



# City of Concord

## City Council

### Meeting Minutes - Final

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Monday, August 12, 2024

7:00 PM

City Council Chambers  
37 Green Street  
Concord, NH 03301

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*Non-meeting in accordance with RSA 91-A: 2, I (a) to discuss collective bargaining strategies to begin at 6:30 PM.*

**Present:** 11 - Mayor Byron Champlin, Councilor Nathan Fennessy, Councilor Jeff Foote, Councilor Amanda Grady Sexton, Councilor Michele Horne, Councilor Fred Keach, Councilor Jennifer Kretovic, Councilor Judith Kurtz, Councilor Paula McLaughlin, Councilor Jim Schlosser and Councilor Brent Todd

**Absent:** 2 - Councilor Stacey Brown and Councilor Karen McNamara

**Late:** 2 - Councilor Kris Schultz and Councilor Ali Sekou

Mayor Champlin called the meeting to order at 6:30 PM.

Councilor Grady Sexton moved to enter a non-meeting in accordance with RSA 91-A:2, I (a) to discuss collective bargaining strategies. The motion was duly seconded by Councilor Kretovic and passed with no dissenting votes. Councilor Stacey Brown was not present during collective bargaining discussions.

**Staff members present:** City Manager Tom Aspell, Deputy City Manager - Development Matt Walsh, City Solicitor Danielle Pacik and Director of Human Resources and Labor Relations Jennifer Johnston.

The non-meeting to discuss collective bargaining negotiations ended at 6:58 PM.

At 6:59 PM, Councilor Grady Sexton moved to exit the non-meeting. The motion was duly seconded by Councilor Kurtz and passed with no dissenting votes.

In public session, Councilor Grady Sexton moved to seal the minutes of the non-public session. The motion was duly seconded by Councilor Kurtz and passed with no dissenting votes.

There being no additional Council business, Councilor Kretovic moved to adjourn the non-meeting. The motion was duly seconded by Councilor Grady Sexton and passed with no dissenting votes.

1. Call to Order.

**Action:** Mayor Champlin called the meeting to order at 7:03 PM. Mayor Champlin noted that devices are available to help those who have difficulty hearing. These devices use a transmitter and headphones, and allow for an individual to personally adjust the volume to their needs. A device can be obtained at the ConcordTV booth in the back of Council Chambers.

2. Invocation.

3. Pledge of Allegiance.

4. Roll Call.

**Present:** 13 - Councilor Stacey Brown, Mayor Byron Champlin, Councilor Nathan Fennessy, Councilor Jeff Foote, Councilor Amanda Grady Sexton, Councilor Michele Horne, Councilor Fred Keach, Councilor Jennifer Kretovic, Councilor Judith Kurtz, Councilor Paula McLaughlin, Councilor Jim Schlosser, Councilor Ali Sekou, and Councilor Brent Todd

**Excused:** 1 - Councilor Karen McNamara

**Late:** 1 - Councilor Kris Schultz

5. Approval of the Meeting Minutes.

July 8, 2024 City Council Draft Meeting Minutes.

**Action:** Councilor Grady Sexton moved approval of the July 8, 2024 City Council meeting minutes. The motion was seconded by Councilor Fennessy.

Councilor Brown requested that wording be changed to the July 8, 2024 City Council meeting minutes to reflect that during public testimony, "Dan Williams, a Concord resident, stated per the re-organization of Planning, Zoning, and the Community Development department what the Council's position is on the School Board's middle school project."

After discussion, Councilor Brown instead requested the addition of "meeting minutes regarding the middle school project" to public testimony provided by Dan Williams.

Councilor Brown requested that wording during Comments by Members of City

Council be changed. Councilor Brown asked that Councilor Kretovic's wording of Concord residents, in reference to Junior Championships participants, be changed to "non-residents."

Councilor Kretovic clarified by suggesting that the wording be change to "Concord junior members at Beaver Meadow won" and strike the word "residents."  
Councilor Brown agreed.

Mayor Champlin requested a change in the spelling of ConcordTV and that the reference to *What to the Slave Is the Fourth of July?* by Frederick Douglass be changed from book to "address."

Councilor Grady Sexton's motion passed with no dissenting votes.

6. Agenda overview by the Mayor.
7. Introduction of John Conforti, Deputy City Solicitor.

**Action:** City Solicitor Danielle Pacik introduced Deputy City Solicitor John Conforti who started his position in early July.

8. Presentation of proclamation in recognition of Concord Community TV's 25th Anniversary.

**Action:** Mayor Champlin presented Josh Hardy, Concord TV, with the proclamation in recognition of ConcordTV's 25th anniversary.

**\*\*Consent Agenda Items\*\***

**Action:** Councilor Grady Sexton moved approval of the consent agenda. The motion was seconded by Councilor Kretovic. Mayor Champlin noted that items 20, 21 and 31 were pulled from the consent agenda for discussion. The motion passed with no dissenting votes.

**Referral to the Traffic Operations Committee**

9. Communication from Nate Veilleux, 17 Broken Ground Drive, requesting consideration be given to the installation of speed bumps or speed tables and sidewalks on Broken Ground Drive.

