



# City of Concord

## City Council

### Meeting Minutes - Final

---

Monday, September 12, 2016

7:00 PM

City Council Chambers  
37 Green Street  
Concord, NH 03301

---

*Non-public session in accordance with RSA 91-A: 3, II (d) to discuss property acquisition to begin at 6:15 p.m.*

1. Call to Order

Mayor Bouley called the meeting to order at 7:00 p.m.

2. Invocation.

3. Pledge of Allegiance.

4. Roll Call.

**Present:** 12 - Councilor Candace Bouchard, Mayor Jim Bouley, Councilor Mark Coen, Councilor Amanda Grady Sexton, Councilor Allan Herschlag, Councilor Fred Keach, Councilor Linda Kenison, Councilor Jennifer Kretovic, Councilor Gail Matson, Councilor Keith Nyhan, Councilor Dan St. Hilaire, and Councilor Brent Todd

**Excused:** 3 - Councilor Byron Champlin, Councilor Stephen Shurtleff, and Councilor Robert Werner

5. Approval of the Meeting Minutes.

August 8, 2016 City Council Meeting Minutes.

**Action:** Councilor St. Hilaire moved approval of the August 8, 2016 City Council meeting minutes. The motion was duly seconded and passed with no dissenting votes.

6. Friends of the City Auditorium Presentation.

**Action:** Betty Hoadley, resident, indicated that many entities use the Concord City Auditorium for various events because it's a beautiful functional venue with the right price. She spoke of the many renovations that the Audi has gone through over the past several years. She announced that the "quiet" phase of the fundraising for the seats has raised approximately \$25,000 and since the kickoff announced at the last meeting, \$3,500 has been raised which brings along a \$3,500

match for a total \$32,000 towards the goal of \$100,000.

7. Agenda overview by the Mayor.

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

***Note: items listed as pulled from the consent agenda will be discussed at the end of the meeting.***

*Approval of the Consent Agenda*

**Action:** Councilor St. Hilaire moved approval of the consent agenda, as amended, with item 20 removed for discussion at the end of the agenda. The motion was duly seconded and passed with no dissenting votes.

**Referral to Engineering and General Services**

8. Communication from Ben Stephenson, 32 Tallant Road, requesting consideration be made to widen and pave Tallant Road in Concord.

**Action:** This communication was referred.

**Items Tabled for October 11, 2016 Public Hearings**

9. 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, Fleet Maintenance Technician and Welder/Mechanic; together with report from the Director of Human Resources and Labor Relations.

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

10. Resolution accepting and appropriating the sum of \$10,000 from the Trustees of the Protestant Episcopal Church of New Hampshire; together with report from the City Manager.

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

11. Resolution appropriating the sum of \$63,922 to the Project Inspection and Golf Funds Operating Budgets for FY2016, retroactive to Fiscal Year ending June 30, 2016; together with report from Deputy City Manager-Finance.

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

12. Resolution accepting and appropriating the sum of \$52,500 for the purpose of transferring funds to Concord Community Television, funding for this purpose is

entirely from payments received from Comcast under the Cable Franchise Agreement; together with report from the Deputy City Manager - Finance

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

### **From the City Manager**

13. Positive Citizen Comments.

**Action:** This positive comments was received and filed.

### **Consent Reports**

14. Diminimus gifts and donations report from the Library Director requesting authorization to accept monetary gifts totaling \$2,295.52 as provided for under the pre-authorization granted by City Council.

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

15. Diminimus gifts and donations report from the Police Department requesting authorization to accept monetary gifts totalling \$6,326.00 as provided for under preauthorization granted by City Council.

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

16. Report from the City Engineer recommending that Julie Drive be granted conditional acceptance as part of the City's municipal street system.

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

17. Impact fee report in compliance with RSA 674:21 (VI) from the Deputy City Manager-Finance.

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

18. Report from the Concord Conservation Commission recommending the City Manager be authorized to accept a Conservation Easement at 44 Carter Hill Road as part of a conditionally approved Subdivision Plan application.

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

19. Report from the City Engineer requesting that the City Manager be authorized to apply for an Aquatic Resource Management Grant from the NH Department of Environmental Services in conjunction with the Portsmouth Street Culvert Replacement Project (CIP83).

