

**Regular City Council Meeting
February 6, 2018
Council Chambers
7:00 PM**

COUNCILORS PRESENT

Councilor Abbott
Councilor Bogan
Councilor Gates
Councilor Gray
Councilor Hamann
Councilor Hutchinson
Councilor Hamann
Councilor Keans
Councilor Lachapelle
Councilor Lauterborn
Councilor Torr
Councilor Walker
Councilor Varney
Mayor McCarley

OTHERS PRESENT

Daniel Fitzpatrick, City Manager
Blaine Cox, Deputy City Manager
City Attorney Terence O'Rourke
Andrew Davis, Liquor Commission

MINUTES

1. Call to Order

Mayor McCarley called the meeting to order at 7:00 PM.

2. Opening Prayer

**2.1 Opening prayer led by Jessica Fournier, Troop Ambassador
for the Girl Scouts of the Green and White Mountains
Troop 10366**

The opening prayer was led by Jessica Fournier, Troop Ambassador of the Girl Scouts of the Green and White Mountains Troop 10366.

3. Presentation of the Colors

**3.1 Pledge of allegiance led by the Color Guard of The Girl
Scouts of the Green and White Mountains Troop 10366**

The Pledge of Allegiance was led by the Color Guard of The Girl Scouts of the Green and White Mountains Troop 10366.

Michelle Elefson, Troop Leader, thanked the Mayor and City Council for welcoming the Girl Scouts and she spoke briefly about the Girl Scouts' commitment to community service and annual cookie sale.

4. Roll Call

Cassie Givara, Deputy City Clerk, called the roll. All Councilors were present.

5. AB 82 Amendment to Chapter 42 of the General Ordinance of the City of Rochester Regarding the Location and Boundaries of Zoning Districts - Expanding the Neighborhood mixed use Zone along Wakefield Street and Columbus Avenue. (First Reading and Refer to a Public Hearing – *Abutters have been properly notified*)

Mayor McCarley reported that although this item had been on the previous month's agenda, it had not been put in for a first reading or approved for a public hearing. Councilor Lachapelle **MOVED** to read the Amendment for the first time by title only and refer to a public hearing. Councilor Hutchinson seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Mayor McCarley read the Amendment for the first time as follows:

AMENDMENT TO CHAPTER 42 OF THE GENERAL ORDINANCES OF THE CITY OF ROCHESTER REGARDING THE LOCATION AND BOUNDARIES OF ZONING DISTRICTS

THE CITY OF ROCHESTER ORDAINS:

WHEREAS, Chapter 42.1, Section J establishes that the location and boundaries of zoning districts within the City of Rochester are established as shown on a map titled, "City of Rochester Zoning Map."

WHEREAS, Chapter 42.1, Section J further declares that the City of Rochester Zoning Map is incorporated by reference as party of Chapter 42 of the General Ordinances of Rochester regarding zoning.

WHEREAS, the Mayor and City Council of Rochester desire to amend the City of Rochester Zoning Map to expand the Neighborhood Mixed Use Zone along Wakefield Street and Columbus Avenue.

THEREFORE, the Mayor and City Council of Rochester ordain that the Neighborhood Mixed Use Zone in the City of Rochester along Wakefield Street and Columbus Avenue shall be expanded in accordance with the Attached Exhibit. (Exhibit A).

FURTHER, the City of Rochester Zoning Map shall be amended and updated to reflect that the above shown properties are included in the Neighborhood Mixed Use Zone and are removed from the Residential-2 Zone.

The effective date of these amendments shall be upon passage.

6. Recess to Public Hearing

Councilor Walker **MOVED** to recess to the public hearing. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Mayor McCarley recessed to the public hearing at 7:05 pm.

7. Reconvene the Regular City Council Meeting

Mayor McCarley reconvened the Regular City Council Meeting at 7:21 PM.

