



City of Concord
City Council
Meeting Minutes - Draft

Monday, January 8, 2018

6:30 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 be held after the Council meeting.

1. Call to Order.

Mayor Bouley called the meeting to order at 6:30 p.m.

2. Invocation.

3. Pledge of Allegiance.

4. Roll Call.

Present: 13 - Councilor Candace Bouchard, Mayor Jim Bouley, Councilor Byron Champlin, Councilor Mark Coen, Councilor Amanda Grady Sexton, Councilor Allan Herschlag, Councilor Fred Keach, Councilor Jennifer Kretovic, Councilor Keith Nyhan, Councilor Dan St. Hilaire, Councilor Stephen Shurtleff, Councilor Brent Todd, and Councilor Robert Werner

Excused: 2 - Councilor Linda Kenison, and Councilor Gail Matson

5. Ceremonial Swearing in of Mayor Bouley.

Action: City Clerk Janice Bonenfant performed the oath of office for Mayor Bouley.

6. Ceremonial Swearing in of Members of City Council.

Action: Mayor Bouley performed the oath of office for the newly elected members of Council.

7. Nominations for Mayor Pro Tem.

Action: Councilor Nyhan moved to nominate Councilor St. Hilaire as the Mayor Pro Tem. The motion was duly seconded.

Councilor Nyhan indicated that Councilor St. Hilaire has been in the Mayor Pro Tem role for ten years stating that he has proven himself to be an articulate and

compassionate councilor concerned about constituent services, knowledgeable about the issues they've dealt with and has done a great job filling in during the Mayor's absence.

8. Election of Mayor Pro Tem.

Action: Councilor Nyhan's motion to nominate Councilor St. Hilaire as the Mayor Pro Tem passed with no dissenting votes.

9. Remarks by Mayor Pro Tem.

Action: Councilor St. Hilaire thanked Council for their service and for the opportunity to serve as the Mayor Pro Tem again.

10. Comments by Members of City Council.

Action: Members of the City Council expressed their gratitude to their families thanking them, and the voters of Concord, for all their support.

Mayor Bouley thanked his family, the voters, the Council and city staff.

11. Approval of the Meeting Minutes.

December 11, 2017 City Council Meeting Minutes.

Action: Councilor Nyhan moved approval of the December 11, 2017 City Council meeting minutes. The motion was duly seconded and passed with no dissenting votes.

12. 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 Nyhan moved approval of the consent agenda with item 22 removed to the end of the agenda for discussion. The motion was duly seconded and passed with no dissenting votes.

Items Tabled for February 12, 2018 Public Hearings

13. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 14, Morals and Conduct; together with report from the Deputy City Manager - Development.

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

14. 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 Body & Maintenance Technician/Welder; together with report from the General Services Director and the Director of Human Resources and Labor Relations.

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

From the City Manager

15. Positive Citizen Comments.

Action: This positive comments was received and filed.

Consent Reports

16. Diminimus gifts and donations report from the Library Director requesting authorization to accept monetary gifts totaling \$12,142.67 as provided for under the pre-authorization granted by City Council.

Action: This consent report was approved.

17. Quarterly Current Use Change Tax Report from Director of Real Estate Assessments.

Action: This consent report was approved.

18. Report from the City Engineer on behalf of the Transportation Policy Advisory Committee in response to a referral from Councilor Kretovic regarding a resident request for review of the curb line constructed at the driveway to 224 North State Street.

Action: This consent report was approved.

19. Report from Assistant City Planner on behalf of the Conservation Commission, recommending the City Manager be authorized to accept a donation of land, assessed at \$3,300, for conservation purposes.

Action: This consent report was approved.

Consent Resolutions

20. Resolution authorizing the City Manager, by way of the Police Department, to submit an application to the State of New Hampshire Homeland Security Grant

Program, for grant funding of an Incident Command Vehicle; together with report from the Police Department.

Action: This consent resolution was approved.

21. Resolution relative to the public highway discontinuance of a portion of the original location of Lakeview Drive along land of Betty Lou Nichols known as Map 51Z, Lot 11, and along land of the City of Concord known as Map 51Z, Lot 16 in Concord New Hampshire; together with a report from the Deputy City Manager - Development.

Action: This consent resolution was approved.

22. Resolution repurposing the sum of \$10,000 from the Golf Course Equipment Replacement Project, CIP #530, to the Golf Course Grounds Improvement Project, CIP #235, for the Phase I Irrigation; together with report from the Deputy City Manager - Finance. (Pulled from consent by Councilor Herschlag)

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

Consent Communications

Appointments

23. City Manager's proposed appointment to the Heritage Commission. Jim Spain

Action: This appointment was approved.

