

**Regular City Council Meeting  
July 1, 2014  
COUNCIL CHAMBERS  
7:02 PM**

**COUNCILORS PRESENT**

Councilor Collins  
Councilor Gates  
Councilor Gray  
Councilor Hamann  
Councilor Keans  
Councilor Kittredge  
Councilor Lachapelle  
Councilor Larochelle  
Councilor Lauterborn  
Councilor Torr  
Councilor Walker  
Mayor Jean

**OTHERS PRESENT**

City Manager Fitzpatrick  
Deputy City Manager Cox  
Attorney Wensley  
Commissioner Nourse  
Fire Chief Sanborn  
Assistant Fire Chief Dupuis  
Patrick Couch, Fire Fighter  
Members of the Fire Department

**MINUTES**

**1. Call to Order**

Mayor Jean called the meeting to order at 7:02 PM.

**2. Pledge of Allegiance**

Mayor Jean led the Pledge of Allegiance.

**3. Opening Prayer**

Mayor Jean called for a moment of silence in honor of all military personnel fighting for our freedom.

**4. Roll Call**

Kelly Walters, City Clerk, took a silent roll call. All Council members were present.

**5. Acceptance of Minutes**

**5.1. [June 3, 2014, Regular City Council Meeting Minutes](#)**

Councilor Walker **MOVED** to **ACCEPT** the minutes of the Regular City Council meeting of June 3, 2014. Councilor Torr seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

## 5.2. June 17, 2014, Special City Council Meeting Minutes

Councilor Walker **MOVED** to **ACCEPT** the minutes of the Special City Council meeting of June 17, 2014. Councilor Torr seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

- **Correction to the May 27, 2014 City Council Budget Workshop minutes.**

Mayor Jean briefed the City Council about an error in the minutes of the City Council Budget Workshop of May 27, 2014. Mayor Jean **MOVED** to **Correct** the minutes to read as follows:

~~Councilor Walker MOVED to increase the Police Department salary line by \$68,000.~~

Councilor Walker **MOVED** to move the amount of \$68,000 to Contracted Services [532200].

Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

## 6. Communications from the City Manager

### 6.1. Employee of the Month Award

City Manager Fitzpatrick invited Fire Chief Sanborn, Assistant Fire Chief Dupuis, and Patrick Couch of the Rochester Fire Department to come forward. He briefed the City Council about some additional work Mr. Couch performs for the City of Rochester Fire Department. He applauded his dedication to the City of Rochester and awarded Mr. Couch with the Employee of the Month Award for June.

### 6.2. City Manager's Report

City Manager Fitzpatrick announced that the City's "updated" website went live on June 6, 2014. He informed the City Council that there were a few glitches with the new website, which were resolved within a few days.

City Manager Fitzpatrick stated that the following Management Team Meeting minutes have been included with the packet for review:

- May 27, 2014
- June 2, 2014
- June 9, 2014
- June 16, 2014

City Manager Fitzpatrick said the following contracts and documents have been executed since the last City Manager's Report:

- Brock Street change order #8
- Brown & Caldwell contract
- CAI Technologies – Tax Mapping contract
- Patton Street letter – code compliance concerns
- Environmental Review for FY14-15 CDBG Projects
- Horne Construction – restrooms rebuild proposal
- Horne Construction – restrooms rebuild contract
- Horne Construction – Change order – Arena restrooms
- Lead-based Paint Hazard Control – Healthy Homes
- Metrocast – Broadcast TV fee
- Nyhart Agreement
- PFM Group - Engagement Letter
- Pine Street - Project Performance Certification
- PLT renewal
- Route 125 Pump Station Project
- Upper City Dam project
- Upper City Dam repairs

City Manager Fitzpatrick stated that the following standard reports have been enclosed:

- Personnel Action Report Summary
- Permission & Permits Issued
- City Council Request & Inquiry Report

Councilor Walker inquired what public restroom was being referred to under the Horne Construction Change Order. City Manager Fitzpatrick recalled that it is the restroom located at the Arena.

Councilor Varney questioned why this project had not followed the City's bid policy. Deputy City Manager Cox clarified that this is part of the CIP Project for the bleacher upgrades. He said a Construction Manager had been selected at the start of the project and the restroom renovation project is part of the continued project. Councilor Varney question if Horne Construction did some of the work on the bleachers. Deputy City Manager Cox replied yes, Horne Construction did some of the original design work for

the bleacher project along with some of the removal/rebuild of the exterior wall.

City Manager Fitzpatrick stated that the project has followed the City's policy for such a CIP Project. Councilor Varney requested that this matter be reviewed at the Finance Meeting of July 8, 2014. Deputy City Manager Cox concurred.

## **7. Communications from the Mayor**

### **7.1. Appointment: Norm Sanborn, Jr., Licensing Board**

Mayor Jean **nominated** Norm Sanborn, Jr., to serve another term on the Licensing Board for the City of Rochester. Councilor Lachapelle seconded the nominations. Mayor Jean called for a vote on the appointment. The **MOTION CARRIED** by a unanimous voice vote.

### **7.2. Discussion: City Council Workshop for July**

Mayor Jean informed the City Council that at this time there are no pressing matters that need to be taken care of during the month of July. After a brief discussion, the **Sense of Council** is to cancel the July Workshop.

Councilor Lauterborn questioned if the Finance Committee would meet in July. Mayor Jean replied yes, the Finance Committee would meet on July 8, 2014, as previously scheduled.

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

Mayor Jean announced that Superintendent Hopkins submitted a letter stating that the School Board has accepted the resignation of Patricia Carroll, Ward 6, Seat A, resignation.