8. Acceptance of Minutes

8.1. City of Rochester Inauguration – January 2, 2018 ***(Motion to Approve)***

Councilor Lachapelle **MOVED** to **ACCEPT** the City of Rochester Inauguration minutes of January 2, 2018. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

8.2. Reconvened Regular City Council Meeting – January 9, 2018 ***(Motion to Approve)***

Councilor Lachapelle **MOVED** to **ACCEPT** the Reconvene Regular City Council meeting minutes of January 9, 2018. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

9. Communications from the City Manager

9.1. Employee of the Month Award

City Manager Fitzpatrick invited Zeke Lapierre to come forward to accept the Employee of the Month Award for the month of February. City Manager Fitzpatrick gave an overview of the nomination letter submitted to the Employee of the Month Committee in regards to the graphic design work Mr. Lapierre had done to improve the annual Water Quality report. It was noted that had this type of design work been contracted out, it would have come at a significant cost to the City.

9.2. City Manager's Report

City Manager Fitzpatrick gave the following report:

Contracts and Documents executed since last month:

- Bridging the Gaps
 - Memorandum of Understanding between BTG and the City of Rochester
- City Manager
 - Acquisition of Cable Service letter from Atlantic Broadband

City Manager Fitzpatrick discussed the Acquisition of Cable Service Letter from Atlantic Broadway and clarified that this was Atlantic Broadband communicating to the City that they are not going away. They plan to upgrade and compete with Comcast. City Manager Fitzpatrick feels that this competition will benefit the City's cable consumers.

- Retirement Announcement

City Manager Fitzpatrick reported that his last day would be June 29th 2018, the final day of the fiscal year. Mr. Fitzpatrick intends to assist the City in any way he can with the transition process.

- Haying Agreement with Randall Parsell – Parsell Farms
- Department of Public Works
 - CWSRF Loan/Grant # CS-333122-13 – Disbursement #1
 - Security Agreements
 - 39 & 51 Salmon Falls Road
 - 21 Salmon Falls Rd and 7 Kodiak Court
 - Whitehouse Road Exploration and Reporting Services Contract
- Economic & Community Development
 - Environmental Review Supplemental – Rochester housing Authority
- Fire
 - Forest Warden Appointment Form

- Legal Department
 - Redemption – 13 Joshua Street
 - Redemption – 43 River Street
- Tax Collector
 - Citizens Self Service Contracts – Tyler Technologies
 - Citizens Self Services Contract

The following Computer Lease/Tuition Reimbursement Requests have been received:

- Tuition Reimbursement – Marsh, J – Economic Development

The following standard reports have been enclosed:

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

10. Communications from the Mayor

Mayor McCarley reported that she and several other City officials had attended a meeting with the new administration of the Region 1 EPA from Boston, DES and the Great Bay Coalition. There is a press release forthcoming, but the Mayor wanted to report that it was a productive meeting in regards to caring for the Great Bay Estuary.

Mayor McCarley updated Council on the task force for homelessness of which she took part in forming with the mayors from Somersworth and Dover. The coalition has almost completed the wording for the proposal. There will be four representatives from each community and they will be electing a chair. Social Services agencies from each of the communities will hopefully take part as support staff. There will be an announcement forthcoming with more detail. The goal is to potentially explore the idea of a larger homeless shelter in the area which will be more easily accessible and can accommodate the homeless population more than just seasonally.

Mayor McCarley briefly spoke about concerns regarding the School Board budget for the upcoming year and the likelihood of exceeding the tax cap and reported that the School Board will be submitting their budget on Wednesday February 7, 2018.

11. Presentations of Petitions and Council Correspondence

Mayor McCarley clarified that if Council accepts the petitions being presented, the petition will then follow the normal procedure for zoning amendments. If the petition is rejected, the process for a zoning amendment

doesn't go any further.

11.1. Petition for Zoning Ordinance Amendment - Expand Downtown Commercial (DC) Zone – A. Raymond Varney
(Motion to Accept or Reject)

Councilor Varney made **MOVED** to accept the petition for expanding the downtown commercial zone. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

11.2. Petition for Zoning Amendment to Chapter 42 – Ralph Torr
(Motion to Accept or Reject)

Councilor Torr gave an overview of some potential issues with the current wording of chapter 42 and how it relates to manufactured housing and acceptance of city streets.

