

**Rochester Planning Board  
Minutes  
March 28, 2023**

Present: Arnold Johnson, Chairman  
John DeMaggio, Vice Chairman  
Bendrix Bailey, Clerk  
Member Murphy, Assistant Clerk  
Mark Rousseau  
Chris Silveira  
Lee Carr

Nancy Durfee, Town Planner  
Dawn DeMaggio, Board Administrator  
Danielle Craig, Recording Secretary

The meeting convened via Zoom Meeting ID 86951751551. All members joined in-person (Mark Rousseau remotely) at the Rochester Town Hall. Chairman Johnson called the meeting to order at 7:03pm and stated the meeting was being recorded.

**BOARD BUSINESS:**

**Vouchers**

The Wanderer / By-Law Amendments Ad / Invoice #8471 \$60.00

Member DeMaggio made a motion to approve voucher.

Clerk Bailey seconded the motion

**The motion was passed by a roll call vote of 7 in favor, 0 opposed, 0 abstained. (7-0-0)**

The Wanderer / By-Law Amendments Ad / Invoice #8477 \$60.00

Clerk Bailey made a motion to approve voucher.

Member DeMaggio seconded the motion

**The motion was passed by a roll call vote of 7 in favor, 0 opposed, 0 abstained. (7-0-0)**

Field Engineering / Steen Realty & Development Corp / Invoice #15648 \$975.00

Member Carr made a motion to approve voucher.

Member Demaggio seconded the motion

**The motion was passed by a roll call vote of 7 in favor, 0 opposed, 0 abstained. (7-0-0)**

Field Engineering / The Village at Plumb Corner / Invoice #15646 \$975.00

Member DeMaggio made a motion to approve voucher.

Clerk Bailey seconded the motion

**Rochester Planning Board  
Minutes  
March 28, 2023**

**The motion was passed by a roll call vote of 7 in favor, 0 opposed, 0 abstained. (7-0-0)**

Field Engineering / Agilitas Middleboro Rd / Invoice #15647 \$1,950.00

Member DeMaggio made a motion to approve voucher.

Clerk Bailey seconded the motion

**The motion was passed by a roll call vote of 7 in favor, 0 opposed, 0 abstained. (7-0-0)**

**Minutes**

February 14, 2023 Minutes

Chairman Johnson made a request for an amendment on February 14<sup>th</sup>'s minutes. Member Carr is recused; therefore, he gets no vote on the matter. Dawn DeMaggio will revise and amend.

Clerk Bailey made a motion to approve the minutes from February 14<sup>th</sup>, 2023.

Member Murphy seconded the motion.

**The motion was passed by a roll call vote of 7 in favor, 0 opposed, 0 abstained. (7-0-0)**

March 14, 2023 (Draft)

Clerk Bailey clarified the proper spelling of "S.T.R.E.T.C.H" codes.

Member DeMaggio made a motion to approve the minutes from March 14<sup>th</sup>, 2023.

Clerk Bailey seconded the motion.

**The motion was passed by a roll call vote of 7 in favor, 0 opposed, 0 abstained. (7-0-0)**

**Review**

Braley Hill North Solar - Large Scale Photovoltaic Installation Special Permit, Groundwater Protection, and Scenic Highway Decision

Featherbed Lane South Solar -Large- Scale Photovoltaic Installation Special Permit and Groundwater Protection Decision

Clerk Bailey made a motion to approve the Braley Hill North Solar - Large Scale Photovoltaic Installation Special Permit, Groundwater Protection, and Scenic Highway Decision and Featherbed Lane South Solar -Large- Scale Photovoltaic Installation Special Permit and Groundwater Protection Decision

Member DeMaggio seconded the motion.

**The motion was passed by a roll call vote of 7 in favor, 0 opposed, 0 abstained. (7-0-0)**

### **NEW BUSINESS & PUBLIC COMMENTS**

Reappointments / Gary Florindo / Planning Board Representative to the Soil Board

Chairman Johnson stated that Gary Florindo is able and willing to stay on as the rep to the Soil Board.