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

20. Report from the Parks and Recreation Director on recommended membership rates for the Beaver Meadow Golf Course for the 2017 season. (Pulled from consent by Councilor Kretovic)

**Action:** This item removed to the end of the agenda for discussion.

### **Consent Resolutions**

21. Resolution proclaiming December 2016 as Capital Region Food Program Month.

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

22. Resolution repurposing \$30,000 from the 2017 Secondary Clarifier Equipment Replacement Design Subproject to the 2017 HVAC System Replacement /Upgrade design subproject (CIP #104); together with report from the General Services Director.

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

23. Resolution authorizing the City Manager to submit a grant application to the NH Department of Safety - Law Enforcement Opioid Reduction Initiative, for funding designated to assist the Department in conducting illegal drug related investigations; together with report from the Police Department;

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

24. Resolution authorizing the City Manager to enter into a Purchase and Sales Agreement with Ryan W. Kibbee and Kate W. Ackerson for the sale of a +/-1,200 square foot city lot identified by Map/Block/Lot #52/7/14, said lots land to be incorporated into a residential lot at 126 Liberty Street identified by Map/Block/Lot #52/7/1; together with a report from the Deputy City Manager-Development.

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

### **Consent Communications**

25. Street closure request from Intown Concord for Halloween Howl to be held on October 28, 2016.

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

26. Street closure request from Karen Joyal requesting consideration be given to closing Auburn Street from the entrance to the round-about at Liberty Street to the Franklin Street intersection on Halloween, Monday, October 31st.

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

27. Street closure request for the 45th Annual Concord Christmas Parade to be held on Saturday, November 19, 2016.

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

### **Appointments**

#### **From the Mayor**

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

### **Public Hearings**

- 28A. Ordinance amending the Code of Ordinances; Title II, Traffic Code; Chapter 17, Vehicles and Traffic; Article 17-4, Operation of Motor Vehicles; Section 17-4-1, Stop Required Before Entering a Through Street; Schedule V, Stop Intersections; Concord Street; together with a report from the Traffic Engineer.

**Action:** Mayor Bouley opened the public hearing.

#### **Public Testimony**

David Skye, resident, indicated that the approach from Concord Street onto South Street is the only approach between Pleasant Street and McKee Square without a stop sign. He noted that it's his experience that many cars will travel North Spring Street, come down Concord Street to get onto South Street. He noted that, for consistency purposes, he is in support of a stop sign.

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

- 28B. Ordinance amending the Code of Ordinances; Title II, Traffic Code; Chapter 18, Parking, Article 18-1, Stopping, Standing and Parking, Section 18-1-8, Parking Time Limited in Designated Places, Schedule III (1 hour between the hours of 7:00 AM and 6:00 PM, Monday through Friday), Washington Street / Poulin Gazebo and Sam's Market / Summer Street municipal parking; together with report from the Director of Redevelopment, Downtown Services, and Special Projects.

**Action:** City Manager Tom Aspell provided a brief overview.

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

28C. Ordinance amending the Code of Ordinances; Title II, Traffic Code; Chapter 18, Parking, Article 18-1, Stopping, Standing and Parking, Section 18-1-6, Parking Prohibited At All Times In Designated Places, Schedule Ia (No Parking, Stopping, or Standing at All Times) Montgomery Street; together with a report from the Director of Redevelopment, Downtown Services, and Special Projects.

**Action:** City Manager Tom Aspell provided a brief overview.

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

28D. Ordinance amending the Code of Ordinances; Title II, Traffic Code; Chapter 18, Parking, Article 18-1, Stopping, Standing and Parking, Section 18-1-6, Parking Prohibited At All Times In Designated Places, Schedule Ia (No Parking, Stopping, or Standing at All Times) for sections of South Commercial Street and Constitution Avenue; together with a report from the Director of Redevelopment, Downtown Services, and Special Projects.

**Action:** City Manager Tom Aspell provided a brief overview.

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

28E. 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, Technical Service Manager; together with report from the Director of Human Resources and Labor Relations.

**Action:** City Manager Tom Aspell provided a brief overview.

Mayor Bouley opened the public hearing.

### **Public Testimony**

Roy Schweiker, resident, spoke in opposition of the proposed ordinance.

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

28F. Resolution accepting and appropriating the sum of \$106,302.16 in private donations from Main Street property owners for the installation of sidewalk snowmelt systems on Main Street in conjunction with the Downtown Complete

Streets Improvement Project (CIP #460); together with a report from the City Engineer.

**Action:** City Manager Tom Aspell provided a brief overview.

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

28G. Report from the City Engineer on the status of the Loudon Road Corridor Safety Improvement Project (CIP19).