Councilor Gray **MOVED** to accept the petition. Councilor Bogan seconded the motion.

Councilor Varney requested clarity on what happens after the petition is accepted. City Attorney O'Rourke advised that the City Council would send the petition to him to be placed in legal form. From there, it would go back to City Council for a first reading, sent to the planning board and referred to a public hearing. Finally it would come back to City Council for a second reading and potentially adoption. Attorney O'Rourke stated there is no particular timeline on this process. Councilor Torr stated there was a time limit.

Councilor Varney asked if there was a particular timeframe and expressed reluctance to begin a process for which Council might have limited time to complete. Councilor Varney stated that the changes to this zoning ordinance were significant and he doesn't feel that the process to change the zoning should be rushed. Councilor Varney asserted that a potential reason these changes were left out of the comprehensive re-zoning could be because in the agriculture zone, the minimum lot size for a single family home is 40,000 sqf whereas in a manufactured housing park the minimum lot size is 10,000 sqf. This change would allow four times as many manufactured housing units per plot as single family homes. He stated not sure the City wants that type of density in the agricultural zone.

Councilor Gray asserted that the lot size would be determined by approval of the septic system regardless of lot size. Density would be contingent on soil properties and approval of septic.

Councilor Torr said that state law has always been that the minimum lot size is 10,000 sqf but units built is still contingent on approval of septic system.

Mayor McCarley clarified that the proposed change being discussed is to section 42.20(b)(10) specifically, not to revisit chapters 42 and 43 in their entirety.

Councilor Keans requested an explanation of what the change would be because she did not have a copy of how the amendment currently reads. Councilor Keans was directed to a table supplied in the packet.

Councilor Varney **MOVED** to **TABLE**. Councilor Lauterborn seconded the motion. Mayor McCarley called for a hand count vote on the motion to table. The **MOTION** to table **FAILED**; 6 in favor, 7 opposed. Councilor Torr asked for a roll call vote on the earlier motion to accept the petition. The **MOTION CARRIED** by a majority roll call vote of 10 to 2. Councilors Hamann, Keans, Lauterborn, Walker, Gray, Abbott, Torr, Bogan, Gates, and Mayor McCarley voted in favor of the motion. Councilors Varney and Hutchinson voted against the motion.

11.3. School Department Request for Public Hearing – Shall the Rochester City Council adopt the Rochester-Wakefield AREA Agreement as amended by the AREA Agreement Review Committee and approved by the New Hampshire State Board of Education on February 18, 2015?

Council Lachapelle made a **MOTION** to send the school board agreement for public hearing. Councilor Varney seconded the motion. **MOTION CARRIED** by a unanimous voice vote.

12. Nominations, Appointments, Resignations, and Elections

12.1. Resignation: Amy Cann, Arts and Culture Commission

Mayor McCarley **MOVED** to **ACCEPT** with regret the resignation of Amy Cann from the Arts & Culture Commission. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

12.2. Resignation: Jenn Bryant, Rochester School Board, Ward 1 Seat A

Councilor Walker **MOVED** to **ACCEPT** with regret the resignation of Jenn Bryant from School Board Ward 1, Seat A. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

12.3. Resignation: John Roesse, Library Trustee, Ward 6

Councilor Walker **MOVED** to **ACCEPT** with regret the resignation of John Roese from the Library Trustees, Ward 6. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

13. Reports of Committees

13.1. Community Development

Councilor Lauterborn reported that there were no action items from Community Development. It was primarily a meeting to hear the CDBG request. There were no questions posed by Council regarding the Community Development Committee report.

13.2. Joint School Board Committee

Councilor Varney reported that the Committee is currently under budget by a few hundred thousand dollars.

