. Mr. Nourse noted that work to date includes ongoing determination of priority infiltration/inflow areas of the sewer collection systems. Mr. Nourse stated that they have flow metered the City's 27 sewer catchment areas, smoke tested over 200,000 feet sewer main, flow isolated 32,000 feet (cctv'd) closed circuit television inspections 50 thousand feet and are now performing building inspections for nearly 5,000 buildings. Mr. Nourse introduced Tim Labrie and John Sykora of Weston and Sampson Engineers for the update. Mr. Sykora presented a power point presentation, (ATTACHED to minutes). He stated this is their third presentation and noted some of this presentation will be review. Mr. Sykora went over the terms & definitions that are used.

- Gpd: gallons per day
- Mdg: million gallons per day
- Gpdim: gallons per day per inch per mile
- SSO: sanitary sewer overflow
- SSES: sewer system evaluation survey
- Infiltration: groundwater entry into sewer system via pipe and manhole defects
- Inflow: surface runoff entry into sewer system via storm system, roof leaders pumps, etc.
- I/I: infiltration and inflow
- CCTV: Closed Circuit television Inspection
- CMOM: Capacity, Management, Operation and Miantenance

Councilor Larochelle asked the question if the Gpdim means gallons per day per square inch cross section per mile. Mr. Sykora said yes. Mr. Sykora stated that EPA AOC issued in March 2021 sets forth requirements to be completed by October 31, 2024. He stated that the studies are conducted because of impacts on capacity and he noted high rain fall events limit growth and development. Mr. Sykora state that Rochester has sewer mains



that are over 100 years old. He explained that the analysis has been done to determine the cost to the City of Rochester for extraneous flow. Mr. Sykora stated that the estimate for each gallon of infiltration/inflow costs the City roughly \$3.00 per gallon to pump, treat and dispose of. He noted that using a life cycle cost of 20-years, this equates to roughly \$45 per gallon over the 20-year period. Councilor Beaudoin said the \$3.00 seemed like an awful high number and wanted to know how that was calculated. Mr. Sykora said it was an overall cost of electricity at the treatment plant, chemical used, salaries, all things waste water. Councilor Gray asked Mr. Nourse to provide a break down how the \$3.00 was calculated. Mr. Nourse stated that he has provided this before and doesn't mind providing it again. He stated that if you take the over cost of all capital costs, personnel, electricity cost put that together it is straight math. Mr. Nourse stated that the sewer rates have not historical followed where they need to be to support this. Mr. Sykora reviewed the sewer system master plan components.

- Sub-area delineation
  - Flow metering and analysis
  - Sewer System Evaluation
  - Survey (SSES) Investigation
- Plan Development  
Hydraulic Sewer modeling Evaluation of sewer system expansion areas  
Pump station upgrade prioritization plan update.

Mr. Sykora stated that staff set up 23 separate areas for metering to estimate peak infiltration and inflow rates per sub-area. He stated when reviewed it is estimated that infiltration is 1.10 million gallons per day of peak infiltration calculated and there are several metered areas considered excessive or over the 4,000 gallons per day per inch per mile threshold. Mr. Sykora stated that the inflow is estimated at 2.83 million gallons per day of peak inflow calculated, 5-year, 24-hour storm of 0.18in/hour intensity, 80 percent of total inflow volume occurs in 43 percent of total LF. He explained that the investigations for infiltration were conducted using television inspection, manhole inspections and flow isolation which are all still ongoing. He stated the inflow investigations have been done using smoke testing which was completed in 2022 and building inspections, which are ongoing, and dye testing as needed. Mr. Sykora stated that there are approximately 4,500 building inspections to be completed. He stated that individual letters have been sent to property owners requesting access to their properties. He noted that a two-person team with identification goes to the property by appointment, when possible, and door to door if no response has been received. Mr. Sykora stated that the team is there to visually identify potential inflow sources and document any existing defects. He noted that while staff is there they will also be looking to identify water service materials to assist with the Lead Service Line inventory. Councilor de Geofroy asked when they see a drain tied to the sewer, is it usually malintentioned or just ignorance. Mr. Sykora stated it's typically a lack of information and an education piece that needs to be brought to people's attention as the homeowner likely does not understand how this impacts capacity for the City's system. He stated that the building inspections started two weeks ago and seven hundred buildings have been completed. Mr. Sykora stated they

have found that there are twenty-one sump pumps hooked to sewer, nine floor drains hooked to sewer and eleven open clean outs. Mr. Sykora stated that he is anticipating completing the building inspections in the spring of 2024. Councilor Beaudoin asked if there have been any issues with people letting them into the buildings. Mr. Sykora said it's been great. He noted that most folks have been helpful, and he noted that it is not mandatory. Councilor Beaudoin asked if they would be letting the committee know if there is a lot of resistance because the committee might want to consider other options to encourage homeowners. Mr. Sykora said this is the first run trying to get as much information as they can to determine if sump pumps are contributing to the issue and if there are certain areas of the City where the issue is prominent. Mr. Nourse said the building they can get into will say a lot, and they will be able to get to the extent of the problem. Mr. Sykora said in 2024 they are going to do a pump station evaluation, sewer system modeling and manhole inspections. He stated that in 2025 the city will be working on the infiltration construction defects identified in 2022 and 2023, Weston and Sampson will complete a sewer system expansion areas study. Mr. Sykora stated that work is in progress right now on Eastern Avenue sewer rehabilitation design. He stated that staff found that there is severe corrosion and deterioration in the pipe on Eastern Avenue. He noted that Rochester's plan is a 13-year program that includes investigation work and construction work. Mr. Labrie displayed a software program on the monitors. He explained how it is used to track all the work and stated that it is GIS based and that it will work with the City's GIS systems. He noted this will make the sewers system master plan easier to follow as it is able to break down the work by fiscal year and where funds were used. Councilor de Geofroy said when they start addressing the infiltration/inflow the water has to go somewhere do we see it being an issue putting strain on stormwater abatement systems or is it fairly manageable compared to other stormwater issues. Mr. Nourse stated that in East Rochester infiltration/inflow in 2007 the project replaced old sewer pipes that acted like sponges and the ground water table went up there can be negative effects. Mr. Sykora recommends when doing a lining project you want to try to rehab as much as you can.

#### **4. Suitability of Public Waste and Drinking Water Utilities to Support the Granite Ridge Development District-Initial Review**

Mr. Nourse stated that the Granite Ridge Development District on Route 11 contains 1,000 acres of mostly developable land. He noted it is an economic corridor for the region and that the first phase of Waterstone Development has been in retail operation for some years. Mr. Nourse stated that the second phase is currently being designed and will include, like the first phase, public infrastructure which supports both retail and residential development. Mr. Nourse noted that the residential development in the district was approved by the City Council when Article 8 of the Zoning Ordinance was updated last year. Mr. Nourse stated that when residential was approved he was concerned about the capacity of water and sewer, particularly since the city has recently upgraded the Route 11 sewer Pump Station at 1.5 million dollars and the downstream River Street Pump Station which was completed in 2021 for roughly the same cost. Mr. Nourse noted that the engineers sized these upgrades based upon the knowledge they had at the time which included the 2009 Granite Ridge Development District master plan which called for a commercial/retail buildout and the 2019 mayberry study which indicated the mixture of retail and workforce housing. Mr. Nourse noted that residential water and wastewater demands are typically greater than retail/commercial. Mr. Nourse stated that he commissioned Weston and Sampson to

perform a utility adequacy evaluation of the district for a full build out scenario to include a moderate amount of residential. Mr. Nourse stated that they evaluated what the existing developed land is producing for wastewater flows and using standard engineering approaches estimated what the future loading will be once the balance of developable land is developed. Mr. Nourse noted they evaluated water and sewer pipe pressures, flows and capacities and the capacity of the Route 11 sewer pump station and its downstream River Street Pump Station. Mr. Nourse stated that at this time they have a draft report, and their development assumptions are being reviewed by Planning and Economic Development. Mr. Nourse stated that the existing water infrastructure is adequate for the full build out using reasonable assumptions, so he isn't going to focus on that. Mr. Nourse mentioned on the sewer side, it appears that the existing capacities of the Route 11 pump station and the downstream River Street pump station will support a full build out again using reasonable assumptions including limited residential. Mr. Nourse stated he will caveat to this stating that the build out assumptions were for limited residential. The pump stations can accommodate a full district build out that would not exceed about 600 residential units including the approximate 200 units proposed in the Waterstone Phase II development, the 600 units total is from Economic Development what he understands to be a desired max of the city. Mr. Nourse mentions that the evaluation indicates that about 3,600 feet of existing sewer along Route 11 from about Little Falls Bridge Road to the Route 11 Pump Station is undersized to accommodate full build out. Mr. Nourse noted the 10-inch diameter pipe along this stretch will be flowing at over 80% capacity which is the standard maximum. Mr. Nourse stated this pipe will need to be upsized and probably best to be completed as part of the Route 11 capacity and safety improvement projects which is a NHDOT-City Local Public Agency Project that is looking to start construction in 2025. There may be some surplus ARPA funds available to move towards this new project expense to offset the sewer expense. Mr. Nourse said that we are fairly confident in our preliminary conclusions, but we do need to extend this study downstream from River Street Pump Station to The Wastewater Treatment Facility. Mr. Nourse noted that he will look to present to the Planning Board in the near future. Mr. Nourse stated that if a very large water demand is proposed such as a large medical facility, that would impact the assumptions. Councilor Beaudoin asked if this information would be going to the Planning Board, so they know what they are reviewing. Mr. Nourse stated when they have the final report, which will also include water, they will present this to the Planning Board. Councilor Larochelle said that this is a great presentation, and he appreciates that. Councilor Gray said he would like to see on Ten Rod Road how the sewer is over there, he believes it would be up hill from Route 11. Councilor Larochelle asked during the heavy rain fall if they exceeded the capacity of the Wastewater Treatment Plant. Mr. Nourse said no that they are designed for 5 million gallons a day but can actually treat over 10 million gallons a day.

##### **5. Proposed Disposition of Polychlorinated Biphenyls (PCB) Class action Lawsuit Settlement**

Mr. Nourse stated that a settlement payment has been received by the city as a result of this class action lawsuit settlement. Mr. Nourse noted these funds currently reside in the deferred revenue account. The class action lawsuit is the City of Long Beach, et al. V. Monsanto Company, et al. from the US District Court for Central District of California. Mr. Nourse noted that more information can be obtained at the settlement website:

[www.PCBClassAction.com](http://www.PCBClassAction.com) . Mr. Nourse stated that Rochester was awarded \$17,414.03 and now needs to delegate them for use. He stated that the Finance Director has requested we recommend appropriate environmental use for these funds. Mr. Nourse stated that there is perpetual ground water monitoring required by NHDES at the closed landfill on Old Dover Road. Mr. Nourse noted that the permit is renewed every 5 years and requires annual monitoring. He explained that the department typically budgets about \$17,000.00 a year but actual expenses can be greater depending on the sample schedule. Mr. Nourse stated that there will be an agenda bill in the November City Council meeting to move these funds from the deferred revenue into a non-lapsing general fund account used to supplement the annual monitoring budget as needed. Councilor Gray said he doesn't feel it is inappropriate for this committee if it chooses to recommend to full council.

***Councilor Beaudoin MOVED to recommend to full council to apply the \$17,414.03 from the Polychlorinated Biphenyls class action lawsuit settlement to the General Fund CIP for Ground Water Monitoring. Councilor de Geofroy seconded the motion. MOTION CARRIED BY unanimous voice vote.***

## 6. Other

### **Proposed Shift of Surplus ARPA Funding from a Major Water Infrastructure Project to Another**

Mr. Nourse stated that the water main relining project received 2 million dollars of City ARPA funds. Mr. Nourse mentioned. The investigations this past spring showed that the condition of this main feed from the Water Treatment Facility to the City distribution system was in a good state and did not require relining. The main was video inspected, cleaned, and isolation infrastructure and re-routing occurred with this funding. Mr. Nourse stated that about 1.5 million remains of the ARPA from this project. Mr. Nourse stated that detailed presentations of the water main relining and rerouting project were given at the April and May 2023 Public Works Committee meeting. Mr. Nourse stated the ARPA funding must be encumber in 2024 and spent by 2026. Mr. Nourse is looking to redirect this funding towards another water infrastructure upgrade project. Mr. Nourse suggested that Salmon Falls Booster Pump Station upgrades be considered. This project has been a planned project and is estimated at 2.5 million. Mr. Nourse stated the reason for selecting this project is that there is some urgency to this need due to anticipated growth in that pressure zone and Tara Estates build out. He noted that Albany needs more water and there will be a school in the area, and we have existing pressure problems there. Mr. Nourse mentioned that the proposed solution may have a shorter construction schedule than a full construction project. Mr. Nourse stated that much of the work involves factory assembly of a new skid mounted booster pump station. Mr. Nourse noted that if the ARPA funds can be re-directed to this project, he will request the other one million as part of the FY2025 CIP Budget. Mr. Nourse mentioned that a drinking water trust fund application for the \$1 million balance will be submitted but if awarded we will adjust the budget during deliberations. Councilor de Geofroy asked if they are seeing cost increases with these projects like other projects are. Mr. Nourse said yes and

that he will be asking for less new projects in the next budget, and more additional money for existing projects.

***Councilor de Geofroy MOVED to recommend to full Council to refer the ARPA Fund Delegation to the Finance Committee with a recommendation that the remaining City ARPA Funds allocated to the 20” Transmission Rehabilitation be re-allocated to the Salmon Falls Booster Station. Councilor Beaudoin seconded the motion. The MOTION was carried by unanimous voice vote.***

***Councilor Gray made a motion for adjournment at 8:20 PM***

Minutes respectfully submitted by Laura McDormand, DPW Administration & Utility Billing Supervisor

# City of Rochester Sewer System Master Plan Progress Update





transform your environment

# INTRODUCTIONS

- John Sykora, Weston & Sampson
- Tim Labrie, Weston & Sampson





# TERMS & DEFINITIONS

- gpd: gallons per day
  - mgd: million gallons per day
  - gpdim: gallons per day per inch per mile
  - SSO: Sanitary Sewer Overflow
  - SSES: Sewer System Evaluation Survey
  - Infiltration: Groundwater entry into sewer system via pipe and manhole defects
  - Inflow: Surface runoff entry into sewer system via storm system, roof leaders, sump pumps, etc.
  - I/I: Infiltration and Inflow
  - CCTV: Closed Circuit Television Inspection
  - CMOM: Capacity, Management, Operation and Maintenance
-

# ADMINISTRATIVE ORDER ON CONSENT

- EPA administered enforcement order – March 2021
- Sets forth requirements to be completed by October 31, 2024
  - Nitrogen Reduction Report
  - Sewer System Master Plan
    - Efforts to reduce sources of inflow and infiltration

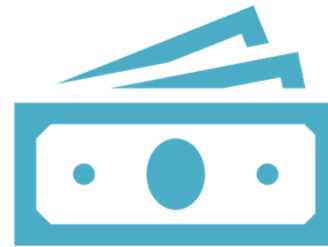
# WHY CONDUCT I/I STUDIES & REMOVAL PROJECTS?



High Flows + Capacity



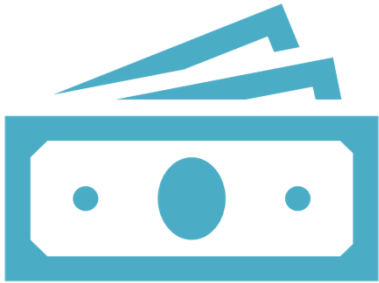
Condition



Cost



Regulatory



Cost

Each gallon of I/I costs the City roughly \$3 per gallon to pump, treat, and dispose of. Using a life cycle cost of 20-years, this equates to roughly \$45 per gallon over the 20-year period.

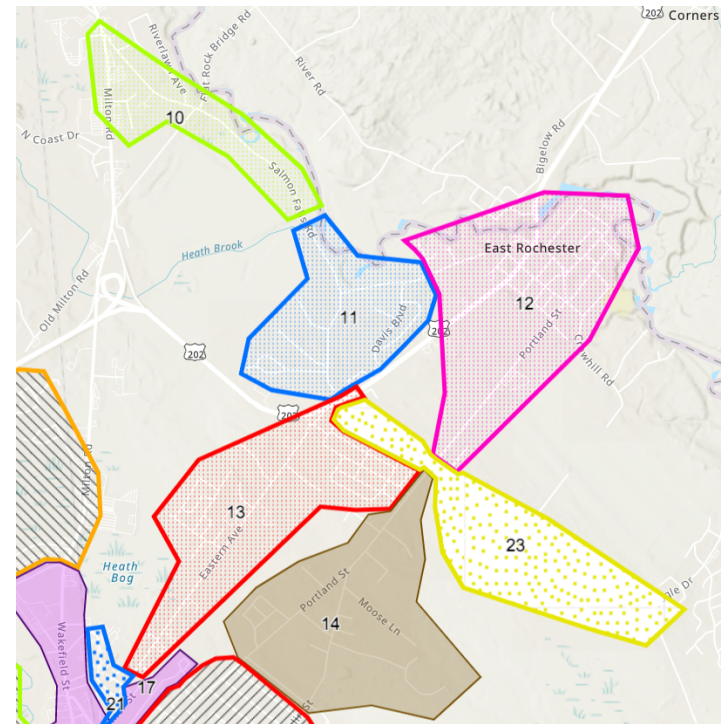


# SEWER SYSTEM MASTER PLAN COMPONENTS

- Subarea Delineation
- Flow Metering and Analysis
- Sewer System Evaluation Survey (SSES) Investigation Plan Development
- Hydraulic Sewer Modeling
- Evaluation of Sewer System Expansion Areas
- Pump Station Upgrade Prioritization Plan Update

# FLOW METERING

- Subarea Delineation-  
Defined 23 separate  
areas for metering
- Use Flow Monitoring to  
estimate peak Infiltration  
and Inflow rates per  
subarea



# FLOW METERING ANALYSIS

## INFILTRATION

- Estimated 1.10 MGD of peak infiltration calculated
  - Several metered areas considered excessive, near or over the 4,000 gpdim threshold

## INFLOW

- Estimated 2.83 MGD of peak inflow calculated
  - 5-year, 24-hour storm of 0.18 in/hour intensity
  - 80% of total inflow volume occurs in 43% of total LF

# INVESTIGATIONS

## INFILTRATION INVESTIGATIONS

- Television Inspection - Ongoing
- Manhole Inspections - Ongoing
- Flow Isolation - Ongoing



## INFLOW INVESTIGATIONS

- Smoke Testing – Completed 2022
- Building Inspections - Ongoing
- Dye Testing – As needed