From the Mayor

End of Consent Agenda

Public Hearings

- 24A. Ordinance amending the Code of Ordinances, Title V, Administrative Code; Chapter 30, Administrative Code; Article 30-3, Boards and Commissions, Economic Development Advisory Council; together with a report from the Deputy City Manager-Development.

Action: Councilor Herschlag asked the City Manager to explain how the strike force is going to work, who's going to be appointing members, and if there is going to be any Council participation on this strike force. City Manager Tom Aspell responded that the strike force will vary in its membership; they will be more like ad-hoc groups to deal with specific issues that come up. He noted that, if anything is going to last for any period of time, staff would come back to the Council and ask for direction on the issue that needs to be addressed. He explained that, for

the vast majority of times, they will be focusing on attracting business and working with existing businesses which therefore will be done by himself and the Community Development Director. He indicated that they will be appointing members primarily from the private sector adding that, if there are councilors that would like to be standing members, then he would accept that from the Council. Mr. Aspell stated that the idea is to bring in people with specific knowledge sets to the specific issues.

Councilor Herschlag noted that what he envisions is that people who would be supportive of a particular project or have knowledge in a particular field would be part of that strike force depending on the project potentially coming into the city. The question that he has is whether there will be members included that would pull back the reins as opposed to just having "cheerleaders". Mr. Aspell responded that they want to have a balance; the idea would be to work on items that City Council and the community has indicated that they would like to focus. He noted that it would come back to a committee/board or the Council so that there would be that public disclosure and action that would need to take place. If there was a certain type of business in downtown Concord or Penacook that the City Council has already said over the years, working with Intown Concord or the Chamber of Commerce, that they would like to happen, he wouldn't see any need to come back to the Council. He indicated that they would go out and pull in leaders throughout the community that they believe would help them make that happen. In addition, the idea is that he would like to have Community Development staff come back to the Council on a periodic basis to report on what they have been doing and what the focus has been to receive feedback to ensure they are on the right track.

Councilor Coen views this as more business oriented than a project - going out and recruiting companies and businesses to locate or expand in Concord. He inquired whether a business could be referenced as a project. Mr. Aspell responded that to be correct in some cases. Councilor Coen pointed out that if they are promoting a business to come into Concord, they are selling the city and inquired as to how it would work if there is someone opposed to having the business come into the city. Mayor Bouley responded that every situation is unique. He noted that it's their responsibility to ensure it's in the best interest of the community. He noted that the best advocates for the city may not always be the staff that work for the city - it could be an employer, someone from the arts community, someone from the bicycling community, etc. It's whoever the right person is at the right time. He feels that the strike force concept is wanting to make sure they find the right people to be involved. He noted that EDAC did a great job for many years but had

members appointed from very specific organizations.

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

For public record, Mayor Bouley indicated that Council received a correspondence from Tim Bernier.

- 24B. Ordinance amending the Code of Ordinances, Title V, Administrative Code, Chapter 35, Classification and Compensation Plan, Article 35-2, Compensation Plan; together with report from the General Services Director and the Director of Human Resources and Labor Relations.

Action: City Manager Tom Aspell provided an overview explaining that the proposed ordinance would take three administrative managerial positions and consolidate into two positions. He added that the department also proposes to establish a new entry level work force labor position titled Maintenance/Operations Flex Technician; the intention of this new position is to provide an entry level career development position trained in the areas of work performed by the Highways and Utilities Division, Public Properties Division, Administrative Division and Equipment Services Division ultimately leading to a full time in one of the three divisions.

Councilor Herschlag asked what the step/salary difference would be if the entry level/training position were to be hired full time. Mr. Aspell responded that it would depend upon which division the position went to explaining that, generally, they would be moving from one pay scale to another at a minimal increase.

Councilor Herschlag asked if it would be the same step if the position was moving from the training position to an entry level position. General Services Director Chip Chesley responded that it would be a 2.5 percent to a 5 percent increase.

Mayor Bouley opened the public hearing.

Public Testimony

Roy Schweiker, resident, spoke in opposition to the proposed ordinance providing two alternative options: 1) a parking enforcement officer to be used only when the meters are not enforced or 2) a neighborhood official to help with various neighborhood issues.