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

### **9.1. Appointment: James P. Gray, Moderator, Ward 6**

Mayor Jean nominated James P. Gray, to serve as the Moderator, of Ward 6. Councilor Walker seconded the nomination. Mayor Jean called for a vote on the appointment. The **MOTION CARRIED** by a unanimous voice vote. Councilor Gray excused himself from the vote.

**9.2. Accept the Resignation of Derek “Mac” Kittredge, City Councilor for Ward 6, Seat A and to Declare the Seat Vacant**

Councilor Lachapelle **MOVED** to **ACCEPT** the resignation of Derek “Mac” Kittredge with regret and to declare the City Council Ward 6 Seat A vacant. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**9.3. Resignation: Patricia Carroll, School Board, Seat A**

Mayor Jean stated that if there were no objections, item 9.3 Resignation: Patricia Carroll, School Board, seat A, would be added to the City Council Agenda. No objections were stated.

Councilor Walker **MOVED** to **ACCEPT** the resignation of Patricia Carroll, School Board, Seat A, with regret and to declare the Seat vacant. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Lauterborn informed the City Council that the City of Somersworth has a different process for replacing a City Councilor/School Board Member, whereas they actually fill the vacant seat only until the next City Election. At that time any person from such polling location is permitted to run for election for the remainder of the term. She understood that this is not the same for the City of Rochester and asked Mayor Jean to clarify the process for the public.

Mayor Jean replied that the Rochester City Charter clearly defines the process of filling a vacant City Council/School Board position, which is handled by the local governing body [City Council.] He invited interested registered voters to fill out a Statement of Interest with the City Clerk’s Office. He stated that initial interviews of the candidates would be conducted at the Regular City Council meeting in August. He stated that the appointment is good until the next Municipal Election. Attorney Wensley added that once the recount period has expired, the elected person would immediately take an Oath of Office. Councilor Gray added that normally the interviews are conducted at a City Council Workshop and then a vote is taken at the next Regular/Special meeting of the City Council.

**10. Reports of Committees**

**10.1. Appointments Committee**

Councilor Larochelle stated that the Appointments Committee met this evening, prior to the Regular City Council meeting. The Committee unanimously recommended that one appointment be expedited: Nomination of Therese Hickman to serve on the Local Rivers Advisory Committee [Coheco].

After clarifying the process, Mayor Jean **MOVED** to send the nomination of Therese Hickman to serve on the Local Rivers Advisory Committee [Coheco] to the Department of Environmental Services. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

- **Adam T. Krans – Rochester Economic Development Commission**

Councilor Larochelle briefed the City Council about the qualifications of Adam T. Krans to serve on the Rochester Economic Development Commission; unfortunately, there are no vacant seats at this time. The Appointments Committee recommends that Adam T. Krans be appointed to the Rochester Economic Development Commission when there is an available position.

- **Nancy Dibble - Historic District Commission**

Councilor Larochelle stated that the Appointments Committee unanimously recommends Nancy Dibble for appointment to the Historic District Commission, with a term to expire in January, 2017. Mayor Jean nominated Nancy Dibble to serve on the Rochester Historic District Commission, with a term to expire in January, 2017. Councilor Lachapelle seconded the nomination. Councilor Lachapelle **MOVED** that nominations cease and the City Clerk cast one ballot for Ms. Dibble. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

- **Lionel N. Lachapelle – Planning Board – Alternate member**

Councilor Larochelle stated that the Appointments Committee unanimously recommends that Lionel N. Lachapelle be appointed to the Planning Board as an Alternate member, with a term to expire in January, 2017. Mayor Jean nominated Lionel N. Lachapelle to serve on the Planning Board as an Alternate member, with a term to expire in January, 2017. Councilor Walker seconded the motion. Councilor Walker **MOVED** that nominations cease and the City Clerk cast one ballot for Mr. Lachapelle. Councilor Lauterborn seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

- **Michael Kirwan –Conservation Commission**

Councilor Larochele stated that the Appointments Committee unanimously recommends Michael Kirwan for appointment to the Conservation Commission, with a term to expire in January, 2017. Mayor Jean nominated Michael Kirwan for appointment to the Conservation Commission, with a term to expire in January, 2017. Councilor Walker seconded the motion. Councilor Walker **MOVED** that nominations cease and the City Clerk cast one ballot for Mr. Kirwan. Councilor Lauterborn seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

## **10.2. Codes and Ordinances Committee**

Councilor Lachapelle stated that the Codes and Ordinances Committee met on June 5, 2014. He said there are no action items at this time. The Committee will meet again on August 7, 2014.

## **10.3. Community Development**

Councilor Gray stated that the Community Development Committee met on June 26, 2014. The Committee is working on the bike rack project. At this time, the Committee would like to send the “shared lane” program to the Public Works Committee. This would be a matter of painting decals on the roads in the downtown area for bicyclists.

Councilor Gray stated that the Job Loan report could be found in the City Council packet.

Councilor Gray stated that the Committee would continue to discuss the consolidated plan goals over the next few minutes.

## **10.4. Public Safety Committee**

Councilor Walker **MOVED** to deny the “no parking” signs on Hillsdale Drive. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Walker **MOVED** to deny the request for erecting an additional streetlight on Columbus Avenue and Wakefield Street. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Walker **MOVED** to deny the “dead end” sign on Ray and Hussey Streets. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Walker stated that there is a traffic situation at the intersection of Milton Road/Salmon Falls Road, which is similar to the situation on South Main Street. He **MOVED** to place two barrels at the discretion of the Department of Public Works. Councilor Gates seconded the motion. Councilor Varney requested that this situation be resolved more permanently at the time of the Salmon Falls Road Reconstruction Project. Commissioner Nourse agreed and said the intersection would be reviewed at the time of that project. The **MOTION CARRIED** by a unanimous voice vote.