# SEWER SYSTEM EVALUATION SURVEY

## FLOW ISOLATION

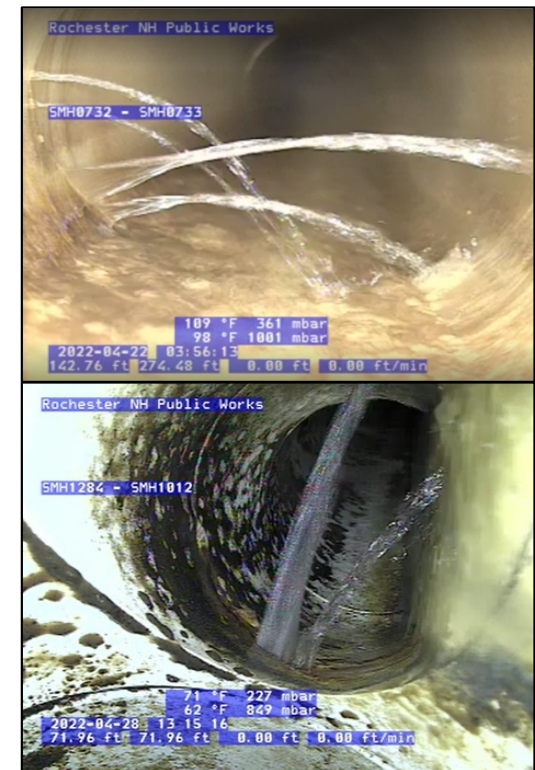
- Estimates infiltration per segment
- Spring 2023 – Subareas 3, 9, 19
  - Downtown, Gonic Road, Chestnut Hill Road Areas



# SEWER SYSTEM EVALUATION SURVEY

## TELEVISION INSPECTION

- Inspect each municipally-owned sewer segment to identify defects – infiltration sources and structural repair needs
- 2022 – 7 Subareas
  - 144,000 GPD of infiltration
- 2023 – 5 Subareas
  - 99,000 GPD of Infiltration



# SEWER SYSTEM EVALUATION SURVEY

## MANHOLE INSPECTIONS

- Visually identify defects – infiltration and inflow sources and structural repair needs
- 2022 – 3 Subareas
  - 9,216 GPD of infiltration
- 2023 – 3 Subareas
  - 10,512 GPD of infiltration
  - 47,600 GPD of Inflow



# SEWER SYSTEM EVALUATION SURVEY

## SMOKE TESTING

- Simple and effective method to Identify potential sources of inflow
- Completed Summer 2022
  - Approximately half of the city-wide sewerage
  - 1.28 MGD of inflow

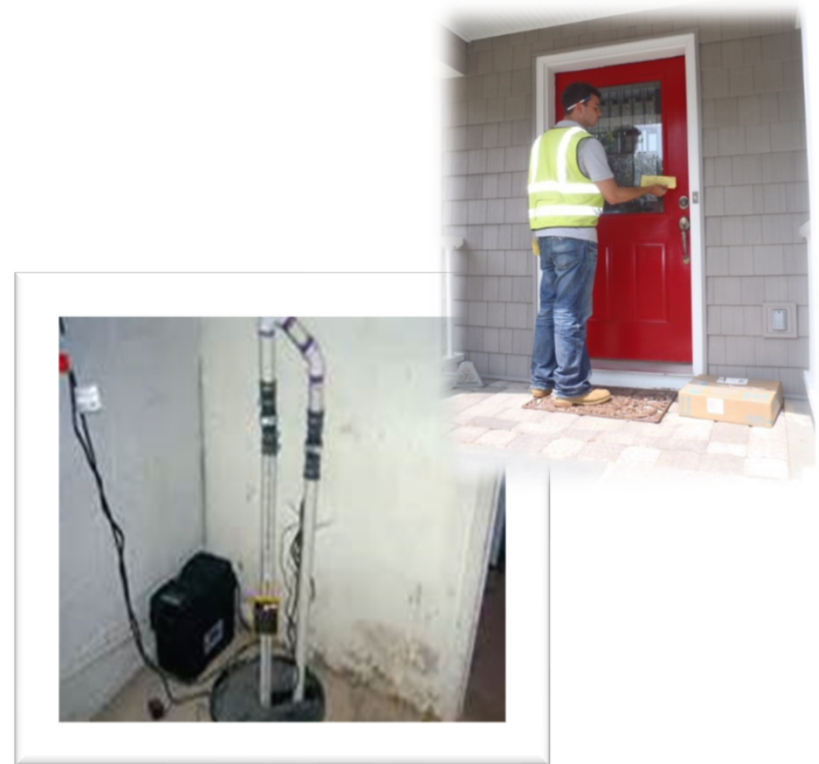




# SEWER SYSTEM EVALUATION SURVEY

## BUILDING INSPECTIONS – FALL 2023

- Approx. 4,500 buildings - ongoing
- Individual letters sent to property owners
- Two-person team with identification
- Appointments and door to door to visually identify potential inflow sources and document defects
- Identify water service material



# SEWER SYSTEM EVALUATION SURVEY

## BUILDING INSPECTIONS – FALL 2023

- 700 buildings in 2 weeks
  - Sump pumps – 21 to sewer
  - Floor drains – 9 to sewer
  - Open clean-out – 11
- Anticipated completion – Spring 2024



# WHAT'S NEXT?

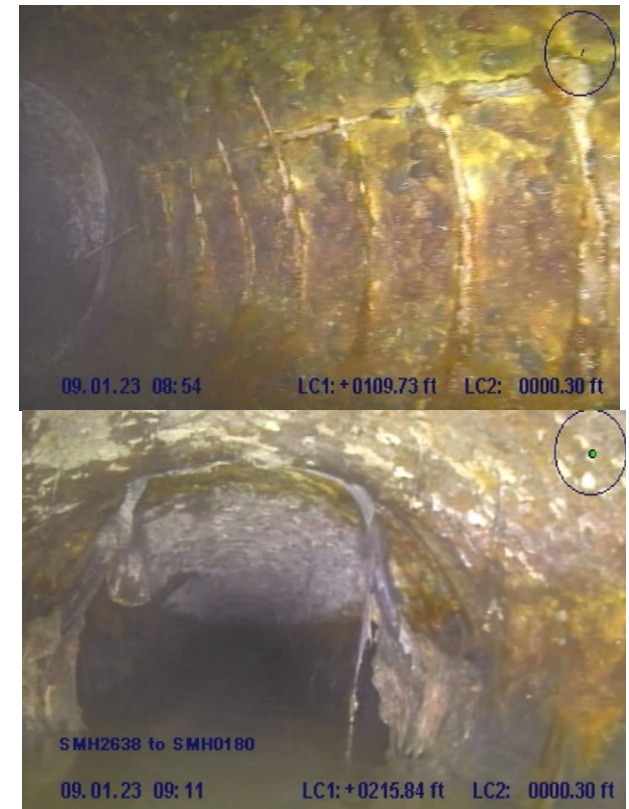


- 2024
  - Pump Station Evaluations, Sewer System Modelling and Manhole Inspections
- 2025
  - Infiltration Construction – Defects identified in 2022 and 2023.
  - Complete Select Sewer System Expansion Areas Study, Update Siphon BODR

# WHAT'S NEXT?

## EASTERN AVENUE

- Severe corrosion and deterioration identified during 2022 CCTV investigations
- Rehabilitation prioritized
- Currently in design
- Estimated construction period:  
Winter 2023 to Spring/Summer 2024





# ROCHESTER'S PLAN

Annual Program Year	Subarea	Estimated Cost	Area Description	FY Estimated Costs	
Year 1 (2022)	9	\$141,573	Spring 2022 Infiltration Investigations	FY 2022 \$160,000	
	3				
	19				
	14				
	17	TBD	TBD - Infiltration Investigations in Select Areas in 14/17		
	19	\$18,427	Spring 2022 Building Inspections		
	<b>TOTAL</b>	<b>\$160,000</b>			\$160,000
	2	\$178,113	Summer 2022 smoke testing representing 80% of the city-wide inflow		FY 2023 \$580,000
	6				
	11				
12					
13					
14					
19					
21					
9					
17					
22					
24	<b>Total</b>	<b>\$178,113</b>			
Year 2 (2023)	3	\$356,323	Spring 2023 Infiltration Investigations	\$578,436	
	2				
	12				
	17				
	14	\$44,000	Select Sewer System Expansion Areas Study and Select Pump Station Evaluations		
	<b>Total</b>	<b>\$400,323</b>			\$578,436
	2	\$389,838	Summer 2023 building inspections representing 80% of the city-wide inflow		FY 2024 \$810,000
	6				
	11				
	12				
13					
14					
22					
1					
9					
17					
21					
23	<b>Total</b>	<b>\$389,838</b>			
Year 3 (2024)	9	\$310,000	Pump Station Evaluations, Sewer System Modeling and Complete City-Wide Manhole Inspections	\$809,838	
	9	\$110,000			
	<b>Total</b>	<b>\$420,000</b>			
Year 4 (2025)	9	\$125,000	Complete Select Sewer System Expansion Areas Study, Update Siphon BODR, SSMP Development	FY 2025 \$1,355,000	
	3	\$868,898	Infiltration Construction		
	2				
	19				
	<b>Total</b>				<b>\$993,898</b>
Year 5 (2026)	16	\$234,464	Spring 2026 Infiltration Investigations	\$1,353,362	
	18				
	<b>Total</b>	<b>\$234,464</b>			
	14	\$829,646	Infiltration Construction		FY 2026 \$830,000
	17				
	16				
<b>Total</b>	<b>\$829,646</b>		\$829,646		

• 13 Year Program

Annual Program Year	Subarea	Estimated Cost	Area Description	FY Estimated Costs
Year 6 (2027)	12	\$748,389	Spring 2027 Infiltration Investigations	FY 2027 \$750,000
	8			
	1			
	23			
	15			
	22			
	13			
21	<b>Total</b>	<b>\$748,389</b>		\$748,389
Year 7 (2028)	8	\$1,335,839	Infiltration Construction	FY 2028 \$1,340,000
	18			
	23			
	<b>Total</b>			
Year 8 (2029)	1	\$1,036,066	Inflow Construction	FY 2029 \$1,040,000
	19			
	13			
	21			
	12			
	14			
	23			
Year 9 (2030)	22	\$1,348,036	Infiltration Construction	FY 2030 \$1,350,000
	13			
	21			
	<b>Total</b>			
Year 10 (2031)	4	\$825,597	Spring 2030 Infiltration Investigations	FY 2031 \$830,000
	11			
	10			
	6			
	20			
	7			
5	<b>Total</b>	<b>\$825,597</b>		\$825,597
Year 11 (2032)	4	\$1,141,179	Infiltration Construction	FY 2032 \$1,145,000
	11			
	10			
	<b>Total</b>			
Year 12 (2033)	6	\$1,837,530	Infiltration Construction	FY 2033 \$1,840,000
	20			
	7			
	5			
	<b>Total</b>			
Year 13 (2034)	2	\$853,435	Inflow Construction	FY 2034 \$855,000
	6			
	11			
	17			
	9			
	22			



# THANK YOU!

Contact info:

John M. Sykora III

[sykoraj@wseinc.com](mailto:sykoraj@wseinc.com)

603-570-6318

Tim Labrie

[labriet@wseinc.com](mailto:labriet@wseinc.com)

603-431-3937

## Questions?

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**Resolution Authorizing Supplemental Appropriation of \$17,414.03 to FY24 General Fund CIP Fund For Ground Water Monitoring**

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 Seventeen Thousand Four Hundred Fourteen and 03/100 Dollars (\$17,414.03) to the General Fund CIP for the purpose of paying costs associated with Groundwater Monitoring. The entirety of this supplemental appropriation shall be derived from the Monsanto Class Action lawsuit payment.

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.

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City Clerk's Office

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## City of Rochester Formal Council Meeting

### AGENDA BILL

**NOTE: Agenda Bills are due by 10 AM on the Monday the week before the City Council Meeting.**

AGENDA SUBJECT
----------------

COUNCIL ACTION ITEM <input type="checkbox"/> INFORMATION ONLY <input type="checkbox"/>
---

FUNDING REQUIRED? YES <input type="checkbox"/> NO <input type="checkbox"/> * IF YES ATTACH A FUNDING RESOLUTION FORM
---

RESOLUTION REQUIRED? YES <input type="checkbox"/> NO <input type="checkbox"/>
---

FUNDING RESOLUTION FORM? YES <input type="checkbox"/> NO <input type="checkbox"/>
---

AGENDA DATE			
DEPT. HEAD SIGNATURE			
DATE SUBMITTED			
ATTACHMENTS YES <input type="checkbox"/> NO <input type="checkbox"/>	* IF YES, ENTER THE TOTAL NUMBER OF PAGES ATTACHED		

#### COMMITTEE SIGN-OFF

COMMITTEE	
CHAIR PERSON	

#### DEPARTMENT APPROVALS

DEPUTY CITY MANAGER	
CITY MANAGER	

#### FINANCE & BUDGET INFORMATION

FINANCE OFFICE APPROVAL	
SOURCE OF FUNDS	
ACCOUNT NUMBER	
AMOUNT	
APPROPRIATION REQUIRED YES <input type="checkbox"/> NO <input type="checkbox"/>	

#### LEGAL AUTHORITY

LEGAL AUTHORITY
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**SUMMARY STATEMENT**

[Empty box for Summary Statement]

**RECOMMENDED ACTION**

[Empty box for Recommended Action]

**AGENDA BILL - FUNDING RESOLUTION**

**EXHIBIT**

Project Name:

Date:

Fiscal Year:

Fund (select):

GF       Water       Sewer       Arena

CIP       Water CIP       Sewer CIP       Arena CIP

Special Revenue

Fund Type:      Lapsing

Non-Lapsing

**Deauthorization**

	Org #	Object #	Project #	Fed Amount \$	State Amount \$	Local Amount \$
1				-	-	-
2				-	-	-
3				-	-	-
4				-	-	-

**Appropriation**

	Org #	Object #	Project #	Fed Amount \$	State Amount \$	Local Amount \$
1				-	-	-
2				-	-	-
3				-	-	-
4				-	-	-

**Revenue**

	Org #	Object #	Project #	Fed Amount \$	State Amount \$	Local Amount \$
1				-	-	-
2				-	-	-
3				-	-	-
4				-	-	-

DUNS #

CFDA #

Grant #

Grant Period: From   
To

If de-authorizing Grant Funding appropriations: (select one)

Reimbursement Request will be reduced

Funds will be returned

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City Clerk's Office

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**Resolution Authorizing Transfer of \$250,000 from the General Fund Unassigned Fund Balance to the Trustees of Trust Funds for the Public Works Large Vehicle Capital Reserve Fund (CRF)**

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 transfer Two Hundred Fifty Thousand Dollars (\$250,000) to the Trustees of the Trust Funds for the purpose of funding the Public Works Large Vehicles CRF. The source of funding shall be 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.

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City Clerk's Office

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**Resolution Authorizing Transfer of \$250,000 from the General Fund Unassigned Fund Balance to the Trustees of Trust Funds for the Fire Department Apparatus Capital Reserve Fund (CRF)**

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 transfer Two Hundred Fifty Thousand Dollars (\$250,000) to the Trustees of the Trust Funds for the purpose of funding the Fire Department Apparatus CRF. The source of funding shall be 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.

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City Clerk's Office

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**Resolution Authorizing Transfer of \$250,000 from the General Fund Unassigned Fund Balance to the Trustees of Trust Funds for the Public Buildings Capital Reserve Fund (CRF)**

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 transfer Two Hundred Fifty Thousand Dollars (\$250,000) to the Trustees of the Trust Funds for the purpose of funding the Public Buildings CRF. The source of funding shall be 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.

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City Clerk's Office

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**City of Rochester Formal Council Meeting**

**AGENDA BILL**

**NOTE: Agenda Bills are due by 10 AM on the Monday the week before the City Council Meeting.**

AGENDA SUBJECT	<b>City Capital Reserve Funds- FY24 Funding</b>
----------------	---

COUNCIL ACTION ITEM <input checked="" type="checkbox"/> INFORMATION ONLY <input type="checkbox"/>	FUNDING REQUIRED? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> * IF YES ATTACH A FUNDING RESOLUTION FORM
--	--

RESOLUTION REQUIRED? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	FUNDING RESOLUTION FORM? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
--	--

AGENDA DATE	<b>10-3-23</b>		
DEPT. HEAD SIGNATURE	Submitted by: Mark Sullivan Deputy Finance Director		
DATE SUBMITTED			
ATTACHMENTS	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	* IF YES, ENTER THE TOTAL NUMBER OF PAGES ATTACHED	2

**COMMITTEE SIGN-OFF**

COMMITTEE	Finance Committee endorsed 9-12-23
CHAIR PERSON	

**DEPARTMENT APPROVALS**

DEPUTY CITY MANAGER	
CITY MANAGER	

**FINANCE & BUDGET INFORMATION**

FINANCE OFFICE APPROVAL	
SOURCE OF FUNDS	Unassigned Fund Balance
ACCOUNT NUMBER	
AMOUNT	\$750,000
	Three separate \$250,000 Resolution
APPROPRIATION REQUIRED	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>

**LEGAL AUTHORITY**

City Council
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**SUMMARY STATEMENT**

11/02/2023

The annual recommendation to the City's three Capital Reserve Funds (CRF) was not presented during the FY24 Budget sessions. The recommended plan is to continue funding the CRF's on an annual basis and get the funds in position for draw requests in the FY26 budget. Below are the CRF's balances as of 8-31-23. Interest earnings are trending at 3%.

Public Works Large Vehicles: \$513,695

Fire Apparatus: \$513,695

Public Buildings: \$513,695

Recommend funding each CRF with \$250,000, grand total Use of General Fund Unassigned Fund Balance \$750,000.

Finance Committee endorsed the request of \$750,000 for the three CRF's on September 12, 2023. There will be (3) separate resolutions, one for each CRF.

**RECOMMENDED ACTION**

Council Approval Recommended



**Resolution Authorizing Donation to the Veterans of Foreign Wars (VFW) Concord  
in the amount of \$49,640.57**

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

That the City of Rochester hereby makes a donation to the Veterans of Foreign Wars (VFW)-Concord in the amount of Forty Nine Thousand Six Hundred Forty Dollars and Fifty Seven Cents (\$49,640.47). The source of funds 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 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.