**Action:** Mayor Bouley opened the public hearing.

### **Public Testimony**

Tom Fiske, resident, pointed out some of his concerns with the center lane becoming a passing lane for some and noted that the lead car, in a line of traffic, determines the flow of traffic on Loudon Road. He feels that safety should be the deciding factor and he prefers to simply repave the road.

Chip Nadeau, resident, feels that there will be a negative impact and is concerned that such a radical change to Loudon Road will affect those that both work and commute this road. He pointed out the differences of Loudon Road versus Manchester Street and the safety concerns he has on Loudon Road.

Mayor Bouley noted that Mr. Nadeau is in support of just repaving the four lanes but indicated that there is an ability to tap into some federal dollars to consolidate some of the curb cuts. He asked Mr. Nadeau if consolidating some of the curb cuts is a worthwhile activity. Mr. Nadeau responded yes because it would reduce the turning.

Robert McKenna, resident, voiced his concerns with traffic within the area of Branch Turnpike noting that he feels that the traffic will increase in this area if they reduce the lanes on Loudon Road.

David Sky, resident, stated that congestion and safety are two big problems on Loudon Road. He noted that the city engineers have presented taking a street that experiences wide variations of motor vehicle speeds and created a calmer street where there is uniform speed which makes it easier to enter/exit the road and helps maintain the same traffic flow. He noted that Council has adopted a complete streets policy and feels that only the three lane proposal is within the complete

street policy/guidelines. He feels that this project makes sense.

The Mayor counted 54 curb cuts on the north side and counted 49 curb cuts on the south side that ranged in wide variations. He indicated that he was trying to be conservative when he looked at these curb cuts and came up with 46 areas of conflict and inquired as to how three lanes resolve these conflicts. Mr. Skye feels that the curb cuts are one of the major challenges within the Loudon Road corridor; these are issues, regardless of what design. He feels that the three lane design improves over the four lane design because the flow of traffic is predictable and will be easier to go through or get into a business.

The Mayor has spoken to a traffic engineer from an engineering firm that indicated that it didn't matter if it was three lanes or four lanes relaying that he felt that both configurations were failures. The engineer felt that the only way to truly address the safety and congestion issues is if there is a median right down the middle that prohibits left hand turns and to deal with consolidating the curb cuts. Mr. Skye responded that he feels that this may be the case when just considering motor vehicles but feels that the three lane configuration would be a success over the four lane design when considering pedestrians.

Elaine Kellerman noted that she lives in one of the housing developments on Loudon Road and feels that it will be very difficult to get out onto the road with three lanes. She spoke in opposition to the three lane proposal.

Chuck Annal, resident, pointed out that the majority of individuals that attended the recent public meeting held were in opposition of the three lane proposal. He suggested that the city could "lay" the lines out similar to what was done in Rutland, Vermont for a few months to see if it would work and what, if any, glitches there may be with the configuration. He would hate to see the city move ahead with a major reconstruction project that they may regret down the road.

Councilor Coen asked what is felt would be the number one recommendation to reduce the speed and making it more safe on Loudon Road. Mr. Annal responded that police presence or speed board may help with these.

Gloria Jean Leighton, resident, spoke in opposition to a three lane proposal indicating that it would impact the quality of life on a daily basis. She feels that there is too much traffic for a reduction to work.



Nuha Haddad, resident, spoke in opposition to a three lane proposal noting her concerns with a turning lane and the impact on the neighborhoods on Loudon Road.

Robert T. Baker, resident, feels that if they build Loudon Road as a three lane street they can rebuild some of the community; the roads are their commons and everyone should be sharing them. He urged Council to support the three lane option.

Alvin See, resident, indicated that he is in favor of maintaining the four lane structure.

David Harris, resident, noted that Council has a proposal before them that can do a lot more and encouraged them to do it.

Jeff Lewis, resident, indicated that it makes sense to him to move forward with the three lane approach. He doesn't feel it will solve every problem; there will be some unforeseen and unintended consequences that will take time to be flushed out as people get used to a new traffic pattern.

Councilor Herschlag asked Mr. Lewis to expand on his reference to unintended consequences. Mr. Lewis responded that he is unsure noting that there will be changes to the traffic patterns and no one will know the answer to this until it gets implemented.

Tom Sideris, resident, noted his concerns with the volume of traffic during the holiday months with lane reductions and people seeking alternative routes through neighborhoods. He spoke in opposition to the three lane proposal.