#### **10.5. Public Works Committee**

Councilor Torr stated that there was a lot of discussion about the Water Ordinance. He **MOVED** to send the Water Ordinance [connection] to the Codes and Ordinances Committee for further review. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Torr stated that the Committee voted to recommend that the City Council approve the Storm Water Mitigation Grant, which will be discussed further under New Business.

Councilor Torr informed the City Council that the Hanson Pines Pedestrian Bridge has become very dangerous. He said the entrance should be blocked so that no ATV would be able to ride over the bridge. Councilor Keans added that motorcycles would also be an issue; however, they would be much more difficult to stop.

Councilor Walker **MOVED** to limit the Hanson Pines Pedestrian Bridge to pedestrians only and to install bollards at the entrances of the bridge to prevent other forms of travel as much as possible. Councilor Hamann seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. A discussion ensued about how to handle this situation during the winter months. Commissioner Nourse stated that a construction evaluation is being done and updates will be provided to the Public Works Committee.

#### **11. Old Business**

#### **12. New Business**

##### **12.1. AB 005 Approval of New Secondhand Dealer's License with Stipulations Imposed by the Planning Board - Adoption**

Councilor Walker **MOVED** to **APPROVE** the New Secondhand Dealer's License. Councilor Torr seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.



**12.2. AB 003 Resolution Accepting New Hampshire Department of Environmental Services [DES] Grant in Connection with 2015 Household Hazardous Waste Day and Authorizing City Manager to enter into A Contract with NHDES with Respect to the 2015 Household Hazardous Waste Day Grant - First Reading and Adoption**

Councilor Walker **MOVED** to read the resolution by title only for the first time. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the resolution by title only for the first time as follows:

**RESOLUTION ACCEPTING**  
**NH DEPARTMENT OF ENVIRONMENTAL SERVICES GRANT**  
**IN CONNECTION WITH 2015 HOUSEHOLD HAZARDOUS WASTE DAY**  
**AND AUTHORIZING CITY MANAGER TO ENTER INTO A**  
**CONTRACT WITH NHDES WITH RESPECT TO**  
**THE 2015 HOUSEHOLD HAZARDOUS WASTE DAY GRANT**

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

That a NH Department of Environmental Services Grant, in the amount not to exceed Fourteen Thousand Thirty-Seven Dollars (\$14,037.00) to the City of Rochester, for the purpose of hosting hazard mitigation, is hereby accepted by the City of Rochester and, when received, such grant funds shall be assigned to account number(s) to be established by the Finance Director in the 2014-2015 operating budget of the City of Rochester.

**Additionally**, the City Manager of the City of Rochester be, and hereby is, authorized to enter into a contract with the New Hampshire Department of Environmental Services with respect to such grant and the conduct of the aforementioned 2015 Household Hazardous Waste Day.

**Furthermore**, 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. **CC FY15 07-01 AB 3**

Mayor Jean briefed the City Council about the resolution. Councilor Walker **MOVED** to **ADOPT** the resolution. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**12.3. AB 006 Resolution, Pursuant to New Hampshire RSA 75:8-b, to Authorize the City of Rochester to Annually Appraise**

**Real Estate at Market Value, as Defined in RSA 75:1 - First Reading, Refer to Public Hearing on July 8, 2014, Finance Committee Meeting**

Councilor Lachapelle **MOVED** to read the resolution by title only for the first time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the resolution by title only for the first time as follows:

**RESOLUTION, PURSUANT TO N.H. RSA 75:8-b,  
TO AUTHORIZE THE CITY OF ROCHESTER TO ANNUALLY  
APPRAISE REAL ESTATE AT MARKET VALUE, AS DEFINED IN RSA 75:1**

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

**WHEREAS**, the City of Rochester is desirous of availing itself of the authority granted to it by the provisions of RSA 75:8-b, to annually appraise real estate within the City at market value, as defined in RSA 75:1; and

**WHEREAS**, the City of Rochester, acting through its Mayor and City Council has held two (2) public hearings with regard to the annual appraisal of real estate at market value, as defined in RSA 75:1, in compliance with the requirements of RSA 75:8-b;

**NOW THEREFORE**, the Mayor and City Council of the City of Rochester, hereby authorize the City of Rochester, beginning immediately, to exercise the authority granted to said City by the provisions of RSA 75:8-b, to annually appraise real estate within the City at market value, as defined in RSA 75:1. **CC FY15 AB 006 former CC FY14 AB 89 [Assessing]**

Mayor Jean stated that this was only the first reading. A Public Hearing on this matter took place prior to the Regular City Council meeting this evening. Now that the resolution has been read for the first time, the matter is being sent to another Public Hearing at the next Finance Committee meeting to be held on July 8, 2014.