Councilor Nyhan inquired as to how Mr. Schweiker would feel if they had that neighborhood official as a volunteer from that particular ward. Mr. Schweiker replied that he doesn't object to the idea of having a volunteer in each ward but noted a few concerns such as technical knowledge or enforcement ability.

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

Public Hearing Action

25. Ordinance amending the Code of Ordinances, Title V, Administrative Code; Chapter 30, Administrative Code; Article 30-3, Boards and Commissions, Economic Development Advisory Council; together with a report from the Deputy City Manager-Development.

Action: Councilor Coen moved approval. The motion was duly seconded.

Councilor Herschlag moved to include Council members on the strike force and that the number of members and who they would be would be determined at a future date.

Mayor Bouley explained that the proposed ordinance strikes the existing ordinance so that there is nothing remaining.

Councilor Herschlag indicated that they have been discussing a strike force that would be assembled by Economic Development depending on the project or business. What he would like to see is that they would select a number of Council members that would participate whenever that strike force came together.

Mayor Bouley indicated that he doesn't see the need to entertain an amendment such as this because he would assume that a ward councilor would be included adding that for many of the projects, Council would have the final say. He stated that the goal is to find the right people for the right situation.

Councilor Herschlag amended his motion that a member of the Council, depending on the location of the project, would be invited to participate on the strike force.

Councilor Kretovic stated that what is before them is to eliminate the existing ordinance and has nothing to do with the strike force at this time. She noted that a recommendation by staff to write an ordinance relative to the strike force could come forward later.

Mayor Bouley indicated that is the way he understands it.

Councilor Herschlag stated that he is uncomfortable removing EDAC without a clear understanding of the membership. He would like to have some assurance, moving forward, that there is some Council involvement earlier on as opposed to towards the end of the process.

Following brief Council discussion, there was not a second to Councilor Herschlag's motion.

Councilor Coen's motion to approve the ordinance passed with no dissenting votes.

26. Ordinance amending the Code of Ordinances, Title V, Administrative Code, Chapter 35, Classification and Compensation Plan, Article 35-2, Compensation Plan; together with report from the General Services Director and the Director of Human Resources and Labor Relations.

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

Mayor Bouley noted his support of the proposed ordinance commending staff in creating a better work environment for General Services to be more effective with their time and to create opportunities for growth within the department.

Referencing Mr. Schweiker's testimony, Councilor St. Hilaire noted that he drives within his ward and reports any issues. He further noted that if it's not him, then his constituents will inform him of any issues within Ward Ten.

Mayor Bouley noted his agreement with Councilor St. Hilaire indicating that all councilors do this and are very effective with it.

The motion to approve passed with no dissenting votes.

Appointments by the Mayor

Reports

27. Form Based Code Zoning project update from the City Planner.

Action: City Planner Heather Shank explained that in fiscal year 2018, Council allocated funds to update and revise the zoning code to transition to a form based code for some districts. She noted that this proposes a two year process with the first year being more focused on downtown Concord and downtown Penacook and the residential neighborhoods close to them. She indicated that staff spent October and November interviewing candidates and chose a consultant, Code Studio, from Austin, Texas. She noted that a kick off meeting is scheduled for the week of February 5th to: tour the city with staff; hold a kick off meeting with the public, and stakeholder interviews. The stakeholders are intended to include downtown developers and property owners, neighborhood residents, development professionals, representatives of various boards/commissions. She indicated that the idea is to have a special meeting during the time the consultant is here, an hour each, for Planning Board, City Council and the Zoning Board. Ms. Shank highlighted a calendar of events: the first three months is the first phase of the project which includes the kick off, a website, an engagement plan - tools and strategies used for public outreach, code assessment, drafting a community character document - the basis and foundation, a strategy report. She indicated that their fourth month will include confirmation of the vision that Code Studio has come up with based on everything they have done/reviewed up to that point.

Councilor Todd pointed out that Penacook went through this exercise several years ago with a grant that was received which included some outcomes and reports. He asked if they are considering this to be a fresh start or whether they will be including some of this other material. Ms. Shank responded that they will be building upon this.

Councilor Herschlag inquired whether the schedule and any information that comes available will be posted on the city's website. Ms. Shank explained that there will be a designated website for this project with links from the Planning webpage.

Councilor Herschlag noticed from other projects that Code Studio has done is that they establish a team of other consultants and/or professionals. He inquired whether Code Studio will be working alone on this project or whether they are going to include other consultants. Ms. Shank replied that they will be the primary on this project and will be the sole consultants.