Andrew Georgevits, resident, spoke in support of just repaving Loudon Road.

Roy Schweiker, resident, feels that that traffic would move at a faster pace if Loudon Road was made to become one lane each way, without a turning lane, and the two lanes being constructed wider. He indicated that if the city tests the three lane option that they come up with a two lane design to see if they can make that work.

Ursula Maldonado, resident, feels that the road should be made safer for everyone. She feels that there is a lot of evidence in favor of this project and urged Council to

enact the changes.

Alan Johnson, Hodges Company, spoke in opposition to the three lane proposal as it's currently established. He noted that there are certain things that need to be accomplished before moving forward with this extreme change.

Tom Cusano, business owner, noted that Council has to look at the hard evidence of whether this is going to cause more congestion; if the evidence is there to say yes then why would the city move ahead with something that is going to cause this type of a problem. He doesn't feel that the city would want to spend dollars to create new congestion.

Christy Bibaud, resident, noted her concerns with the current safety issues on Loudon Road. She doesn't know if the proposal will relieve the congestion but feels if there is an opportunity to reduce the number of accidents and make it a little bit safer on that road then the city owes it in giving this a shot.

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

- 28H. Report from the Zoning Administrator in follow-up up to a request from Alicia Mailhot for the restoration of involuntary merged lots pursuant to RSA 674:39-aa. (Supplemental report submitted)

**Action:** Mayor Bouley opened the public hearing.

### **Public Testimony**

Alicia Mailhot, resident, asked Council not to accept the report for the denial of the un-merger due to the denials issued based on 70 to 74 years ago on buildings that may have crossed the property line based on permits that are on file and photos from 1943 and 1948. She has owned the property for six years and the previous owner prior to her owned it for ten to fifteen years and, to the best of her knowledge, there has been no buildings crossing the property line. She stated that she owns two consecutive lots which is identified as one lot, 2 Lawrence Street; two 100 by 100 square foot lots with 100 feet of road frontage for each. Ms. Mailhot cited RSA 674:39-aa, IV which reads any municipality may adopt local ordinances including ordinances enacted to prior to the effective date of this section to restore previously merged properties that are less restrictive than the provisions of this paragraph. She stated that there was a building 1943 or 1948 that crossed both lines, however, it was close to 75 years ago. She provided a detailed

history and lot description of the property. She is unsure as to what she wants to do with the property in the future.

There being no further testimony, the Mayor closed the hearing.

### **Public Hearing Action**

29. Ordinance amending the Code of Ordinances; Title II, Traffic Code; Chapter 17, Vehicles and Traffic; Article 17-4, Operation of Motor Vehicles; Section 17-4-1, Stop Required Before Entering a Through Street; Schedule V, Stop Intersections; Concord Street; together with a report from the Traffic Engineer.

**Action:** Councilor Nyhan moved approval. The motion was duly seconded and passed with no dissenting votes.

30. Ordinance amending the Code of Ordinances; Title II, Traffic Code; Chapter 18, Parking, Article 18-1, Stopping, Standing and Parking, Section 18-1-8, Parking Time Limited in Designated Places, Schedule III (1 hour between the hours of 7:00 AM and 6:00 PM, Monday through Friday), Washington Street / Poulin Gazebo and Sam's Market / Summer Street municipal parking; together with report from the Director of Redevelopment, Downtown Services, and Special Projects.

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

31. Ordinance amending the Code of Ordinances; Title II, Traffic Code; Chapter 18, Parking, Article 18-1, Stopping, Standing and Parking, Section 18-1-6, Parking Prohibited At All Times In Designated Places, Schedule Ia (No Parking, Stopping, or Standing at All Times) Montgomery Street; together with a report from the Director of Redevelopment, Downtown Services, and Special Projects.

**Action:** Councilor St. Hilaire moved approval. The motion was duly seconded and passed with no dissenting votes.

32. Ordinance amending the Code of Ordinances; Title II, Traffic Code; Chapter 18, Parking, Article 18-1, Stopping, Standing and Parking, Section 18-1-6, Parking Prohibited At All Times In Designated Places, Schedule Ia (No Parking, Stopping, or Standing at All Times) for sections of South Commercial Street and Constitution Avenue; together with a report from the Director of Redevelopment, Downtown Services, and Special Projects.

**Action:** Councilor Nyhan moved approval. The motion was duly seconded and passed with no dissenting votes.

33. 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, Technical Service Manager; together with report from the Director of Human Resources and Labor Relations.