Councilor Varney gave a brief presentation of the proposed renovations and design for the Creteau Technology Center. Councilor Varney reported that the next meeting would be held on February 19, 2018 and at that point the construction slides should be completed and they can get a final cost estimate for the project. The current estimate is \$4.65 million on the City side and \$11.9 million on the State side which is under budget. There will be a remodel of the daycare area added on to the project which will cost approximately \$76,000, but even with that addition the project still comes in under budget.

13.3. Public Works and Building Committee

Councilor Torr mentioned the Berry's River Watershed. He reported that this is going to be an expensive project as the City moves along and purchases the land.

13.3.1 Committee Recommendation: Norway Plains Road Development Street Acceptance. (Refer to City Attorney to put into Legal Form)

Councilor Varney clarified that this road acceptance is at the end of Norway Plains Road in a development of 6,000 sqf lots and they have been completing them and accepting roads a section at a time. This street is an extension of an area which has already been accepted and per public works this street is in good shape and ready for acceptance.

Councilor Walker read from the Public Works Committee minutes that this acceptance is for a portion of Miller's Farm Lane and Range Way in order for the residents to get trash pickup and recycling.

Councilor Walker made a **MOTION** for the City to accept this portion of Miller's Farm Lane and Range Way. Councilor Lachapelle clarified that the Council only needs to vote on sending the street acceptance to the legal department to be put into legal form, not accept the street itself. Councilor Lachapelle **MOVED** to send the street acceptance to the legal department to be put into Legal format. Councilor Bogan seconded the motion. **MOTION CARRIED** by a unanimous voice vote.

14. Old Business

None

15. Consent Calendar

None

16. New Business

16.1. **Discussion:** Andrew Davis, NH Liquor Commission. **Proposed Signage for State Liquor Store at the Ridge Marketplace**

Mayor McCarley gave an overview of the purpose behind the discussion. There had been some concerns raised regarding the size and location of the proposed signage for the liquor store.

Councilor Varney noted that the City does not allow billboards within the City limits, but had allowed two huge electronic billboards for the Waterstone development for which a variance had been granted. There was an agreement made along with this variance stating that the billboards would only be used for stores on that site. Councilor Varney contends that this sign is more than adequate size-wise to accommodate the sign for the liquor store. This sign, the large signage on the building front, as well as the pylon signs at each entrance are more than visible from surrounding roads.

Andrew Davis, Administrator of Real Estate and Leasing for the NH Liquor Commission addressed some of the concerns discussed by council. Mr. Davis clarified that because the liquor store is a federal agency, they have a statutory exemption from zoning code and are not beholden to the same rules as other businesses. This being said, there had been ongoing correspondence between the state liquor commission and the City of Rochester and they had obtained proper approvals. At this stage, the signs have already been designed and ordered. The types of signage placed at each location are carefully considered based on demographics and synergistic relationship with other businesses in the vicinity. Mr. Davis mentioned that the state DOT had been

removing all the highway signs announcing the State Liquor Stores. Lack of this DOT signage makes it more important for this new store on the ridge to be visible.

Councilor Gray stated that he felt that most of the concern regarding signage for the liquor store was in regards to the large sign which will be on Route 11. Councilor Gray felt that the State's exemption could be used on the store front signage, but might not be applicable to the road front signage away from the business.

Councilor Keans asked if the signage on the store at the Ridge would be similar to the signage at the Epping, NH location. Mr. Davis said that it would be similar. Councilor Keans also expressed concern that giving an exemption to the State for these liquor store signs would put the City in a difficult position when other businesses in the area asked for similar signage. She also pointed out that the comparison analysis of other signs along that road which was supplied by the state only shows signage from single enterprise businesses, not malls.

Councilor Torr asked when the final decision on the signage would be made. Mayor McCarley clarified that this agenda item is strictly a discussion so the Council could have its voice heard and express some frustrations to the state, but there is nothing to vote on or decide. The signs are a done deal, already ordered and purchased. Mayor McCarley stated that even though the state went through the process of getting an approval for the signs from the City, they did not need approval and would have proceeded regardless of whether or not it was granted.

