

**CITY COUNCIL  
ROCHESTER, NEW HAMPSHIRE  
Nonpublic Session Minutes**

**Date:** November 8, 2023

**Motion to enter Nonpublic Session**

Made by: Hailey

Seconded by: de Geofroy

**Specific Statutory Reason** cited as foundation for the nonpublic session:

\_\_\_\_ RSA 91-A:3, II (a) *The dismissal, promotion, or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him or her, **unless** the employee affected (1) has a right to a public meeting, and (2) requests that the meeting be open, in which case the request shall be granted.*

\_\_\_\_ RSA 91-A:3, II(b) *The hiring of any person as a public employee.*

\_\_\_\_ RSA 91-A:3, II(c) *Matters which, if discussed in public, would likely affect adversely the reputation of any person, **other than a member of this board**, unless such person requests an open meeting. This exemption shall extend to include any application for assistance or tax abatement or waiver of a fee, fine or other levy, if based on inability to pay or poverty of the applicant.*

  X   RSA 91-A:3, II(d) *Consideration of the acquisition, sale or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are averse to those of the general community.*

\_\_\_\_ RSA 91-A:3, II(e) *Consideration or negotiation of pending claims or litigation which has been threatened in writing or filed against this board or any subdivision thereof, or against any member thereof because of his or her membership therein, until the claim or litigation has been fully adjudicated or otherwise settled*

\_\_\_\_ RSA 91-A:3, II(i) *Consideration of matters relating to the preparation for and the carrying out of emergency functions, including training to carry out such functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life.*

**Roll Call vote** to enter nonpublic session:

(circle replies below)

Mayor Callaghan	<u>Yes</u>	No	Not Present
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Deputy Mayor Lachapelle	Yes	No	<u>Not Present</u>
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Councilor Fontneau	<u>Yes</u>	No	Not Present
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Councilor Gilman	Yes	No	Not Present
Councilor Beaudoin	Yes	No	Not Present
Councilor Hamann	Yes	No	Not Present
Councilor Malone	Yes	No	Not Present
Councilor Larochelle	Yes	No	Not Present
Councilor Desrochers	Yes	No	Not Present
Councilor Hailey	Yes	No	Not Present
Councilor Gray	Yes	No	Not Present
Councilor Berlin	Yes	No	Not Present
Councilor de Geofroy	Yes	No	Not Present

**Entered nonpublic session**

Time: 6:54 pm

**Other persons present during nonpublic session:**

City Manager Katie Ambrose, Chief Administrative Officer Kimberly Conley, Economic Development Director Michael Scala, Finance Director Mark Sullivan, Public Information Officer Matthew Wyatt, and City Attorney Terence O'Rourke

**Description of matters discussed, and final decisions made:**

Ben Franklin Lease Consideration

Director Sullivan made a presentation to the Council on a proposed lease agreement between the City and the Rochshire Trust for 62 Wakefield Street, the so-called Ben Franklin building (10 years, \$195,000.00 per annum).

Sullivan stated that the owners have made it clear that it is not interested in selling the property or doing a short term lease; it will only consider a long term lease. The owner has left the building

empty for 10 years while maintaining the bare minimum in terms of compliance with the Property Maintenance Code and related standards. Sullivan detailed the history of the negotiations with the owner and how staff arrived at the proposed Notice of Intent. Sullivan detailed that the lease for the Ben Franklin is about protecting current investments, protecting current businesses, and protecting future development in our downtown. The City has invested time and money in redevelopment downtown and that will be jeopardized by the temporary closing of the Union Street parking lot.

Councilor Desrochers said that the lease would quell the frustrations of downtown businesses who want not just more parking, but parking closer to the businesses.

Councilor Fontneau said that it is a bad deal except for the good will it will engender with downtown businesses and with residents/customers. He said he's against it without a fuller explanation of the potential offsets.

Councilor Beaudoin asked who is paying to redo the parking lot. Under the lease, as explained by Sullivan, the City as lessee would pay for those improvements. Beaudoin complained about the price and about the restrictions on the sublease. Sullivan said the restrictions on the sublease can be negotiated with the owner per the terms of the Notice of Intent that would become part of the actual lease.

Councilor de Geofroy said he was concerned that the City would create an expectation over ten years that there is public parking there and then we would lose it. Sullivan said to look at it as having a ten year cushion to figure out the long term solution to downtown parking.

Councilor Gray claimed we paid that the City paid triple what the Hoffman Building was worth when the City purchased it from Rochshire Trust. Gray said we would have nothing to show for this after ten years. He claimed the parking problem downtown is a short term problem. Gray is

concerned that this will be a windfall to the owner because the City will make the property much more valuable. Gray claimed the City could perhaps use eminent domain to take the property. Councilor Malone said she was excited about the idea of taking care of this sore spot in the downtown and she's upset that the Rochshire Trust has us over a barrel. She said its too much money for the benefit for the City.