**Action:** This communication was referred to the Traffic Operations Committee.

**Items Tabled for September 9, 2024 Public Hearings**

10. Ordinance amending the Code of Ordinances; Title II, Traffic Code; Chapter 18, Parking, Article 18-1, Stopping, Standing and Parking, Schedule I - Parking Prohibited at All Times in Designated Places, Schedule III - Parking Time is Limited in Designated Places, and Schedule VII - Bus and Taxicab Stands; together with a report from the City Engineer and the Deputy City Manager - Development in response to the City Council's request to relocate the Concord Area Transit (CAT) bus stop, now located between 214 and 220 North Main Street. (Public testimony received.)  
**Action:** This ordinance moved to set for a public hearing.
11. Ordinance amending the Code of Ordinances, Title I, General Code, Chapter 13, Public Health, Article 13-5, Sanitary Food Code; together with a report from the Health & Licensing Officer. (Referred back to the Ad-Hoc Committee to review Outdoor Dining & Food Trucks at the September 9, 2024 City Council meeting.)  
**Action:** This ordinance moved to set for a public hearing.
12. Resolution appropriating the sum of \$1,140,000 as a transfer to the Community Improvement Reserve and accepting the sum of \$1,140,000 in grant proceeds from the New Hampshire Department of Business and Economic Affairs (BEA) Division of Economic Development for this purpose; together with a report from the Deputy City Manager - Finance.  
**Action:** This resolution moved to set for a public hearing.
13. Resolution rescinding the appropriation of \$135,000 and de-authorizing the issuance of bonds and notes in the sum of \$135,000 for the Fire Facility Renovations project (CIP #252), appropriating the sum of \$65,000 for the FY24 Washer Dryer subproject (CIP #252), appropriating the sum of \$70,000 for the FY25 Manor Station Sewer Line Maintenance subproject (CIP #252) and authorizing the issuance of bonds and notes in the sum of \$135,000 for these purposes; together with a report from the Deputy Fire Chief.  
**Action:** This resolution moved to set for a public hearing.
14. Resolution appropriating the sum of \$35,000 in the Combined Operations and Maintenance Facility (COMF) Improvements project (CIP #323) for the development of a conceptual study of shared facilities at the Combined Operations and Maintenance Facility and accepting the sum of \$35,000 from the Concord

School District for this purpose; together with a report from the General Services Director.

**Action:** This resolution moved to set for a public hearing.

15. Resolution appropriating the sum of \$10,000 in the Sidewalk, Bikeway, and Streetscape Improvements project (CIP #17) for the design of bus stop improvements on North Main Street and authorizing the use of Highway Reserve funds for this purpose; together with a report from the City Engineer and the Deputy City Manager - Development.

**Action:** This resolution moved to set for a public hearing.

16. Report from the Director of Real Estate Assessments recommending the City Manager be authorized to enter into a Payment in Lieu of Taxes Agreement between the City of Concord and Briar Hydro Associates for Rolfe Canal Falls, Penacook Upper Falls & Penacook Lower Falls.

**Action:** This public hearing report was moved to set for a public hearing.

### **From the City Manager**

17. Positive Citizen Comments.

**Action:** Positive comments received and filed.

### **Consent Reports**

18. Diminimus gifts and donations report from the Library Director requesting authorization to accept gifts and donations totaling \$2,532.39, as provided under the pre-authorization granted by City Council.

**Action:** This consent report was approved.

19. Report from the City Manager requesting authorization to accept the Donation of a "Concord Coach" Model.

**Action:** This consent report was approved.

20. Report from Deputy City Manager - Finance recommending approval of the proposed 2025 Membership, Daily Fee, Simulator, and Outing Rates for the Beaver Meadow Golf Course as recommended by the Golf Course Advisory Committee. (Pulled from consent by Councilor Brown.)

**Action:** This item was pulled from the consent agenda by Councilor Brown.

21. Report from City Solicitor on complaints reviewed by Board of Ethics at June 24, 2024 meeting, and recommendation from Board of Ethics to City Council regarding complaint reviewed at July 29, 2024 hearing. (Pulled from consent by Councilor Kretovic.)

**Action:** This item was pulled from the consent agenda by Councilor Kretovic.

22. Report from the Director of Human Resources and Labor Relations recommending City Council approve the reclassification of the current Administrative Technician II position within the City Clerk's Office to an Administrative Assistant position.

**Action:** This consent report was approved.

23. Report from the Transportation Engineer, on behalf of the Traffic Operations Committee and the Transportation Policy Advisory Committee, in response to a referral from City Council regarding a communication from Councilor Schlosser with a resident request for reduced 15 mph speed limit on Birch Street.

**Action:** This consent report was approved.

24. Report from the Transportation Engineer, on behalf of the Transportation Policy Advisory Committee, in response to a referral from City Council regarding a communication from Councilor Schlosser with a resident request for a sidewalk and reduced 25 mph speed limit on Iron Works Road.

**Action:** This consent report was approved.

### **Consent Resolutions**

25. Resolution authorizing the City Manager or his designee to apply for up to five thousand dollars (\$5,000) of matching grant funding through the New Hampshire Department of Safety for technical assistance for the revision of the City's Local Emergency Operations Plan; together with a report from the Fire Chief.

**Action:** This consent resolution was approved.

26. Resolution authorizing the City Manager to submit applications to the New Hampshire Department of Business and Economic Affairs Municipal Per Unit grant program in an amount of up to \$30,000 and Municipal Demolition grant program in the amount of up to \$35,000; together with a report from the Assistant Director of Community Development.

**Action:** This consent resolution was approved.

27. Resolution authorizing the City Manager to enter into a License Agreement for the

installation of a photographic and LED light exhibit on the Main Street stair tower windows of the Storrs St. Garage, together with a report from the Assistant Director of Community Development.

**Action:** This consent resolution was approved.

28. Resolution authorizing the submittal of a Request for Project Intent to the Federal Aviation Administration (FAA) for the purpose of obtaining Fiscal Year 2025 funding through the Bipartisan Infrastructure Law - Airport Terminal Program in the amount not to exceed \$6,150,000 and the FAA Airport Infrastructure Grant program in the amount not to exceed \$1,660,000 relative to final design, mitigation, and construction associated with the airport terminal project at the Concord Municipal Airport; together with a report from the Assistant Director of Community Development.

**Action:** This consent resolution was approved.

29. Resolution authorizing the submittal of a Planning Grant application to the State of NH/Federal Aviation Administration in an amount not to exceed \$605,000 for the purpose of obtaining Bil-Aig funding relative to development of an environmental impact assessment associated with the airport terminal and parking improvements project and other airport improvement projects as detailed in the FY25-34 Capital Improvement Program and Budget at the Concord Municipal Airport; together with a report from the Assistant Director of Community Development.