**Action:** Councilor Nyhan moved approval. The motion was duly seconded and passed with no dissenting votes.

34. Resolution accepting and appropriating the sum of \$106,302.16 in private donations from Main Street property owners for the installation of sidewalk snowmelt systems on Main Street in conjunction with the Downtown Complete Streets Improvement Project (CIP #460); together with a report from the City Engineer.

**Action:** Councilor Nyhan moved approval. The motion was duly seconded and passed with no dissenting votes.

35. Report from the City Engineer on the status of the Loudon Road Corridor Safety Improvement Project (CIP19).

**Action:** Mayor Bouley summarized the options within the report: 1) repave four lanes as is; 2) repave four lanes accepting the federal dollars from a grant to consolidate curb cuts; 3) stay with the current CIP project of three lanes which also includes the consolidation of the curb cuts.

Referencing the curb cuts, Councilor Coen inquired whether this will include pedestrian lighting and other safety issues along the corridor. Mayor Bouley responded that it's his understanding that to qualify for the grant it was really for curb cuts for driveways.

City Manager Aspell added that when they had discussions with the Department of Transportation it was the consolidation of several curb cuts and reduction some of the widths of the driveways. He stated that they were willing to provide approximately \$116,000 for that. He noted that when they talked about if that's what the Council option ends up to be, they would need to set up a whole series of other projects of things to do. He noted that instead of doing everything all at once as they would do with a three lane piece, they would look at doing it over the next decade plus; doing small pieces as they go along and as opportunities arose in the future.

Councilor Kretovic stated that there has been a number of people that have made recommendations - that Council also consider a three lane configuration without

the pedestrian way so that they are simply painting it to try it out so to speak but also allowing curb cut reductions. She questioned whether they could consider this here.

Councilor St. Hilaire noted that many residents and Councilors that live within that area also feel like the current four lane option is probably the best option, temporarily, until something is thought of that solves the problem. He is convinced, hearing from his constituents, that they need to stay the course; keep the four lanes and help safety improvements by reducing some of the curb cuts that will help with the traffic.

Councilor Bouchard indicated that, since making the motion to accept the three lanes, she has heard from her constituents who brought up a lot of valid concerns. She stated that the road diet has worked in other places but in places that a city needs to be cautious about doing a road diet, are roads that have a numerous amount of curb cuts and driveways; Loudon Road has a high density of driveways that are high volume. She noted that they would have a high probability of cut through traffic going through the neighborhoods. She has also heard from the businesses and their concerns of possibly losing business. In looking at everything in context and looking at the uniqueness of Loudon Road, she doesn't feel that this is a road where the road diet would work as efficiently as it has in other areas.

Councilor Bouchard moved not to accept the report and direct the City Manager to proceed with the second option of repaving Loudon Road with the four lanes, direct him to get a bond authorization, direct him to accept whatever federal dollars are out there for consolidating the curb cuts and to see if there is any money for pedestrian improvements. She stated that when they do repave, they definitely need to highlight the crosswalks in one manner or another. The motion was duly seconded.

Councilor Kenison indicated that she is still leaning towards the road diet. She noted that they want to slow traffic down and feels that if they just pave, they are going to create a speedway for vehicles to travel faster. She feels that Loudon Road is extremely dangerous the way that it is currently configured. She feels that if they reduce the lanes, people will not be driving the erratic ways they currently do with the four lanes.

Councilor Herschlag noted his agreement with Councilors St. Hilaire and Bouchard. He pointed out that when people provide public testimony it does

matter. Referencing the report, he had hoped to see an option(s) that fully addressed all the issues that are currently occurring, creating safety problems and impacting the quality of life on the Heights. He noted that he will be supporting Councilor Bouchard's motion.

Councilor Todd noted his appreciation for all the people that came out this evening and to the public forum meeting last week. He agrees with Councilor Herschlag's statement that it does matter when people come for public hearings. He noted that he has a lot of sympathies for people that have concerns but feels that he still needs to favor the three lane approach at this time. He feels that this is the only chance they have to make improvements on a short term level and at least to try it and see if it works.

Councilor Matson indicated that she previously voted for the three lane configuration but as she has heard from her constituents, she agrees that they keep it as the four lanes and do whatever safety measurements that they can.