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City Clerk's Office

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## *City of Rochester, New Hampshire*

PUBLIC WORKS DEPARTMENT

45 Old Dover Road • Rochester, NH 03867

(603) 332-4096

Fax (603) 335-4352

[www.rochesternh.net](http://www.rochesternh.net)

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### INTEROFFICE MEMORANDUM

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**TO:** City Council

**FROM:** Peter C. Nourse, Director of City Services

**DATE:** 02 November 2023

**SUBJECT:** Update to Chapter 223 Streets and Sidewalks

**CC:** Katie Ambrose, City Manager  
Terence O'Rourke, Cit Attorney  
Shanna Saunders, Director of Planning

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In 2020 the City Council directed the Department to update the City Ordinances under its charge. Enclosed are the proposed changes to the Streets and Sidewalks ordinance. In formulation of the proposed changes, I reviewed all State RSAs pertaining to public highways. The proposed changes were further developed with other departments including Planning, Building and Licensing, Fire and Police. The City Attorney has reviewed all proposed changes.

The proposed changes provide a much-improved ordinance. In general, the current ordinance has a very old feel, is difficult to interpret in places, and does not reflect current City practices, modern methods of highway regulation, nor current terminology. For example, about ½ of the current ordinance is dedicated to the regulation of news racks.

The proposed changes reflect a complete overhaul of the existing ordinance. Some of the proposed changes include:

- A new process for obstructions in the right of way, sidewalks and City parking lots
- More comprehensive street acceptance requirements for developers
- More comprehensive construction standards
- Addressing traffic calming techniques
- Addressing requirements of private roads
- Addressing winter maintenance practices
- Addressing licensure of utility companies excavating in right of way
- Addressing surety requirements for excavations and pavement restoration
- A process to evaluate oversize and overweight vehicles
- A process for Outdoor dining impacts to the right of way
- Addressing invasive plant species
- Addressing general street lighting requirements
- Private construction on Class VI roads

All proposed changes are supported by Revised Statutes Annotated.

There is no tracked-changed version of the current ordinance as a reference of changes since the proposed version is a near complete overhaul, and because the electronic file of the current ordinance was unstable and did not track well. **The attached Registry of Proposed Changes provides the Council a concordance of proposed changes and their reasoning. This document provides an expedited overview of the proposed changes.**

Enclosures:

1. Registry of Proposed Changes; Updates to Chapter 223 Streets and Sidewalks
2. Chapter 223 Highways and Sidewalks (revised ordinance)
3. Current Chapter 223 Streets and Sidewalks (for reference)

## Updates to Chapter 223 Streets and Sidewalks Registry of Proposed Changes

v. 02NOV 23

### Proposed Title Change:

### Chapter 223 Highways and Sidewalks

Any reference to “street” or “road(way)” in the current ordinance to include its title has been revised to reference of “highway”. Term “highway” is the proper legal definition of public rights of way.

#### 223-1. Definitions:

Added several new definitions to support recommended changes to the ordinance.

223-2 **Repair of highway, bridge or sidewalk**, is replaced here with 223-2 Regulations of Use of Highways. This new section provides the overarching regulating authority of the City Council per RSA 47:17. 223-2 **Repair of highway, bridge or sidewalk** is proposed to be shifted to 223-18 (see 223-18 below).

223-3 **Prohibiting use of highways** is replaced with 223-3 Standard of Care. This new section makes clear the City’s limits of liability for damages. It cites authorities of RSA 231:90, 231-91, 231:92, and 231: 92-a. **Prohibiting use of highways** is proposed to be covered under new sections 223-4, 5, 6. See below.

223-4 **Elevation** is removed. Modern techniques are well established in highway work and reference here is unnecessary. Elevation is replaced with 223-4 Prohibiting Use of Highways. This new section cites the Department’s use of rules and regulations to limit damage to highways by certain vehicles and cites authority of RSA 231:190, 231:191.

223-5 **Permit for excavation upon highway or sidewalk** is replaced with 223-5 Oversized and Overweight Loads on Public Highways which builds on the previous new section 223-4, Prohibiting use of highways and RSA references 41:11 and 266:18. Revised contents of **Permit for excavation upon highway or sidewalk** are included in the new section 223-11 Excavation on Highways, Right of Ways and Pavement Disturbance Moratorium.

223-6 **Fire Chief to be notified** is replaced with 223-6 No Through Trucks Zones. . This new section cites City authority to restrict the travel of certain truck classes per RSA 41:11. 223-6 Fire Chief to be notified is proposed to be addressed under 223-22 Emergency Services Dispatch to be Notified.

223-7 **Moving of buildings through streets** is replaced with **223-7 Highway Damage and Obstructions**. This new section introduces a new permit for obstructions to highways, sidewalks and public parking areas. Cited is authority per several RSAs. Recommended based on recent events where large private projects have taken public parking spaces without prior detailed City review. Proposed included is snow and ice. **Moving of buildings through streets** has been revised with **Moving of Buildings Along Highways and Erection of Scaffolding** which is proposed to be new section 223-23.

223-8 **Conduct on public streets** is proposed to be shifted to **223-25 Conduct on Public Highways**, (see 223-25 below). New section at 223-8 is **223-8 Obstruction of Sidewalks**. This new section is a revision of the current **223-13 Obstruction of Sidewalks**. The revision specifically addresses sidewalk obstructions including ice and snow, unlawful use or altering of sidewalks and is recommended based on experience.

223-9 **Proposal for new street or highway or public improvements; sewer and water assessments** has been replaced with **223-9 Authorized Seasonal Periods of Work Within Right of Way**. This is a new section which specifies work during authorized seasonal periods. The period mirrors the stipulated period of the water ordinance. **Proposal for new street or highway or public improvements; sewer and water assessments** is replaced with revised new section, **223-33 Acceptance of Privately Constructed Highways as Public Highways**.

223-10 **Naming of public streets and rights of way** has been replaced with **223-10 Reserved**. **Naming of public streets and right of ways** is proposed to be revised to **223-34 Naming of Public Highways**.

223-11 **Address numbers on streets, highways and right of ways** is replaced with **223-11 Excavation on Highways, Right of Ways and Pavement Disturbance Moratorium**. Revised language for this section is improved. Pavement moratorium language is clearer than current language of 223-5 **Permit for excavation upon any highway or sidewalk**, and directly indicates intent of City Council authority to issue waivers to the moratorium as is per long-standing practice. Also includes statutory requirements for Dig-Safe, clarification on who the permittee is, inspections, temporary pavement restoration maintenance, posting of security, and the ability of the Department to deny permits or require surety of entities who have a poor performance history. **Address numbers on streets, highways and right of ways** has been revised and shifted to **223-35 Address Numbers on Highways and Right-of-Ways**.

223-12 **Construction of sidewalks** has been replaced with **223-12 Drainage**. This new section cites the limitations of the City's obligations regarding drainage from the right of way onto an abutting property. It is supported by RSA 231:75 which is cited. This inclusion is based on multiple

experiences with abutting private property. **Construction of sidewalks** is revised and shifted to **223-36. Construction of Sidewalks.**

223-13 **Obstruction of Sidewalks** has been replaced with **223-13 Winter Storm Management.** This new section cites the City's maintenance of a winter storm policy and the limits of liability afforded by law, citing RSA 231:92-a. 223-13 **Obstruction of Sidewalks** is proposed to be reviewed by **223-8 Obstruction of Sidewalks.**

223-14 **Streetlighting** is replaced with **223-14 Off Highway Recreational Vehicles and Snowmobile Use of Public Highways.** Although not known to be an issue, its presence and that of the supporting RSA's here is proposed for consistency. **Streetlighting** is revised and shifted to section **223-37 Highway Lighting.**

223-15 **Prohibited use of poles** is replaced by **223-15 Public Highway Maintenance.** This new section sets forth the Department's standard of practice per authority granted by RSA 231:75 and 231:92. Cited is the capital improvements program. Included is the prohibition of highways traversing watersheds per RSA 485:9. **Prohibited us of poles** is proposed to be covered and improved under **223-20 Utilities.**

223-16 "**Adopt a Spot**" areas is replaced with **223-16 Highway Roadside Clearing.** This new section addresses the City's obligation to maintain highway site clearances and the statutory obligations of the City to inform abutters when tree removal is deemed necessary. Included based on experience. RSA's 231:145, 231:146 and 231:150 cited. **Adopt-A-Spot Areas** is shifted to 223-39.

223-17 **Bonds** is replaced with new section **223-17 Invasive Plant Species.** This new section is a natural follow-on to the proposed **223-16 Highway Roadside Clearing.** This cites the City's authority to remove such species to maintain a safe highway. Cited are RSA's 430:53 and 430:51-57. Included based on experience. **Bonds** is proposed to be shifted to and addressed under new section **223-39 Security.**

223-18 **Violations and penalties** is replaced with **223-18 Repair of Public Highway, Bridge or Sidewalk.** This section is the current section, 223-2, moved to 223-18. **Violations and penalties** is proposed to be shifted to new section 223-40 with revised language.

223-19 **Purpose (Article II Newsracks and Public Way Obstructions)** is replaced with **223-19 Public Highway Access – Driveways.** This new section addresses private highways and driveways and the City's jurisdiction to regulate such connections to public highways. It also stipulates the

maintenance requirements that are born by abutters to the public highway. Supporting RSA's are cited: 236:13, 236:19. **Purpose (Article II Newsracks and Public Way Obstructions)** is proposed to be struck from the ordinance as it deals exclusively with newsracks.

223-20 **Definitions (Article II Newsracks and Public Way Obstructions)** is replaced with 223-20 Utilities. This new section covers the obligations of utility providers to obtain City permits for work and includes prohibitions on the operation of City utilities. It also supports the water and sewer ordinances' requirements for City-licensed persons only to work on City utilities. Cited RSA's 231:160, 231: 172, 2321:75.

223-21 **Prohibited Acts** is replaced with 223-21 Revocation or Suspension of Permits. This new section states the authority of the City to suspend or revoke permits for violations including towards health and safety. Supporting RSA cited: 236:32. **Prohibited Acts** currently falls under ARTICLE II which is proposed to be struck from the ordinance.

223-22 **Permit required; application for permit is replaced with 223-22 Emergency Services Dispatch to be Notified**. This is a similar section to the current 223-6 Fire Chief to be notified but with modern references. **Permit required; application for permit** currently falls under ARTICLE II which is proposed to be struck from the ordinance.

223-23 **Standards for installation, maintenance and operation** is replaced with 223-23 Moving of Buildings Along Highways and Erection of Scaffolding. This section is a re-titled version of current 223-7, **Moving buildings through streets**, for which scaffolding has been added. Proposed change is that the Department of Public Works will regulate such operations vs. Department of Building and Licensing. This proposal per mutual department agreement. Excavation and encumbering of highways and sidewalks have been removed from the current section as excavation/encumbering and their permitting are proposed under new sections 223-11 and 223-7, respectively. **Standards for installation, maintenance and operation** currently falls under ARTICLE II which is proposed to be struck from the ordinance.

223-24 **Identification required** is replaced with 223-24 Traffic Calming Controls. This new section addresses various traffic calming measures that the City may employ and the general Departmental guidelines for implementation. Specific processes can be handled outside of the ordinance with City policies. **Identification required** currently falls under ARTICLE II which is proposed to be struck from the ordinance.

223-25 **Hold harmless agreement; insurance** is replaced with 223-25 Conduct on Public Highways. This section is actually in the current ordinance as 223-8. It has been shifted to 223-25. Existing language remains. **Hold harmless agreement; insurance** currently falls under ARTICLE II which is proposed to be struck from the ordinance.



223-26 **Removal of newsrack or public way obstruction** is replaced with 223-6 Outdoor Dining. This new section references recent revisions to Chapter 80 and stipulates that the Department shall review all such request to assess potential damages and impacts to drainage or traffic operations. **Removal of newsrack or public way obstruction** currently falls under ARTICLE II which is proposed to be struck from the ordinance.

223-27 **Severability** is replaced with 223-27 Public Highway Construction Standards. This new section outlines the basic construction standards for highways and sidewalks with technical references. Further details are available in the City's construction standards. **Severability** currently falls under ARTICLE II which is proposed to be struck from the ordinance.

223-28 **Injunction** is replaced with 223-28 Class VI Highways. This new section addresses the City's regulation of these highways and how they may change classification. Cited are RSA's 231:21-a, 236:9-11, 231:191, 231:222-a. **Injunction** currently falls under ARTICLE II which is proposed to be struck from the ordinance.

223-29 **Damage to newsracks and public way obstructions** is replaced with 223-29 Reserved. **Damage to newsracks and public way obstructions** currently falls under ARTICLE II which is proposed to be struck from the ordinance.

223-30 **Violations and penalties** is replaced with 223-30 Discontinuance of Public Highways is a new section that outlines the Council's authority to discontinue highways per RSA 231:43. **Violations and penalties** currently falls under ARTICLE II which is proposed to be struck from the ordinance.

223-31 is a new section, 223-31 Private Highways. Private Highways cites the limitations of the City's liability for adequacy or safety on a private highway. Also addressed is that the City shall not furnish rubbish removal on private highways. Case law indicates that although not public, private highways may be required to accommodate public emergency and service vehicles. Also included is Council's authority to change the name of a private highway and the abutters' obligations under RSA 231:81-a to contribute equally to reasonable costs of maintaining the highway.

223-32 is a new section, 223-32 Private Construction on a Class VI or Private Highway. This new section notes Chapter 275 Zoning authority and the procedure for construction on a Class VI highway. Referenced is RSA 674:41.

223-33 **Acceptance of Privately Constructed Highways as Public Highways.** This new section cites the requirements for any such highway to be subject to review and approval by the Planning Board, recommended acceptance by the Department and approved by the Council. Cited is RSA 674:36. The acceptance procedure here enhances current practice and proposes to replace the convoluted procedure currently under current section 223-9. **Proposal for new street or highway or public improvements; sewer and water assessments.** The requirements are enhanced by prohibiting the acceptance of highways or segments that would be subsequently used by developers to further build out highways and infrastructure that may be considered for acceptance as City highways or facilities. Included also is a security from the developer of 2% of the infrastructure value to be in force for 3 years following acceptance. Also included as a qualification for petition of acceptance is 75% build-out of dwelling units or structures.

223-34 **Naming of Public Highways and Rights of Way.** This is currently under 223-10, **Naming of public streets and rights of way**, and proposed to be shifted to 223-34. Proposed language reflects the processes recently adopted by the City E911 Committee and Planning Department.

223-35 **Address Numbers on Highways and Right of Ways.** This is currently under 223-11, **Address numbers on streets, highways and rights of way**. Shifted to 223-35, new proposed language reflects the processes recently adopted by the City E911 Committee and Planning Department.

223-36 **Construction of Sidewalks.** Most of this language is under the current section, 223-12, Construction of Sidewalks. Added language is that the Council shall approve where new sidewalks are to be installed, to reflect current practice. Also added is that the City will not maintain “floating” sidewalks which are limited in practical size, contiguous only to a singular frontage and are not served by adjacent sidewalks.

223-37 **Highway Lighting.** This is a new section that is based off of an internal Department policy and years of its practice. It sets the basic criteria to qualify the installation of new public street lighting.

223-38 **Prohibited Use of Poles.** This has been deleted and covered under **223-20 Utilities.** It is replaced with 223-38 **Adopt-A-Spot Areas.** This is the current section 223-16. Current language remains.

223-39 **Security.** This new section replaces the current section 223-17, **Bonds.** Proposed is to enable the City to required cash, letter of credit (LOC). Bonds can be difficult to call therefore cash or LOC is preferred. However, by State law, options for at least 2 forms must be given.

**223-40 Violations and Penalties.** This is current section 223-18. Current language states \$100 fines not to be exceeded. Proposed language replaces this with the reference of RSA 47:17 and fines cited in City Code Chapter 54-3. RSA 47:17 is independent of Chapter 54-3 and allows the City to levy greater penalties.

**ARTICLE II Newsracks and Public Way Obstructions:** Proposed is to remove this article. Newsracks are outdated in this media age and obstructions are proposed to be covered in the recommended changes above.

XX

§ 223-1

§ 223-5

ARTICLE I  
General Regulations

**§ 223-1. Definitions.**

The following definitions shall be applicable for the purpose of this article:

**BEST MANAGEMENT PRACTICE- (BMP):** A device, practice, or method used to manage stormwater runoff by controlling peak runoff rate, improving water quality and managing runoff volume.

**CLASS, CLASSIFICATION (Highway) –** The legislative classification of highways per State statute, RSA 229:5.

**DEPARTMENT OF PUBLIC WORKS - (Department).** The City department which has the direct responsibility to operate, maintain and improve the public highway and sidewalk and related infrastructure of the City.

**DEPARTMENT STANDARDS –** The technical standards promulgated by the Department which prescribe the materials, devices, construction methods, trade coordination , appurtenances and operations of highway, sidewalk and related infrastructure.

**E911 COMMITTEE –** The Enhanced 911 (E911) Addressing Committee of the City of Rochester. A body with the purpose of ensuring the City adopts and maintains the state standards of addressing. This provides for a comprehensive and uniform system of naming and addressing throughout the City. Such body shall liaise with the State E911 Unit within the Division of Emergency Services and Communications.

**FEDERAL HIGHWAY ADMINISTRATION –** A division of the United States Department of Transportation that specializes in highway transportation. The agency supports state and local governments in the design, construction, and maintenance of the nation’s highway system.

**HIGHWAY (PUBLIC) –** The term used herein in reference to streets, roads and roadways and the term that is used to classify roads in accordance with RSA 229:5. . As defined in RSA 229:1. City public highways are highways laid out in the mode prescribed per state statute, or roads which have been constructed for public travel over land which has been dedicated to public use and accepted by the City, or roads which have been used for public travel, other than travel to and from a toll bridge or ferry, for 20 years prior to January 1, 1968. Including the bridges thereon. Highway shall include pavement and drainage features and may include sidewalks and pedestrian facilities.

**HIGHWAY (Class IV) –** As defined in RSA 229:5, Class IV highways shall consist of all public highways within the compact sections of the City and are portions of State highways for which the City is responsible to maintain.

**HIGHWAY (Class V) –** As defined in RSA 229:5, Class V highways consist of public highways other than Class IV and Class VI which the City has a duty to maintain. Most public highways in the City are Class V.

**HIGHWAY (Class VI) -** A public highway in which the City has no statutory authority to maintain but does have statutory authority to regulate travel, excavation, disturbance, abutting property improvements,

driveways and wight limits thereon. Class VI highways are created through a layout, a discontinuance subject to gates and bars, or by the City's failure to maintain and repair such highway in suitable condition for travel thereon for five successive years or more. (RSA 229:5, 231:21, 231:21-a, 231: 45, 231:93, 231:191, 236:9-11, 236:13, RSA 674:41).

