



City of Concord

City Council

Meeting Minutes - Final

Monday, August 13, 2018

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 the acquisition, sale or lease of property followed by a non-public session in accordance with RSA 91-A: 2, I (a) to discuss collective bargaining strategies to be held at 6:00 p.m.

Present: Councilors Bouchard, Champlin, Coen, Grady Sexton, Herschlag, Kenison, Kretovic, Nyhan, St. Hilaire, Shurtleff, Todd and Werner. Mayor Bouley and Councilors Keach and Matson were absent and excused.

Mayor Pro Tem St. Hilaire called the meeting to order at 6:00 p.m.

Councilor Nyhan moved to enter into non-public session in accordance with RSA 91-A: 2, I (a) to discuss collective bargaining strategies and non-public session in accordance with RSA 91-A:3, II (d) to discuss the acquisition, sale or lease of property. The motion was duly seconded by Councilor Shurtleff and passed unanimously with no dissenting votes.

At 6:59 p.m., Councilor Nyhan moved to exit non-public session. The motion was duly seconded by Councilor Champlin and passed unanimously with no dissenting votes.

Councilor Nyhan moved to seal the minutes. The motion was duly seconded and passed unanimously with no dissenting votes.

This portion of the meeting was adjourned at 6:59 p.m.

1. Call to Order.

Mayor Pro Tem St. Hilaire called the regular meeting to order at 7:07 p.m.

2. Invocation by Rabbi Robin Nafshi, Temple of Beth Jacob.
3. Pledge of Allegiance.

4. Roll Call.

Present: 12 - Councilor Candace Bouchard, Councilor Byron Champlin, Councilor Mark Coen, Councilor Amanda Grady Sexton, Councilor Allan Herschlag, Councilor Linda Kenison, Councilor Jennifer Kretovic, Councilor Keith Nyhan, Councilor Dan St. Hilaire, Councilor Stephen Shurtleff, Councilor Brent Todd, and Councilor Robert Werner

Excused: 3 - Mayor Jim Bouley, Councilor Fred Keach, and Councilor Gail Matson

5. Approval of the Meeting Minutes.

July 9, 2018 City Council Meeting Minutes.

Action: Councilor Grady Sexton moved approval of the July 9, 2018 meeting minutes. The motion was duly seconded and passed with no dissenting votes.

6. Agenda overview by the Mayor.

Consent Agenda Items

Approval of the Consent Agenda

Action: Councilor Champlin moved approval of the consent agenda. The motion was duly seconded and passed with no dissenting votes.

Referral to the Transportation Policy Advisory Committee and the Public Safety Board

7. Petition from residents of Guay Street, Temi Road, Dennis Drive and Cricket Lane requesting consideration be made to reducing the speed limit and/or installing sidewalks in the area.

Action: This communication referred to the Transportation Policy Advisory Committee and the Public Safety Board.

Referral to the Transportation Policy Advisory Committee and the Traffic Operations Committee

8. Communication from Councilor Kenison, on behalf of Ward Six residents, asking that consideration be given to making Thorndike Street one-way from South Street to South State Street and/or consideration be given to making intersection visibility improvements.

Action: This communication referred to the Transportation Policy Advisory

Committee and the Traffic Operations Committee.

Items Tabled for September 10, 2018 Public Hearings

9. Ordinance amending the Code of Ordinances; Title II, Traffic Code; Chapter 17, Vehicles and Traffic; Article 17-4, Operation of Motor Vehicles; Section 17-4-17, Alteration of Speed Limits; Rockingham Street; together with a report from the Traffic Engineer.

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

10. Resolution appropriating the sum of \$91,900 for the procurement of outside services to complete a bagged fall leaf collection, to be funded entirely from fund balance in the Solid Waste Fund; together with report from the Solid Waste Advisory Committee. (Public testimony received)

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

11. Ordinance amending the Code of Ordinances, Title V, Administrative Code; Chapter 31, Purchasing and Contract Procedure, Article 31-1, Purchasing Procedures; together with report from the City Solicitor.

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

12. Ordinance amending the Code of Ordinances, Title V, Administrative Code; Chapter 34, Personnel Rules and Regulations, Article 34-5, Recruitment; together with report from the Director of Human Services and Labor Relations.

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

13. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; Article 28-2, Zoning Districts and Allowable Uses; Section 28-2-3, the Zoning Map; together with report from the Deputy City Manager - Development.