Clerk Bailey made a motion to approve the re-election of Gary Florindo.

Member DeMaggio seconded the motion.

**The motion was passed by a roll call vote of 7 in favor, 0 opposed, 0 abstained. (7-0-0)**

Gary Florindo was present at the meeting and gave an update on the Rochester Bituminous Products asphalt plant. He stated the owner owns two locations and he has noticed trucks moving material from one location to another. He acknowledges that this should require a permit but doesn't think the trucks are overloaded or causing too much traffic. If the volume remains the same he will not pursue requiring the company to purchase a permit.

### **PUBLIC HEARINGS**

***(continued from March 14, 2023)*** A Special Permit and Site Plan Review application to construct a Large Scale Solar Photovoltaic System within the Residential/Agricultural District, Groundwater Protection District and the Mattapoissett River Valley Watershed, filed by Solect Energy Development, 89 Hayden Rowe Street, Hopkinton, MA 01748, Map 37, Lot 36. The applicant proposes the construction of a Canopy Mounted 250kW AC Large Scale Solar Photovoltaic System at Rochester Memorial School over a portion of the existing rear paved parking lot, 59 Hartley Road, Rochester, MA 02770. The applicant's representative is Green Seal Environmental, Inc., 114 State Road, Sagamore Beach, MA 02562.

Jose Pichardo was present at the meeting and presented the requested site plans and documents, both printed and in digital formats, that were requested at the Planning Board meeting on March 14<sup>th</sup>, 2023.

Chairman Johnson stated he had a copy of the Green Seal -Field Engineering- Peer Review Report #3 document. He stated the Planning Board had to vote to approve the bonds and waivers explained within that document. The first bond being the landscaping bond in the amount of \$38,000 for a 2-year bond to cover the trees that will be planted along the property line.

Clerk Bailey made a motion to approve this bond.

Member Murphy seconded the motion.

**The motion was passed by a roll call vote of 7 in favor, 0 opposed, 0 abstained. (7-0-0)**

**Rochester Planning Board  
Minutes  
March 28, 2023**

Chairman Johnson read the second bond which was in the amount of \$9,000.00 for a 5-year bond which was listed for maintenance. Clerk Bailey asked what the difference was between the 2-year bond and the 5-year bond. Chairman Johnson stated the trees would be covered for 2 growing seasons with the 2-year bond. The 5-year bond covers routine maintenance over 5-years. This 5-year bond triggers legislation that enables the town to reach out to the Solar Company project to cover the cost of the trees even after the 5-years have expired. Clerk Bailey was still unsure as to why the 2-year bond is necessary. He would feel more comfortable just doing a 5-year bond for \$38,000 in case the trees die within 5-years. Based on previous experience, there was another situation in town where all newly planted trees died. With a 5-year bond, the Solar Project owns the trees for the life of the project and is liable to maintain them.

Group discussion to change the previously voted on bond to a 5-year bond for \$38,000.00 so the Solar Company will maintain the trees for their entire life.

Clerk Bailey made a motion to rescind previous vote.

Member Murphy seconded the motion.

**The motion was passed by a roll call vote of 7 in favor, 0 opposed, 0 abstained. (7-0-0).**

Chairman Johnson stated they want to change it to a \$38,000.00 bond for 5-years.

Clerk Bailey made motion to approve amended bond.

Member Murphy seconded the motion.

**The motion was passed by a roll call vote of 7 in favor, 0 opposed, 0 abstained. (7-0-0).**

Chairman Johnson moved onto discussion of the waivers that were presented by Green Seal Environment, LLC.

**Chapter 22.50 Applicability**

**Chapter 22.50 1.8 Site Plan Details, Vehicular and Emergency Access**

**Waiver from Special Permit submittal check list**

Item 2 The original Mylar trace at scale 1"=40'

Item 5 Special Permit plans to be at 1"=200'

**Waiver from Site plan review submittal checklist**

Item 5a Stormwater and traffic report

Item 27 Location of major 12" caliper or over

Item 34 Traffic and drainage

Clerk Bailey made motion to approve the waivers.