**Action:** This consent resolution was approved.

30. Resolution authorizing the submittal of a grant application in the amount of \$5,058,000 to the Federal Aviation Administration (FAA) for the purpose of obtaining Fiscal Year 2024 funding through the Bipartisan Infrastructure Law - Airport Terminal and Airport Infrastructure Grant Programs relative to 2024 Notice of Award associated with the airport terminal project at the Concord Municipal Airport; together with a report from the Assistant Director of Community Development.

**Action:** This consent resolution was approved.

31. Resolution accepting the sum of \$6,250 from Onyx Partners Ltd to support a third-party peer review of a potential public/private partnership concerning redevelopment of the former Steeplegate Mall and Regal Cinema sites located at 270 and 282 Loudon Road and appropriating the sum of \$6,250 for this purpose; together with a report from the Assistant Director of Community Development. (Pulled from consent by Councilor Horne and Councilor Brown.)

**Action:** This item was pulled from the consent agenda by Councilor Horne and Councilor Brown.

### **Appointments**

32. Mayor Champlin's proposed re-appointments to the Everett Arena Advisory Committee: Dan Arndt, Joseph Farrelly, Michael Gfroerer and Nicholas Wallner.

**Action:** The re-appointments were approved.

33. Mayor Champlin's proposed appointments to the Recreation and Parks Advisory Committee: Althea Barton, Jim Figueira, Nicholas Kotkowski, Marry Miller and Brian Sartorelli.

**Action:** The appointments were approved.

34. Mayor Champlin's proposed appointment to the Solid Waste Advisory Committee: Linda J. Zollo.

**Action:** The appointment was approved.

*\*\*End of Consent Agenda\*\**

### **Public Hearings**

- 35A. Resolution appropriating the sum of \$200,000 in the Loudon Road Bridge Improvement Project (CIP #588) for the evaluation and interim repair of the Bridge Deck on Loudon Road Bridge and authorizing the transfer of \$200,000 from the Bridge Reserve fund for this purpose; together with a report from the City Engineer.

**Action:** City Manager Aspell provided an overview of this item concerning the condition of the bridge deck of Loudon Road Bridge. Due to the fact that the entire bridge deck will be replaced with the pending repair/rehabilitation project, the bridge has not been extensively evaluated. However, because the repair/rehabilitation is projected to take two to three more years to complete, the City's Engineering Services Division has developed a plan to further evaluate the condition of the bridge deck using Ground Penetrating Radar to determine the severity of the observed deterioration.

Pending the outcome of these further investigations, the options being considered for an interim repair of the bridge deck include milling and repaving, partial depth or full depth spot deck repairs, and under deck cribbing. The estimated cost for the evaluation and interim repair of the Loudon Road Bridge deck is \$200,000.



In 2023, a Bridge Reserve Fund was established by City Council for capital repairs or replacement of the City's bridges. City Administration is requesting that \$200,000 in funds from the Bridge Reserve Fund be appropriated for the evaluation and interim repair of the bridge deck.

Mayor Champlin opened the public hearing. There being no public testimony, Mayor Champlin declared the hearing closed.

- 35B. Resolution appropriating the sum of \$144,929.47 as a transfer to the Opioid Abatement Reserve and accepting the sum of \$144,929.47 in Opioid Litigation Settlement Funds for this purpose, retroactive to June 30, 2024; together with a report from the Deputy City Manager-Finance.

**Action:** Mayor Champlin opened the public hearing. There being no public testimony, Mayor Champlin declared the hearing closed.

- 35C. Resolution appropriating the sum of \$90,000 in the General Fund for a Class and Compensation Study and authorizing the use of \$90,000 in Human Resources Reserve for this purpose; together with a report from the Deputy City Manager-Finance.

**Action:** City Manager Aspell provided an overview of this item. During the Fiscal Year 2024 budget, City Council allocated \$80,000 for the Class and Compensation Study. This project will be completed in Fiscal Year 2025, and costs are anticipated to be approximately within the \$90,000 requested.

Mayor Champlin opened the public hearing. There being no public testimony, Mayor Champlin declared the hearing closed.

- 35D. Ordinance amending the Code of Ordinances, Title V, Administrative Code; Chapter 35, Classification and Compensation Plan, Schedule D of Article 35-2, Class Specification Index, to Modify/Add the Positions Specified in the Attached Ordinance for FY2025; together with a report from the Director of Human Resources and Labor Relations.

**Action:** City Manager Aspell provided an overview of this item and noted that an explanation regarding these changes was part of the Fiscal Year 2025 budget.

Mayor Champlin opened the public hearing. There being no public testimony, Mayor Champlin declared the hearing closed.

35E. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance concerning Conditional Use Permits for obstruction of the State House Dome, as well as maximum height limits within the Central Business and Opportunity Corridor Performance Districts, together with a report from the Deputy City Manager - Development. (Revised ordinance, supplemental report and communication from Attorney Ari Pollock submitted.) (Public testimony and a report from the City Planner, on behalf of the Architectural Design Review committee received.)

**Action:** Deputy City Manager - Development Matt Walsh provided an overview of this item which was brought about as a result of a proposal submitted by Ciborowski Associates regarding Phenix Hall and two other properties in the Central Business Performance District.

Deputy City Manager - Development Walsh explained that the City's Zoning Ordinance prohibits obstruction of the State House dome from portions of I-93 and I-393. Deputy City Manager - Development Walsh provided an overview of the timeline of Ciborowski Associates' proposal.

Deputy City Manager - Development Walsh explained that City staff recommends the creation of a conditional use permit which would obstruct the State House dome on a case by case basis in the Central Business Performance District and a section of the Opportunity Corridor Performance District. City staff also recommends modifying language about the height conditional use permit in the area of the Capital Shopping Plaza from 45' to 80'. City staff recommends a conditional use permit to allow height to be increased from 80' to 90' in the Central Business Performance District. The revised ordinance also includes a definition of the State House dome and amended purpose and intent sections of the Central Business Performance District and Opportunity Corridor Performance District. He then reviewed the revised ordinance.