**12.4. AB 007 Resolution Authorizing Application, on Behalf of the City of Rochester, Department of Public Works, for a New Hampshire Department of Environmental Services Storm Water Related Mitigation Grant - First Reading and Adoption**

Councilor Lachapelle **MOVED** to read the resolution by title only for the first time. Councilor Walker seconded the motion. The **MOTION**

**CARRIED** by a unanimous voice vote. Mayor Jean read the resolution by title only for the first time as follows:

**RESOLUTION AUTHORIZING**  
**APPLICATION, ON BEHALF OF THE CITY OF ROCHESTER,**  
**DEPARTMENT OF PUBLIC WORKS,**  
**FOR A N.H. DEPARTMENT OF ENVIRONMENTAL SERVICES**  
**STORM WATER RELATED MITIGATION GRANT**

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

That the Mayor and City Council, of the City of Rochester, by adoption of this resolution, hereby authorizes the City of Rochester, Department of Public Works to apply for a grant from N.H. Department of Environmental Services of an Federal EPA Watershed Assistance Grant in an approximate amount of up to One Hundred Twenty Thousand Dollars (\$120,000.00) for the purpose of defraying the cost associated with storm water mitigation elements of, or associated with, the so-called Franklin/Western/Adams street reconstruction project (the "Project"). This grant requires a Forty percent (40%) City funding match, which match would be in an amount of up to Eighty Thousand Dollars (\$80,000.00), depending on the ultimate grant award amount, if the grant application is successfully approved, with the Forty (40%) percent City match required for such grant to be derived, in its entirety, from up to Eighty Thousand Dollars of the One Million Five Hundred Thousand Dollars (\$1,500,000.0 in City funds previously appropriated for the Project.

**Further**, that the City Manager, and/or his designee, be, and hereby is, authorized to sign all documents and perform all actions necessary and/or appropriate to apply for such grant, including a letter of support, on behalf of the City, for the grant application. **CC FY15 07-01 AB 7**

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

**12.5. AB 008 Resolution Authorizing Supplemental Appropriation to the 2014-2015 Capital Improvement Budget of the City of Rochester, Department of Public Works, Water Works for the So-Called Water Treatment Plant Upgrades Project and Authorizing Borrowing in Connection Therewith – First Reading and Refer to a Public Hearing**

Councilor Lachapelle **MOVED** to read the resolution by title only for the first time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the resolution by title only for the first time as follows:

**RESOLUTION AUTHORIZING SUPPLEMENTAL APPROPRIATION  
TO THE 2014-2015 CAPITAL IMPROVEMENTS BUDGET OF THE  
CITY OF ROCHESTER, DEPARTMENT OF PUBLIC WORKS,  
WATER WORKS FOR THE SO-CALLED WATER TREATMENT PLANT  
UPGRADES PROJECT AND AUTHORIZING BORROWING IN  
CONNECTION THEREWITH**

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

That the sum of Two Hundred Fifty Thousand Dollars (\$250,000.00) be, and hereby is, appropriated as a supplemental appropriation to the 2014-2015 capital improvements budget of the City of Rochester, Department of Public Works, Water Works for the purpose of providing sums necessary to pay expenditures with respect to the so-called Water Treatment Plant Upgrades project (the "Project"), and provided further that such appropriation shall be drawn in its entirety from the proceeds of borrowing by the City of Rochester from the State of N.H. Drinking Water State Revolving Fund with respect to the aforesaid Project.

Additionally, and to the extent applicable, the Mayor and City Council of the City of Rochester hereby resolve that, in accordance with the provisions of Section 45 of the Rochester City Charter, the City Treasurer, with the approval of the City Manager, be, and hereby is, authorized to borrow the sum of Two Hundred Fifty Thousand Dollars (\$250,000.00), for the purpose of providing funds necessary for the so-called Project, 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. Furthermore, such borrowing is authorized subject to compliance with the provisions Section 45 of the Rochester City Charter. The useful life for the aforesaid Project is 20 years.

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. **CC FY15 07-01 AB 8**

Mayor Jean asked Commissioner Nourse to confirm that the August Regular City Council meeting would not be too late to hold a public hearing on this matter. Commissioner Nourse stated that the cut off date for the

Governor's Counsel is August 24, 2014, so this timeline is fine. Mayor Jean referred the matter is now being sent to a Public Hearing to be held prior to the Regular City Council meeting on August 5, 2014.

**12.6. AB 009 Resolution Accepting Developer's Offer of Dedication of the So-Called Trinity Circle Roadway as a City Street, as well as Accepting Certain Associated and/or Related Improvements to Serve as Public Improvements Related to the So-Called Trinity Circle Subdivision, and Making a Supplemental Appropriation in Connection Therewith – First Reading, Second Reading, and Adoption**

Councilor Lachapelle **MOVED** to read the resolution by title only for the first time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the resolution by title only for the first time as follows:

**RESOLUTION ACCEPTING DEVELOPER'S OFFER OF DEDICATION OF THE SO-CALLED TRINITY CIRCLE ROADWAY AS A CITY STREET, AS WELL AS ACCEPTING CERTAIN ASSOCIATED AND/OR RELATED IMPROVEMENTS TO SERVE AS PUBLIC IMPROVEMENTS RELATED TO THE SO-CALLED TRINITY CIRCLE SUBDIVISION, AND MAKING A SUPPLEMENTAL APPROPRIATION IN CONNECTION THEREWITH**

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

**WHEREAS**, the so-called Trinity Circle Subdivision (the "Approved Subdivision"), located on Flagg Road in Rochester, was approved by the Rochester Planning Board (the "Planning Board") on June 19, 2006, and, at the time of such approval, such subdivision approval was based upon a series of plans presented to the Planning Board, depicting and detailing various aspects of the development plan, including topographical data, road layout and profiles, drainage and utility locations, as well as a recordable version of the subdivision plan (which plan was certified for recording on June 27, 2007) (collectively such plans are hereinafter referred to as the "Approved Subdivision Plans"); and

**WHEREAS**, the recordable version of such Approved Subdivision Plans, entitled "Overall Cluster Subdivision Plan, Flagg Road, Rochester, N.H., for Trinity Conservation, LLC", dated January 2006, by Norway Plains Associates, Inc., is recorded in the Strafford County Registry of Deeds as