Member DeMaggio seconded the motion.

**The motion was passed by a roll call vote of 7 in favor, 0 opposed, 0 abstained. (7-0-0).**

Nancy Durfee stated that the Chairman needs to review the need for a letter of approval from the Mattapoissett River Valley Water Protection Advisory Committee. The letter is needed in order for the Board to move forward with a vote. Jose Pichardo stated that that committee is planning

**Rochester Planning Board  
Minutes  
March 28, 2023**

to meet to discuss the matter in mid-April and at that point a decision will be made. Chairman Johnson stated the board will review this letter at the next meeting.

Chris Silveira made a motion to close the public hearing.

Member DeMaggio seconded motions.

**The motion was passed by a roll call vote of 7 in favor, 0 opposed, 0 abstained. (7-0-0)**

Chairman Johnson stated the Board will start work on a Draft decision and they will discuss this draft at the next meeting and will vote at the following meeting. He explains there is a 20-day appeal period after the meeting that the vote is made official.

**OLD BUSINESS**

*Access to Town Counsel Policy -- Revised March 16, 2023*

The Board obtained a copy of the revised Town Counsel Policy. There is a plan for a 6-month inter-departmental meeting for all Boards and departments to report on how the new Town Counsel Access Policy is performing. Clerk Bailey requested that in order to conduct a productive discussion in 6 months, he wants to obtain accounting of finances from the law firm for legal services given to each department each month. General discussion was had in regards to the revised process on obtaining legal counsel within the departments. Clerk Bailey expressed his frustrations with this new process and how the discussion regarding litigation was handled. The \$8,000.00 monthly fee to the new Town Counsel does not include litigation. During the previous inter-departmental meeting on March 7<sup>th</sup>, 2023, there was an agreement to change the new policy to refer to the previous town by-law to protect the Board members and town employees. Clerk Bailey referred to the State Law 504 Chapter 258 Section 9 of which protects up to \$1,000,000.00 in litigation fees for elected officials. Gary Florindo stated he was not aware the town's previous Counsel was no longer working for the town.

**TOWN PLANNER UPDATES**

**Tech Review – Board member involvement discussion**

Nancy Durfee reported she had missed something on minutes in regards to the Tech Review. She explained how the Tech Review meetings are done. She explained that it allows the department heads to review and give their professional opinions on projects before they are presented to the Board. This is a way to streamline the process and give the applicant the opportunity to change plans that need to be revised, and give guidance to present plans that will please the Board. She expressed her gratitude to the Planning Board for their knowledge and participation in the Planning Processes. The Tech Review is a process that is outlined in the town by-laws, the Board members are welcome to attend if they so choose. If the Board wishes to change the process, they will have to amend the by-law. Clerk Bailey stated that he believes the discussion that was left out of the minutes was that an invitation would go out to the Planning Board once a Tech Review was scheduled and up to 2 members would be able to attend. Nancy Durfee stated that the Tech Review is for the department heads, and it is a chance for them to give their expertise

**Rochester Planning Board  
Minutes  
March 28, 2023**

on matters. The process is what has always been done, but if the Planning Board does want to amend the by-law/process, they are welcomed to do so.

**INFORMAL DISCUSSION**

A general discussion was had regarding the lack of spaces that are big enough to hold meetings within town. The Assessor's office moved their entrance into the meeting room which sometimes prohibits meetings to properly conduct within the Rochester Town Hall. The library is also not available to host town meetings.

Gary Florindo made a comment that he may no longer feel comfortable serving on the Soil Board due to the change in Legal Counsel. He fears the litigation aspect could negatively affect him and does not think at this point in his life he is willing to take any risks. He will think about it over the next month and report back if he is willing to be re-elected or not.

**ADJOURNMENT:**

Member DeMaggio made a motion to adjourn the meeting at 8:44 p.m.

Member Murphy seconded the motion.

Meeting adjourned.

Date: 4/25/23

  
Chairman, Chairman Johnson

  
Danielle Craig, Recording Secretary