Councilor Todd discussed the exclusion of the Penacook section of the Central Business District and asked Deputy City Manager - Development Walsh about the eastern and western sides of Main Street in the Central Business District.

Deputy City Manager - Development Walsh explained the methodology of selecting which portions of the Central Business District may be granted conditional usage and which sections may not with many considerations of factors such as topography and more as is laid out in the revised ordinance thus allowing Planning Board more consideration of each project rather than a "cookie cutter" approach.

General discussion followed regarding frontage.

Councilor Todd expressed concern of the Planning Board for the revised ordinance. Discussion followed regarding whether there has been feedback from members of the Planning Board regarding the revised ordinance. Councilor Todd noted he has spoken with all members of the Planning Board.

Mayor Champlin opened the public hearing.

Attorney Ari Pollack of Gallagher, Callahan & Gartrell law firm appeared with and for Mark Ciborowski of Ciborowski Associates. Attorney Pollack discussed the ordinance's specific mention of obstructions from I-93 and I-393 and the difference between 80' versus 90'. Attorney Pollack noted that he believes in providing the Planning Board with statutory discretion, for which they are best suited to discern, and, in addition, that the Planning Board is the City's expert for the evaluation of specific development proposals versus a one-size-fits all ordinance.

Mark Ciborowski, of Ciborowski Associates, provided an overview of his project. Mr. Ciborowski seeks to demolish the existing building vacated by CVS as well as the E&B Hotel currently occupied by Hilltop Consignment Gallery. In its place Mr. Ciborowski desires to build a six-story mixed-use building with a partial seventh floor for a year-round rooftop restaurant with a significant portion made of glass. The project also includes restoring Phenix Hall into a restaurant, music hall, and event center. The renovation of Phenix Hall has been part of the City's Master Plan since 1997. Mr. Ciborowski discussed the current view of Concord from I-93 and the potential new view as well as the benefits his project may offer Concord.

Councilor Fennessy asked Attorney Pollack if, based on his experience with conditional use permits in other municipalities, the criteria is too subjective for the Planning Board to deny a project. Attorney Pollack noted that the existing criteria which would be supplemented by the amendment are typical.

Councilor Brown asked Mr. Ciborowski how much taller the mixed-use building may be, and Mr. Ciborowski noted that someone sitting on the rooftop venue would be one floor higher than Phenix Hall and that the partial seventh-floor is 40% of the total footprint. Discussion followed regarding the heights of another Main

Street building.

Councilor Sekou asked about the case by case consideration in regards to consistency and fairness. Attorney Pollack noted that conditional use permits come with discretion and parameters for study and that deeply exploring the specifics of a project will show the differences from one project to another.

Councilor Todd asked Attorney Pollack where he feels that Concord falls with either robust or cursory criteria for obtaining existing conditional use permits. Attorney Pollack noted that Concord's criteria is certainly not cursory and read the existing ordinance's current criteria. He noted that the amendment is robust and well drafted.

Councilor Todd asked Mr. Ciborowski how long it would take for his application to be submitted to the Planning Board if the revised ordinance is approved tonight. Mr. Ciborowski explained that the uncertainty of this has prevented him from proceeding with plans and referenced architects and engineers who are waiting. He noted that without the conditional use permit, the project is not viable. Mr. Ciborowski indicated the application may take approximately two months.

Councilor Todd asked Mr. Ciborowski if he thinks that the April 12, 2024 City staff report, or the August 6, 2024 letter from Elizabeth Durfee Hengen, pose any barriers for his project. Mr. Ciborowski stated they did not and discussed how the Architectural Design Review committee supports his project while their concern is for moving forward.

Councilor Kretovic asked Mr. Ciborowski if he is aware that Christopher Carley sent a letter in support.

Councilor Foote summarized the item at hand by stating that Mr. Ciborowski has the right to a building height of 80' but desires 90'. Councilor Foote asked about the value of the project, and Mr. Ciborowski noted the project is approximately a \$30 million project.

Councilor Brown asked what would be removed from this project in order to not block the dome to which Mr. Ciborowski responded a floor of nine housing units, or the rooftop venue, and that he would not proceed because it would cause the project to be in the red.

Councilor Keach asked Mr. Ciborowski if the current conversations about change can help Concord. Mr. Ciborowski described this as a once in a generation project and that the addition of housing, a rooftop venue, and the Phenix Hall renovation will electrify downtown.

Mayor Champlin asked Attorney Pollack if the cost of construction has increased or decreased since this proposal was first brought before City Council. Attorney Pollack noted this project was first brought before Council in March 2024 and that over the five months, the construction costs have increased. Mr. Ciborowski noted that the longer the delay, the higher the cost, and the more the project is put into jeopardy.

Jim Proulx, a Concord resident, urged the acceptance of the amendment.

Claude Gentilhomme, member of the Architectural Design Review Committee (ADR) and speaking on behalf of the committee, discussed concern of language in the amendment and the hope that language can be clear enough for the committee and Planning Board to make clear decisions over conditional use permits. Concern was regarding the lack of reference to downtown design guidelines. Mr. Gentilhomme added that Mr. Ciborowski's project was presented to the committee for informational purposes and the committee was in support but understood that height would be an issue that Mr. Ciborowski would have to address. Mr. Gentilhomme stated the committee is not opposed to the height and that their main concern is the maintenance of downtown Concord's ambiance.

Councilor Fennessy referenced an e-mail sent to members of City Council by Mr. Gentilhomme as public testimony and summarized by stating that Mr. Gentilhomme's primary concern is that the ADR have an opportunity to review the amendment. Mr. Gentilhomme confirmed this summation.

Councilor Kretovic noted that ADR is not appointed, tasked by, or managed by City Council but rather by the Planning Board.

Elyssa Alfieri, owner of Lilise Designer Resale, stated her support of the amendment and noted the opportunity it could provide.

Mary Rose Deak stated her opposition to the amendment and stated that because Abraham and Mary Todd Lincoln used the theater, it should become a National Historic Landmark, via eminent domain, to augment the downtown area.