Councilor Hamann reported that he did not have any objections to the signage as it was no worse than other signs in this vicinity. Councilor Torr concurred and said that for the records he did not object to the signage.

Councilor Gray requested that the NH State Liquor Commission follow up with him to discuss their assertion that they have the authority to place such a sign along the roadway.

16.2. AB 65 Amendment to Chapter 42 of the General Ordinances of the City of Rochester Regarding Dimensional Standards in Downtown Commercial District (Second Reading and Consideration for Adoption)

Councilor Lachapelle **MOVED** to read the amendment for the second time by title only. Councilor Bogan seconded the motion. **MOTION PASSED** by a unanimous voice vote. Mayor McCarley read the amendment for the second time by title only.

**Amendment to Chapter 42 of the General Ordinances of the
City of Rochester Regarding Dimensional Standards**

THE CITY OF ROCHESTER ORDAINS:

That Chapter 42 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows:

42.19 Dimensional Regulations

b. Dimensional Provisions. General dimensional regulations and other regulations (as well as clarifications, notes, and references) specifically referenced to the tables follow.

- 8. Density Rings.** The density rings are shown on the Official City of Rochester's Zoning Map that is adopted as part of this Ordinance and only apply to multi-family dwellings/developments ***not within the DC Zone.*** The rings are as follows:

The minimum lot area per dwelling unit within a one (1) mile radius of the center of Rochester shall be 5,000 square feet. The minimum lot area per dwelling unit outside of the one (1) mile radius of the center of Rochester. Shall be 7,500 square feet.

The minimum lot area per dwelling unit within a one-half (1/2) mile radius of the center of Gonic and East Rochester, shall be 5,000 square feet. The minimum lot area per dwelling unit outside of the one-half (1/2) mile radius of the center of Gonic and East Rochester, shall be 7,500 square feet.

For multi-family dwellings/developments within the DC Zone, the minimum lot per dwelling unit shall be 500 square feet.

Any lot that is partially within the radius of a density ring shall be treated as if it were entirely within the radius of the density ring.

The effective date of these amendments shall be upon passage.

Councilor Lachapelle **MOVED** to **ADOPT** the amendment. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a majority hand count, 9 in favor, 4 opposed.

- 16.3. AB 81 Resolution Authorizing Acceptance of Donation to the Fire Department in the Amount of \$25.00 and authorizing increase**

in amount of money the Fire Department may accept in donations. *(first reading, second reading, and consideration for approval)*

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

Resolution Accepting Donation to the Fire Department in the Amount of \$25.00 and Supplemental Appropriation to the Fire Department Budget in the amount of \$1,000.00 related to acceptance of donations

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

That a donation in the amount of Twenty-Five Dollars (\$25.00) to the Fire Department is hereby accepted.

Further, a supplemental appropriation in the amount of One Thousand Dollars (\$1,000.00) to the Fire Department budget line item #12020054 is hereby approved reflecting that the maximum amount of donations to be accepted by the Fire Department is increased to One Thousand Five Hundred Dollars (\$1,500.00).

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.

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

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

16.4. AB 63 Amendment to the City of Rochester's General Ordinances Relative to Chapter 17.34 Entitled "Water Rate and Fee Schedule" *(Second Reading and Consideration for Adoption)*

Councilor Lachapelle **MOVED** to read the amendment for the second time

by title only. Councilor Walker seconded the motion. **MOTION PASSED** by a unanimous voice vote. Mayor McCarley read the amendment by the second time by title only.

