

**City of Rochester Planning Board**  
Monday February 25, 2019  
City Council Chambers  
31 Wakefield Street, Rochester, NH 03867  
*(These minutes were approved on March 4, 2019)*

Members Present

Nel Sylvain, *Chair*  
Robert May, *Vice Chair*  
Matthew Kozinski, *Secretary*  
Mark Collopy  
Donald Hamann  
Mark Sullivan  
David Walker

Members Absent

Terry Dwyer, excused  
Tim Fontneau, excused

Alternate Members Present

Joyce Bruckner  
James Gray

Staff: James Campbell, *Director of Planning & Development*  
Crystal Galloway, *Planning Secretary*

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

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Mr. Sylvain called the meeting to order at 7:00 p.m.

The Planning Secretary conducted the roll call.

**III. Seating of Alternates**

Ms. Bruckner voted in place of Ms. Dwyer.

**IV. Communications from the Chair**

Mr. Sylvain told the Board registration will be opening soon for the annual Planning and Zoning Conference.

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**V. Opening Discussion/Comments**

**A. Public Comment**

No one from the public was present to speak.

**B. Discussion of general planning issues**

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There were no issues to be discussed.

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## **VI. Approval of minutes**

*A motion was made by Mr. Walker and seconded by Mr. Hamann to approve the February 25, 2019 meeting minutes. The motion carried unanimously.*

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## **VII. New Applications**

### **A. New Haul Properties, LLC, 14 Pink Street**

Steve Oles of Norway Plains Associates explained the 2-lot subdivision. He said one proposed lot will be .53 acre and the other will be .80 acre and will each be serviced by municipal water and septic systems.

Mr. Sylvain opened the public hearing. No one from the public was present to speak; he brought the discussion back to the Board.

Mr. Campbell said staff recommends accepting the application as complete and approving the subdivision.

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

*A motion was made by Mr. Walker and seconded by Mr. Hamann to approve the subdivision application. The motion carried unanimously.*

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## **VIII. Continued Applications**

### **A. Fielding's Oil Company, 72 Old Milton Road**

Scott Lawler of Norway Plains Associates explained the applicant was before the Board three weeks ago and was continued due to a few questions the Board had and claims from an abutter. Mr. Lawler said he had been in contact with staff who spoke to the City Attorney who said the issue with the abutter is a civil one and has no bearing on the Planning Board decision.

Mr. Sylvain opened the public hearing. No one from the public was present to speak; he brought the discussion back to the Board.

Mr. Campbell said staff recommends approval of the site plan and conditional use applications.

*A motion was made by Mr. Collopy and seconded by Mr. Walker to close the public hearing. The motion carried unanimously.*

*A motion was made by Mr. Walker and seconded by Mr. Kozinski to accept the application as complete. The motion carried unanimously.*

*A motion was made by Mr. Kozinski and seconded by Mr. Walker to approve the application. The motion carried unanimously.*

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## **IX. Discussion/Review of Codification for approval**

Mr. Campbell said the City went through a codification process that looked through all the codes and ordinances. He said they found spelling error, referencing errors, etc. Mr. Campbell said most of the changes are dealing with the Zoning Ordinance which will be a new chapter, 275 which will replace chapter 42. He went on to say this has already gone before the Codes & Ordinances Committee.

*A motion was made by Mr. Walker and seconded by Mr. May to send forward to the City Council for recommendation of approval. The motion carried unanimously.*

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## **X. Review of January 2019 Surety and Inspections**

Mr. Campbell told the Board there haven't been any changes with surety, other than the bond for Waterstone has expired and staff is working on getting a new bond in place.

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## **XI. Surety Releases**

### **A. Waste Management of NH – Map 267 Lot 3 (62 Turnkey Way)**

Mr. Campbell told the Board the project for the Leachate Plant has been completed and staff recommends releasing 100% of the surety being held.

*A motion was made by Mr. Walker and seconded by Mr. Hamann to release \$36,132.71 plus interest. The motion carried unanimously.*

### **B. Waste Management of NH – Map 267 Lot 3 (155 Turnkey Way)**

Mr. Campbell told the Board the Hauling Company facility has been completed and staff recommends releasing 100% of the surety.

*A motion was made by Mr. Walker and seconded by Mr. Hamann to release \$17,056.41 plus interest. The motion carried unanimously.*

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## **XII. Discussion regarding surety**

Assistant City Engineer Owen Friend-Gray explained he has been looking at outstanding projects there have been surety issues with. He said most of them have been resolved or are in the court system, however there are two that are outstanding.

### **A. Elmo Lane – Map 216 Lot 67**

Mr. Friend-Gray explained there is approximately \$13,850 in surety the City is holding for roadway improvements for Elmo Lane as part of the site plan approvals. Mr. Friend-Gray said the developer hasn't done anything with the site or road in the last five years and has much larger ideas for the site that doesn't

have much to do with the current approved project which has seemed to have stalled. He said Public Works is recommending the Board revoke the site plan approval which includes upgrades to his personal driveway, pull the surety and allow Public Works to do some of the standard roadway work that needs to be done.

*A motion was made by Mr. Walker and seconded by Mr. Kozinski to start the process to revoke the remaining site plan approval and pull the surety in the amount of \$13,854.41 plus interest. The motion carried unanimously.*

### **B. Ten Pines – Map 221 Lot 151**

Mr. Friend-Gray told the Board there is currently two sureties the City is holding for the project, one is for \$7,307.90 for drainage and driveway completion and the other is for \$70,128.55 for off-site improvements which included building a sidewalk along Ten Rod Road. He said the State constructed the sidewalk when they did the highway project a few years back.

Mr. Friend-Gray said the drainage and the driveway are in pretty rough shape and the development could definitely use that money to remedy some of the issues. He said there hasn't been any substantial changes to the development in the last five to ten years, there are foundations that were put in that have never been built on and the developer doesn't seem to have any interest in continuing with the development.

Mr. Friend-Gray said he is currently working on trying to find out how much money the State spent constructing the sidewalk and pay the people who did the work and return the remainder of the money back to the developer.

Mr. Friend-Gray said Public Works recommends the Board revoke the remainder of the site plan and pull the remainder of surety to complete some of the work.

There was a discussion regarding what the money could be used for. Mr. Friend-Gray told the Board the bond agreement is very specific on what the money can be used for.

There was a brief discussion regarding giving money to a third party. Mr. Sullivan asked if the legal department has been consulted. Mr. Friend-Gray said they have and this is what they said can be done. Mr. Walker asked that the City Attorney provide the Board with a memo and then discuss at the next meeting in March.

Mr. Gray said he's concerned with the developer coming back on the city with a law suit because he wasn't given the opportunity to the remedy the situation.

*A motion was made by Mr. Walker and seconded by Mr. Hamann to continue the discussion to March 4, 2019. The motion carried unanimously.*

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### **XIII. Other Business**

Mr. Campbell told the Board consultant Bruce Mayberry will be at the March 4<sup>th</sup> meeting to discuss impact fee updates.

Mr. Sullivan asked if he'll be looking for a recommendation. Mr. Campbell said yes, to the full Council.

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### **XIV. Adjournment**

*A motion was made by Mr. Walker and seconded by Mr. Hamann to adjourn at 7:42 p.m. The motion carried unanimously.*

Respectfully submitted,

Crystal Galloway,

*Planning Secretary*