Mark Coen, a Concord resident, spoke in favor of the amendment. Mr. Coen expressed the potential obstruction of the State House dome by a potential I-93 Bridge Deck Park and I-93 construction. Mr. Coen noted the amendment allows for the City's enhancement.

Jim Rosenberg disclosed that while he is a member of the Board of Ethics, he is addressing City Council as an abutter because he is a member of Storrs Street, LLC which owns 107 Storrs Street and houses the law firm of Shaheen & Gordon, P.A. Mr. Rosenberg noted that the item at hand is to allow the Planning Board to consider the merits, pros, and cons of every project that one brings before the Planning Board. Mr. Rosenberg noted that Mr. Ciborowski's project would provide a new and additional vantage point of the State House dome as well as provide economic development.

Jonathan Chorlian, who has been involved in a large portion of downtown Concord's development over the last 15 years, spoke in favor of the amendment. Mr. Chorlian spoke positively of the amendment as well as Mr. Ciborowski's project and noted that the amendment allows the Planning Board the appropriate discretion and guidelines.

Mayor Champlin asked Mr. Chorlian his opinion on the likelihood of this amendment incentivizing the tearing down of lower story historic buildings in order to build larger multiple floor buildings. Mr. Chorlian stated he believes that would be infrequent and shared his experience of revitalizing and repurposing existing buildings.

Councilor Brown asked Mr. Chorlian his thoughts on the pedestrian scale of Mr. Ciborowski's project. Mr. Chorlian stated he liked the set-back of the project. He also noted that any building that takes advantage of this provision will be a spectacular building that will be dotted appropriately through downtown and appear spectacular from I-93.

Councilor Kretovic noted that during the Main Street project, two downtown buildings were identified as being desirable for change. One of those buildings was the property vacated by CVS.

Tom Furtado, of CATCH Neighborhood Housing, noted that the Endicott Hotel building is one of CATCH Neighborhood Housing's properties, and it is located

near Mr. Ciborowski's proposed project site. He stated the amendment is fantastic and allows flexibility. Mr. Furtado spoke favorably of Mr. Ciborowski's project as well.

John Constant, of Constantly Pizza on Main Street, spoke in favor of Mr. Ciborowski's project.

Claudia Walker, of Premiere Properties, spoke in favor of Mr. Ciborowski's project. Ms. Walker also read testimony from her husband, with whom she has worked in real estate for four decades, who wrote in favor of Mr. Ciborowski's project.

David Segal, of Sanel NAPA and Sanel Realty, spoke in favor of the amendment and noted his fear of the project falling apart due to regulations. Mr. Segal noted the opportunity to save Phenix Hall.

Tim Sink, of the Greater Concord Chamber of Commerce, believes Mr. Ciborowski's project will help to draw more visitors and advance Concord's creative economy.

Frank LeMay, of Milestone Construction, spoke in favor of the amendment.

Dave Constant, of Constantly Pizza, spoke about he and his brother's excitement over the changes seen in downtown Concord. Mr. Constant spoke in favor of the amendment and Mr. Ciborowski's project.

Paul Provost, of NHTrust Financial Advisors, spoke favorably of Deputy City Manager - Development Walsh and City staff and urged the approval of this item.

Wendy Follansbee, a Penacook resident, suggested an open dialogue be kept and that the communication between committees be fine-tuned. Ms. Follansbee expressed her concern of historical buildings and the ADR not appearing to be involved.

Sue McCoo, resident and owner of Hilltop Consignment Gallery, spoke in favor of the project even though she will have to move her store. She noted that the existing property vacated by CVS does not fit the ambiance of the area.

Pam Sinotte, a Concord resident, noted she is not opposed to change but is

hesitant about future projects. Ms. Sinotte noted she does not want the downtown to feel cavernous.

Sarah Mathieu, a Concord resident, noted there has not been lots of feedback from the public. Ms. Mathieu stated that she does not know if this ordinance contains enough language to protect historical properties.

Bill Norton, a Concord resident, noted that he applauds the ordinance. Mr. Norton discussed how Mr. Ciborowski's project will bring Phenix Hall to code.

Jack Dunn, a Concord resident, spoke in favor of the amendment.

Allan Herschlag, a Concord resident, spoke positively about Mr. Ciborowski's project. For his testimony regarding the amendment, Mr. Herschlag read portions of the Master Plan and Zoning Ordinance in reference to the State House dome. Mr. Herschlag stated his opinion that the fact that parts of the zoning code may be inconvenient to a single developer should not be reason to allow Council's vote on the amendment particularly when the Master Plan will be reviewed next year. Mr. Herschlag discussed his fear of the potential total obstruction of the State House dome as well as loss of historic buildings.

Councilor Brown asked Mr. Herschlag about viewshed analysis. Mr. Herschlag noted that viewshed analysis is referenced in the Master Plan and was conducted for the Hotel Concord.

Councilor Keach asked Mr. Herschlag if it's his estimation that it was a mistake to construct the Hotel Concord. Mr. Herschlag stated that, in retrospect, there could have been more diligence and the top of the building could have been adjusted to avoid obstruction of the State House dome.

Jim Milliken, a Concord resident, noted that Mr. Ciborowski's project would add to Concord's beauty and economic development. Mr. Milliken noted that the amendment seems to contain the necessary checks and balances, and he has no fear of moving ahead with the amendment.

Councilor Kretovic asked Mr. Milliken if, in his lifetime in Concord, he experienced Phenix Hall and the E&P Hotel in a non-reduced operation. Mr. Milliken spoke about positive activity, many changes, and the objections to the changes over the years in Concord.



There being no further public testimony, Mayor Champlin declared the hearing closed.

### **Public Hearing Action**

40. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance concerning Conditional Use Permits for obstruction of the State House Dome, as well as maximum height limits within the Central Business and Opportunity Corridor Performance Districts, together with a report from the Deputy City Manager - Development. (Revised ordinance, supplemental report and communication from Attorney Ari Pollock submitted.) (Public testimony and a report from the City Planner, on behalf of the Architectural Design Review committee received.)