New Business**Unfinished Business**

28. Resolution authorizing the City Manager to enter into a license agreement with Associated Enterprises, Inc. to install a balcony and related improvements within the North Main Street rights-of-way; together with report from the Director of Redevelopment, Downtown Services & Special Projects. (Action on this item tabled at the May 8, 2017 Council meeting)

Action: Councilor Nyhan moved to remove this item from the table. The motion was duly seconded and passed with no dissenting votes.

Mayor Bouley explained that the applicant filed an application with the city, went to the Architectural Design Review who made recommendations to the Planning Board; the Planning Board took this up and made a recommendation to the Council who chose not to take a favorable or unfavorable action on this item. The Council tabled the item and referred it back to the Planning Board asking them to discuss this, and other items on Main Street, and to look at all balconies and what they are in terms of moving forward with the city if they are over the public right of way. He explained that there have been several meeting between the Planning Board, the Architectural Design Review Committee and others and have come back with draft recommendations to the Council. He noted that the applicant has approached him indicating that they were waiting on a decision from the city one way or another.

Councilor Shurtleff moved to deny the application without prejudice. The motion was duly seconded.

Councilor Shurtleff stated that his original objection to this was due to the historic nature of the building. He feels that it would be inappropriate for Council, at this time, to act while they are in the process of drafting a procedure to deal with the requests for balconies.

Councilor Werner supports the motion to deny noting that he feels they need to be careful and need to have some standards in place. He noted that the city has spent so much time, effort and money to build Main Street and thinks the balcony issue has to be placed in the context of this and the historic nature of the downtown.

Councilor Champlin noted his support of the motion. He feels that there needs to be defined guidelines of balconies on Main Street buildings noting that he is

sensitive with this particular building because he feels that it's one of the most beautiful facades they have.

Councilor Kretovic supports the motion to deny noting her concern with the city issuing an occupancy permit on something that was not in line with the plan. Her original concern was that she doesn't know what feet they stand on as a city that they allowed this to continue and allowed occupancy that was not part of the plans that were approved by the Planning Board. She pointed out that this block was granted 79-E tax relief for being a residential property and the pro-forma that was placed before staff was based upon a certain value of that property; they don't know if the property was de-valued because the balconies they put in are lessening the value anticipated at the end of 79-E. She stated that she doesn't know what the city is going to do when someone puts in something different after going through the process. She stressed the historic nature of the downtown and doesn't feel that this is something that they should tread lightly on.

Councilor Herschlag noted that regardless of what Remi did or didn't do in relation to the approved plans, he feels that it was the responsibility of the city to step in and either say take them down, not issue the certificate of occupancy, or say it's okay. At the end of the day, he feels that it's their responsibility to make a determination of whether or not those balconies should stay in the design they are in now; to deny the project before them this evening because the city didn't follow through on due diligence has a potential to send a chill to other developers. He is not inclined to support the motion but what he would support is that the applicant sit down with the Planning Board and Architectural Design Review Committee and come up with a design that would meet the new regulations that have been approved by the Planning Board but hasn't yet come before the Council. He would be more inclined to soften the message that they send to other developers in saying that it's their guidance that they are sending this project back to be in compliance with the new regulations that are being worked out as opposed to outright denying this.

Councilor Todd noted his support of the motion to deny noting that he doesn't feel comfortable making decisions, as a member of Council, on architectural review or handling potential future one off cases like the Zoning Board of Adjustment does. He wants to see the good work by the Planning Board continue and get those recommendations in before they move forward in a uniform manner so that there will be no confusion from any potential developers.

Councilor Kretovic noted that Council took an oath tonight that they are supposed to do what they believe is in the best interest of the city, their constituents and to the ordinances. She indicated that the project failed; the city was wrong but they put a stop to it. She stated that the Council has the last voice and their voice, at that time, was not in favor.

Councilor Herschlag indicated that the Planning Board approved this project.

Councilor Bouchard inquired as to when the Planning Board is going to come up with these guidelines. City Planner Heather Shank responded that the Planning Board approved giving Council a presentation this evening on the draft of the design guidelines but because there was still some work that they asked staff to do, they decided to hold it off until next month.

Councilor Kretovic asked if its in the best interest of the applicant that this item remain on the table as opposed to voting for or against it. Mayor Bouley responded that its his understanding that the applicant wanted an up or down vote tonight.

Councilor Herschlag asked if there were any concerns on unintended consequences if they were to vote against this. Mayor Bouley responded that they would be acting on one particular applicant. He added that they haven't voted on any guidelines yet so they would handle each applicant that comes before them to go over the sidewalk as they do everyone else.