Mayor Bouley indicated that he has been a bicyclist, pedestrian and motorist on Loudon Road. He has found that traffic calming works but every situation is unique. He noted that he has thought long and hard about this; he voted in support of the complete streets resolution trying to put this in practice and he has testified before the state and asked them to apply the same principles of complete streets. He struggles with the numbers in regards to accidents indicating that the behavior of the driver seems to have a significant factor in how we all react to one another on the road. He walked the road counting the curb cuts and driveways. He doesn't know if three lanes will solve problems or whether four lanes makes it worse but he does know that, no matter what they do, they have to deal with the curb cuts to make it safer. The Mayor cited the complete streets policy: the policy of the City of Concord to proactively enhance neighborhood livability by promoting b) motor vehicle through traffic along arterial and collector streets and a) connectivity between neighborhoods and via local streets. He pointed out an interesting question as to whether the Heights is a residential neighborhood or an arterial collector street. He feels that they have to listen to the users and find that balance between bikes, pedestrians, etc. He stated that he is not convinced that moving to three lanes does this; he thinks it fails no matter what and feels that that if they want to solve the problem they really have to invest their time and energy in the consolidation of curb cuts and deal with the pedestrian safety. He stated that if they are going to fail either way, they need to be responsible to the neighborhood as best they can. He feels that the three lanes has not proven that it accomplishes

what some have presented.

The motion to approve the second option passed 8 to 4 on a roll call vote with Councilors Matson, Nyhan, St. Hilaire, Bouchard, Mayor Bouley, Councilors Grady Sexton, Herschlag and Keach voting yes. Councilors Kretovic, Todd, Coen and Kenison voted no.

36. Report from the Zoning Administrator in follow-up up to a request from Alicia Mailhot for the restoration of involuntary merged lots pursuant to RSA 674:39-aa. (Supplemental report submitted)

**Action:** Councilor St. Hilaire moved approval. The motion was duly seconded.

Councilor Coen finds it interesting that they have two separate tracts of land in an official document. He noted that if they were merged in the past, why would they, in 2011 and 2012, talk about two certain tracts of land instead of one tract. As he understands, if they acknowledge two separate tracts of land that it doesn't mean that Council is changing the zoning with this property.

Councilor Herschlag asked for clarification that if Council doesn't accept the report then it would be restored to two separate lots. City Solicitor Jim Kennedy highlighted the RSA within the report. He explained that accepting the report keeps that property merged as one lot and denying the report would grant the request of the land owner.

Mayor Bouley asked if Council had the authority to do that based upon the RSA. Mr. Kennedy responded that, under the statute, it's his opinion that it's a factual determination that the chain of title demonstrate that the property owners treated the property as one merged lot and he feels that the answer to that question is yes; there is no factual dispute.

Councilor St. Hilaire noted that although legal cites the facts, the reality under the statute is that they can restore an involuntarily merged lot if the governing body decides to restore the lot. Mr. Kennedy replied that if the chain of title does not show that it was treated as merged then yes. Councilor St. Hilaire indicated that it still goes before the Council and the Council or governing body can restore an involuntarily merged lot by virtue of the fact that it is in front of them for them to make a decision. He inquired whether this was an accurate statement. Mr. Kennedy believes that the statute is written in a way that if there are facts in dispute, then Council would have the discretion to make that determination. Councilor St.

Hilaire indicated that if Council does not accept the report they are restoring the involuntarily merged lot as two separate lots. Mr. Kennedy responded that to be correct.

Councilor Herschlag indicated that the property owner pointed out to him that, within the RSA, the Council has the opportunity or the ability to make a less restrictive ordinance. He wonders if they would want to table this and look at passing an ordinance so that they wouldn't be in conflict with the RSA.

Councilor Coen referenced Exhibit A and pointed out that it reads: on two certain tracts of land with a building hereon. He questioned why it wouldn't just indicate one tract of land if it was merged previously before the sale. Mr. Kennedy responded that it's his understanding that that's not uncommon at the registry to have two tracts that have been merged to consider them two tracts. He reiterated the statute and pointed out that the property has been taxed as one property since 1929.

Councilor St. Hilaire stated that the Solicitor's report is dead on and the analysis is very accurate. He is not disputing their facts however, the fact of the matter remains that the legislature has given them the authority to make a decision.

Following additional Council discussion, Councilor Nyhan moved to table this item until he has a better understanding of the consequences of a decision or a non-decision. The motion was duly seconded and failed on a voice vote.

Councilor Nyhan withdrew his second to the original motion.

The original motion received a second.

The motion to not accept the report passed on a voice vote.