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

14. Resolution accepting and appropriating the sum of \$22,540 in unmatched grant funds from the United States Department of Justice, Edward Byrne Memorial Justice Assistance Grant Program, funds designated for law enforcement related programs; together with report from the Police Department. (Copy of application received, not previously distributed)

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

15. Resolution appropriating the sum of \$24,382.76 received from the State of New Hampshire as proceeds from forfeited property, funds to be utilized by the Police Department in furtherance of illegal drug related investigations; together with report from the Police Department.

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

16. Resolution appropriating the sum of \$104,100, to include \$56,100 to the Project Inspection Fund and \$48,000 to the General Fund for Fiscal Year 2018 retroactive to June 30, 2018, to be funded entirely from excess revenues in the Inspection Fund and fund balance in the General Fund; together with report from the Deputy City Manager-Finance.

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

17. Resolution appropriating the sum of \$1,412,510 for the purpose of constructing phase II of the rehabilitation to Taxiway A (CIP #468), accepting \$1,278,000 in grant funds from the Federal Aviation Administration (FAA) and \$71,000 from the State of New Hampshire, and authorizing the issuance of bonds and notes in the amount of up to \$63,510; together with report from the Associate Engineer.

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

18. Resolution authorizing and appropriating the sum of \$42,000 from the 1883 Black Ice Pond Hockey Association; together with report from the Parks and Recreation Director.

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

From the City Manager

19. Positive Citizen Comments.

Action: This positive comments was received and filed.

Consent Reports

20. Diminimus gifts and donations report from Human Services Director requesting authorization to accept monetary gifts totaling \$35.28 as provided under the pre-authorization granted by City Council.

Action: This consent report was approved.

21. Diminimus gifts and donations report from the Human Services Director requesting permission to accept monetary gifts totaling \$625.00 as provided under the

pre-authorization granted by City Council.

Action: This consent report was approved.

22. Diminimus gifts and donations report from the Library Director requesting authorization to accept monetary gifts totaling \$1,483.50 as provided for under the pre-authorization granted by City Council.

Action: This consent report was approved.

23. Diminimus gifts and donations report from the Parks and Recreation Director requesting authorization to accept monetary gifts totaling \$3,568.84 as provided for under the pre-authorization granted by City Council.

Action: This consent report was approved.

24. 2018-2019 City Council quarterly priorities report from the City Manager.

Action: This consent report was approved.

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

Action: This consent report was approved.

26. Quarterly Report from the Police and Fire Chiefs on drug overdoses and other statistics.

Action: This consent report was approved.

27. Report from the Fire Chief on Fire and EMS Mutual Aid, 2013-2018.

Action: This consent report was approved.

28. Report from the General Services Director regarding a Citizen's Bank/Solid Waste Fund Purchasing Card Rebate

Action: This consent report was approved.

29. Report from the City Engineer recommending acceptance of a public right-of-way easement deed on Portsmouth Street from the Society for the Protection of New Hampshire Forests.

Action: This consent report was approved.

30. Report from the City Engineer regarding a request from Robert D. and Sherri A. Morrill Revocable Trust (Morrill Dairy Farm) to license a well water line across the

City right-of-way for Penacook Street in Penacook.

Action: This consent report was approved.

31. Report from the Traffic Engineer on behalf of both the Traffic Operations Committee and the Transportation Policy Advisory Committee in response to a referral from City Council regarding resident concerns on stop sign violations, traffic volumes and noise in the vicinity of the Broadway/Rockingham intersection.

Action: This consent report was approved.

32. Report from the Traffic Engineer on behalf of the Transportation Policy Advisory Committee in response to a referral from Councilor Herschlag requesting funding for sidewalk along Borough Road.

Action: This consent report was approved.

33. Report from the Parks and Recreation Director recommending de-authorization of five thousand dollars from the City's grants and donations fund.

Action: This consent report was approved.

34. Report from the Director of Redevelopment, Downtown Services, and Special Projects regarding RSA 79-E Community Revitalization Tax Relief Incentive application revisions.

Action: This consent report was approved.

Consent Resolutions

35. Resolution in honor of the services of Retired Fire Lieutenant Ian Holm.

Action: This consent resolution was approved.

36. Resolution repurposing the sum of \$225,000 from the 2016 and 2017 Water Main Replacement subprojects (CIP #85) to the 2018 Water Main Replacement subproject (CIP #85); together with report from the General Services Director and the City Engineer.

Action: This consent resolution was approved.

37. Resolution repurposing the sum of \$31,566 from the Water Fund 2017 and 2018 Vehicle and Equipment Replacement Subprojects (CIP #121) for use on the 2019 Vehicle and Equipment Replacement Subproject (CIP #121); together with report from the General Services Director.

Action: This consent resolution was approved.