**HIGHWAY (Private)** - A highway that is not a public way and may consist of driveways or easements on private property. The City shall regulate the portions of such highways within the public right of way but has no responsibility to maintain such a highway unless such a highway is declared an Emergency Lane per RSA 231:59-a. The City may require certain construction features of such highway to be maintained by its private owner(s) for emergency services.

**INSTITUTE OF TRANSPORTATION ENGINEERS** – A trade association of transportation professionals including, transportation engineers, transportation planners, consultants, educators, technologists, and researchers which provides technical guidance to the Federal Highway Administration and communities.

**INSUFFECIENCY**- For a highway or sidewalk is defined per RSA 231:90, as a case where it is not passable in any safe manner by those persons or vehicles permitted on such highway or sidewalk by state law or by any more stringent local ordinance or regulation: or there exists a safety hazard or impassibility which is not reasonably discoverable by a person who is traveling upon such highway at posted speeds or upon such sidewalk and in a manner which is reasonable and prudent as determined by the condition and stat or repair of the highway or sidewalk. An insufficiency shall not be the result of the City's failure to construct , maintain or repair it to the same standard as another highway or sidewalk, or to a level of service commensurate with its current level of public use.

**MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD)** – Issued by the Federal Highway Administration, the purpose of the MUTCD is to set minimum standards for all Traffic Control Devices used on U.S. roads and highways. Traffic Control Devices (TCD) include all road signs, highway markings, electronic traffic signals, railroad crossings, and road-way construction zone areas.

**NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES** – The primacy agency for the state which administers environmental regulation.

**NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION** – The State agency with statutory authority to plan, develop and maintain State highway and related infrastructure.

**OFF HIGHWAY RECRETIONAL VEHICLE (OHRV)** Use of public Highways. As defined in RSA 215-A-1 VI as any mechanically propelled vehicle used for pleasure of recreational purposes running on rubber tires, tracks, or cushion of air and dependent on the ground or surface for travel, or other unimproved terrain whether covered by ices or snow or not, where the operator sits in or on the vehicle. OHRV's do not include snowmobiles.

**REVISED STATUTES ANNOTATED (RSAs cited herein generally are from XX Transportations: Title 231 Cities, Towns and Village District Highways, and Title 236 Highway Regulation, Protection and Control Regulations.**

**RIGHT OF WAY** – A public easement for travel placed across property which may be owned by a

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municipality or privately, for which usually contains a public highway. The easement is held in trust by the government for the use of the public.

**SNOWMOBILE** – As defined by RSA 215-C as any vehicles propelled by mechanical power that is designed to travel over ice or snow supported in part by skis, tracks or cleats. Such vehicles may be no more than 54” in width and no more than 1200 pounds in weight.

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**§ 223-2. Regulations of Use of Highways.**

The City Council shall regulate the use of all public highways, sidewalks and commons in the City and may exercise all the powers conferred (RSA 47:17).

**§ 223-3. Standard of Care.**

The City's liability for damages in an action to recover for personal injury or property damage arising out of its construction, maintenance, or repair of a public highway or sidewalks shall only be considered if an such injury or damage was the result of an insufficiency (RSA 231:91, 231:92, 231: 92-a). The City is not responsible to implement corrective actions to improve pedestrian and motor vehicle travel or safety on highways and access between highways and abutting private property where prudent attention of the travelling public is otherwise required for safe travel or footing (RSA 231:90).

**§ 223-4. Prohibiting Use of Highways.**

The Department may make rules and regulations prohibiting the use of any or all highways to such vehicles as he/she may prescribe in order to prevent the use of said highways when said highways are unsuitable for travel thereon, or when such highways may be damaged under certain circumstances regarding condition and/or types of vehicles which may travel thereupon. Such rules and regulations shall be posted on each highway so regulated and at two other public places in the City. Any person violating the provisions of such posted rules and regulations shall be subject to a fine not more than five hundred dollars (\$500.) and shall be liable for all damage occasioned thereby (RSA231:190; 231:191).

**§ 223-5. Oversized and Overweight Loads on Public Highways.**

In general oversized and overweight loads on City highways shall be regulated by and routed by the New Hampshire Department of Transportation in accordance with RSA 41:11. Oversized and/or overweight carriers shall prescribe to all such regulation, routing and requirements. Restrictions may include "No Through Truck" zones. Heavy vehicles shall comply with the weight restrictions of RSA 266:18. The Department may require special permits for oversized and overweight loads that may not be regulated by the New Hampshire Department of Transportation.

**§ 223-6. No Through Trucks Zones.**

The City may restrict travel of trucks, classes 5 and above as defined by the Federal Highway Administration from segments of any public highway. Such restrictions shall not apply to terminal sources and destinations such as retrieval and delivery points. Non-compliance violations may be issued (RSA 41:11).

**§ 223-7. Highway Damage and Obstructions.**

Parking or loading, vending or servicing of vehicles shall not take place in the public right of way. Items including but not limited to permanent or portable buildings, signs, lights, basketball hoops, hockey goals, blinds or other sports structures, signs, lights, displays, fuel tanks or septic systems shall not be permitted on, over, or under public highways to include any Class IV or Class VI highways.

Temporary obstructions on highways, sidewalks or in public parking areas for purposes not limited to building construction, rehabilitation or utility maintenance shall only be approved through a permit issued by the Department. All measures required to protect public safety shall be at applicant's expense. Such permits will be issued if such requested conditions are deemed not to be adverse to public travel. Any damage sustained shall be repaired at the offender's expense and the Department shall have the right to require adequate surety for restoration purposes.

No obstructions shall be placed onto the highway or sidewalks which may cause any defect, insufficiency or want of repair which renders it unsuitable for public travel or affects its integrity or operation or affects the vision of the travelling public as determined by the Department. No person shall cover a fire hydrant with snow, ice or any debris. Violators are subject to misdemeanor (RSA 236:21).

The Department shall have full authority to remove obstructions. Persons placing obstructions onto the highway or sidewalks or damaging guardrails, signs, traffic controls, bridge or markers shall be guilty of a violation or misdemeanor. Such person shall be liable for injuries sustained and damages made (RSA 236:39, 236:38, 236:32, 236:29, 236:28, 236:8).

Any person erecting or continuing any building, structure or fence which interferes with, hinders or obstructs public travel shall be guilty of a violation (RSA 236:16).

Any non-public access or private frontage to a public highway that becomes or may become a potential threat to the integrity of the highway or its surface, ditches, embankments, bridges, or other structures, or a hazard to the safety of the traveling public, by reason of siltation, flooding, erosion, frost, vegetative growth, improper grade or the failure of any culvert, traffic control device, drainage structure, or any other feature, shall have issued to its owner a notice of correction by the Department. If such order does not result in a cure of the situation, the Department may implement corrective action and owner shall be civilly liable for costs in such corrective action (RSA 236:39, 236:38, 236:32, 236:29, 236:19).

Abutters to public highways shall not alter the ground along their frontage within the right of way to include addition of pavement, plantings or ditches. Driveway aprons may be installed or modified per the conditions of §223-19.

#### **§223-8. Obstruction of sidewalks.**

No person shall unnecessarily place any obstruction on any foot pavements or sidewalks. No person shall be permitted to construct a ramp up to and across the sidewalk adjacent to his/her property or place any other obstructions thereon without first securing a permit from the Department to do so. Snow and ice shall not be placed onto sidewalks. No person shall traverse sidewalks with motorized vehicles. Any modifications to sidewalks to accommodate ingress



and/or egress by motorized vehicles shall be restored by the responsible party to the satisfaction of the Department.

**§ 223-9. Authorized Seasonal Periods of Work Within Right of Way.**

Construction, maintenance and repair work of highways, sidewalks and appurtenant infrastructure within the right of way will normally be conducted by the City from April 1 – November 31 unless deemed an emergent need as determined by the Department. The same period shall apply for similar work on private infrastructure that may in the future be considered for acceptance by the City.

**§ 223-10. Reserved.**

**§ 223-11. Excavation on Highways, Right of Ways and Pavement Disturbance Moratorium.**

For a period of five years, beginning with the date of completion of the final paving of a public highway relating to the construction, maintenance overlay or reconstruction of said highway, no person, firm or corporation of any agent or thereof shall excavate or disturb the paved or traveled portion of the highway in the City of Rochester at any time, except for emergencies as may be deemed necessary solely by the Department then only upon the posting by such entity of sufficient security, as determined by the Department and the agreement of such entity, to pay the cost of restoring such highway of way to its original condition. Such period shall be the pavement disturbance moratorium.

Excavations to the highway within the period of the pavement disturbance moratorium shall require majority vote of the City Council approval. Such requests shall be furnished to the Department through the permit application process. The Department shall review and either recommend approval or disapproval to the City Council.

An excavation permit shall be required for all earth disturbances within the right of way including to pavement, sidewalks and any transportation facilities. The permittee shall detail all aspects of the work including safety and traffic control measures.

The permittee shall be the contractor of record executing the work.

Permits will not normally be issued between December 1<sup>st</sup> and March 31<sup>st</sup> unless determined solely by the Department to be an urgent need.

Permits that have been authorized but where work has not commenced shall expire on December 31<sup>st</sup> of the year issued. In such cases a new permit and application fee shall be required for the original proposed work.

Excavation activities shall not occur on Fridays, weekends or designated holidays without the prior written approval of the Department. A 48-hour notice shall be required by the permittee to the Department prior to the start of work and any key activities that warrant Department review.

The Department may require sufficient restoration security for excavations prior to permit approval. A restoration security of \$5,000 shall be required to be posted for any excavation approved that may impact the pavement of a highway which receives a pavement disturbance moratorium waiver.

Excavations shall be suitably covered during operations to prevent injury or impact to travel. Anyone performing excavation within one hundred feet of an underground facility shall participate in and comply with the State of New Hampshire's damage prevention system, commonly referred to as Dig-Safe, in accordance with Title XXXIV, Chapter 374 General Regulations, Underground Facility Damage Prevention System.

Pavement restoration shall be completed in accordance with this ordinance and the Department's standards. Native materials shall be used as backfill and may be supplemented with approved processed materials if native quantities or quality are not adequate as determined by the Department.

All open trenches shall be stabilized with pavement no later than the Friday of the week of the work. Application of proper binder course pavement as specified herein shall be completed within 5 days of the completion of utility work. Application of wear course pavement may occur any time following application of binder course but prior to final approval.

When an excavation disturbance impacts a concrete sidewalk, minimum restoration shall consist of all impacted panels in whole and any curbing.

Compaction tests may be required by the Department when it has reason to doubt suitable compaction standards have been achieved. Such tests may be required to be executed following pavement restoration by an independent testing agency if the Department believes adequate compaction was not achieved during the work. Such costs including pavement disturbance, testing and adequate restoration shall be borne by the permittee.

The Department may inspect utility work in progress. The Department may require the permittee to furnish photographic evidence of key aspects of the work. Permittee shall notify the Department immediately following pavement restoration activities so that the Department may perform the initial inspection.

The Department will inspect the restoration again between 6 months and 1 year following immediate restoration to determine if defects such as settlement, pavement damage or impacts to other infrastructure have occurred over time. Defective work that is noted at the second inspection shall be corrected by the permittee within 10 working days. Permit shall be closed when acceptable restoration is verified.

Defective work noted by the Department during the interim time between initial inspection and second inspection shall be corrected by the permittee at their cost within 5 working days of notice or the implementation of an approved restoration plan. Correction of interim defects shall not relieve the contractor from the requirements of the second inspection and any corrective work required at that time to close the permit.

Any work that is not corrected by the permittee may be executed by the Department and billed to the permittee at full cost which shall be uncontestable.

Permittees which have a history of defective work may be denied future permits. Such future permits may be considered solely by the Department if adequate security is furnished by the permittee. Permittees which have a history of defective work may have their City utility license(s) revoked.

Nothing in this section limits the authority of the Director Planning from their authority per Chapter 275, Zoning, Article 22 regarding abandoned excavation sites.

Any other provision of this article notwithstanding, any person, firm or corporation or any agent thereof that shall violate the provisions of this section shall be subject to a fine of not more than five hundred dollars (\$500.) and full restoration costs.

#### **§ 223-12 Drainage.**

Stormwater quality and control shall for private development be per the administration and requirements of Chapter 218 of the City Ordinances. The City is its own compliance agency and shall meet the requirements of permits issued by the New Hampshire Department of Environmental services and/or the U.S. Environmental Protection Agency.

The City has the right and legal duty to ensure that the impact of flowage to the highway from areas outside of the right of way is minimized. This may be accomplished by the installation and maintenance of ditches, culverts, bridges and other facilities.

Drainage flowage from private properties shall be directed such that such flowage does not adversely impact the right of way. Such impacts shall be corrected by the property owner at their expense.

Unless City work occasions additional flowage from the highway onto an abutting property for which a degradation in property use can be verified, the City shall not be responsible for flowage onto an abutting property which is due to that property's elevation in relation to the highway. The City shall use a reasonable standard of care in their highway work to minimize flowage onto abutting properties. Nothing herein shall relieve the City from its requirements under RSA 231:75.

Drainage easements for the City to access private property shall be required as necessary for the City to operate and maintain drainage features which are appurtenant to flowage from right of ways or City infrastructure.

#### **§ 223-13 Winter Storm Management.**

Snow and ice shall not be placed into the highway or upon sidewalks or in a manner which impacts accessibility of a hydrant unless such placement is temporary and immediately appurtenant to the removal efforts of the abutter. Snow or ice that remains on the highway or sidewalk that does not comply with this section shall subject the abutter or responsible party to a violation (RSA 236:21).

The Department shall implement and maintain a winter storm maintenance policy for City public

highways and sidewalks which describes to the public the intended priorities and actions of ice and snow removal and processing. The Department shall not be held liable for damages arising from insufficiencies or hazards on public highways, bridges or sidewalks when Department operations in accordance with such policy are effectuated (RSA 231:92-a).

The Department is not obligated to replace mailboxes that are damaged by City winter storm management operations. The Department may replace damaged mailboxes using economical replacement materials and following storms when operations allow.

**§223-14 Off Highway Recreational Vehicle and Snowmobile Use of Public Highways.**

Off highway recreational vehicles shall be prohibited on all public highways and sidewalks with the exception of bridges per RSA 215-A:8. Snowmobiles may be allowed on highways and may cross bridges per RSA 215-A:8, however cannot operate in the travelled portion of the highway. On public ways snowmobiles shall travel in the extreme right and travel at 20 miles per hour or less. Licensure shall be obtained and operation shall comply with the requirements of RSAs 215-C:6, II, 215-C:1 XIX, 482:A-3 VIII, 215-C:8 III(b)(2), 215-C:8 IX and 215-C:8 X.

**§ 223-15. Public Highway Maintenance.**

Public highways shall be maintained by the Department at their discretion on frequency and using practices commonly used by similar municipalities and those endorsed by associated maintenance and engineering trade organizations. For work within the right of way, that consists of maintenance grading or cleaning or repairing of existing ditches or culverts without affecting their size or positioning, the Department will not normally notify abutters (RSA 231:75, 231:92).

The City Council shall annually approve a capital improvements plan for public highways as recommended by the Department. (RSA 231:92, 674:5)

Abutters to highways are responsible for their access and any grades, culverts or other structures pertaining to such access whether or not located in the public right of way. (RSA 236:13).

No public highway, access highways or private highways shall be constructed so as to traverse any watershed tributary to a lake, pond or reservoir used for the storage of public drinking water without obtaining the approval of the Department of Environmental Services (RSA 485:9).

**§ 223-16. Highway Roadside Clearing.**

The City shall maintain a regular program of roadside clearing within the right of way to reduce safety hazards or otherwise damage to the highway. Any tree with a circumference of 15 inches or more at a point four feet from the ground will not be removed by the City without due notification to the owner unless such tree presents an immanent threat to safety or property. Notification shall follow the procedures set forth in RSA 231:145 and 231:146. The City may require utilities which may have lines in such trees to assist in removal at their expense. Such rights of the City extend to Class VI highways (RSA 231:145, 231:150).

**§ 223-17. Invasive Plant Species.**

Invasive plant species are alien plant species whose introduction causes or is likely to cause a variety of harm to the public. They constitute trees, vines, shrubs and grasses. The Department will remove invasive species from the right-of-way when found and upon request when such presence may inhibit safe travel or otherwise be harmful to the physical highway (RSA 430:53) and will have no duty of care to replace such plantings with non-invasive species. The Department shall restore grounds beneath removed plantings in a reasonable manner. Invasive plant species are unlawful to plant or transport (RSA 430:51-57).

**§ 223-18. Repair of Public Highway, Bridge or Sidewalk.**

Whenever any public highway, bridge, or sidewalk shall, from want of necessary repair, or because of any repairs or construction being made therein by the Department become unsafe for travel, the Department shall have erected a suitable fence or railing to exclude all travelers from passing over the same and shall require the maintenance at night such lights as may be necessary to warn the traveler of the hazard. If said repairs or construction is being made by any other department or person, the head of such other department or person shall erect and maintain the same guard fence, rails and lights.

**§ 223-19. Public Highway Access - Driveways.**

The Department shall retain continuing jurisdiction over the adequacy and safety of every existing driveway, entrance, exit and approach to a public highway or right of way, whether or not such access was constructed or installed pursuant to a permit (RSA 236:13). Private highways where they intersect with public highways shall be considered driveways and subject to the requirements of this section and ordinance.

All new driveways including private highways and driveways intersecting Class IV, V and VI shall be subject to approval by the Department through a permit process. Applicants shall provide details on locations, approaches, grades, construction materials, any traffic control and drainage features. Applicants shall adhere to any City regulations regarding setbacks.

The Department shall approve through a permit process proposed changes to existing driveways in grade, approach angle, location and size and drainage. Requirements and process shall follow those outlined in RSA 236:13.

Stormwater permits may be required in cases of proposed driveways which service commercial, multi-family, industrial or institutional facilities, or for single family homes in which unique characteristics of driveway and highway grades or drainage appurtenances may require stormwater management for the benefit of the public highway.

The owners of property abutting a public highway shall be responsible for the adequacy of the access to the public highway, and any grades, culverts, or other structures pertaining to such access, whether or not located in the right of way. If any such access is or becomes a potential threat to the integrity or operation of the highway or becomes a hazard to the travelling public, the Department may issue an order to the owner or other party responsible for such access to repair or remove the condition of hazard and obtain all required permits. Such order shall be

enforceable to the same extent as a permit. If the order is not complied with within the time prescribed, the Department may cause to be taken whatever action is necessary to correct the deficiency and the owner or responsible party shall be civilly liable to the City for its cost in taking such action. (RSA 236:13 and RSA 236:19). In addition the City may issue a violation.

Setbacks of driveways from property lines shall be in accordance with 275-26.