## **Reports**

37. Report from the City Engineer on the status of the Main Street Utility Relocation project.

**Action:** City Manager Tom Aspell provided an overview.

Councilor Coen noted that he is for burying the wires and lines but is not pleased with having some of the sources of the \$200,000 coming out of the uplighting because that money is for the complete downtown. He indicated that if they have



to appropriate the other dollars without touching the uplighting dollars then he is for this.

Councilor Keach clarified that if they decided not to move forward with this, is it correct that the conduit and vaults are in place so at a later date that infrastructure is in place. Mr. Aspell responded that to be correct.

Councilor Kenison indicated that she is in favor of continuing the burial of lines.

Councilor Kretovic moved approval of the report and continue the burying of the lines from Thompson Street to Concord Street. The motion was duly seconded.

Councilor St. Hilaire noted that he feels that burying the lines is a good idea but the problem is that they are now taking money from the extras that is needed for the Main Street completion. He feels that the additional pluses that they need to do at the end such as the banners and uplighting is going to make much more of a difference and impact than just burying a block of lines.

Mayor Bouley stated that he will be voting against the motion noting that he is opposed to using money that they had originally dedicated to for other purposes. He feels that they need to continue to invest in the safety of downtown and investing the money in lighting. He pointed out that everything is in place for the burial of the lines to do it when the appropriate time comes. He doesn't feel that it's the appropriate time because it is taking money away from opportunities they have to enhance and make a huge difference in the downtown including safety.

Councilor Herschlag inquired whether they would need a two-thirds vote since they are not adding any new dollars.

Mayor Bouley indicated that he believes it would be a majority vote.

Following brief discussion, it was agreed that it would be a majority vote. Solicitor Jim Kennedy agreed that as long as the original appropriation was a two-thirds majority vote and the funds are being repurposed.

Councilor Herschlag indicated that it's his understanding that none of the \$350,000 come from the TIGER grant. Mr. Aspell responded that to be correct explaining that the \$350,000 was a separate \$2 million bond that was done.

Councilor Kenison indicated that one of the reasons she would like to see this happen is because the Capitol Center for the Arts is a focal spot and to remove those wires in that area makes sense. She also understands what is being said in regards to the safety and lighting downtown.

The motion to approve the report and continue the burying of the lines from Thompson Street to Concord Street failed on a voice vote.

38. Report to Council recommending their review and selection of two sculptures to be installed in Downtown Concord.

**Action:** City Manager Tom Aspell provided a brief overview explaining that they have recommended two locations: one in the area of Phenix Avenue and one in the southeast corner of South Main Street and Pleasant Street Extension.

The Council agreed on the locations that are recommended.

Councilor Nyhan likes the turtle boy sculpture and the spotted fawn sculpture.

Councilor Keach likes the one bright morning sculpture.

Councilor Kretovic likes the one bright morning and turtle boy sculptures.

Councilor Kenison noted her agreement with Councilor Kretovic's choices.

Councilor Todd noted his agreement with Councilor Nyhan's choices. Moving forward, he would like to see sculptures that are interactive for children and works that have some type of significance to Concord. He noted that he would like to know what the people of Concord think is their favorite picks.

Mayor Bouley likes one bright morning noting that this larger piece would work well in the area in front of Phenix Hall. He wondered if turtle boy would proportionally fit into the other location.

Councilor Kenison noted that the turtle boy sculpture would be placed onto a rock so wondered if they can choose how high the rock would be.

Councilor Nyhan agreed with Councilor Todd in regards to surveying the residents of Concord.

City Manager Tom Aspell indicated that the idea of this program was to do this on an annual basis; these sculptures are only leased for one year with rotating pieces and locations. He noted that there may be pieces that the community would like to purchase. He stated that if Council chooses the sculptures now, there will be plenty of opportunities for choosing in the future.

Councilor Nyhan moved to accept the report and direct the City Manager to enter into a lease to install the one bright morning sculpture and the turtle boy sculpture on Main Street. The motion was duly seconded and passed with no dissenting votes.