Amendment to the City of Rochester's General Ordinances Relative to Chapter 17.34 Entitled "Water Rate and Fee Schedule"

THE CITY OF ROCHESTER ORDAINS:

1. That Chapter 17, Section 17.34 of the General Ordinances of the City of Rochester, entitled "Water Rate and Fee Schedule", be amended by deleting the portion of said ordinance entitled "Quarterly Water Rates" and by replacing such portion of the ordinance with the following:

17.34 Water Rate and Fee Schedule

Quarterly Water Rates

| | |
|--------------------------------------|---------------------------------|
| Residential Customers without | \$5.55 per 100 cu. ft. of water |
| Residential Customers with | \$2.40 |
| Commercial and industrial customers: | \$5.55 |

Unmetered Residential

| | |
|--------------------------------------|----------|
| Customers: Per quarter per unit | \$148.53 |
| Per quarter per unit with exemption: | \$74.25 |

Minimum Fee:

| | |
|--------------------------------------|---------|
| Per quarter per unit without | \$21.09 |
| Per quarter per unit with exemption: | \$16.91 |

II. That this ordinance amendment shall take effect on February 1, 2018

Councilor Lachapelle **MOVED** to **ADOPT** the amendment. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a majority voice vote.

16.5. AB 64 Amendment to the City of Rochester's General Ordinances Relative to Chapter 16.25 Entitled "Wastewater Rate and Fee Schedule" (*Second Reading and Consideration for Adoption*)

Councilor Lachapelle **MOVED** to read the amendment for the second time by title only. Councilor Bogan seconded the motion. The **MOTION PASSED** by a unanimous voice vote. Mayor McCarley read the amendment by the second

time by title only.

**Amendment to the City of Rochester's General Ordinances
Relative to Chapter 16.25 Entitled "Wastewater Rate and
Fee Schedule"**

THE CITY OF ROCHESTER ORDAINS:

1. That Chapter 16, Section 16.25 of the General Ordinances of the City of Rochester, entitled "Wastewater Rate and Fee Schedule", be amended by deleting the portion of said ordinance entitled "Quarterly Wastewater Rates" and by replacing such portion of the ordinance with the following:

**16.25 Wastewater Rate and Fee
Schedule**

Quarterly Wastewater Rates

| | | | | | |
|---|--------|-----|-----|---------------|-----------|
| Residential Customers without | \$6.75 | per | 100 | ft. | water use |
| Residential Customers with exemption: | \$4.49 | per | 100 | ft. | water use |
| Commercial and industrial customers: | \$6.75 | per | 100 | ft. | water use |
| High Volume Customer (I.e. customers using more than 5,000 units **monthly) | \$6.08 | per | 100 | ft. cu. of | water use |

Unmetered Residential Customers:

Per quarter per unit without \$215.9

Per quarter per unit with exemption: \$107.9

Sewer-Metered Customers: \$6.75 per 100 cu. Ft.

Minimum Fee:

Per quarter per unit without \$32.28

Per quarter per unit with exemption: \$25.70

Septage Discharge: \$52.00 per 500 gal. or portion

RV Septage Discharge: \$15.00 flat fee

Graywater Disposal \$28.00 per 2000 gal. or portion

- II. That this ordinance amendment shall take effect on February 1, 2018

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

**16.6. AB 83 Resolution Deauthorization of \$21,000 from the
CIP account for Downtown Sign and Façade
Program to be transferred to the Economic
Development Fund**

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Council Walker seconded the motion.

Councilor Hamann inquired how much money was in the account originally. Deputy City Manager Blaine Cox reported that the original amount was \$25,000.

The **MOTION CARRIED** by a unanimous voice vote.

**Resolution Deauthorizing FY 2006 Sign & Facade project in the
amount of \$21,000.00 from
the Economic Development Capital Improvements Plan**

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

That Twenty One Thousand Dollars (\$21,000.00) is hereby deauthorized from the FY 2006 Sign and Facade CIP account and that said account is hereby closed.

Further, that the Mayor and City Council hereby authorize the transfer of Twenty One Thousand Dollars (\$21,000.00) to the Economic Development 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 accounts and or account numbers as are necessary to implement the transactions contemplated in this Resolution.

**16.7. AB 56 Resolution Authorizing the Release of City Held
Easement over 24 Stonewall Drive (*first reading,
second reading, and consideration for approval*)**

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

**Resolution Authorizing the Release of City Held Easement over 24
Stonewall Drive, Rochester, New Hampshire**

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, due hereby authorize the release of a Fifty (50) foot wide easement over 24 Stonewall Road, Rochester, New Hampshire as shown on the "Lot Line Revision Plan, Pray Street/Stonewall Road, Rochester, NH for Gregory E. Pray," recorded at the Stafford County Registry of Deeds at Plan 81-65.