Plan 90-82 (the "Recorded Subdivision Plan"); and

**WHEREAS**, the Approved Subdivision Plans, and/or the Recorded Subdivision Plan, depict the Approved Subdivision, with associated amenities and improvements, including such special amenities and improvements as the so-called "Trinity Circle" (the "Trinity Circle roadway"), drainage facilities and structures and utility pipe lines and related utility structures, including a sewer pump station and a drainage pond, along with such associated land and other related rights, of such nature and extent, which are customarily associated with, necessary and/or required for, providing access to and maintenance, repair, or, as required and/or appropriate, replacement of the same (such special amenities and improvements being hereinafter sometimes collectively referred to as the "Proposed Public Improvements")(reference is made to **Exhibit A** annexed hereto), which Proposed Public Improvements were required by the Approved Subdivision, Approved Subdivision Plans, and/or the Recorded Subdivision Plan, to be completed by, and at the expense of, the Developer (as used in this resolution, the term "Developer" includes the individual(s)/entity or entities which submitted and obtained approval of the Approved Subdivision, and its/their successor(s) in interest); and

**WHEREAS**, by depicting the Proposed Public Improvements on the Approved Subdivision Plans, and the Recorded Subdivision Plan, the Developer dedicated the Proposed Public Improvements to the City for Public use (see RSA 674:40), with the expectation of the City that the special amenities and improvements would be voluntarily deeded, or otherwise legally transferred to, and accepted by, the City after the completion, at the Developer's expense, of the special amenities and improvements; and

**WHEREAS**, given that the Proposed Public Improvements, by the terms of its Planning Board Approval with respect to the Approved Subdivision, were to be constructed by the Developer during the construction of the Approved Subdivision, the terms of the Approved Subdivision and State statute(s) required the Developer to post surety to assure completion by, and at the expense of, the Developer of the Proposed Public Improvements; and

**WHEREAS**, the Developer first posted surety for the Approved Subdivision in or around the Spring of 2007, and the Developer was notified, in the Notice of Decision for the Approved Subdivision, that he/it had four (4) years within which to substantially complete the project, including the Proposed Public Improvements; and

**WHEREAS**, despite such notification the Developer has, to date, failed to complete the amenities, including the Proposed Public Improvements depicted within, and contemplated by/in the Approved Subdivision and the documents and submissions made by Developer in connection therewith;

and

**WHEREAS**, at a meeting with the Planning Board on June 17, 2013, regarding the Developer's failure to complete the amenities, including the Proposed Public Improvements depicted within, and contemplated by/in the Approved Subdivision, and the increase in the costs for completing the Proposed Public Improvements, the Developer was informed that he/it was required to post additional surety for the completion of the Proposed Public Improvements in order to obtain a further extension of the completion deadline for the Proposed Public Improvements; and

**WHEREAS**, under date of July 18, 2013, the Developer was informed by letter that he/it was required to post additional surety for the completion of the Proposed Public Improvements within forty-five days of such date in order to have the completion of the Proposed Public Improvements extended; and

**WHEREAS**, as of May 2014, the Developer failed to post additional surety with the Planning Board for the completion of the Proposed Public Improvements; and

**WHEREAS**, as of the date of this Resolution, the Developer has failed and refused to construct and/or complete construction of the Proposed Public Improvements and/or to post additional surety with the Planning Board within the time frames originally established, and/or as extended, by the Planning Board with respect to such requirements, and in spite of the fact that residential units have been sold and are being occupied within the Approved Subdivision, including units fronting on Trinity Circle roadway, which units and their occupants are dependent on the Proposed Public Improvements for necessary, utility services: and

**WHEREAS**, as a result of the Developer's prolonged and repeated failures to complete the amenities, including the Proposed Public Improvements, required within the Approved Subdivision within the initially established, and subsequently extended, time frames provided by the Planning Board, the City, acting in response to professional estimates that the surety being held by the City was no longer adequate to complete the unfinished amenities depicted on the Approved Subdivision Plans and required to be constructed/provided by the Developer, as well as to votes of both the Planning Board and the Rochester Mayor and City Council requesting such action in May 2014, called the Letter of Credit, in the face amount of \$150,000.00, posted by the current Developer as surety with respect to the Approved Subdivision; and

**WHEREAS**, the financial institution which issued the Developer's most recent Letter of Credit, in satisfaction of its obligations thereunder, tendered the sum of \$150,000.00 to the City in accordance with the terms of such Letter of Credit; and

**WHEREAS**, the City is desirous of, and intends to, utilizing the surety funds it has received with respect to the Approved Subdivision as a result of its call of the aforesaid Letter of Credit, to repair and/or complete the Proposed Public Improvements to the extent necessary and achievable with the surety funds received from its call of the aforesaid Letter of Credit.

**NOW THEREFORE**, the Mayor and City Council of the City of Rochester, by adoption of this Resolution, hereby:

(a) Accept the offer of dedication by the Developer of the Approved Subdivision of the Proposed Public Improvements depicted within the Approved Subdivision, including, but not limited to, roads (including so-called "Trinity Circle" (the "Trinity Circle roadway") and associated curbing, sidewalks (if any), drainage facilities and structures, and utility pipe lines and related utility structures, including the sewer pump station, such acceptance to include such land and other rights, over, on, and under such portions of the Approved Subdivision, of such nature, and with such extent, as necessary to, and/or customarily associated with, access to and maintenance, repair, replacement, and improvement of the Proposed Public Improvements and their respective uses being hereby accepted;