**§ 223-20. Utilities.**

Work on City owned utilities such as water and sewer shall be done only by entities that are licensed by the City to perform such work. Licensure requirements for sewer and water are set forth in Chapters 200 and 260 of the City Ordinances, respectively. Gas and electrical utility work shall be done by persons licensed by their respective trades and appropriate State agency.

No person shall erect, construct, put up or maintain any poles, wire, terminal, underground conduits and cables, structures or other electrical appurtenances for television, telephonic, telegraphic, electric power or electric lighting, or any water, sewer, drainage or gas lines along, across, under or over any public highway, sidewalk, in any right of way or City property without obtaining a City license.

In-ground utility work shall require an excavation permit from the Department for installation, relocation, augmentation or alteration of in-ground utilities.

Easements for underground utilities when outside of the public right of way shall be at least 30 feet in width.

Only City employees shall operate fire hydrants, valves or any other operable element of the City's water, wastewater or drainage utilities.

Utility companies shall have authority to install or erect their utilities in the City's right of ways as licensees of the City (RSA 231:160).

Aerial utility companies shall obtain a license from the City for the erection, augmentation or relocation of poles. Utilities shall be responsible for owner consent regarding tree cutting or pruning per RSA 231:172.

No person shall use said poles for the posting of bills or other advertising purposes or for any other purpose except that for which permission is given by the Department.

The City shall be indemnified against all damages, costs and expenses to which it may be subjected due to the location, construction, maintenance of any pole, structure, conduit, cable, wire or other apparatus of the utility and the utility shall indemnify the City against all damages, and expenses to which it may be subjected to by reason of any insufficiency or defect in the highway occasioned by the presents of wires and supports (RSA 231:168, 231:175).

**§ 223-21. Revocation or Suspension of Permits.**

If the terms or conditions of a permit are violated by a permit holder and the Department finds that the violation does not constitute an immediate hazard to public health, safety or welfare, the Department shall give written notice to the permit holder in writing by email of an intention to suspend or revoke the permit, and a statement of the facts or conduct upon which the Department intends to base its action. If corrective action is not implemented to the Department's satisfaction in a reasonable time, the Department may implement corrective action it deems necessary within the right of way to restore the right of way and charge such costs to the permittee. The City may use any security posted to implement corrective action. (RSA 236:32).

If terms or conditions of a permit are violated by the permit holder and constitute a danger to public health, welfare or safety, the Department shall immediately suspend the permit and all work by the permittee shall be ceased and corrective measures implemented by the permittee to the satisfaction of the Department. Notice of suspension shall be issued in writing by email and communicated by telephone. If corrective action is not implemented to the Department's satisfaction in a reasonable time, the Department may implement corrective action it deems necessary within the right of way to restore the right of way and charge such costs to the permittee. (RSA 236:32, 236:39).

**§ 223-22. Emergency Services Dispatch to be Notified.**

Any person or private or public entity or department of the City, before digging up, obstructing or encumbering and/or redirecting common or convenient traffic patterns in any way any highway, lane, alley, sidewalk, or other public place in the City, shall, before beginning such work, notify the City's Emergency Services Dispatch Center as to where such work is to be done and shall, immediately upon the completion of such work and the restoration of the place to its normal condition, notify same. A permit shall be required from the Department prior to any such disruption or encumbrance.

**§ 223-23. Moving of Buildings Along Highways and Erection of Scaffolding.**

No person shall move, or assist in moving, any house, shop or other building through any highway, lane, or alley or erect scaffolding without first obtaining a written license from the Department. Whenever the Department shall as aforesaid grant permission to any person to encumber any highway, sidewalk, or public square for the purpose of erecting, altering or moving buildings or scaffolding, it may, as a condition to granting such permission, require the party obtaining the same to furnish a surety of indemnity in a form acceptable to the Department, in such

sum and with such securities as the Department may deem proper. Applicant is responsible for all safety and traffic control measures. The Department of Public Works may require an obstruction permit for such work.

**§ 223-24. Traffic Calming Controls.**

Traffic calming controls may be implemented by the Department on public highways as approved by the City Council. Implementation may be through the capital process or by request.

In its implementation the Department will employ engineering judgement as guided by the Institute of Transportation Engineers, FHWA Manual on Uniform Traffic Control Devices and any other applicable transportation technical trade or agency organizations. Traffic calming practices may include the installation of speed tables, raised crosswalks, speed humps, bump outs, pedestrian refuges, speed cushions, roundabouts, or other crosswalk safety enhancements. Roundabout consideration shall require engineering study.

**§ 223-25. Conduct on Public Highways.**

The following conduct with respect to the use of the City highways and highways shall be regulated as more fully set forth below:

- A. No person shall place, establish, or maintain any sign, awning or shade before his/ her place of business, dwelling house or tenement, over any part of any highway or sidewalk, unless the same is safely fixed and supported so as in no way to endanger persons passing upon such highway or sidewalk, and so that the lowest part of such sign, awning or shade shall be at least seven feet above the sidewalk; nor shall any person hang, affix, fasten, place or allow to remain upon the outer edge of any sidewalk any sign or showcase whatever, or there display any goods, merchandise, or samples of any business calling, trade, art or craft, so as to obstruct the free passage and view to and from the highway and sidewalk.
- B. No person shall sell at auction or otherwise upon any highway or public square in the City any furniture, goods, wares or merchandise whatever, or place or in any manner encumber such highway or square therewith, without first obtaining a permit from the Department and obtaining a secondhand dealer's/hawker's license from the Building and Licensing Services Department.
- C. No person shall draw or cause to be drawn, move or cause to be moved, upon any public highway or highway, any equipment or instrument or implement liable to cause damage to the surface of said public highway or highway, unless the same is being transported upon a vehicle or other conveyance. Any damage resulting from such action shall be remedied by such person to the satisfaction of the Department, or the Department will effect corrections and charge the such person for the cost of corrections.
- D. No theatrical or dramatic representation shall be performed or exhibited, and no parade or procession upon any public highway or way, unless a special license shall first be obtained from the Building and Licensing Services Department. (See Chapter 22, Amusements and Entertainment, Article III, Public Dances, Circuses and Parades.).
- E. Dumping on highway, highway, lane, alley, sidewalk, or other public place within the City limits of Rochester is prohibited.

**§ 223-26. Outdoor Dining.**



Outdoor dining on City property or appurtenant to public highways and sidewalks shall comply with Chapter 80, Article II of the City Ordinances. The Department in its review of such requests for outdoor dining shall consider the effects on existing drainage, potential damage to highways and sidewalks and any impacts to multi-modal traffic operations. The Department may issue directives to the requestor to ensure infrastructure operation, safe, effective travel and restorative actions. The Department may require an obstruction permit.

**§ 223-27. Public Highway Construction Standards.**

The City Council shall have full authority over the construction, maintenance and repair standards of the City which shall be at least as stringent as those of the State (RSA 231:92).

City public highways shall have the following basic minimum design elements:

Highways:

Wearing course:	Hot Mix Pavement; one and one half inch (NHDOT Items 401, 403); ½” aggregate
Binder course:	Hot Mix Pavement; two and one half inch (NHDOT Items 401, 403); ¾” aggregate
Base:	Crushed gravel: six inches (NHDOT Item 304.3)
Subbase:	Bank run gravel: twelve inches (NHDOT Item 304.2)
Compaction:	95% (NHDOT Item 304; 3.6 and 3.7)
Curbing:	Granite. At least 18 inches depth and at least 5 inches wide set in concrete over ¾ inch crushed stone; vertical or sloped (NHDOT Item 609)

Sidewalks::

Portland cement concrete – Class AA; 4,000 psi; 4 inches thick; 6 inches thick at tip downs; fiber or steel mesh (NHDOT Item 520 and 608), reinforcement (NHDOT Item 544.2), Base: crushed gravel: nine inches (NHDOT Item 304.3), protective coating silane or siloxane (NHDOT Item 534.2.); maximum running slope 12:1; cross slope 2%; or

Hot Mix Pavement; (NHDOT Item 401 and 608 (2.5), 1 1/2 inch finish thickness; 1 ½ inch binder thickness; base 10 inches crushed gravel (NHDOT Item 304.3)

All features compliant with the Americans with Disabilities Act.

Other features shall be per the City’s technical standards and/or Subdivision Regulations and Site Regulations

Driveways and private highways which intersect public highways:

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Shall be evaluated for approval referencing the geometric requirements of the New Hampshire Department of Transportation Policy Relating to Driveways and Access to State Highway System or its successor document(s).

**§ 223-28. Class VI Highways.**

Class VI highways are public highways for which the City has no duty of care, however has full authority to regulate use, excavation or disturbance or driveways and to regulate weight limits (RSA 231:21-a, 231:93, 236:9-11, 236:13, 231:191).

Class V highways which became Class VI highways due to a five or more year lapse in maintenance by the City, but which subsequently has been regularly maintained and repaired by the City on more than a seasonal basis and in suitable condition for year round travel thereon for at least five successive years shall become a Class V highway upon vote of the City Council (RSA 231:45-a).

Class VI highways may be reclassified by the City Council as a Class V highway per RSA 231:22-a. Petitions for the layout of a Class V highway over a Class VI highway shall follow the betterment assessment procedures of RSA 231:28-33.

Emergency Lanes may be created out of the improvement of a Class VI highway. (RSA 231-59-a).

**§ 223-29. Reserved.**

**§ 223-30. Discontinuance of Public Highways.**

The City Council has full authority to discontinue any Class IV, V and VI highways (RSA 231:43).

**§ 223-31. Private Highways.**

Unless existing as of the effective date of this paragraph, private highways are prohibited from these requirements unless part of a plan approved by the Planning Board and noted as such.

The City shall have no requirement for care nor liability for adequacy or safety thereupon a private highway. The City may require certain geometric features and construction materials and methods for private highways to aid emergency vehicle access.

The City will not collect rubbish on a private highway. Until a highway is officially accepted as a City highway, the owner of the highway has the sole responsibility to collect rubbish, themselves, or other private agreement. No rubbish shall be placed on a public highway or right-

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of-way without approval from the Department.

Safe passage shall be maintained for all vehicles once a certificate of occupancy is issued on a private highway. The highway shall be accessible for residences, emergency vehicles, and service vehicles as determined by the Department of Public Works and the Fire Department. Safe passage shall include winter maintenance, general highway surface repair, and maintenance of all infrastructure such as lighting, fire hydrants, and sidewalks.

The City Council may change the name or address assignment of any private highway when necessary to conform to the requirements of the enhanced 911 telecommunications system (RSA F231:133, 231:133-a).

Residential owners of property which derive enjoyment from a highway not maintained by the City shall contribute equally to the reasonable cost of maintaining the private road and damaged occasioned to the highway by an abutter shall be corrected at that abutter's expense (RSA 231:81-a).

**§ 223-32. Private Construction on a Class VI or Private Highway:**

Private construction on Class VI highways shall be restricted to the approved uses per Chapter 275 Zoning and City process procedures.

The procedure for construction on a Class VI or private highway shall be:

The developer or its agent shall submit a Site Plan or Subdivision application to the Planning Department to request the authorization of Building Permits on a Class VI or private highway. The application shall address all requirements of Site Plan or Subdivision Regulations.

The application shall also include:

Draft language to be recorded which clearly states the municipality neither assumes responsibility for maintenance of said class VI highway nor liability for any damages resulting from the use thereof in accordance with RSA 674:41.

After review and comment by the Planning Board, City Council shall vote to authorize Building Permits.

Prior to the issuance of a Building Permit, the applicant shall file with the Registry of Deeds a notice of the limits of municipal responsibility and liability in accordance with RSA 674:41.

**§ 223-33. Acceptance of Privately Constructed Highways as Public Highways.**

No proposed new public highway with or without new public sewer or water, public improvements, developer contributions, or any combination of the above, shall be laid out, accepted or constructed which is not subject to review and approval by the Planning Board,

recommend for acceptance by the Department of Public Works and approved by the City Council (RSA 674:36).

A private highway shall not be considered for acceptance until a minimum of 75% of dwelling units or structures have obtained certificate of occupancy and any infrastructure required to support full function of at least such number of units is completed and functioning adequately as determined solely by the Department. Notwithstanding this section, the City shall release surety partially as appropriate to reflect achievement of progress goals towards completion of the infrastructure in accordance with approved plans and City construction standards.

All private highway construction which may be intended for acceptance as City highways shall be subject to surveillance by the City. Developers shall accommodate all such inspections and execute any corrective action required by the City to comply with City Standards.

The City will not normally accept highways or segments of highways for acceptance that would be subsequently used to support construction activities related to further build out of private highways and infrastructure that may be considered for acceptance.

Developers are responsible for all maintenance and services to highways intended to be petitioned for acceptance until such acceptance is final. Such services include but are not limited to trash pickup and snow and ice removal.

The degradation of a highway intended to be petitioned for acceptance shall not be considered for acceptance until it has been rebuilt or restored to the Department's standards.

The procedure for public highway acceptance shall be:

- A. The developer or its agent shall submit a written petition to the City Clerk on behalf of the City Council for acceptance of a private highway as a City highway. The developer or its agent shall provide three copies of the letter each for the Planning Department, Public Works Department and Legal Department.
- B. The letter shall include:
  - a. Construction reports of materials testing data, certified by an independent, qualified source in paper and electronic format.
  - b. All inspection reports and photos.
  - c. Technical literature and data for all elements of the infrastructure including pavement design, pavement bases, utility pipes, water test results of pressure, disinfection, sewer manhole vacuum, sewer mandrel, video of water and sewer pipe interiors, pump stations and appurtances in paper and electronic format.
  - d. Drainage maintenance agreement signed by the owner.

- e. Descriptive deed, which details any fee title property and infrastructure that will be owned by the City and that which will be owned and maintained by a Homeowner's Association, if applicable, in paper and electronic format
  - f. Copy of drainage/utility and/or other easements in descriptive language in paper and electronic format
  - g. Recordable as-built plans in paper and electronic format
  - h. Full set of record drawings to include final survey plan showing all project improvements in paper and electronic format
  - i. A security in the form of an irrevocable letter of credit or passbook to guaranty that all site work was properly done to be posted by the applicant with the Department, which shall place the security with the City Treasurer. Such maintenance guaranty shall be in an amount of 2% of the value of the infrastructure intended to be conveyed to the City established in the City's schedule of values for such improvements and such values as are updated to reflect current values at the time of the petition. Elements shall include full cost of replacement for all street trees and other landscaping required, roadway, drainage and pedestrian facilities, and in force for three years after the date of City acceptance. If such repairs are required of the City following acceptance due to improper installation by the developer, such guaranty shall be used to implement corrective actions.
- C. The Department of Public Works will make a recommendation to the City Council for public highway acceptance when the following have been met:
- a. Resolution of any construction quality issues to the satisfaction of the Department to include restoration of damaged pavement even if such damage is due to age, consistent with sound trade practice.
  - b. All on or off-site improvements or contributions required by the Planning Board and Department of Public Works are complete and functioning as determined by the Department.
  - c. Final wear surface of asphalt pavement installed on all highways and sidewalks and all associated striping and signage.
  - d. All final grades, elevations and final vegetation within the right of way are complete, established and functioning as determined by the Department of Public Works
  - e. Drainage ditches have been stabilized; where grass is the stabilizer, a minimum of 90% growth has occurred as determined by the Department.
  - f. All stormwater, drinking water and wastewater facilities are complete and functioning as determined by the Department of Public Works
  - g. All on-site amenities such as highway trees, walking paths, gazebos, highway furniture, other structures, and landscaping required by the Planning Board are complete and functional as determined by the Department of Public Works
  - h. Adequate surety remains to complete the balance of the work as approved by the Planning Board

- i. A minimum of 75% of dwelling units or structures have obtained certificate of occupancy and all infrastructure required to support full function of at least such number of units is completed and functioning as determined by the Department of Public Works
- D. The City Council shall hold a public hearing on the proposed acceptance with public notice furnished by the City by certified mail (RSA 231:10). Upon acceptance by the City Council as a City highway, the following shall be submitted to the City Clerk with copies to the Planning Department, Legal Department and Department of Public Works within 30 days:
  - a. Signed warranty deed(s), easements, Home Owner Association covenants, stormwater management plans, if applicable and stamped recordable plan(s) for recording by the City Clerk
- E. The acceptance of a private highway as a public highway shall not be construed to confer upon the municipality any notice of, or liability for, insufficiencies or defects which arose or were created prior to such acceptance (RSA 231:92).

**§ 223-34. Naming of Public Highways.**

- A. Proposed highway names shall be approved by the City Council. Proposed names shall be submitted to the Planning and Development Department by application of private owner, developer or dedicator. The proposed name shall be reviewed by the E911 Committee. Following review the name and such name shall be presented to the City Council for approval. Naming assignments shall be issued by letter to the applicant with copies to City departments and the State E911 Unit within the Division of Emergency Services and Communications (RSA 231:133).
- B. The City shall not be bound by any name previously assigned to the highway, highway or right-of-way by the private owner, developer or dedicator. No name for a highway, highway, or right-of-way shall be selected which is already in use, or which is confusingly similar to any other existing name, or which otherwise might delay the locating of any highway in an emergency. Names of highways shall not duplicate or bear phonetic resemblance to the name of existing highways within the City (RSA 231:133)
- C. The City Council may change an existing name on any public or private highway at any time when in its judgment there is occasion for so doing such as in adherence to the requirements of the enhanced 911 telecommunications system (RSA 231:133)..
- D. Whenever a change in name is proposed to any highway or right of way, the E911 Committee shall make a recommendation to the City Council. Once approved, the E911 Committee shall make a record of a new name or name change and shall forward a copy of such record to the Department of Transportation, in accordance with the requirements of RSA 231:133, as presently enacted or in accordance with the corresponding provisions of any recodification or amendment thereof. In the process of assigning names to highways, highways and right-of-way, the E911 Committee shall follow the New Hampshire Addressing Standards Guide, to the extent possible:

- (1) No name shall be assigned to a highway, highway or right-of-way which shall duplicate the name of any other proposed or existing highway, regardless of the use of the suffix "highway," "avenue," "boulevard," "drive" or the like.
  - (2) The extension of an existing highway shall have the same name as the existing highway.
  - (3) Before a new highway name is assigned to an existing highway, the proposed name of such highway shall be reviewed by the E911 Committee. The Committee shall submit their comments, if any, with regard to the proposed name to the City Council.
- E. The Planning and Development Department shall have the authority to assign a provisional name to all highways, highways and/or rights-of-way shown upon subdivision or site review plans being considered for approval by the Planning Board; provided, however, that no such provisional name shall be assigned to such highway unless it has been approved by the E911 Committee.