Further, the City Manager is authorized to execute any and all documents necessary to affect the purpose of this Resolution.

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

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

16.8. Discussion: NH Senate Bill 193 "Education Freedom Savings Account"

Councilor Gates made a motion to remove from the agenda Senate Bill 193 citing lack of back-up materials from opposing viewpoints and a copy of the senate bill itself for review. Councilor Torr seconded the motion. The Council determined that it is improper to remove an agenda item in this manner. In order to do so, the rules would need to be suspended, although the item can be tabled by way of a vote.

Councilor Gates withdrew his motion to remove the agenda item. Councilor Torr withdrew his second. Councilor Gates **MOVED** to table the agenda item. Councilor Torr seconded the motion. **MOTION CARRIED** by a show of hands; 7 in favor, 6 opposed.

17. Other

Councilor Varney inquired when the zoning amendment on Wakefield Street would be coming back to Council. City Attorney O'Rourke reported that the amendment would come back to Council at the first regular City Council Meeting in March for a second reading and a vote.

18. Non-Meeting/Non Public Session

18.1 Non-Public Session, Land, RSA 91-A:3 II (d)

18.2 Non-Public Session, Personnel, RSA 91-A:3,II (a)

Councilor Lauterborn **MOVED** to enter into a Non-Public Session, under

RSA 91-A:3,II (a), for Personnel and RSA 91-A:3 II (d) for land at 8:38 PM. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a 13 to 0 roll call vote. Councilors Lauterborn, Keans, Walker, Hutchinson, Lachapelle, Gray, Abbott, Torr, Hamann, Bogan, Gates, Varney and Mayor McCarley voted in favor of the motion.

Councilor Lauterborn **MOVED** to exit the non-public sessions at 9:07 PM. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Councilor Lauterborn **MOVED** to seal the minutes indefinitely because it is determined that divulgence of this information likely would render a proposed action ineffective. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous roll call vote with Councilors Hutchinson, Keans, Lauterborn, Hamann, Lachapelle, Abbott, Walker, Gates, Torr, Gray, Bogan, Varney and Mayor McCarley all voting in favor. **Note:** *The February 6, 2018 Non-Public Session minutes were released at the April 3, 2018, Regular City Council meeting, see attached addendum.*

19. Adjournment

Councilor Walker **MOVED** to **ADJOURN** the Regular City Council meeting at 9:08 PM. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully Submitted,

Cassie Givara
Deputy City Clerk

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

Date: 2018-02-06

Motion to enter Nonpublic Session

Made by: **Councilor Walker**

Seconded by: **Councilor Bogan**

Specific Statutory Reason cited as foundation for the nonpublic session:

X 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 McCarley | <input checked="" type="checkbox"/> Yes | No | Not Present |
|----------------|---|----|-------------|

| | | | |
|---------------------|---|----|-------------|
| Deputy Mayor Varney | <input checked="" type="checkbox"/> Yes | No | Not Present |
|---------------------|---|----|-------------|

| | | | |
|----------------------|---|----|-------------|
| Councilor Hutchinson | <input checked="" type="checkbox"/> Yes | No | Not Present |
|----------------------|---|----|-------------|

| | | | |
|----------------------|-------------------------------------|----|-------------|
| Councilor Keans | <input checked="" type="checkbox"/> | No | Not Present |
| Councilor Lauterborn | <input checked="" type="checkbox"/> | No | Not Present |
| Councilor Hamann | <input checked="" type="checkbox"/> | No | Not Present |
| Councilor Lachapelle | <input checked="" type="checkbox"/> | No | Not Present |
| Councilor Abbott | <input checked="" type="checkbox"/> | No | Not Present |
| Councilor Walker | <input checked="" type="checkbox"/> | No | Not Present |
| Councilor Gates | <input checked="" type="checkbox"/> | No | Not Present |
| Councilor Torr | <input checked="" type="checkbox"/> | No | Not Present |
| Councilor Gray | <input checked="" type="checkbox"/> | No | Not Present |
| Councilor Bogan | <input checked="" type="checkbox"/> | No | Not Present |

Entered nonpublic session

Time: **8:38 PM**

Other persons present during nonpublic session:

From 8:38 PM until 9:04 PM: City Manager Fitzpatrick, City Attorney O'Rourke, Director of City Services Nourse and Deputy City Manager Cox were present. Councilor Keans was not present.