(b) Provide that the sum of One Hundred Fifty Thousand Dollars (\$150,000.00) be, and hereby is, appropriated as part of the City of Rochester 2014-2015 capital budget of the City of Rochester, Public Works Department (account numbers to be assigned by the Finance Director), such sum to be used for the purpose of addressing, completing, correcting, bringing into compliance with City standards and specifications, and/or taking other actions deemed appropriate by the City Manager, and/or his designee(s) and/or agent(s) with respect to the Trinity Circle roadway, as well as the other Proposed Public Improvements being accepted. Further, that the sums necessary to fund such appropriation shall be derived in their entirety from the surety funds called and received by the City pursuant to the Letter of Credit posted with the City on behalf of the Developer of the Approved Subdivision, and/or surrendered on behalf of the Developer to the City by the issuer of such Letter of Credit, in an amount not to exceed One Hundred Fifty Thousand Dollars (\$150,000.00);

(c) Accept Trinity Circle roadway as a City street, the location of such street having been previously approved by the Planning Board in accordance with the provisions of RSA 674:40.

Further, 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 and to take such other actions as may be necessary to implement the transactions contemplated by this Resolution.

**CC FY15 07-01 AB 9**

***Exhibit A is attached to this set of minutes.***



Councilor Walker **MOVED** to suspend the rules and to read the resolution by title only for the second time. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the resolution by title only for the second time.

Councilor Lachapelle stated that this is not an accepted street as of yet. He questioned why this development is already receiving curbside trash pickup at this time. Councilor Walker recalled that the curbside trash pickup began when the City Council began discussions about pulling the Trinity Circle Development Surety. Mayor Jean stated that technically the trash pickup should not have begun until the street was formally accepted by the City. Councilor Lachapelle stated that he would be willing to look into the matter for the City Council. He added that the residents might have had a private agreement with Waste Management.

Councilor Varney asked how much this street acceptance would cost the City of Rochester. Attorney Wensley understood that the amount of surety should cover the cost of finishing any work in the public's right-of-way only. City Manager Fitzpatrick agreed and stated that the residents might expect that other work should be done as well; however, it is the City Council's intent only to correct/finish work in the public's right-of-way, in order to accept Trinity Circle as a City Street. Commissioner Nourse stated that he is optimistic that the amount of surety would cover the cost associated with the work to be done in the public's right-of-way.

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

**12.7. AB 010 Resolution Authorizing Supplemental Appropriation to the FY 2014-2015 Operating Budget of the City of Rochester for So-Called Tablet Computers – First Reading, Second Reading, and Adoption**

Councilor Lachapelle **MOVED** to read the resolution by title only for the first time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the resolution by title only for the first time as follows:

**RESOLUTION AUTHORIZING SUPPLEMENTAL APPROPRIATION  
TO THE 2014-2015 OPERATING BUDGET OF THE  
CITY OF ROCHESTER FOR SO-CALLED TABLET COMPUTERS**

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

That the sum of Nineteen Thousand Eight Hundred Ninety-Three Dollars and Seventy-Seven Cents (\$19,893.77) be, and hereby is, appropriated as a supplemental appropriation to the 2014-2015 operating budget of the City of Rochester for the purpose of paying the costs associated with providing tablet computers for the Mayor and City Council (the "Project"), and provided further that such appropriation shall be drawn, in its entirety, from the City of Rochester General Fund, undesignated fund balance.

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 transaction(s) contemplated by this Resolution. **CC FY15 07-01 AB 10**

Mayor Jean stated that this item is on the Agenda this evening for a first reading and is being referred to the Finance Committee for further review. The City Council briefly discussed the matter. Councilor Gray asked if there is an option for a Councilor to opt out of the tablet and use their own computer. Would he/she be able to connect to the virtual network of the City and have all the benefits that the tablet would offer? Mayor Jean stated that that option could be discussed at the Finance Committee meeting.

**12.8. AB 004 Resolution Authorizing Supplemental Appropriation to the 2014 – 2015 Capital Improvements Budget of the City of Rochester, Department of Public Works, for the So-Called Stillwater Bridge Repair Project, and Authorizing Borrowing in Connection Therewith  
Second Reading and Adoption**

Councilor Lachapelle **MOVED** to read the resolution by title only for the second time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the resolution by title only for the second time as follows:

**RESOLUTION AUTHORIZING SUPPLEMENTAL APPROPRIATION  
TO THE 2014-2015 CAPITAL IMPROVEMENTS BUDGET OF THE  
CITY OF ROCHESTER, DEPARTMENT OF PUBLIC WORKS,  
FOR THE SO-CALLED STILLWATER CIRCLE BRIDGE REPAIR PROJECT,  
AND AUTHORIZING BORROWING IN CONNECTION THEREWITH**

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

That the sum of Two Hundred Fifty Thousand Dollars (\$250,000.00) be, and hereby is, appropriated as a supplemental appropriation to the 2014-2015

capital improvements budget of the City of Rochester, Department of Public Works for the purpose of providing sums necessary to pay expenditures with respect to the so-called Stillwater Circle Bridge Repair project (the "Project"), and provided further that such appropriation shall be drawn in its entirety from the proceeds of borrowing such as, but not limited to, lawfully authorized bonds and/or notes to be issued by the City of Rochester with respect to the aforesaid Project.

Additionally, and to the extent applicable, the Mayor and City Council of the City of Rochester hereby resolve that, in accordance with the provisions of RSA 33:9 and Section 45 of the Rochester City Charter, the City Treasurer, with the approval of the City Manager, be, and hereby is authorized to borrow the sum of up to Two Hundred Fifty Thousand Dollars (\$250,000.00) for the purpose of providing funds necessary for the so-called Project, 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. Furthermore, such borrowing is authorized subject to compliance with the provisions of RSA 33:9 and Section 45 of the Rochester City Charter. The useful life for the aforesaid Project is 30 years. 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.