38. Resolution authorizing the City Manager to accept and enter into a grant agreement for up to \$2,850,000 with the New Hampshire Department of Transportation (NHDOT) Bureau of Aeronautics, for the purpose of constructing Phase I and II rehabilitation of 5,000 feet of Taxiway A, crack sealing and marking runways 17/35 and 12/30 and obstruction removal; together with a report from the Associate Engineer.

Action: This consent resolution was approved.

39. Resolution authorizing the City Manager to submit an application to the United States Department of Justice - Edward Byrne Memorial Justice Assistance Grant Program for funds designated for law enforcement related programs; together with report from the Police Department.

Action: This consent resolution was approved.

End of Consent Agenda

Public Hearings

- 40A. Resolution authorizing and appropriating the sum of up to \$340,000 from the Conservation Trust Fund for the acquisition of open space property located on Hot Hole Pond Road; together with report from the Assistant City Planner, on behalf of the Conservation Commission.

Action: Beth Fenstermacher, Assistant City Planner, provided a brief overview explaining that they couldn't identify grants to match so the funds will be coming from the conservation trust fund; any transaction costs will come from the general operating budget of the Conservation Commission.

Kristine Tardiff, Conservation Commission, added that this is the backside of Oak Hill in which there is already existing trails. She highlighted some of the features of the property such as slopes, stone walls and stone foundations.

Mayor Pro Tem St. Hilaire opened the public hearing. There being no public testimony, the Mayor Pro Tem closed the hearing.

- 40B. Resolution authorizing and appropriating the sum of up to \$13,400 from the Conservation Trust Fund for the acquisition of open space property located off of Fisk Road; together with report from the Assistant City Planner on behalf of the Conservation Commission.

Action: Beth Fenstermacher, Assistant City Planner provided a brief overview explaining that this would create a continuous corridor that's protected from Winant Park down to Little Pond Road.

Mayor Pro Tem St. Hilaire commented that he likes the reports because they include a map next to the explanation so they don't have to go to another attachment. He noted that its very helpful.

Mayor Pro Tem St. Hilaire opened the public hearing. There being no public testimony, the Mayor Pro Tem closed the hearing.

- 40C. Resolution accepting and appropriating the sum of \$180,000 in unmatched grant funds from the State of New Hampshire Homeland Security Grant Program, funds designated for the purpose of purchasing an Incident Command Vehicle; together with report from the Police Department.

Action: City Manager Tom Aspell provided a brief overview.

Councilor Kretovic pointed out that in the past, when the city is purchasing something from the Central NH Special Ops, there are memorandum of understanding from the surrounding communities that are participating in this as well. She inquired whether this will be the case with this item. Mr. Aspell responded that this will be the same type of situation; they would share the vehicle with surrounding communities. He indicated that there is no match for the city's costs, however, they do share in the cost of the vehicle maintenance going forward.

Councilor Kretovic inquired whether the memorandum of understandings have been signed. Deputy Police Chief Greg Taylor replied that the memorandum of understandings have not yet been signed but will be.

Councilor Herschlag asked what the vehicle is going to look like. Deputy Chief Taylor responded that its a box truck that is smaller than what is currently in the back lot.

Mayor Pro Tem St. Hilaire opened the public hearing. There being no public testimony, the Mayor Pro Tem closed the hearing.

- 40D. Resolution accepting and appropriating the sum of \$65,000 in grant funding from the New Hampshire Department of Safety Law Enforcement Opioid Abuse Reduction Initiative, funds designated for conducting illegal drug related

investigations; together with report from the Police Department.

Action: City Manager Tom Aspell provided a brief overview.

Mayor Pro Tem St. Hilaire opened the public hearing. There being no public testimony, the Mayor Pro Tem closed the hearing.

- 40E. Resolution authorizing the acceptance of a grant from Unifit in the amount of up to \$22,300 and appropriating the sum of up to \$22,300 for the installation of LED lighting at the Combined Operations and Maintenance Facility as part of the 2018 LED Lighting subproject (CIP #323)

Action: City Manager Tom Aspell provided a brief overview.

Mayor Pro Tem St. Hilaire opened the public hearing. There being no public testimony, the Mayor Pro Tem closed the hearing.

- 40F. 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, Schedule I; Section 18-1-8, Parking Time is Limited in Designated Spaces, Schedule III; Warren Street; together with a report from the Traffic Engineer.

Action: City Manager Tom Aspell provided a brief overview.

Mayor Pro Tem St. Hilaire opened the public hearing. There being no public testimony, the Mayor Pro Tem closed the hearing.