**Action:** Councilor Kretovic moved approval. The motion was duly seconded by Councilor Fennessy.

Mayor Champlin moved to amend the motion to refer Elizabeth Durfee Hengen's letter to Planning Board to consider the proposals and points she raised and to work with City staff to review such and make whatever recommendations Planning Board feels are appropriate to City Council. The motion was seconded by Councilor Todd.

Councilor Todd noted that, as a member of the Planning Board, he reached out individually to all members of the Planning Board. Councilor Todd noted the members of the Planning Board expressed concerns. Councilor Todd read those concerns which included the need to provide definitions to terms such as vitality, vibrancy, shadow impacts, solar access, the development program, the city skyline, and the vernacular architecture. He added that subjectivity of those terms creates uncertainty and definitions provide clarity to the Planning Board and potential conditional use permit applicants. Councilor Todd noted that this was expressed by several Planning Board members as one of the more important things to be included. Councilor Todd read other suggestions which included that the amendment should provide clarity on preferences to the Main Street design guidelines; that the map outlining the affected district should be more surgical; that the amendment should be sympathetic to the preservation of significant and historical architecture; and that the amendment does not provide language to justify denying potential applications. Councilor Todd also read that the amendment is not ready for approval because all the recommendations made by the Planning Board are not present and that the ordinance, as drafted, is not consistent with the

Master Plan.

Councilor Todd noted that he is hoping that the Planning Board can take up this item sooner so that any concerns or incorporations from Elizabeth Durfee Hengen's letter can be completed in a timely manner so that Mr. Ciborowski can then provide his conditional use permit in the two to three months that Mr. Ciborowski stated it would take to compile his application.

Mayor Champlin expressed that this is his intent.

Councilor Fennessy spoke in favor of the motion and applauded the public testimony. Councilor Fennessy discussed the view of the State House dome, that most viewers from I-93 are traveling elsewhere, and that the item at hand is regarding enhancing the view for Concord residents from other downtown locations. Councilor Fennessy added that the Planning Board could have reviewed the amendment prior to sending to Council.

Councilor Kretovic shared her personal experience of counting how many occurrences the State House dome is obstructed from view between exits 12 - 14 of I-93. Councilor Kretovic noted that she counted 19 obstructions which were mostly caused by New Hampshire Department of Transportation highway signs.

Councilor Brown spoke about the history of the State House dome. Councilor Brown noted that Mr. Ciborowski's project is great but that the language of the amendment should be tightened up in order to protect the view of the State House dome.

Councilor Kurtz shared both her excitement about Mr. Ciborowski's project and the concern of the language of the revised ordinance. Councilor Kurtz noted that the desire of stronger language will help with preservation, the approval of mindful projects, and the disapproval of projects falling outside the parameters. Councilor Kurtz asked about the specificity of the referral back to Planning Board.

Mayor Champlin noted that Planning Board may act with as much alacrity as they desire.

Discussion followed regarding the logistics of consideration by the Planning Board and feedback from ADR.

Councilor Kurtz expressed her frustration.

Councilor Grady Sexton asked if, given some confusion between what was agreed upon and what is before Council, why the item at hand is being considered for approval rather than just referral to the Planning Board.

Mayor Champlin noted he wishes to provide Mr. Ciborowski some certitude so that the ordinance can be approved, Mr. Ciborowski can apply for his permit, and Planning Board can then send the item back to Council.

Councilor Keach expressed his support of the amendment and noted this amendment will further empower the Planning Board. Councilor Keach noted that Planning Board has had its opportunity.

Councilor Brown expressed her desire to send this item back to Planning Board for consideration.

Councilor Schlosser expressed his support of the amendment. Councilor Schlosser expressed his support of approving the amendment and then sending the item to Planning Board so that they can weigh in as they see fit.

Councilor Todd noted that at the Planning Board public hearing, 34 people spoke in favor and 29 were not in support. Councilor Todd read some of the opposing written testimony from that public hearing. Councilor Todd added that he appreciates the opportunity for the Planning Board's review of the amendment.

Councilor Foote added that the benefit of what this item will bring to Concord outweighs those who pass through on I-93. Councilor Foote noted that he believes the existing ordinance is antiquated and sending the amendment back to Planning Board will make it better. Councilor Foote stressed the significance of Mr. Ciborowski's project and added that it should move forward.

Councilor Sekou stated that he does not believe people are as concerned with the specific project as they are with the language of the amendment. Councilor Sekou advocated for sending the amendment back to the Planning Board so that the concerns can be satisfied.

City Manager Aspell noted that if Mr. Ciborowski submits a conditional use permit application to the Planning Board, and if the Planning Board has concerns, the

Planning Board will have the opportunity to review said application and determine if all the conditions are met.

Councilor Kretovic moved to suspend the rules and continue the City Council meeting past 11:00 PM. The motion was seconded by Councilor Todd. The motion passed with two dissenting votes.

Councilor Fennessy clarified by stating that, from his perspective, if the Planning Board would have liked another opportunity to review, they should have reviewed prior to sending the amendment to Council. Councilor Fennessy thanked the members of the Planning Board for their service.

Councilor Shultz thanked Councilor Todd for voicing the opinions of those not present.

Mayor Champlin stated he will be voting in favor of this amendment. Mayor Champlin also noted that he resigned as Chairman of the Board of the New Hampshire Preservation Alliance in order to eliminate any appearance of a conflict of interest, but that he does want to make sure ordinances are passed that protect the City's historic infrastructure. Mayor Champlin added that he believes this motion, with the amendment, will do such. In addition, he does believe it is a strongly written ordinance and thanked City staff. Mayor Champlin also thanked the volunteer Planning Board members for their service.

Councilor Keach requested a roll call vote on this item.

Councilor Kretovic's motion, with Mayor Champlin's amendment, passed unanimously in a roll call vote.