**CC FY 15 AB 004 former CC FY14 AB 103**

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

## **12.9. Resolutions for 2-4 Walnut Street**

### **12.9.1. AB 001 Resolution De-Authorizing Portions of the 2010-2011 Capital Budget Appropriation for the City of Rochester, Department of Public Works for the So-Called Strafford Square Right of Way Project - First Reading, Second Reading, and Adoption**

Councilor Lachapelle **MOVED** to read the resolution by title only for the first time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the resolution by title only for the first time as follows:

#### **RESOLUTION DEAUTHORIZING PORTION OF FY 2010-2011 CAPITAL BUDGET APPROPRIATION FOR THE CITY OF ROCHESTER, DEPARTMENT OF PUBLIC WORKS**

**FOR THE SO-CALLED STRAFFORD SQUARE RIGHT-OF-WAY PROJECT**  
**BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF**  
**ROCHESTER, AS FOLLOWS:**

**WHEREAS**, by virtue of a Resolution by the Mayor and City Council on December 7, 2010, a Capital Improvements Budget appropriation in the amount of Three Hundred Thousand Dollars (\$300,000.00) was adopted and approved in the FY 2010-2011 City of Rochester, Department of Public Works capital improvements budget for the so-called Strafford Square Right-of-Way, 2-4 Walnut Street Purchase project (the "Project"), with such appropriation to be funded, in its entirety, from the proceeds of bonding to be undertaken by the City of Rochester; and

**WHEREAS**, such Project has been completed in a manner leaving the sum of Two Hundred Thirty-Six Thousand Ninety-Six Dollars and Fifty Cents (\$236,096.50) of the aforesaid appropriated fund authorized to be derived from the proceeds of bonding by the City of Rochester, no longer necessary for such Project's purposes.

**NOW, THEREFORE**, the Mayor and City Council of the City of Rochester, by adoption of this Resolution, hereby deauthorize Two Hundred Thirty-Six Thousand Ninety-Six Dollars and Fifty Cents (\$236,096.50) of the aforementioned previously appropriated funds for the so-called Project, and hereby further withdraw and discontinue the previous borrowing authority granted with respect to the above Project appropriation to the extent of Two Hundred Thirty-Six Thousand Ninety-Six Dollars and Fifty Cents (\$236,096.50), thereby leaving a balance of the aforesaid FY 2010-2011 appropriation with borrowing authority in the amount of Sixty-Three Thousand Nine Hundred Three Dollars and Fifty Cents (\$63,903.50).

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. **CC FY15 07-01 AB 1**

Councilor Lachapelle **MOVED** to suspend the rules and read the resolution by title only for the second time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the resolution by title only for the second time.

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion. Attorney Wensley clarified that this is the property 2-4 Walnut Street and we received a subsequent reimbursement from the State's Department of Transportation. The **MOTION CARRIED** by a unanimous voice vote.

**12.9.2. AB 002 Resolution Authorizing Supplemental Appropriation to the 2013-2014 Capital Improvements Budget of the City of Rochester, Department of Public Works, for the So-Called Strafford Square Right-of-Way, 2-4 Walnut Street Purchase Project - First Reading, Second Reading, and Adoption**

Councilor Lachapelle **MOVED** to read the resolution by title only for the first time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the resolution by title only for the first time as follows:

**RESOLUTION AUTHORIZING SUPPLEMENTAL APPROPRIATION  
TO THE 2013-2014 CAPITAL IMPROVEMENTS BUDGET OF THE  
CITY OF ROCHESTER, DEPARTMENT OF PUBLIC WORKS,  
FOR THE SO-CALLED STRAFFORD SQUARE RIGHT-OF-WAY, 2-4  
WALNUT STREET PURCHASE PROJECT**

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

That the sum of Two Hundred Thirty-Six Thousand Dollars (\$236,000.00) be, and hereby is, appropriated as a supplemental appropriation to the 2014-2015 capital improvements budget of the City of Rochester, Department of Public Works, for the purpose of providing sums necessary to pay expenditures with respect to the so-called Strafford Square Right-of-Way, 2-4 Walnut Street Purchase project (the "Project"), and provided further that such appropriation shall be drawn, in its entirety, from Project funds provided to the City of Rochester, Department of Public Works, by State of New Hampshire, Department of Transportation from highway related funds in the amount of Two Hundred Thirty-Six Thousand Dollars (\$236,000.00), which funds, by adoption of this resolution, are hereby accepted by the City of Rochester.

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. **CC FY15 07-01 AB 2**

Councilor Lachapelle **MOVED** to suspend the rules and to read the resolution by title only for the second time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Jean read the resolution by title only for the second time.

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

### **13. Other**

Mayor Jean announced that the Annual Softball Rival Softball Game would take place on August 9, 2014, at Riverside Park, beginning at 10:00 AM. City Council briefly discussed the matter. Councilor Lachapelle is the designated Team Captain for Ward Three and former Councilman Brian LaBranche is the designated Team Captain for Ward One. Councilor Lachapelle stated that a discussion took place about allowing more participation in the game by dividing the City by East Side/West Side, which is similar to how Roger Allan Baseball handled the Citywide boundaries.

Councilor Gates informed the City Council that there are some significant washouts on Ten Rod Road, which should be addressed by the Public Works Committee. He hoped that the citizen with the complaint could have a spot on the next available Public Works Committee Agenda.

