

**City Council Public Hearing
February 16, 2021
Council Chambers
31 Wakefield Street and
Conducted Remotely via Microsoft Teams
6:30 PM**

COUNCILORS PRESENT

Councilor Abbott
Councilor Belken
Councilor Bogan
Councilor Gray
Councilor Hainey
Councilor Hamann
Councilor Hutchinson
Councilor Lachance
Councilor Lachapelle
Councilor Rice
Councilor Walker
Deputy Mayor Lauterborn
Mayor McCarley

OTHERS PRESENT

Blaine Cox, City Manager
Katie Ambrose, Deputy City Manager
Terence O'Rourke, City Attorney

Minutes

1. Call to Order

Mayor McCarley called the Public Hearing City Council meeting to order at 6:30 PM. She had read the following preamble prior to the Public Hearing, immediately preceding the Special Meeting:

Good Evening, as Chairperson of the City Council, I am declaring that an emergency exists and I am invoking the provisions of RSA 91-A:2, III (b). Federal, state, and local officials have determined that gatherings of 10 or more people pose a substantial risk to our community in its continuing efforts to combat the spread of COVID-19. In concurring with their determination, I also find that this meeting is imperative to the continued operation of City government and services, which are vital to public safety and confidence

during this emergency. As such, this meeting will be conducted without a quorum of this body physically present in the same location.

a.) **Public Input:** Due to the ongoing situation with COVID-19, the City of Rochester will be taking extra steps to allow for public input, while still ensuring participant safety and social distancing. In lieu of attending the meeting, those wishing to share comments, when permitted, with the City Council (Public Hearing and/or Workshop settings) are encouraged to do so by the following methods:

- **Mail:** City Clerk/Public Input, 31 Wakefield Street, Rochester, NH 03867 (*must be received at least three full days prior to the anticipated meeting date*)
- **email** PublicInput@rochesternh.net (*must be received no later than 4:00 pm of meeting date*)
- **Voicemail** 603-330-7107 (*must be received no later than 12:00 pm on said meeting date in order to be transcribed*)

Please include with your correspondence the intended meeting date for which you are submitting. *All correspondence will be included with the corresponding meeting packet (Addendum).*

In addition to the above listed public access information, the City Council will be allowing the public to enter Council Chambers and speak in person during the Public Input portion of this meeting. In an effort to adhere to CDC guidelines: enter only at the front Wakefield Street entrance and exit on the side closest to the police department and adhere to 6-foot social distancing while inside. Hand sanitizer and facemasks will be available at the Wakefield Street entrance. Participants will be admitted into Council Chambers one at a time to speak, and will exit directly thereafter. Please note; the seating in Council Chambers will not be available for the public during meetings.

At this time, I also welcome members of the public accessing this meeting by phone. The public can call-in to the below number using the conference code. This meeting will be set to allow the public to "listen-in" only, and there will be no public comment taken via conference line during the meeting.

Phone number: 857-444-0744

Conference code: 843095

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

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

City Clerk Kelly Walters took a roll call. All Councilors were present and indicated that they were alone in the location from which they were connecting.

Mayor McCarley asked if any member of the public would like to address the City Council regarding the topics as listed below. No members of the public indicated that they wish to address the City Council.

2. Amendments to Chapter 275 of the General Ordinances of the City of Rochester regarding Murals

Amendments to Chapter 275 of the General Ordinances of the City of Rochester regarding Murals

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

Purpose:

The City of Rochester understands the importance of adopting regulations for murals on private property and public property. The regulations for murals were formulated as a means to continue visual aesthetic while allowing for creative expression in appropriate locations and with sensitivity to the Historic Downtown nature of permitted areas. The established review criteria provide guidance concerning the compatibility and appropriateness of theme, location, design, placement, massing, scale, and materials of mural art with no intrusion into the artistic expression or the content of work.

Definitions

Vandalism: Any unpermitted writings, drawings, or other material posted on a public or private property. Typically this is unlawfully placed on property not owned by the person posting the material.

Mural: Any permitted art painted or applied directly on a building, structure, fence, or object within the public view that is located on public or private property.

Historic Wall Graphics: includes any graphic shown to be at least 60 years old that is recognized as distinctly important in the social science of history that records, studies, and explains the character and significance of past human activities in Rochester.

Sign: For definitions of numerous sign types see Article 29, Signage.

Zones where Murals are Permitted:

Murals are permitted by Conditional Use Permit in the following districts: Neighborhood Mixed Use, Downtown Commercial District, Office Commercial, Highway Commercial, and Granite Ridge Development District.