**§ 223-35. Address Numbers on Highways and Right-of-Ways.**

- A. Pursuant to the provisions of RSA 231:133-a, the Planning and Development Department shall have the authority to assign numbers to vacant lots and all existing residential and/or commercial structures.
- B. Assignment of addresses for new construction shall be initiated through the driveway permit application process. Applicant shall provide with the application a plan or map showing road stationing and the proposed tax map and lot numbers.
- C. Driveway permit applications, plans or maps shall be reviewed by the Planning and Development Department to determine addressing. Driveway permits shall not be issued until addressing is assigned. Addressing assignments shall be issued by letter to the applicant with copies to relevant City departments, the E911 Committee, the State E911 Unit within the Division of Emergency Services and Communications, and the US Post Office. The Planning and Development Department may issue temporary addresses until final assignments are determined.
- D. Existing address assignments may be altered when they no longer conform with addressing standards.
  - (1) When a proposed change would not impact any surrounding properties, the E911 Committee may propose an address reassignment. The property owner is issued a letter that provides the new proposed address and includes the reason for the address reassignment.
    - i. If the property owner agrees and signs a consent to the proposed change, the address reassignment process continues.
    - ii. If the property owner does not agree with the proposed change, they may submit an appeal to the E911 Committee for reconsideration. The Committee may decide to grant the appeal or confirm their original

decision, at which the property owner may take the matter to City Council for a public hearing and final determination of the addressing concern.

- (2) When a proposed change impacts abutting properties or property owners do not provide consent, a public hearing shall be scheduled. In such cases, the City shall notify abutting property owners and hold a public hearing for which 10 days' notice has been given in accordance with RSA 231:133-a. Full authority and discretion to re-assign addressing shall rest with the City Council.

E. In assigning numbers to vacant lots and residential and/or commercial structures, the Planning and Development Department shall employ the following criteria:

- (1) For every 10 feet of right-of-way frontage within the Special Downtown District of the City of Rochester, as defined in Chapter 275, Zoning, of the Code of the City of Rochester, there shall be an individual number assigned.
- (2) For every 50 feet of right-of-way frontage outside of the Special Downtown District of the City of Rochester, as defined in Chapter 275, Zoning, of the Code of the City of Rochester, there shall be an individual number assigned.
- (3) Highways shall be numbered so that even numbers are located on the left side of the right-of-way and odd numbers are located on the right side of the right-of-way. The right and left sides of the right-of-way shall be determined by the relationship of the right-of-way to a person facing away from the center of the City of Rochester at the statue of Parson Main.
- (4) The numbering for cul-de-sac shall begin at the intersection of the cul-de-sac and the collector right-of-way and shall proceed from the right-hand side of the collector right-of-way from right to left around the cul-de-sac.
- (5) Mobile home parks and condominium and apartment complexes shall, to the extent possible, name their private highways and number each unit consistent with the E-911 standards set forth in this section.
- (6) Each apartment building shall be given one highway number and each apartment unit within such building shall be assigned that highway number and unit number.
- (7) Existing numbering patterns for existing highways, highways and rights-of-way which do not allow for the assignment of additional numbers for future development may be assigned new numbers by the Planning and Development Department.
- (8) The beginning of a highway shall be that end which intersects with a collector highway and, so far as possible, shall be that end closest in distance to the statue of Parson Main.

F. Any building or structure for which a number has been designated shall have such number affixed thereto in such manner as to be plainly visible from the highway,

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which abuts the main entrance to the property. Such numbers shall be a minimum of 4 inches in height with minimum stroke width of ½” in accordance with the Fire Code as adopted by the State of New Hampshire.

- G. Failure to display an assigned number in the manner set forth above shall be grounds for denial of a certificate of occupancy. Any violation of the provisions of this article or any order of the Director or the Code Compliance Officer related thereto are subject to citation and the civil penalties set forth in RSA 47:17 and Code § 54-3.

#### **§ 223-36. Construction of Sidewalks.**

Sidewalks built by the City of Rochester for the use of the travelling public shall be in locations approved by the City Council. Sidewalks shall be constructed under the supervision of the Department. The Department will not maintain non-contiguous sidewalks which are of such limited in practical size such as sidewalks along a singular property frontage which are not served by adjacent sidewalks.

Residents who wish to have new sidewalks built for their highway may by petition of abutters who by written application shall agree to pay a portion of the cost of construction of said sidewalk, said portion not exceeding 1/2 of the said cost, payment to be made over a period not to exceed 10 years. The portion of the cost to be borne by the petitioner shall be both reasonable and proportional to the benefits according to the land upon which such assessment is made (RSA 231:112).

#### **§ 223-37. Highway Lighting.**

The Department shall have supervision of all municipal lighting and location of electric light and utility poles within the City limits and is authorized to prescribe rules and regulations for any modifications of any poles, crossarms or supporting fixtures which are located within the public highway. Improvements made for private purposes to said poles, crossarms, or supporting fixtures shall require a permit from the Department and be made at the requestor's expense.

Highway lighting for new residential or commercial construction or highway layout shall be guided by the City's Subdivision or Site Plan regulations and the professional judgement of City staff.

Requests for new or enhanced highway lighting on public highways not appurtenant to new construction or highway layout construction shall be considered by the City Council. In general, the following areas may be considered:

The termination area of dead end or no outlet highways.

Intersections of public highways.

Highway areas where multi-modal safety or general public safety can be enhanced.

Crosswalks.

Highway lighting shall be for the benefit of the traveling public and shall not be considered for the sole benefit of the property of abutters.

It is unlawful to place any light along a highway so positioned to impact the vision of the travelling public (RSA 236:55).

**§ 223-38. "Adopt-A-Spot" Areas**

The City Manager, in the exercise of duties relative to the oversight of all real and personal property owned by the City of Rochester, as specified in Section 14 of the Rochester City Charter, from time to time, designates certain areas of the City, primarily areas included within or closely related to the highways servicing the City of Rochester, as "Adopt-A Spot" areas. "Adopt-A-Spot" areas are maintained, landscaped and/or otherwise beautified by designated individuals and/or entities that volunteer to perform such functions for the purpose of improving the appearance of the "Adopt-A-Spot" areas, as well as the appearance of the City of Rochester as a whole. The City Manager shall annually, on or about May 1 of each year, establish a list of "Adopt-A-Spot" areas for the ensuing calendar year beginning on such May 1 and ending on the following April 30. A copy of such list shall be maintained in the City Manager's office and in the office of the City Clerk. In the event that the City Manager fails to update the "Adopt-A-Spot" list on or about May 1 of a given year, the "Adopt-A-Spot" list then on file in the office of the City Manager shall be controlling for the purposes of this section. No person shall, within any "Adopt-A-Spot" area, erect or maintain any sign or other advertising material whether for political purposes or otherwise, except for such advertising material and/ or device as has been previously authorized in writing by the City Manager or his/her designee. Any person failing to comply with the provisions of this section shall be guilty of a violation.

**§ 223-39. Security.**

The Department may require any person seeking to perform any work affecting any highway, bridge, sidewalk or other public property to furnish surety in the form of a cash, or letter of credit to indemnity to the City of Rochester in such sum and with sureties as the Department may deem proper. Bonds will generally not be acceptable forms of security.

**§ 223-40. Violations and Penalties.**

Any violation of the provisions of this article or any order of the Director or the Code Compliance Officer related thereto are subject to citation and the civil penalties set forth in RSA 47:17 and Code § 54-3.

**ARTICLE II**

**~~Newsracks and Public Way Obstructions~~  
~~[Adopted 6-6-1995 as Ch. 35 of the 1995 Code]~~**

**~~§ 223-19. Purpose.~~**

**Commented [R01]:** Much of this seems no longer applicable. We could pull together a sidewalk obstruction / encumbrance section that outlines our current needs like addressing: outdoor seating, "sandwich boards", other marketing tools, and scaffolding or construction needs?

The purpose of this article is to promote the public health and safety through the regulation of the placement of newsracks and public way obstructions.

**§ 223-20. Definitions.**

As used in this article, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

~~CITY~~ — The City of Rochester.

~~NEWSPAPER or NEWS PERIODICAL~~ — A daily or weekly publication containing all of the following: current news, editorials, feature articles and advertising. ~~[Amended 3-5-2019]~~

~~NEWSRACK~~ — Any self-service or coin-operated box, container, storage unit or other dispenser installed, used, or maintained for the display and sale of newspapers or news periodicals.

~~PARKWAY~~ — That area between the sidewalk and the curb of any highway, and where there is no sidewalk, that area between the edge of the highway and the property line adjacent thereto. "Parkway" shall also include any area within a highway which is not open to vehicular travel.

~~PUBLIC WAY OBSTRUCTION~~ — Any object other than a newsrack which obstructs the free passage of pedestrians or vehicles on the highways, sidewalks, parkways or highways. The term "public way obstruction" shall include, but not be limited to, signs and planters.

~~HIGHWAY~~ — That portion of a highway improved, designed, or ordinarily used for vehicular travel.

~~SIDEWALK~~ — Any surface provided for the exclusive use of pedestrians on any public right-of-way under the jurisdiction of the City.

~~HIGHWAY~~ — All that area dedicated to public use or public highway purposes and shall include, but not be limited to, highways, parkways, alleys, sidewalks, garages, parking lots, parks and playgrounds. ~~[Amended 3-5-2019]~~

**Public Way Obstructions**

- ~~A. No person shall obstruct a public road or sidewalk, except with a permit issued by the Department of Public Works.~~
- ~~B. No person shall, place, install, or locate any structure, fixture, object, or other encroachment within the limits of a public road or sidewalk, except as follows:~~
  - ~~a. Pursuant to a license issued by the department of public works~~
  - ~~b. A sign or fence permitted in accordance with the City's Zoning Ordinance, or~~

**Commented [R02]:** Draft language which could include all types of encumbrances. This would require the creation of an Obstruction Permit.

~~e. For all other types of structures, fixtures, objects or other encroachments, pursuant to a revocable license from the Department of Public Works, which the Director may issue for good cause for non-intrusive structures, fixtures, objects, or other encroachments on such terms as the Director may determine and require.~~

~~§ 223-21. Prohibited acts.~~

- ~~A. No person shall install, use, attach or maintain any newsrack or public way obstruction which projects onto, into or over any part of the highway of any public highway or which rests, wholly or in part, upon, along or over any portion of the highway of any public highway.~~
- ~~B. No person shall install, use, attach or maintain any newsrack or public way obstruction which in whole or in part rests upon, in or over any public sidewalk or parkway when such installation, use or maintenance endangers the safety of persons~~

§ 223-21 \_\_\_\_\_ ROCHESTER CODE \_\_\_\_\_ § 223-23

~~or property, or when such site or location is used for public utility purposes, public transportation purposes or other uses, or when such newsrack or public way obstruction unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic, including any legally parked or stopped vehicle, the ingress or egress for any residence or place of business, or the use of poles, posts, travel signs or insignias, hydrants, mailboxes or other objects permitted at or near said location.~~

~~C. Within 60 days of the passage of this article every person or other entity shall comply with the provisions of this article with respect to each newsrack and/or public way obstruction owned by it within the City. [Amended 3-5-2019]~~

**§ 223-22. Permit required; application for permit.**

~~A. No person shall install or maintain any newsrack or public way obstruction which in whole or in part rests upon, in or over any public sidewalk or parkway without further applying for and being granted a permit from the Licensing Board. The permit application shall include the following:~~

- ~~(1) The physical dimensions of each newsrack or public way obstruction to be installed or maintained in the City by the person;~~
- ~~(2) The name, address, and telephone number of the person or entity to whom or to which the permit is to be issued; and~~
- ~~(3) A diagram showing the location of the newsrack or public way obstruction and the dimensions of the sidewalk, if any, upon which it is to be located.~~

~~B. Newsracks shall require the submission of a permit application, but the permit shall be granted by the Licensing Board on a ministerial basis provided that the proposed newsrack as installed will not violate the provisions of § 223-21 above.~~

**§ 223-23. Standards for installation, maintenance and operation.**

~~Any newsrack or public way obstruction which in whole or in part rests upon, in, or over any public sidewalk or parkway shall comply with the following standards:~~

- ~~A. All newsracks and public way obstructions must be individually permitted by location.~~
- ~~B. No newsrack or public way obstruction shall be chained, bolted or otherwise attached to any public property, or to any private property, without the written permission of the City, the owner, or the person in possession of the property to which the attachment is to be made.~~
- ~~C. Newsracks and public way obstructions shall not be chained or otherwise attached to one another.~~
- ~~D. The City shall issue a proof of permit in the form of a sticker or decal which shall be attached to the newsrack or public way obstruction at all times.~~
- ~~E. All permits must be renewed annually prior to July 1.~~
- ~~F. Unlicensed newsracks or public way obstructions will be considered abandoned and~~

**Commented [R03]:** I wasn't able to locate this permit. I'm not sure its still applicable.

~~§ 223-23 HIGHWAYS AND SIDEWALKS § 223-28~~

~~subject to removal without notice.~~

~~G. All permits are nontransferable.~~

~~H. The annual fee for each permit shall be fifty dollars (\$50.), regardless of when during a year such permit is issued.~~

~~I. Any permit may be revoked at any time, by action of the Licensing Board; provided, however, that any revocation initiated by the Licensing Board shall entitle the owner of the newsrack and/or public way obstruction to a pro rata refund of the annual permit fee paid pursuant to the preceding Subsection H of this section.~~

Commented [R04]: I don't believe we do this.

~~§ 223-24. Identification required.~~

~~Within 30 days after this article becomes effective, every person or other entity which places or maintains a newsrack or public way obstruction on the highways of the City shall have his/her/its name, address and telephone number affixed thereto in a place where such information can be easily seen.~~

~~§ 223-25. Hold harmless agreement; insurance. [Amended 3-5-2019]~~

~~Every person or other entity which places or maintains a newsrack or public way obstruction on a public sidewalk, parkway, highway or highway in the City shall file a written statement with the Licensing Board, satisfactory to the City Attorney, whereby he/she/it agrees to indemnify and hold harmless the City, its officers, City Council members and employees from any loss or liability or damage, including expense and costs for bodily injury or damage to private or public property sustained by any person as a result of the installation, use or maintenance of a newsrack or public obstruction within the City. A certificate of insurance in a form approved by the City Attorney indicating no less than one million dollars (\$1,000,000.) in general liability insurance coverage and naming the City as an additional insured shall be maintained on file with the Licensing Board by each such person or entity.~~

Commented [R05]: I don't think we have a mechanism for enforcement or follow-up for this section

~~§ 223-26. Removal of newsrack or public way obstruction.~~

~~The City Manager or his/her designee shall remove any newsrack or public way obstruction placed on any highway, sidewalk, parkway or highway in violation of this article.~~

~~§ 223-27. Severability.~~

~~The provisions of this article are severable. If any provision of this article or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this article without the invalid provisions or applications.~~

~~§ 223-28. Injunction.~~

~~Any violation of this article is hereby declared to be a nuisance. In addition to any other relief provided by this article, the City Attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this article. Such application for relief may include the seeking of a temporary restraining order,~~

~~§ 223-28~~ ————— ~~ROCHESTER CODE~~ ————— ~~§ 223-30~~

~~preliminary injunction and/or permanent injunction.~~

~~**§ 223-29. Damage to newsracks and public way obstructions.**~~

~~Any damage to newsracks or public way obstructions, whether or not properly licensed, by any cause whatsoever, including snowplowing and removal, shall be at the sole expense of the owner.~~

~~**§ 223-30. Violations and penalties.**~~

~~Any violation of the provisions of this article or any order of the Director or the Code Compliance Officer related thereto are subject to citation and the civil penalties set forth in RSA 47:17 and Code § 54-3.~~

# Chapter 223

## Streets and Sidewalks

**[HISTORY: Adopted by the City of Rochester as indicated in article histories. Amendments noted where applicable.]**

### GENERAL REFERENCES

Parades — See Ch. 22, Art. III.

Peddling and soliciting — See Ch. 171.

Vehicles and traffic — See Ch. 254.

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### Article I

#### General Regulations

**[Adopted 6-6-1995 as Ch. 15 and § 26.7 of the 1995 Code]**

§ 223-1 **Definitions.**

**[Amended 3-5-2019]**

The following definitions shall be applicable for the purpose of this article:

#### **COMMISSIONER**

The Commissioner of Public Works or his/her designee. See § 7-18A of the City Code.

#### **COMMITTEE**

The subcommittee of the City Council (Public Works and Building Committee) having responsibility for overseeing expenditures, maintenance and control of public buildings, streetlights, public parks, sewerage, streets and highways and residential solid waste/recycle disposal. The Committee members shall be designated by the Mayor and shall enjoy membership according to rules and regulations as established by the City Council. The responsibilities of this Committee shall be enumerated by the City Council and shall further be as set forth within this article, and this Committee shall be referred to throughout this article as "Committee."

§ 223-2 **Repair of highway, bridge or sidewalk.**

**[Amended 3-2-2004]**

Whenever any highway, bridge, or sidewalk shall, from want of necessary repair, or because of any repairs or construction being made therein by the Highway Division of the Department of Public Works, become unsafe for travel, the Commissioner, upon instruction of the City Manager, shall erect a suitable fence or railing to exclude all travelers from passing over the same and shall maintain at night such lights as may be necessary to warn the traveler of the hazard. If said repairs or construction is being made by any other department or person, the head of such other department or person shall erect and maintain the same guard fence, rails and lights.



**§ 223-3 Prohibiting use of highways.**

The Commissioner may make rules and regulations prohibiting the use of any or all highways to such vehicles as he/she may prescribe in order to prevent the use of said highways when said highways are unsuitable for travel thereon. Such rules and regulations shall be posted on each highway so regulated and at two other public places in the City. Any person violating the provisions of such posted rules and regulations shall be fined not more than one hundred dollars (\$100.) and shall be liable for all damage occasioned thereby.

**§ 223-4 Elevation.**

The datum from which all elevations for street and other City work shall be calculated shall be that of the U.S. Geodetic Survey, as given on the standard discs of the survey.