Councilor Gates spoke about another issue on Ten Rod Road involving deer crossing. He suggested posting signs to caution drivers about the heavy deer crossing. Councilor Torr confirmed that at least eight deer have been killed on that section of the road in the past few months. He said this is a dangerous situation. Councilor Keans questioned if someone ought to notify the Department of Fish and Game.

Mayor Jean stated that the drainage issue on Ten Rod Road should be referred to the Public Works Committee and that the "sign" issue warning driver's of potential deer crossing should be referred to the Public Safety Committee.

Councilor Torr spoke about a pavement issue near the Dunkin Donuts located on Route 125. Commissioner Nourse agreed to check into the matter.

### **14. Non-Meeting/Non-Public Sessions:**

#### **14.1. Non-Public Land, RSA 91-A:3 I (d)**

Councilor Walker **MOVED** to enter into a Non-Meeting and Non-Public Meeting for Land, RSA 91-A:3 I (d) at 7:55 PM. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous roll call vote of 12 to 0. Councilors Gray, Laroche, Lauterborn, Keans, Varney, Hamann,

Torr, Collins, Lachapelle, Walker, and Mayor Jean voted in favor of the motion.

Councilor Lachapelle **MOVED** to exit the Non-Public/Non-Meeting at 8:06 PM. Councilor Walker seconded the motion.

## **15. Adjournment**

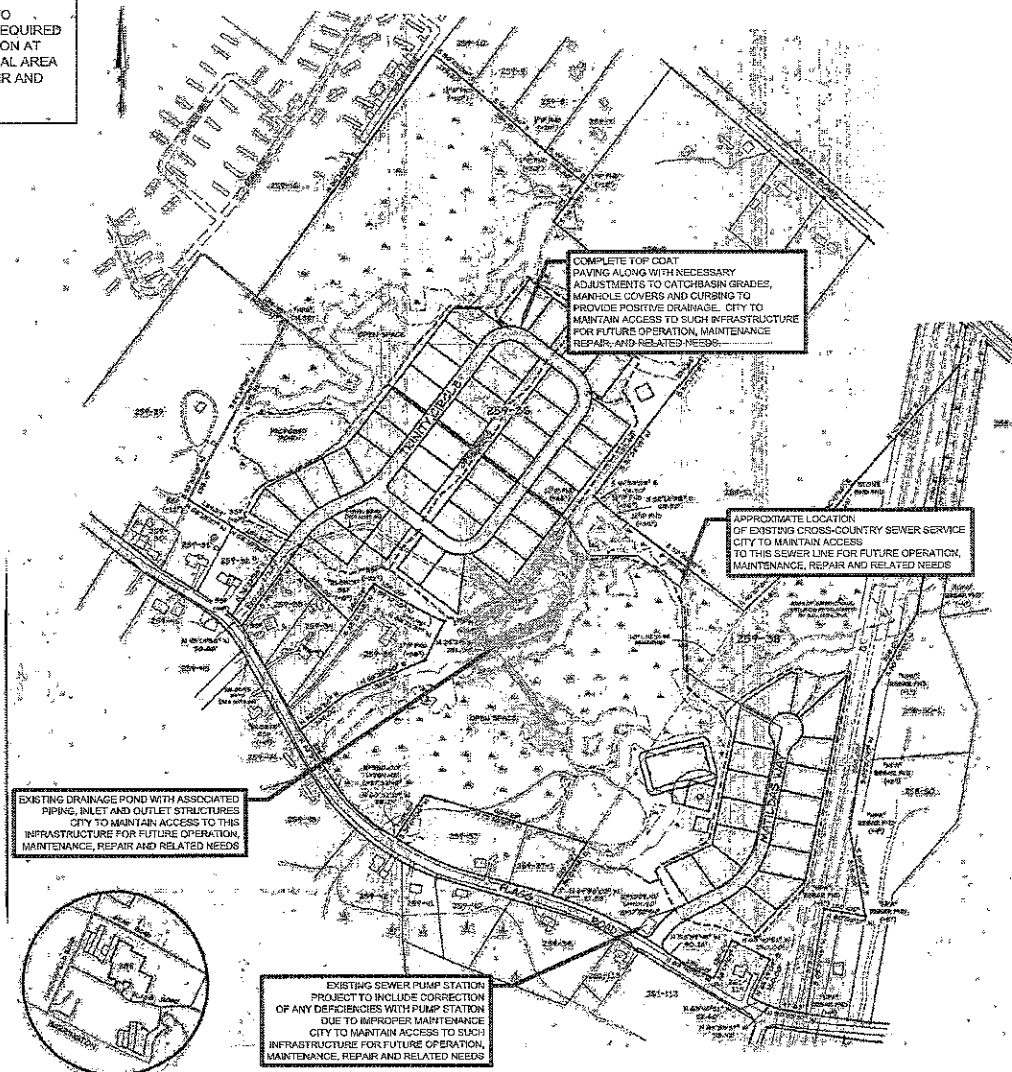
Councilor Walker **MOVED** to **ADJOURN** the Regular City Council meeting at 8:06 PM. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Kelly Walters  
City Clerk

# EXHIBIT A

THE PURPOSE OF THIS PLAN IS TO INDICATE THE GENERAL WORK REQUIRED TO COMPLETE THE CONSTRUCTION AT TRINITY CIRCLE AND THE GENERAL AREA NECESSARY TO MAINTAIN, REPAIR AND ADDRESS RELATED NEEDS.



DEPARTMENT OF PUBLIC WORKS CITY OF ROCHESTER		
CORRECTIVE ACTION & CONSTRUCTION PLAN TRINITY CIRCLE ROCHESTER NH		
SCALE: 1" = 20'	DATE: JULY 2014	SHEET: 1 OF 1