**Yes:** 13 - Councilor Brown, Mayor Champlin, Councilor Fennessy, Councilor Foote, Councilor Grady Sexton, Councilor Horne, Councilor Keach, Councilor Kretovic, Councilor Kurtz, Councilor McLaughlin, Councilor Schlosser, Councilor Sekou, and Councilor Todd

**Excused:** 1 - Councilor McNamara

36. Resolution appropriating the sum of \$200,000 in the Loudon Road Bridge Improvement Project (CIP #588) for the evaluation and interim repair of the Bridge Deck on Loudon Road Bridge and authorizing the transfer of \$200,000 from the Bridge Reserve fund for this purpose; together with a report from the City

Engineer.

**Action:** Councilor Kretovic moved approval. The motion was seconded by Councilor Kurtz and passed with no dissenting votes.

37. Resolution appropriating the sum of \$144,929.47 as a transfer to the Opioid Abatement Reserve and accepting the sum of \$144,929.47 in Opioid Litigation Settlement Funds for this purpose, retroactive to June 30, 2024; together with a report from the Deputy City Manager-Finance.

**Action:** Councilor Kretovic moved approval. The motion was seconded by Councilor Todd and passed with no dissenting votes.

38. Resolution appropriating the sum of \$90,000 in the General Fund for a Class and Compensation Study and authorizing the use of \$90,000 in Human Resources Reserve for this purpose; together with a report from the Deputy City Manager-Finance.

**Action:** Councilor Kretovic moved approval. The motion was seconded by Councilor Schultz and passed with no dissenting votes.

39. Ordinance amending the Code of Ordinances, Title V, Administrative Code; Chapter 35, Classification and Compensation Plan, Schedule D of Article 35-2, Class Specification Index, to Modify/Add the Positions Specified in the Attached Ordinance for FY2025; together with a report from the Director of Human Resources and Labor Relations.

**Action:** Councilor Kretovic moved approval. The motion was seconded by Councilor Schultz and passed with no dissenting votes.

## **Reports**

41. Update from UNH Sustainability Fellow on the Community Power Communications outreach plan.

**Action:** Rob Werner, Chair of the Concord Energy and Environment Advisory Committee, introduced UNH Sustainability Fellow Jennifer Punsalang-Cloutier. Ms. Punsalang-Cloutier provided an overview of the information page created regarding Community Power as well as the community groups that have been presented information about Community Power.

Beth Fenstermacher, Director of Special Projects and Strategic Initiatives, noted that City Council supports the UNH Sustainability Fellowship program which is a \$4,000 investment. Ms. Punsalang-Cloutier is the third fellow supported by the

City.

Ms. Punsalang-Cloutier, Ms. Fenstermacher, and Mr. Werner thanked members of City Council for their support.

### **New Business**

#### **Unfinished Business**

42. Resolution appropriating the sum of \$10,308,000 in the Beaver Meadow Golf Course Club House & Buildings Project (CIP #107) for the construction of a new facility and related improvements, and authorizing the issuance of bonds and notes in the sum of \$10,308,000 for this purpose; together with a report from the Deputy City Manager - Finance. (Presentation and proforma submitted.) (Public testimony received.) (Revised presentation submitted.) (Additional public testimony received.)

#### **Consideration of Items pulled from the Consent Agenda**

20. Report from Deputy City Manager - Finance recommending approval of the proposed 2025 Membership, Daily Fee, Simulator, and Outing Rates for the Beaver Meadow Golf Course as recommended by the Golf Course Advisory Committee. (Pulled from consent by Councilor Brown.)

**Action:** This item was pulled from the consent agenda by Councilor Brown.

Councilor Brown asked if someone would pay \$3,150 for the following year if they purchase a family membership on November 29, 2024.

Deputy City Manager - Finance Brian LeBrun confirmed with the condition that someone is a member this year.

Councilor Brown asked if this has always been done.

Deputy City Manager - Finance LeBrun noted that this promotion has occurred approximately 20 years.

Councilor Brown asked how many existing Golf Course Advisory Committee members are also golf course members.

Deputy City Manager - Finance LeBrun noted he does not have that number readily available and noted that the ordinance specifies that some committee members are non-members.

Councilor Brown noted that she is concerned that members of the committee, who may be golf course members, are voting on the rates they are paying. She also stated that she feels there should be an increase in the junior rate for non-residents. Councilor Brown asked how Bow High School pays for club use.

Golf Professional Phil Davis explained that the Bow Athletic Club pays daily fees, high school teams pay a fee for the entirety of their season, or their parents pay.

Councilor Brown stated her desire for a member and non-member rate.

Deputy City Manager - Finance LeBrun explained that the report includes a recommendation from the Golf Course Advisory Committee to provide a greens fee discount for residents. He further explained that to determine rates, the committee considers the rates of other clubs, current rates, expenses, and competitiveness in the area.

Mayor Champlin asked how the rates and facilities compare to Pembroke Pines and whether the differences are a factor in determining Concord's rates. He also asked if it is beneficial to have golfers as part of the committee.

Deputy City Manager - Finance LeBrun briefly explained the difference in current facilities and how that is a factor in determining rates. He also expressed the benefit of golfers volunteering on the committee as well as golfers understanding of the golf facility. He also noted that the governing ordinance of the committee includes two non-members who may offer a different perspective.

Councilor Keach stated, for clarification, which Deputy City Manager - Finance LeBrun confirmed, that the committee does not set rates, as rates are set by Council, but the committee makes recommendations regarding rates.

Councilor Fennessy moved to accept the membership and daily fees as recommended by the Golf Course Advisory Committee. The motion was seconded by Councilor Kretovic.

Councilor Fennessy discussed the committee's consideration of potential differing rates for residents versus non-residents. He explained that the golf course members who are members of the committee are also residents and determined that a membership fee is already discounted and did not want to further discount it.

Councilor Fennessy explained that per a survey, approximately 75% of members are residents. Regarding junior members, Councilor Fennessy explained that he advocated that the junior member rate not be increased so as to keep golf accessible and that minors should not be paying for improvements at the club. Councilor Fennessy noted that the committee recommended Council adopt a discount on fees for residents for what he referred to as primetime rates.