**§ 223-5 Permit for excavation upon highway or sidewalk.**

- A. No person shall break or dig up the ground, stone or concrete in any street, lane or alley, or in any sidewalk or common in the City, or erect any staging for building, or fence off any portion of said street or sidewalk, or place or deposit any stone, brick, timber, or other building material thereon, without first obtaining a written permit from the Commissioner and complying in all respects with conditions said Commissioner may impose. Whenever any street, lane, alley, sidewalk, or other public place in the City shall, under any permit granted, be dug up, obstructed or encumbered, and thereby rendered unsafe or inconvenient for travelers, the person so digging up, obstructing or encumbering shall put, and at all times keep up, a suitable railing or fence around the section or parts of any street, lane, alley, or sidewalk or other public place so dug up, obstructed or encumbered, so long as the same shall be, or remain, unsafe or inconvenient as aforesaid, and shall also keep such fence adequately illuminated every night from dusk until dawn so long as such railing or fence shall be kept standing. He/she shall also, at his/her expense, to the acceptance of the Commissioner, and within such reasonable time as the Commissioner shall direct, repair such street, lane, alley, sidewalk or public place. **[Amended 3-5-2019]**
- B. For a period of five years, beginning with the date of completion of the final paving of a public street or way relating to the construction or reconstruction of said street or way, no person, firm or corporation or any agent or servant thereof shall excavate, construct or in any way encumber the paved or traveled portion of the street or way in the City of Rochester at any time, except for emergencies as may be deemed necessary by the Commissioner of Public Works and then only upon the posting by such entity of sufficient security, as determined by the Commissioner of Public Works and the agreement of such entity, to pay the cost of restoring such street or way to its original condition or with the approval by majority vote of the City Council. For one year after being notified of the completion of such restoration by such entity, the Commissioner may reduce the amount of the security posted by such entity; however, the Commissioner shall retain sufficient security to ensure that such restoration has been performed in a manner that will ensure that said street or way has been restored to its original condition. One year after being notified of the completion of such restoration, the Commissioner shall inspect the area restored and shall release such security if, in the judgment of the Commissioner, such restoration is satisfactory. **[Amended 3-2-2004; 4-7-2015; 4-5-2016]**
- C. Any other provision of this article notwithstanding, any person, firm or corporation or any agent or servant thereof that shall violate the provisions of this section shall be subject to a fine of not more than five hundred dollars (\$500.).

**§ 223-6 Fire Chief to be notified.**

Any person or corporation or department of the City, before digging up, obstructing or encumbering in any

11/02/2023

way any street, lane, alley, sidewalk, or other public place in the City, shall, before beginning such work, notify the Fire Chief as to where such work is to be done and shall, immediately upon the completion of such work and the restoration of the place to its normal condition, notify the Fire Chief.

**§ 223-7 Moving of buildings through streets.  
[Amended 3-5-2019]**

- A. No person shall move, or assist in moving, any house, shop or other building through any street, lane, or alley without first obtaining a written license from the Licensing Board. Whenever the Licensing Board shall as aforesaid grant permission to any person to encumber any street, sidewalk, or public square for the purpose of erecting, altering or moving buildings or to dig up or encumber the same in any other manner, it may, as a condition to granting such permission, require the party obtaining the same to furnish a bond of indemnity to the City of Rochester, in such sum and with such securities as the Licensing Board may deem proper.
- B. The fee for such license shall be twenty-five dollars (\$25.).

**§ 223-8 Conduct on public streets and highways.**

The following conduct with respect to the use of the City streets and highways shall be regulated as more fully set forth below:

- A. No person shall place, establish, or maintain any sign, awning or shade before his/her place of business, dwelling house or tenement, over any part of any street or sidewalk, unless the same is safely fixed and supported so as in no way to endanger persons passing upon such street or sidewalk, and so that the lowest part of such sign, awning or shade shall be at least seven feet above the sidewalk; nor shall any person hang, affix, fasten, place or allow to remain upon the outer edge of any sidewalk any sign or showcase whatever, or there display any goods, merchandise, or samples of any business calling, trade, art or craft, so as to obstruct the free passage and view to and from the street and sidewalk.
- B. No person shall sell at auction or otherwise upon any street or public square in the City any furniture, goods, wares or merchandise whatever, or place or in any manner encumber such street or square therewith, without first obtaining a permit from the City Manager and obtaining a secondhand dealer's/hawker's license from the Department of Building, Zoning, and Licensing Services. **[Amended 5-1-2007; 10-15-2013]**
- C. No person shall draw or cause to be drawn, move or cause to be moved, upon any public highway or street in said Rochester, any harrow, plow, or other instrument or implement liable to cause injury to the surface of said public highway or street, unless the same is being carried or transported upon a drag, vehicle or other conveyance.
- D. No theatrical or dramatic representation shall be performed or exhibited, and no parade or procession upon any public street or way, unless a special license shall first be obtained from the Licensing Board. (See Chapter 22, Amusements and Entertainment, Article III, Public Dances, Circuses and Parades.) **[Amended 3-5-2019]**
- E. Dumping on highways. No person shall deposit or dump bottles, glass, crockery, cans, scrap metal, junk, paper, garbage, old automobiles, automobile parts, or any other stones, snow, residential solid waste, dirt, ashes, lumber or any other thing either in or upon any highway, street, lane, alley, sidewalk,

or other public place within the City limits of Rochester. [~~Amended 12-5-1995; 3-5-2019~~]<sup>11/02/2023</sup>

**§ 223-9 Proposal for new street or highway or public improvements; sewer and water assessments.**

No proposed new street or highway or new public sewer, water, street surfacing, or other public improvements, or any combination of the above, shall be laid out, accepted or constructed on behalf of the City by the City Council which is not subject to review by the Planning Board under Rochester Subdivision Regulations until the following requirements have in all respects been complied with:

- A. The person or persons offering said street or highway layout or requesting new public sewer, water, street surfacing or other public improvements, or any combination of the above, shall proceed as follows:
- (1) Make written petition to the Planning Board, which shall provide the following:
    - (a) A description of or reference to a map or plan, showing the starting points, courses, and termini of the street or highway, and requested sewer, water, street surfacing and other public improvements, as may be necessary.
    - (b) A description of the lands affected by said street and public improvements.
    - (c) The names of the owners of such lands.
    - (d) The estimated cost for the construction of said streets or highways and other necessary public improvements.
    - (e) A separate form of sewer or water agreement, providing that a person shall pay for the total cost of any sewer or water extensions, which said costs shall be determined by the Commissioner of Public Works, and each agreement shall further provide for the payment of the total cost of said sewer or water extensions plus full payment of interest on account of any debt to be incurred by the City in the construction of said sewer or water extensions. Each agreement shall further provide that the total cost of said sewer or water extensions and payment in full of the interest on any debt to be incurred by the City in the construction of said sewer or water extensions shall be paid by the person desiring such construction by means of a special sewer or water assessment and shall constitute a lien on all land of said person. Said lien shall be transferable upon the conveyance of said improved land, provided that all prior installments thereon have been paid. Each agreement shall further provide that said special sewer or water assessment shall be based upon the total cost of the construction plus the payment of interest on any debt incurred by the City, and may further provide that said cost and interest may be prorated over a period not exceeding 10 years. Each agreement shall further provide that in the event of a transfer or sale by the original petitioner of the property serviced by said extension, the balance then owing to the City for said extension shall be paid in full. Said agreement shall be recorded in the Strafford County Registry of Deeds, and said lien shall have the full force and effect of a tax lien and be collectable as such as provided by RSA 80:88 to 80:91 as presently enacted or the corresponding provisions of any recodification or amendment of these sections. Said agreement shall also be signed and shall be duly witnessed and acknowledged. Any agreement for sewer or water shall be limited to individual owners of residential homes only, who shall be reimbursed for any payment made as above provided in the event that Phase II of the Water Pollution Abatement Program of the City of Rochester is adopted. Any commercial, industrial or real estate development owners shall pay their pro rata share of such sewer

- (2) Said street or highway shall be a minimum of 50 feet in width.
  - (3) Give a warranty or other satisfactory fiduciary deed of conveyance describing said property to the City of Rochester.
- B. The Planning Board shall review said petition and agreement and shall report in writing to the City Council and to the Commissioner of Public Works the following:
- (1) The need of such street or highway and any necessary public improvements.
  - (2) The character of the proposed street layout and necessary public improvements and their relationship to the future development of the City as a whole.
  - (3) The necessity, if any, for sewer, water, street surfacing and other public improvements.
- C. The Commissioner of Public Works shall report in writing to the City Council the following:
- (1) The estimated cost of final surfacing for any of said street or highway by the City.
  - (2) The estimated cost for any necessary sewer, water or other public improvements.
  - (3) The estimated period of time required to complete said street or highway surfacing and to construct said sewer, water and other necessary public improvements.
- D. The City Council shall proceed as follows:
- (1) Review the petition and agreement of the person or persons offering said street or highway and each person desiring necessary sewer, water or other public improvements; review the action and recommendations of the Planning Board; and examine the report of the Commissioner of Public Works. The petition of the person or persons, the action and recommendations of the Planning Board, if any, and the report of the Commissioner of Public Works shall be first accepted by the City Council by a majority vote of the entire membership of the Council.
  - (2) If the above petition, action and report are all accepted by a majority vote of the City Council, the City Council shall require each person to provide the City with a written agreement, signed and duly witnessed and acknowledged, in which each person agrees to pay his/her pro rata share of the special assessment hereinabove provided. No agreement and no deed shall be accepted by the City without a two-thirds roll call vote of the Council. Said two-thirds roll call vote shall be based upon the entire membership of the City Council.
- E. Any person who refuses to sign an agreement to pay his/her pro rata share of the special assessment for new construction of said sewer or water extension prior to said construction or any other person who shall refuse to sign such an agreement at a later date to pay his/her pro rata share of the special assessment shall be prohibited from joining in any new sewer or water extensions in the City of Rochester without paying his/her pro rata share of the special assessment, as the case may be, for the construction of said sewer or water extensions in the City of Rochester.

- F. The pro rata share of each person shall be determined by dividing the total cost of construction of said sewer or water extensions plus any necessary interest to be incurred in financing of said sewer or water construction by the number of lots as laid out on said plan or map in order to determine each person's pro rata share of the special assessment.
- G. The funds received from the collection of such special sewer or water assessments shall be kept as separate and distinct funds and shall be known by their respective names as the "Sewer Fund" or the "Water Fund" as the case may be. Any surplus in any such fund or funds may be used for the enlargement or replacement of said sewer or water extensions but shall not be used for the extension of said sewer or water to serve unsewered or unwatered areas or for any purpose other than for cost of construction and payment of interest on any said newly constructed sewer or water extensions.
- H. A copy of this amendment shall be recorded in the Strafford County Registry of Deeds under the title of "City of Rochester Sewer or Water Liens" and any other indexing as the Register of Deeds may deem appropriate.
- I. Any lien created by this amendment or by said original ordinance or other prior amendment thereto shall also be deemed to be in the form of a tax lien, and any default thereon shall also be collectable by an action in debt, or other appropriate action, and said lien shall also have the full force and effect of a real estate attachment, as well as a tax lien.
- J. This amendment shall take effect upon its passage and no petition shall be considered without complete compliance with said section and all amendments thereto.

**§ 223-10 Naming of public streets and rights-of-way.**

- A. Every highway, street or right-of-way under the control of the City and which is to receive, or has received, legal status by acceptance shall have a name which shall be given it by the City Council in accordance with the provisions of RSA 231:133, as presently enacted, or in accordance with the corresponding provisions of any recodification or amendment of such section. Said name shall be legibly marked on a suitable signboard or other marker and placed in at least two conspicuous places on said street. The City Council may change the name of any such street, highway or right-of-way at any time when in its judgment there is occasion for so doing.
- B. The naming of any new street, highway or right-of-way shall form a part of the return of the layout of the street or highway, or of the acceptance of any dedicated way. The City shall not be bound by any name previously assigned to the street, highway or right-of-way by any private owner, developer, or dedicator. No name for a highway, street, or right-of-way shall be selected which is already in use, or which is confusingly similar to any other existing name, or which otherwise might delay the locating of any street in an emergency.
- C. Whenever a name is assigned to any new street, highway or right-of-way, or a change is made in the name of any street, highway or right-of-way, the City Council shall make a return of the same to the City Clerk, who shall make a record of a new name or name change and shall forward a copy of such record to the Commissioner of Transportation, in accordance with the requirements of RSA 231:133, as presently enacted or in accordance with the corresponding provisions of any recodification or amendment thereof. In the process of assigning names to streets, highways and rights-of-way, the City Council shall follow the following guidelines, to the extent possible: **[Amended 6-5-2001]**

- (1) No name shall be assigned to a street, highway, or right-of-way which shall duplicate the name of any other proposed or existing street, regardless of the use of the suffix "street," "avenue," "boulevard," "drive" or the like.
  - (2) The extension of an existing street shall have the same name as the existing street.
  - (3) Before a new street name is assigned to a street, highway or right-of-way by the City Council, or an existing street is renamed by the City Council, the proposed name of such street shall be reviewed by a committee consisting of the City Clerk, Fire Chief, Police Chief, Planning and Development Director, or their respective designees, and the Rochester Postmaster, or his/her designee, who shall submit their comments, if any, with regard to the proposed name to the City Council. No proposed name which receives a negative review by a member of the aforementioned committee shall be utilized.
- D. The Planning Board shall have the authority to assign a provisional name to all streets, highways and/or rights-of-way shown upon subdivision or site review plans being considered for approval by the Planning Board; provided, however, that no such provisional name shall be assigned to such street unless and until such time as the Planning Board shall have followed the procedures set forth in Subsection C above with respect to such proposed street name.

**§ 223-11 Address numbers on streets, highways and rights-of-way.  
[Amended 6-15-1999; 6-5-2001]**

- A. Pursuant to the provisions of RSA 231:133-a, the Planning and Development Director of the City of Rochester, or his/her designee, shall have the authority to assign numbers to all existing residential and/or commercial structures and/or to vacant lots. In assigning numbers to residential and/or commercial structures and/or vacant lots, the Planning and Development Director, or his/her designee, shall employ the following criteria: **[Amended 10-15-2013; at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
  - (1) For every 10 feet of right-of-way frontage within the Special Downtown District of the City of Rochester, as defined in Chapter **275**, Zoning, of the Code of the City of Rochester, there shall be an individual number assigned.
  - (2) For every 50 feet of right-of-way frontage outside of the Special Downtown District of the City of Rochester, as defined in Chapter **275**, Zoning, of the Code of the City of Rochester, there shall be an individual number assigned.
  - (3) Streets shall be numbered so that even numbers are located on the left side of the right-of-way and odd numbers are located on the right side of the right-of-way. The right and left sides of the right-of-way shall be determined by the relationship of the right-of-way to a person facing away from the center of the City of Rochester at the statue of Parson Main.
  - (4) The numbering for culs-de-sac shall begin at the intersection of the cul-de-sac and the collector right-of-way and shall proceed from the right-hand side of the collector right-of-way from right to left around the cul-de-sac.
  - (5) Mobile home parks and condominium and apartment complexes shall, to the extent possible, as determined by the committee established in § **223-10C(3)** above, name their private streets and number

each unit consistent with the E-911 standards set forth in this section.

- (6) Each apartment building shall be given one street number and each apartment unit within such building shall be assigned that street number and unit number.
  - (7) Existing numbering patterns for existing streets, highways and rights-of-way which do not allow for the assignment of additional numbers for future development may be assigned new numbers by the Planning and Development Director or his/her designee.
  - (8) All new buildings and/or structures, as defined in Chapter **275**, Zoning, Article 2, of the Code of the City of Rochester, or additions to existing buildings and/or structures, shall be required to obtain and file with the Department of Building, Zoning, and Licensing Services a foundation certification plan in accordance with the requirements of Chapter **40**, Building Construction and Property Maintenance, § **40-15**.
  - (9) The beginning of a street shall be that end which intersects with a collector street and, so far as possible, shall be that end closest in distance to the statue of Parson Main.
  - (10) Any building or structure for which a number has been designated shall have such number affixed thereto in such manner as to be plainly visible from the street which abuts the main entrance to the property. Such numbers shall be a minimum height as to meet current Fire Code requirements.
  - (11) The owner of any building or structure who shall fail to affix an assigned number to his/her mail box and building or structure within 30 days of written notice from the Planning and Development Director shall be fined not more than twenty-five dollars (\$25.) for each day that such number is not affixed. Any number affixed in accordance with this subsection shall be visible from the street. With respect to new structures, failure to display an assigned number in the manner set forth above shall be grounds for denial of a certificate of occupancy.
- B. The assignation or alteration of numbers by the Planning and Development Director pursuant to the provisions of Subsection **A** above shall be provisional only until such time as such assignation or alteration of numbers shall be confirmed by the Planning and Development Director after the holding of a public hearing by the City Council in accordance with the provisions of RSA 231:133-a.

**§ 223-12 Construction of sidewalks.**

All sidewalks built by the City of Rochester shall be constructed under the supervision of the Commissioner. Preference in order of construction of cement sidewalk shall be given to petitioners who by written application shall agree to pay a portion of the cost of construction of said sidewalk, said portion not exceeding 1/2 of the said cost, payment to be made over a period not to exceed 10 years. The portion of the cost to be borne by the petitioner shall be both reasonable and proportional to the benefits according to the land upon which such assessment is made.

**§ 223-13 Obstruction of sidewalks.**

No person shall unnecessarily place any obstruction on any foot pavements or sidewalks. No person shall be permitted to construct a ramp up to and across the sidewalk adjacent to his/her property or place any other obstructions thereon without first securing a permit from the Commissioner to do so.

**§ 223-14 Streetlighting.**

**[Amended 3-5-2019]**

The Commissioner shall have supervision of all municipal lighting and location of electric light and utility poles within the City limits and is authorized to prescribe rules and regulations for the marking or painting of any poles, crossarms or supporting fixtures which are located within the public highway. All persons owning or using said poles, crossarms or supporting fixtures shall paint or mark at their own expense said poles, crossarms, or supporting fixtures in accordance with the rules, regulations and directions of said Commissioner.

§ 223-15 **Prohibited use of poles.**

No person shall use said poles for the posting of bills or other advertising purposes or for any other purpose except that for which permission is given by the Commissioner.

§ 223-16 **"Adopt-A-Spot" areas.**  
[Amended 3-2-2004; 5-1-2007]

The City Manager, in the exercise of duties relative to the oversight of all real and personal property owned by the City of Rochester, as specified in Section 14 of the Rochester City Charter, from time to time, designates certain areas of the City, primarily areas included within or closely related to the highways servicing the City of Rochester, as "Adopt-A-Spot" areas. "Adopt-A-Spot" areas are maintained, landscaped and/or otherwise beautified by designated individuals and/or entities that volunteer to perform such functions for the purpose of improving the appearance of the "Adopt-A-Spot" areas, as well as the appearance of the City of Rochester as a whole. The City Manager shall annually, on or about May 1 of each year, establish a list of "Adopt-A-Spot" areas for the ensuing calendar year beginning on such May 1 and ending on the following April 30. A copy of such list shall be maintained in the City Manager's office and in the office of the City Clerk. In the event that the City Manager fails to update the "Adopt-A-Spot" list on or about May 1 of a given year, the "Adopt-A-Spot" list then on file in the office of the City Manager shall be controlling for the purposes of this section. No person shall, within any "Adopt-A-Spot" area, erect or maintain any sign or other advertising material whether for political purposes or otherwise, except for such advertising material and/or device as has been previously authorized in writing by the City Manager or his/her designee. Any person failing to comply with the provisions of this section shall be guilty of a violation.