Approval for Murals:

A) General Requirements

The City of Rochester exempts public art, including murals, that are located outside the Historic Overlay District from Article 29: Sign Ordinance. However murals must be permitted and approved, per the process below. Murals that include trademarks service marks, or other markings, colors, or patterns identifying or associated with business, profession, trade, occupation, may be permitted if it is shown that they are historic wall graphics on private property. Otherwise such will be considered commercial applications and shall be considered signs.

All applications shall include the property owner's signature indicating their approval of the submission of the application and of the mural.

All applications shall include a description of the artist's qualifications.

All application shall include a long-term maintenance plan.

Any mural without approval may be considered vandalism or a sign and enforced accordingly.

Rotating murals in which an applicant plans to apply more than one mural to the same wall within a year period require approval for each submission.

B) Murals on Public Property

Applicants shall submit a Public Art Install Application for review and approval by the City Council.

C) Murals on Private Property that is visible from the Public Right-of-Way:

1) Applicants shall submit a Public Art Install Application for review and approval by Arts and Culture Commission.

2) Once the Arts and Culture Commission has approved the install the applicant must check if they are in the Historic Overlay District. Any mural located within the Historic Overlay District that is visible from the public right-of-way shall be reviewed by the Historic District

Commission and must comply with the Department of Secretary Interiors Standards for treatment for historic masonry buildings.

- 3) Once HDC approval is obtained the applicant shall apply for a Permit from the Planning Board.

Review Criteria:

A) Location

1. The mural complements and enhances the building.
2. The mural does not cover or detract from significant or character defining architectural features.
3. The mural enhances and complements the surround neighborhood.
4. The treatment and application of murals located on properties within the Historic District Overlay follows the National Parks Services Department of Secretary Interiors Standards for Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings Technical Preservation Services. The mural enhances the building or wall and is incorporated architecturally into the character of the Historic District.
5. Murals that are mounted onto buildings are done so in a way that prevents damage from moisture and condensation behind the attached panel. The hanging or anchoring of murals should be reversible.
6. The mural does not cover over the exterior surfaces of any building opening such as windows, doors and vents. This excludes any City sanctioned event that may involve temporary window paintings.

B) Design

1. Preparation to substrate must be identified and condition must also be addressed including surface conditions, fragility, permeability, and porosity.
2. The scale of the mural is appropriate for the building. Murals located on the primary street façade shall not exceed more than 25% of the area of façade of which the mural is located.
3. The mural enhances the surrounding neighborhood.
4. The mural is an original design.
5. The name, logo, or other indicator of the sponsor of the mural or the mural artist shall be discreetly displayed and shall not exceed 5% of the overall design.
6. Materials are of superior quality and intended for exterior use.
7. Use of reflective, neon, or fluorescent paints is limited.
8. Permanent installations have a weatherproof and vandalism resistant coating.
9. The mural contains no defamation, incitement, obscenity, illegal content, or images of child pornography. Obscene matter is that which the average resident of the City, applying community standards, would

find, taken as a whole, appeals to a prurient interest and lacks serious literary, artistic, political, or scientific value.

Maintenance:

1. The maintenance of the mural is the responsibility of the property owner. In the case of murals on public property, maintenance shall be the responsibility of the organization that commissioned the mural.
2. The long-term maintenance plan must be prepared and include a plan for periodic touch up or repainting condition of the surface must be inspected.
3. The mural must be properly maintained to ensure that material failure, such as peeling paint, is corrected and vandalism is removed promptly in accordance with the Property Maintenance Code.
4. A long term maintenance plan for periodic touch up or repainting is required with submission.
5. Rotating murals (in which an applicant plans to apply more than one mural to the same wall within a year period) requires approval for each submission.

Enforcement

1. When an official interpretation is deemed necessary, the Zoning Administrator will determine if a proposal is a mural or sign. This decision may be appealed by the Zoning Board of Adjustment.

Amendments effective upon passage.

3. Resolution Authorizing Supplemental Appropriation to the Department of Public Works (DPW) CIP Fund in the Amount of \$150,000.00 for the Purchase of a Multi-Hog Sidewalk Tractor

Resolution Authorizing Supplemental Appropriation to the Department of Public Works (DPW) CIP Fund in the Amount of \$150,000.00 for the Purchase of a Multi-Hog Sidewalk Tractor

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

That the amount of One Hundred Fifty Thousand Dollars (\$150,000.00) is hereby appropriated as a supplemental appropriation to the DPW CIP Fund for the purpose of paying costs associated with the purchase of a Multi-Hog Sidewalk Tractor. The funding for this supplemental appropriation shall be derived in its entirety from 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.

No member(s) of the public addressed the City Council.

4. Adjournment

Mayor McCarley **ADJOURNED** the Public Hearing at 6:35 PM.

Respectfully Submitted,

Kelly Walters, CMC
City Clerk