### **New Business**

39. Information to be discussed and voted on at the New Hampshire Municipal Association's upcoming Legislative Policy Conference on September 23rd. (Communication from Councilor Herschlag submitted) (Item on September 2016 Recessed Meeting Agenda, no meeting held) (NHMA 2017-2018 Legislative Policy Positions submitted)

**Action:** Councilor Herschlag stated that he thought it was important that the Council voice an opinion of guidance for Councilor Coen on voting on some of these legislative policy initiatives. He explained that, once every two years, the New Hampshire Municipal Association prepares legislative policy recommendations; the policy recommendations fall under three categories: General Administration and Governance, Finance, Revenue and Infrastructure, and Development and Land Use. He noted that these recommendations, once voted on and approved on September 23rd, will be the position that NHMA takes when lobbying the legislature as representative of the positions their members, towns and cities, have approved. He stated that he would like the opportunity to go through some of the items.

Following brief discussion, Mayor Bouley suggested that Councilor Herschlag inform City Administration as to which ones he has questions on so that they can be properly prepare for a recessed meeting to be held on Monday, September 19th.

Councilor Bouchard asked if it was correct that if a recommendation is passed by the NHMA and the City of Concord disagrees with it, it's not binding and the city can attend a hearing regarding their concerns. Mayor Bouley indicated that to be correct.

Councilor Herschlag stated that that's not his concern. His concern is how Councilor Coen votes on these initiatives.

The time being 11:00 p.m., Councilor St. Hilaire moved to suspend the rules to continue the meeting. The motion was duly seconded and passed on a voice vote.

Councilor Grady Sexton moved to table this item. The motion was duly seconded and passed on a voice vote.

### **Unfinished Business**

40. Report from the Rules Committee recommending revisions to the current Rules of the City Council. (Item tabled, no action taken, at the June 8, 2015 City Council meeting).

**Action:** This item remains on the table.

41. Supplemental report from the City Engineer outlining lighting alternatives for the Downtown Complete Streets Improvement Project (CIP460).

**Action:** This item remains on the table.

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

Councilor Kenison moved a referral to the Traffic Operations Committee to look into the feasibility of reversing the one-way direction on Federal Street from the entry being Warren Street and the exit being Pleasant Street. The motion was duly seconded and passed with no dissenting votes.

Councilor Todd announced that the next meeting of the Penacook Village Association is Saturday, September 24th at 9:00 a.m. at the Rolfe House at 11 Penacook Street.

Councilor Bouchard indicated that the Concord Airport will be hosting Aviation Day Runway 5K on Sunday, October 2nd.

Mayor Bouley indicated that work was being done at the Hall Street Wastewater Treatment Plant and he received numerous calls regarding the odor. He asked Administration to work with some of the residents and businesses in the area to notify them.

Mayor Bouley indicated that he has been receiving inquiries in regards to the roundabout at Exit 16 noting that work was supposed to begin this fall. He asked

that staff inform people as to what is going on so that the public is informed. He feels that the city needs to do a better job with communication.

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

#### **Consideration of items pulled from the consent agenda for discussion**

- *Item 20 has been pulled from the consent agenda for discussion.*

20. Report from the Parks and Recreation Director on recommended membership rates for the Beaver Meadow Golf Course for the 2017 season. (Pulled from consent by Councilor Kretovic)

**Action:** Councilor Kretovic noted that there is a recommendation to change the young adult membership from 19 to 29 years old at a cost of \$900 to 19 to 35 years old. She explained that when it came before the Council a few years ago to amend the age to 19 to 29 years old, two or three memberships were added so it didn't do the work that it was intended to do. She stated that the problem that she has with this is that they start to edge into a gray area in which anyone over 35 or under 60 years old are now penalized and have to pay \$400 more than everybody else. She noted that the concern with what is being presented this evening is that it doesn't match what the professional golf association says. She asked the Council to keep what is currently in place - 19 to 29 years old at a cost of \$900.

Recreation Director David Gill indicated that many of the other courses have it from 19 to 39 years old. He noted that part of the conversation is how do they grow the game; most of the membership is 45 years and older. He feels that they need to try to get more younger players golfing. He does believe this proposed recommendation is a reasonable step.

Mayor Bouley feels that the trend amongst golf courses is that there is a strong desire to promote younger golfers. He doesn't see the harm in trying this right now noting that it will be interesting to see if it works.

Councilor Coen pointed out that the Golf Course Advisory Committee is made up of members and non-members of all ages.

Councilor Coen moved to accept the report. The motion was duly seconded and passed on a voice vote.

### **Consideration of Suspense Items**

**Adjournment**

The time being 11:16 p.m., Councilor St. Hilaire moved to recess the meeting until September 19th. The motion was duly seconded and passed with no dissenting votes.

*A true copy; I attest:*

*Michelle Mulholland  
Deputy City Clerk*