§ 223-17 **Bonds.**

The Commissioner may require any person seeking to perform any work affecting any highway, bridge, sidewalk or other public property to furnish a bond of indemnity to the City of Rochester in such sum and with such sureties as the Commissioner may deem proper.

§ 223-18 **Violations and penalties.**

Except as otherwise provided herein, whoever is in violation of any of the provisions of this article shall be subject to a fine of not more than one hundred dollars (\$100.).

**Article II**  
**Newsracks and Public Way Obstructions**

[Adopted 6-6-1995 as Ch. 35 of the 1995 Code]

§ 223-19 **Purpose.**

The purpose of this article is to promote the public health and safety through the regulation of the placement of newsracks and public way obstructions.

§ 223-20 **Definitions.**

As used in this article, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:



**CITY**

The City of Rochester.

**NEWSPAPER or NEWS PERIODICAL**

A daily or weekly publication containing all of the following: current news, editorials, feature articles and advertising.

**[Amended 3-5-2019]**

**NEWSRACK**

Any self-service or coin-operated box, container, storage unit or other dispenser installed, used, or maintained for the display and sale of newspapers or news periodicals.

**PARKWAY**

That area between the sidewalk and the curb of any street, and where there is no sidewalk, that area between the edge of the roadway and the property line adjacent thereto. "Parkway" shall also include any area within a roadway which is not open to vehicular travel.

**PUBLIC WAY OBSTRUCTION**

Any object other than a newsrack which obstructs the free passage of pedestrians or vehicles on the streets, sidewalks, parkways or roadways. The term "public way obstruction" shall include, but not be limited to, signs and planters.

**ROADWAY**

That portion of a street improved, designed, or ordinarily used for vehicular travel.

**SIDEWALK**

Any surface provided for the exclusive use of pedestrians on any public right-of-way under the jurisdiction of the City.

**STREET**

All that area dedicated to public use or public street purposes and shall include, but not be limited to, roadways, parkways, alleys, sidewalks, garages, parking lots, parks and playgrounds.

**[Amended 3-5-2019]**

**§ 223-21 Prohibited acts.**

- A. No person shall install, use, attach or maintain any newsrack or public way obstruction which projects onto, into or over any part of the roadway of any public street or which rests, wholly or in part, upon, along or over any portion of the roadway of any public street.
- B. No person shall install, use, attach or maintain any newsrack or public way obstruction which in whole or in part rests upon, in or over any public sidewalk or parkway when such installation, use or maintenance endangers the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other uses, or when such newsrack or public way obstruction unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic, including any legally parked or stopped vehicle, the ingress or egress for any residence or place of business, or the use of poles, posts, travel signs or insignias, hydrants, mailboxes or other objects permitted at or near

said location.

- C. Within 60 days of the passage of this article every person or other entity shall comply with the provisions of this article with respect to each newsrack and/or public way obstruction owned by it within the City. **[Amended 3-5-2019]**

**§ 223-22 Permit required; application for permit.**

- A. No person shall install or maintain any newsrack or public way obstruction which in whole or in part rests upon, in or over any public sidewalk or parkway without further applying for and being granted a permit from the Licensing Board. The permit application shall include the following:
- (1) The physical dimensions of each newsrack or public way obstruction to be installed or maintained in the City by the person;
  - (2) The name, address, and telephone number of the person or entity to whom or to which the permit is to be issued; and
  - (3) A diagram showing the location of the newsrack or public way obstruction and the dimensions of the sidewalk, if any, upon which it is to be located.
- B. Newsracks shall require the submission of a permit application, but the permit shall be granted by the Licensing Board on a ministerial basis provided that the proposed newsrack as installed will not violate the provisions of § **223-21** above.

**§ 223-23 Standards for installation, maintenance and operation.**

Any newsrack or public way obstruction which in whole or in part rests upon, in, or over any public sidewalk or parkway shall comply with the following standards:

- A. All newsracks and public way obstructions must be individually permitted by location.
- B. No newsrack or public way obstruction shall be chained, bolted or otherwise attached to any public property, or to any private property, without the written permission of the City, the owner, or the person in possession of the property to which the attachment is to be made.
- C. Newsracks and public way obstructions shall not be chained or otherwise attached to one another.
- D. The City shall issue a proof of permit in the form of a sticker or decal which shall be attached to the newsrack or public way obstruction at all times.
- E. All permits must be renewed annually prior to July 1.
- F. Unlicensed newsracks or public way obstructions will be considered abandoned and subject to removal without notice.
- G. All permits are nontransferable.
- H. The annual fee for each permit shall be fifty dollars (\$50.), regardless of when during a year such permit is issued.

- I. Any permit may be revoked at any time, by action of the Licensing Board; provided, however, that any revocation initiated by the Licensing Board shall entitle the owner of the newsrack and/or public way obstruction to a pro rata refund of the annual permit fee paid pursuant to the preceding Subsection **H** of this section.

**§ 223-24 Identification required.**

Within 30 days after this article becomes effective, every person or other entity which places or maintains a newsrack or public way obstruction on the streets of the City shall have his/her/its name, address and telephone number affixed thereto in a place where such information can be easily seen.

**§ 223-25 Hold harmless agreement; insurance.  
[Amended 3-5-2019]**

Every person or other entity which places or maintains a newsrack or public way obstruction on a public sidewalk, parkway, roadway or street in the City shall file a written statement with the Licensing Board, satisfactory to the City Attorney, whereby he/she/it agrees to indemnify and hold harmless the City, its officers, City Council members and employees from any loss or liability or damage, including expense and costs for bodily injury or damage to private or public property sustained by any person as a result of the installation, use or maintenance of a newsrack or public obstruction within the City. A certificate of insurance in a form approved by the City Attorney indicating no less than one million dollars (\$1,000,000.) in general liability insurance coverage and naming the City as an additional insured shall be maintained on file with the Licensing Board by each such person or entity.

**§ 223-26 Removal of newsrack or public way obstruction.**

The City Manager or his/her designee shall remove any newsrack or public way obstruction placed on any street, sidewalk, parkway or roadway in violation of this article.

**§ 223-27 Severability.**

The provisions of this article are severable. If any provision of this article or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this article without the invalid provisions or applications.

**§ 223-28 Injunction.**

Any violation of this article is hereby declared to be a nuisance. In addition to any other relief provided by this article, the City Attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this article. Such application for relief may include the seeking of a temporary restraining order, preliminary injunction and/or permanent injunction.

**§ 223-29 Damage to newsracks and public way obstructions.**

Any damage to newsracks or public way obstructions, whether or not properly licensed, by any cause whatsoever, including snowplowing and removal, shall be at the sole expense of the owner.

**§ 223-30 Violations and penalties.**

Any person, firm or corporation violating any provision of this article shall be fined one hundred dollars (\$100.) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues to occur.

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City Clerk's Office

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## City of Rochester Formal Council Meeting

### AGENDA BILL

**NOTE: Agenda Bills are due by 10 AM on the Monday the week before the City Council Meeting.**

AGENDA SUBJECT
----------------

COUNCIL ACTION ITEM <input type="checkbox"/>
INFORMATION ONLY <input type="checkbox"/>

FUNDING REQUIRED? YES <input type="checkbox"/> NO <input type="checkbox"/>
* IF YES ATTACH A FUNDING RESOLUTION FORM

RESOLUTION REQUIRED? YES <input type="checkbox"/> NO <input type="checkbox"/>
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FUNDING RESOLUTION FORM? YES <input type="checkbox"/> NO <input type="checkbox"/>
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AGENDA DATE	
DEPT. HEAD SIGNATURE	
DATE SUBMITTED	
ATTACHMENTS YES <input type="checkbox"/> NO <input type="checkbox"/>	* IF YES, ENTER THE TOTAL NUMBER OF PAGES ATTACHED

#### COMMITTEE SIGN-OFF

COMMITTEE	
CHAIR PERSON	

#### DEPARTMENT APPROVALS

DEPUTY CITY MANAGER	
CITY MANAGER	

#### FINANCE & BUDGET INFORMATION

FINANCE OFFICE APPROVAL	
SOURCE OF FUNDS	
ACCOUNT NUMBER	
AMOUNT	
APPROPRIATION REQUIRED YES <input type="checkbox"/> NO <input type="checkbox"/>	

#### LEGAL AUTHORITY

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**SUMMARY STATEMENT**

[Empty box for Summary Statement]

**RECOMMENDED ACTION**

[Empty box for Recommended Action]

**Resolution Authorizing Supplemental Appropriation of Five Million Seven Hundred Fifty Seven Thousand Six Hundred Ninety Three Dollars (\$5,757,693) in relation to the JUUL E-Cigarette Litigation**

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 appropriates Five Million Seven Hundred Fifty Seven Thousand Six Hundred Ninety Three Dollars (\$5,757,693) the purpose of addressing the problem of youth vaping and nicotine addiction. The entirety of this supplemental appropriation shall be derived from payments received as part of the City's settlement of the JUUL E-Cigarette lawsuit.

The total School & City Settlement award is Five Million Seven Hundred Fifty Seven Thousand Six Hundred Ninety Three Dollars (\$5,757,693). The School Department's allocation is Four Million Seven Hundred Thirty Eight Thousand One Hundred Ninety One Dollars (\$4,738,191), and the City's allocation is One Million Nineteen Thousand Five Hundred Two Dollars (\$1,019,502). The initial settlement payments shall be disbursed in November-2023, with the remainder disbursed annually each December from 2023 to 2026. Below is the anticipated disbursement schedule.

	School Department Settlement	\$4,738,191
	City Settlement	\$1,019,502
	<b>Total</b>	<b>\$5,757,693</b>
	<b>Initial Disbursement</b>	<b>Amount</b>
	Nov-23 School Department	\$1,528,848.53
	Nov-23 City	\$328,957.74
		<b>\$1,857,806.27</b>
	<b>Remaining Disbursements-Estimate</b>	
	Dec-23 School Department	\$802,335.62
	Dec-23 City	\$172,636.07
		<b>\$974,971.68</b>
	Dec-24 School Department	\$802,335.62
	Dec-24 City	\$172,636.07
		<b>\$974,971.68</b>
	Dec-25 School Department	\$802,335.62
	Dec-25 City	\$172,636.07
		<b>\$974,971.68</b>
	Dec-26 School Department	\$802,335.62
	Dec-26 City	\$172,636.07
		<b>\$974,971.68</b>

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.





## City of Rochester Formal Council Meeting

### AGENDA BILL

AGENDA SUBJECT JUUL E-Cigarette Lawsuit Settlement
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COUNCIL ACTION ITEM <input checked="" type="checkbox"/> INFORMATION ONLY <input type="checkbox"/>
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FUNDING REQUIRED? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> * IF YES ATTACH A FUNDING RESOLUTION FORM
--

RESOLUTION REQUIRED? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
--

FUNDING RESOLUTION FORM? YES <input type="checkbox"/> NO <input type="checkbox"/>
---

AGENDA DATE	November 6, 2023		
DEPT. HEAD SIGNATURE	Terence O'Rourke		
DATE SUBMITTED	November 1, 2023		
ATTACHMENTS YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	* IF YES, ENTER THE TOTAL NUMBER OF PAGES ATTACHED		

#### COMMITTEE SIGN-OFF

COMMITTEE	N/A
CHAIR PERSON	

#### DEPARTMENT APPROVALS

DEPUTY CITY MANAGER	N/A
CITY MANAGER	N/A

#### FINANCE & BUDGET INFORMATION

DIRECTOR OF FINANCE APPROVAL	Yes
SOURCE OF FUNDS	
ACCOUNT NUMBER	
AMOUNT	
APPROPRIATION REQUIRED YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	

**LEGAL AUTHORITY**

Section 4 of the City Charter

**SUMMARY STATEMENT**

On November 6, 2019, the City filed a Complaint in the Northern District of California against JUUL Labs, INC. and Altria Group, INC related to the defendants marketing of e-cigarettes to minors. In October, 2023, JUUL Labs, INC and related entities entered into a settlement agreement with the plaintiffs, including the City. As part of the Settlement Agreement, the City, including our School Department, will receive a total of \$5,757,693 over a series of five disbursements beginning this month. The City Council must pass a supplemental appropriation to allow the Finance Department to properly account for the money as it comes in. As such, I request that the City Council pass the Resolution attached to this Agenda Bill.

**RECOMMENDED ACTION**

Approve the Supplemental Appropriation Resolution.

**Resolution Authorizing the Application for and Acceptance of a State of New Hampshire Department of Environmental Services (NHDES) Drinking Water and Groundwater Trust Fund (DWGTF) Loan for the Salmon Falls Water Booster Station Upgrade Project in an amount up to \$3,700,000.00**

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

That the Mayor and City Council of the City of Rochester, by adoption of this Resolution, authorize the Department of Public Works to submit a loan application in the amount of up to Three Million Seven Hundred Thousand Dollars (\$3,700,000) to the NHDES DWGTF Loan program in order to finance the Salmon Falls Water Booster Station Upgrade Project.

Further, the Mayor and City Council of the City of Rochester, by adoption of this Resolution authorize the City Manager and/or the Finance Director to act as the City's representative(s) for the execution of all documents necessary to complete the application, process disbursements and execute loan documents associated with DWGTF.

To the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to designate and/or establish such accounts and/or account numbers as necessary to implement the transactions contemplated by this Resolution and to establish special revenue, non-lapsing, multi-year fund account(s) as necessary to which said sums shall be recorded.

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City Clerk's Office

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## City of Rochester Formal Council Meeting

### AGENDA BILL

**NOTE: Agenda Bills are due by 10 AM on the Monday the week before the City Council Meeting.**

AGENDA SUBJECT
----------------

COUNCIL ACTION ITEM <input type="checkbox"/> INFORMATION ONLY <input type="checkbox"/>
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FUNDING REQUIRED? YES <input type="checkbox"/> NO <input type="checkbox"/> * IF YES ATTACH A FUNDING RESOLUTION FORM
---

RESOLUTION REQUIRED? YES <input type="checkbox"/> NO <input type="checkbox"/>
---

FUNDING RESOLUTION FORM? YES <input type="checkbox"/> NO <input type="checkbox"/>
---

AGENDA DATE			
DEPT. HEAD SIGNATURE			
DATE SUBMITTED			
ATTACHMENTS YES <input type="checkbox"/> NO <input type="checkbox"/>	* IF YES, ENTER THE TOTAL NUMBER OF PAGES ATTACHED		

#### COMMITTEE SIGN-OFF

COMMITTEE	
CHAIR PERSON	

#### DEPARTMENT APPROVALS

DEPUTY CITY MANAGER	
CITY MANAGER	

#### FINANCE & BUDGET INFORMATION

FINANCE OFFICE APPROVAL	
SOURCE OF FUNDS	
ACCOUNT NUMBER	
AMOUNT	
APPROPRIATION REQUIRED YES <input type="checkbox"/> NO <input type="checkbox"/>	

#### LEGAL AUTHORITY

LEGAL AUTHORITY
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**SUMMARY STATEMENT**

[Empty box for Summary Statement]

**RECOMMENDED ACTION**

[Empty box for Recommended Action]

**Resolution Authorizing the Acceptance of a Vest Grant from the State of New Hampshire  
in the amount of \$10,060.88**

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

The City hereby accepts a Vest Grant of Ten Thousand Sixty and 88/100 Dollars (\$10,060.88) from the State of New Hampshire to be used by the Rochester Police Department for the purchase of new ballistic vests.

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

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City Clerk's Office

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### City of Rochester Formal Council Meeting

### AGENDA BILL

**NOTE: Agenda Bills are due by 10 AM on the Monday the week before the City Council Meeting.**

AGENDA SUBJECT Seeking permission from Council to accept Vest Grant funding in the amount of \$10,060.88
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COUNCIL ACTION ITEM <input checked="" type="checkbox"/> INFORMATION ONLY <input type="checkbox"/>
--

FUNDING REQUIRED? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> * IF YES ATTACH A FUNDING RESOLUTION FORM
--

RESOLUTION REQUIRED? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
--

FUNDING RESOLUTION FORM? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
--

AGENDA DATE	Next November 2023 meeting		
DEPT. HEAD SIGNATURE			
DATE SUBMITTED			
ATTACHMENTS YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	* IF YES, ENTER THE TOTAL NUMBER OF PAGES ATTACHED		

#### COMMITTEE SIGN-OFF

COMMITTEE	
CHAIR PERSON	

#### DEPARTMENT APPROVALS

DEPUTY CITY MANAGER	
CITY MANAGER	

#### FINANCE & BUDGET INFORMATION

FINANCE OFFICE APPROVAL	
SOURCE OF FUNDS	Federal
ACCOUNT NUMBER	Fund 61142010-561010-24XXX
AMOUNT	\$10,060.88
APPROPRIATION REQUIRED YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	

#### LEGAL AUTHORITY

Council action required.

**SUMMARY STATEMENT**

Seeking permission from Council to accept Vest Grant funding in the amount of \$10,060.88 to purchase new ballistic vests when officers vests expire and for newly hired officers.

**RECOMMENDED ACTION**

Accept funds in the amount of \$10,060.88

**AGENDA BILL - FUNDING RESOLUTION**

**EXHIBIT**

Project Name:

Date:

Fiscal Year:

Fund (select):

GF       Water       Sewer       Arena   
 CIP       Water CIP       Sewer CIP       Arena CIP   
 Special Revenue

Fund Type:      Lapsing       Non-Lapsing

**Deauthorization**

	Org #	Object #	Project #	Fed Amount \$	State Amount \$	Local Amount \$
1				-	-	-
2				-	-	-
3				-	-	-
4				-	-	-

**Appropriation**

	Org #	Object #	Project #	Fed Amount \$	State Amount \$	Local Amount \$
1	61142021	561010	24XXX	\$10,060.88	-	-
2				-	-	-
3				-	-	-
4				-	-	-

**Revenue**

	Org #	Object #	Project #	Fed Amount \$	State Amount \$	Local Amount \$
1	6114003	402179	24XXX	\$10,060.88	-	-
2				-	-	-
3				-	-	-
4				-	-	-

DUNS #

CFDA #

Grant #

Grant Period: From   
 To

If de-authorizing Grant Funding appropriations: (select one)

Reimbursement Request will be reduced

Funds will be returned