Councilor Kretovic noted that Merrimack Valley High School's golf teams utilize the club and have students from other communities. She discussed that creating barriers for young people is not welcoming. Councilor Kretovic noted that the funds being spent for the club's parking lot are derived from golfers' greens fees and membership rates.

Councilor Brown stated that taxpayers are paying millions of dollars in irrigation improvements and that the club is inaccessible to a large number of people. She further stated that increased non-resident fees would offset improvements.

Councilor Fennessy's motion passed with one dissenting vote.

21. Report from City Solicitor on complaints reviewed by Board of Ethics at June 24, 2024 meeting, and recommendation from Board of Ethics to City Council regarding complaint reviewed at July 29, 2024 hearing. (Pulled from consent by Councilor Kretovic.)

**Action:** This item was pulled from the consent agenda by Councilor Kretovic.

Councilor Kretovic moved to approve the report.

Councilor Kretovic noted there are some gaps in the Ethics Ordinance and City Council Rules which will be addressed by the Rules Committee after the Board of Ethics concludes their hearings.

The motion was seconded by Councilor Schlosser. The motion passed with no dissenting votes.

31. Resolution accepting the sum of \$6,250 from Onyx Partners Ltd to support a third-party peer review of a potential public/private partnership concerning redevelopment of the former Steeplegate Mall and Regal Cinema sites located at 270 and 282 Loudon Road and appropriating the sum of \$6,250 for this purpose; together with a report from the Assistant Director of Community Development. (Pulled from consent by Councilor Horne and Councilor Brown.)



**Action:** This item was pulled from the consent agenda by Councilor Horne and Councilor Brown.

Councilor Horne discussed her opposition to the resolution and noted that Onyx Partners purchased these properties for approximately \$22million and are now stating that without the public-private partnership, the development may not be economically viable. She noted that there are public-private partnerships that behoove the City, but at this moment, expenditures cannot be passed on to the taxpayers particularly when this development will create market rate and not affordable or workforce housing.

Councilor Brown echoed Councilor Horne.

Councilor Kretovic moved approval. The motion was seconded by Councilor Fennessy.

Councilor Todd asked for clarification as to whether the funds for this resolution were already appropriated in the budget cycle to Community Development Department's operating budget. This was confirmed and it was further explained that, if not spent, these funds would be allocated as surplus.

Councilor Kurtz asked about the City's ability to request a study be funded privately.

City Manager Aspell noted that, in this case, a third party helps City staff in their analysis. Without a third party, who do such analysis on a regular professional basis, the analysis will be done solely by City staff which is a possibility.

Councilor Keach noted that this project is so economically complicated that it may require a level of expertise not possessed by City Administration which will help provide an impartial analysis.

Councilor Fennessy discussed the benefit of a fact-finding analysis.

Councilor Horne noted she is not opposed to a third-party review but desires that it be funded by the developer.

General discussion followed regarding the particulars of what would occur if the developer was tasked with funding the entire analysis and the benefit of a

third-party analysis.

Councilors Todd and Kretovic discussed the benefit of the City's funding of half of this analysis for a large-scale development as a great test for potential future public-private partnerships.

Mayor Champlin noted he will be voting in favor of the motion to adopt the resolution and believes the dollars spent will benefit the City.

Councilor Fennessy called the question.

Councilor Keach requested a roll call vote.

**Yes:** 9 - Mayor Champlin, Councilor Fennessy, Councilor Keach, Councilor Kretovic, Councilor Kurtz, Councilor McLaughlin, Councilor Schlosser, Councilor Sekou, and Councilor Todd

**No:** 3 - Councilor Brown, Councilor Foote, and Councilor Horne

**Excused:** 3 - Councilor Grady Sexton, Councilor McNamara, and Councilor Schultz

### **Comments, Requests by Mayor, City Councilors**

Councilor Sekou announced that the Multicultural Festival is Sunday, September 22 from 11:00 AM - 5:00 PM at Keach Park.

Councilor Foote announced that Revelstoke Coffee is hosting their Cars & Coffee event on Sunday, September 8 from 8:00 AM - 1:00 PM.

Councilor Brown noted that a petition has been submitted to Concord School District regarding rebuilding Rundlett Middle School.

Councilor Brown moved to hold a public hearing regarding the middle school project following the Concord School District's presentation. The motion was seconded by Councilor Horne.

Discussion followed regarding Council rules and the timing outlined for the consideration of items as well as the timing of Councilor Brown's motion.

Councilor Brown retracted her motion.

Councilor Horne discussed the new Penacook Community Center.

### **Comments, Requests by the City Manager**

#### **Adjournment**

**Action:** At 12:05 AM, there being no additional Council business, Councilor Brown moved approval to adjourn. The motion was seconded by Councilor Sekou and passed with no dissenting votes.

#### **Information**

Inf1 April 16, 2024 and May 21, 2024 Traffic Operations Committee Meeting Minutes.

Inf2 May 2, 2024 Transportation Policy Advisory Committee Meeting Minutes.

**Action:** Information item received and filed.

Inf3 May 15, 2024 Planning Board Meeting Minutes.

**Action:** Information item received and filed.

Inf4 June 4, 2024 Architectural Design Review Committee Meeting Minutes.

**Action:** Information item received and filed.

Inf5 June 6, 2024 Heritage Commission Meeting Minutes.

**Action:** Information item received and filed.

Inf6 June 12, 2024 Conservation Commission Meeting Minutes.

**Action:** Information item received and filed.

Inf7 June 18, 2024 Steering Committee for Concord's Plan to End Homelessness Draft Meeting Minutes.

**Action:** Information item received and filed.

Inf8 July 8, 2024 Concord Public Library Board of Trustees Meeting Minutes.

**Action:** Information item received and filed.

Inf9 July 11, 2024 Golf Course Advisory Committee Draft Meeting Minutes.

**Action:** Information item received and filed.

Inf10 Communication from Kathleen Murphy, Concord School District, regarding the Proposed New Middle School.

**Action:** Information item received and filed.

*A true copy, I attest:*

*Elisabeth Harrington  
Deputy City Clerk*