Matt Walsh, Director of Redevelopment, Downtown Services & Special Projects, feels that having standards in place sooner rather than later will be helpful for the city.

Councilor Shurtleff's motion to deny the application passed with one dissenting vote from Councilor Herschlag.

Comments, Requests by Mayor, City Councilors

Councilor Bouchard indicated that she took part in the Intown Concord tour of Upstairs in Concord in which part of the tour included the Remi building. She noted that it was very generous for everyone on the top floor to open up their homes for the tour. She noted that they were very nice apartments with a lot of young professionals residing noting that its having the desired affect they as a city wants for downtown.

Mayor Bouley agreed that it was nice of Remi to open up the building and the occupants of the apartments to open up their homes for the tour. He noted that Remi did an outstanding job with the building and that is why he was proud to vote for the granting of 79-E for five years to make this project work. He feels that the city has done an excellent job supporting the project.

Councilor Champlin announced that the winter carnival at White Park is coming up on January 20th. He noted that the Ugly Sweater 5K was cancelled this year due to conflicts but will be back next year.

Councilor St. Hilaire reminded everyone of the 8th Annual Black Ice Pond Hockey Tournament to be held January 26th through the 28th.

Mayor Bouley indicated that this is the month in which he sends out a memo appointing a committee to deal with the City Manager's evaluation. He chose not to do that this evening because at the last evaluation they talked about trying to find a new process that may be more beneficial to them as a Council, the community and the City Manager. He would like to schedule a meeting to discuss the evaluation process and asked them to bring their ideas on how they can best get the most information possible and create the most useful process for all parties involved. He added that he would also like to set a date for their priority setting session.

Council agreed to meet Monday, January 22nd for the City Manager's evaluation and review process and to meet on Monday, January 29th for the priority setting session. Both meetings to be held at 6:00 p.m. in City Council Chambers.

Comments, Requests by the City Manager

Consideration of items pulled from the consent agenda for discussion

** Item 22 has been pulled from the consent agenda for discussion.*

22. Resolution repurposing the sum of \$10,000 from the Golf Course Equipment Replacement Project, CIP #530, to the Golf Course Grounds Improvement Project, CIP #235, for the Phase I Irrigation; together with report from the Deputy City Manager - Finance. (Pulled from consent by Councilor Herschlag)

Action: Councilor Herschlag understands the necessity of moving forward with capital projects at the golf course but what's changed over the years is the golf course's ability to continue funding these projects. He noted this year versus last year numbers, regardless of the fact that it was or wasn't a good weather year, that

the golf course would still be in a difficult position financially. He would like, as they approach the budget, to look at some other suggestions as to what should or can be done with the golf course. He noted that it's not operating any longer as an enterprise fund and the further they get into the CIP, the more dire the funding becomes. He noted that as they move forward with the new budget, he wants the community to be aware of the input of funding that they will be putting into the golf course. He feels that its a valuable asset but feels that they owe it to the community to be upfront about how they anticipate funding this over the next five or ten years.

Mayor Bouley inquired as to what Councilor Herschlag is looking to do.

Councilor Herschlag indicated that the golf course is no longer able to fund itself. He believes that they owe it to the community, that if they are going to use general funds to pay for golf course expenses, to have a rigorous discussion.

Mayor Bouley asked if the discussion would be whether or not to fund it.

Councilor Herschlag noted that the discussion would be on where the funding would come from, would they consider leasing the golf course, or whether they would consider selling or developing it.

Following additional Council discussion, Council indicated that concerns brought forth by Councilor Herschlag should be discussed during the upcoming budget process.

Councilor Kretovic moved approval of the resolution. The motion was duly seconded and passed with no dissenting votes.

Consideration of Suspense Items

Action: Councilor Nyhan moved to suspend the rules to consider items not previously advertised. The motion was duly seconded and passed with no dissenting votes.

Sus1. Report authorizing the City Manager to grant a license to the New Hampshire Police Association to maintain an accessible walkway/ramp on a portion of City owned property abutting 8 Centre Street. (Revised report submitted)

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

Adjournment

Action: The time being 8:21 p.m., Councilor Nyhan moved to adjourn the meeting and enter into non-public session in accordance with RSA 91-A:3, II(d) to discuss property acquisition. The motion was duly seconded and passed with no dissenting votes.

A true copy; I attest:

*Michelle Mulholland
Deputy City Clerk*