Councilor Desrochers said it is disgusting that the Rochshire Trust is allowed to get away with this and is there another option to stop them. City Attorney O'Rourke explained that under state law there is no way to use eminent domain for the property and that every time the City goes forward on code violations, it fixes the problem.

Councilor Berlin said the does not want to enter into an agreement with an actor that won't change its spots in ten years.

Councilor Hailey asked, if not this, then what?

Councilor Fontneau said that the Parking Review Group will conclude that the City does not have a downtown parking problem. He also said the City should negotiate with other property owners to lease parking spots during the Union Street parking lot construction.

Director Sullivan said he understands that no one in this room wants Rochshire Trust to win, but he said it has already won. He said after ten years there will be a much improved property downtown that will be much more attractive to private interests. Sullivan said the private sector is not coming to the rescue to save these empty storefronts. Sullivan made a presentation of all the empty storefronts in and around the downtown area. Sullivan said either the City will be a participant or a spectator.

Councilor de Geofroy asked about the Tenant Improvement Allowance. Sullivan explained that it has agreed to such an allowance but the exact terms would have to be negotiated as part of the final lease agreement.

Scala presented an overview of the downtown area development since he became Economic Development Director with emphasis on the support received by the City Council. Scala talked about the City's roughly \$800,000 outlay downtown which, to date, has translated into \$25 million in private development. Scala spoke about the efforts the City has made to alleviate parking issues during the construction on the newly renamed Howard Building (formerly Hoffman Building). Scala said the City has parking spaces, but we have a management issue and an issue with proximity parking, especially when the Union Street parking lot shuts down. Scala said that this potential lease is the only actual, concrete option on the table. Scala said that eventually there will be cash flows from the City's occupation of the Ben Franklin. Scala said this gives us time to address a real problem.

Beaudoin said the City created the parking problem and now the taxpayers will be on the hook for \$200k a year to fix it. Scala said that these are the growing pains a City has when it revitalizes; we should not be scared of success.

Desrochers said the elephant in the room is that Rochester is the fastest growing city in the state and that this deal is a potential short term solution. She also said that there is a perception in the City that the City is doing nothing; the citizens know nothing about Rochshire Trust, but they believe the City is doing nothing. Perception is important and people want the City to take action. de Geofroy said he sees no harm in allowing the negotiations to go forward.

Berlin said that this lease, in terms of wining and losing, is a matter of perspective.

Matthew Wyatt gave a presentation on the lived experience of our downtown business owners dealing with parking issues. All of the input is negative. Wyatt emphasized the point about the difference between availability of parking and the availability of accessible parking. Wyatt spoke of the temporary solutions the City came up with during the Howard construction, but that those options will not be available going forward.

Malone asked when the lease came on the market. Sullivan said August. Malone asked if there are other options available for the parking problem. Scala said there are other options, but not as attractive as this option.

Wyatt said that the Howard will open at the same time the Union Street parking lot is closing.

Fontneau claims the parking review group has solutions.

Desrochers reiterated Wyatt's point about proximity of available parking. She emphasized elderly, disabled, and young residents/customers.

**Council Action:** Motion made by de Geofroy to authorize City Manager to further negotiate, seconded by Hainey

**Yea: Hamann, Larochelle, Fontneau, Hainey, Desrochers, de Geofroy, Callaghan**  
**Nay: Gilman, Beaudoin, Gray, Berlin**

NOTE: Malone was out of the room during the vote.

**Motion to leave nonpublic session and return to public session**

Made by: Hamann

Seconded by: Hainey

**Motion:** PASSED / DID NOT PASS (circle one)

**Public session reconvened**

Time: 8:16 pm

**Motion made to seal these minutes?** Yes No (circle one)

**Indefinitely?** Yes No (circle one)

If yes, motion made by: Hamann

Seconded by: de Geofroy

because it is determined that divulgence of this information likely would:

Affect adversely the reputation of any person other than a member of this board.

  X   Render a proposed action ineffective.

       Pertains to preparation or carrying out of actions regarding terrorism.

**Roll Call Vote to seal minutes:**

(2/3's vote of members present required)

Mayor Callaghan	<u>Yes</u>	No	Not Present
Deputy Mayor Lachapelle	Yes	No	<u>Not Present</u>
Councilor Fontneau	<u>Yes</u>	No	Not Present
Councilor Gilman	<u>Yes</u>	No	Not Present
Councilor Beaudoin	<u>Yes</u>	No	Not Present
Councilor Hamann	<u>Yes</u>	No	Not Present
Councilor Malone	<u>Yes</u>	No	Not Present
Councilor Larochelle	<u>Yes</u>	No	Not Present
Councilor Desrochers	<u>Yes</u>	No	Not Present
Councilor Hailey	<u>Yes</u>	No	Not Present
Councilor Gray	<u>Yes</u>	No	Not Present
Councilor Berlin	<u>Yes</u>	No	Not Present
Councilor de Geofroy	<u>Yes</u>	No	Not Present

**Motion:** PASSED / DID NOT PASS (circle one)

Time: 8:16 pm

**These minutes recorded by:** Terence O'Rourke, City Attorney