From 9:04 PM until 9:07 PM, Only City Councilors were present (including Keans).

Description of matters discussed, and final decisions made:

From 8:38 PM until 9:04 PM – The Council discussed the purchase of approximately 11 acres of land at the Fairgrounds. Councilor Walker moved and Councilor Torr seconded a motion to offer the RAMA board \$450,000 for approximately 11 acres and specifically excluded forgiveness of the monies owed to the City. Voting in the affirmative were Hamann,

Abbott, Walker, Gates, Torr and Bogan. Voting in the negative were Varney, Hutchinson, Lauterborn, Lachapelle and Gray. With a 6 yes and 5 no vote count, the motion passed.

From 9:04 PM until 9:07 PM – The Mayor discussed with the Council the options available to seek a replacement City Manager for Mr. Fitzpatrick after his retirement in June.

Motion to leave nonpublic session and return to public session

Made by: **Councilor Lauterborn**

Seconded by: **Councilor Lachapelle**

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

Public session reconvened

Time: **9:07 PM**

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

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

If yes, motion made by: **Councilor Lauterborn**

Seconded by: **Councilor Lachapelle**

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 McCarley ☒ **Yes** No Not Present

Deputy Mayor Varney ☒ **Yes** No Not Present

Councilor Hutchinson ☒ **Yes** No Not Present

| | | | |
|----------------------|---|----|-------------|
| Councilor Keans | <input checked="" type="checkbox"/> Yes | No | Not Present |
| Councilor Lauterborn | <input checked="" type="checkbox"/> Yes | No | Not Present |
| Councilor Hamann | <input checked="" type="checkbox"/> Yes | No | Not Present |
| Councilor Lachapelle | <input checked="" type="checkbox"/> Yes | No | Not Present |
| Councilor Abbott | <input checked="" type="checkbox"/> Yes | No | Not Present |
| Councilor Walker | <input checked="" type="checkbox"/> Yes | No | Not Present |
| Councilor Gates | <input checked="" type="checkbox"/> Yes | No | Not Present |
| Councilor Torr | <input checked="" type="checkbox"/> Yes | No | Not Present |
| Councilor Gray | <input checked="" type="checkbox"/> Yes | No | Not Present |
| Councilor Bogan | <input checked="" type="checkbox"/> Yes | No | Not Present |

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

Time: **9:08 PM**

These minutes recorded by: Deputy City Manager Cox

Blair M Cox

Note: Under RSA 91-A:3, III. *Minutes of proceedings in nonpublic sessions shall be kept and the record of all actions shall be promptly made available for public inspection, except as provided in this section. Minutes and decisions reached in nonpublic session shall be publicly disclosed within 72 hours of the meeting, unless, by recorded vote of 2/3 of the members present, it is determined that divulgence of the information likely would affect adversely the reputation of any person other than a member of this board, or render the proposed action of the board ineffective, or pertain to terrorism. In the event of such circumstances, information may be withheld until, in the opinion of a majority of members, the aforesaid circumstances no longer apply.*

Review of Sealed Minutes:

If these minutes were sealed, the Council will be requested to review these minutes within six months and annually thereafter to make a determination as to whether unsealing these minutes is required per RSA 91-A:3.

The date of first review: 8/6/2018 (within six months of meeting)

The of second review: _____ (within 1 year of first review)

The date of third review: _____ (within 1 year of second review)

The date of fourth review: _____ (within 1 year of third review)