- 40G. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 5, Public Works; Article 5-1, Highways and Sidewalks; and Title 1, General Code; Chapter 1, Government Organization; Article 1-5, Fees, Fines and Penalties, Schedule 1; together with report from the City Planner.

Action: City Planner Heather Shank provided an overview.

Mayor Pro Tem St. Hilaire inquired whether other fees are done in this manner. He pointed out that this ordinance would authorize the Code Administrator and the City Manager to set the fee rather than the Council. He noted that they vote on the fees once a year when looking at the budget. Ms. Shank responded that she feels that this process should be the same as the other processes. She noted that within the report, they made a recommendation that was very low.

Councilor Champlin noted that people may be wondering why Council is talking

about fees for items that they haven't had fees on before such as sidewalk dining. He asked if staff could explain the rationale behind attaching fees to these items. Ms. Shank explained that she believes that there are a number of reasons why to do it; most directly, it helps cover the cost of administration of the ordinance and of the actions that staff has to take. She feels that it helps the community to be more invested in the choices that they made or with the commitments that they made in terms of where they are placing certain features.

Councilor Herschlag questioned whether this regulation would affect the planters that are currently on the sidewalk. Ms. Shank responded that commercial planters would need a permit and indicate on the application as to where they are going to go. She added that this wouldn't be for someone that wanted to place a potted plant by their door.

Councilor Herschlag asked if these regulations specify where those planters are allowed to be placed. Ms. Shank indicated that the recommendation is to review the design guidelines for best practices. She explained that the design guidelines say that the furniture zone which is Zone C, where the brick pavers are, is an acceptable place for planters. She noted that it also says that anything that is placed there has to be out of the way of fire hydrants, signs and benches so it can't encumber any other public feature.

Under these proposed revised regulations, Councilor Herschlag asked if it would be allowed if somebody placed a planter or chairs adjacent to the brick pavers but on the sidewalk. Ms. Shank responded that it wouldn't be allowed.

Councilor Nyhan asked how many people attended the public meeting. Ms. Shank responded that she is not sure but indicated that it was a full room. She added that there may have been approximately a dozen business owners and additional people from the public.

Councilor Nyhan indicated that he is trying to gauge how much public support there was in discussing this particular piece from the business owners that would be impacted.

Councilor Kretovic added that there were approximately 40 to 50 people in the room. She noted that a lot of the representatives that were retail merchants had signs and not necessarily from restaurants because they were either not open or they were serving breakfast.

Ms. Shank stated that she tried to set the meeting at a time that was recommended that the restaurant owners could attend. She noted that staff did their best to encourage them and get the word out using social media and Intown Concord.

Since the public meeting occurred, Councilor Nyhan asked whether the report has been shared with the downtown business owners and has there been any additional feedback from the downtown merchants. Ms. Shank responded that within the communications that they have had with them they gave them links to the online document that is currently available.

Referencing the question regarding the potted plants, Mayor Pro Tem St. Hilaire asked whether there would be some flexibility if there was an appropriate area in which the sidewalk is really wide. Ms. Shank responded that there would be flexibility in these cases. She noted that Zone B is the only place you can't put anything.

Mayor Pro Tem St. Hilaire opened the public hearing. There being no public testimony, the Mayor Pro Tem closed the hearing.

- 40H. Ordinance amending the Code of Ordinances, Title V, Administrative Code; Chapter 35, Classification and Compensation Plan, Schedule D or Article 35-2, Class Specification Index; together with report from the Director of Human Resources.

Action: City Manager Tom Aspell provided a brief overview.

Mayor Pro Tem St. Hilaire opened the public hearing. There being no public testimony, the Mayor Pro Tem closed the hearing.

Public Hearing Action

41. Resolution authorizing and appropriating the sum of up to \$340,000 from the Conservation Trust Fund for the acquisition of open space property located on Hot Hole Pond Road; together with report from the Assistant City Planner, on behalf of the Conservation Commission.

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

42. Resolution authorizing and appropriating the sum of up to \$13,400 from the Conservation Trust Fund for the acquisition of open space property located off of

Fisk Road; together with report from the Assistant City Planner on behalf of the Conservation Commission.

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

43. Resolution accepting and appropriating the sum of \$180,000 in unmatched grant funds from the State of New Hampshire Homeland Security Grant Program, funds designated for the purpose of purchasing an Incident Command Vehicle; together with report from the Police Department.

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

44. Resolution accepting and appropriating the sum of \$65,000 in grant funding from the New Hampshire Department of Safety Law Enforcement Opioid Abuse Reduction Initiative, funds designated for conducting illegal drug related investigations; together with report from the Police Department.

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

Councilor Kretovic indicated that she had an experience with this group noting that they did a fabulous job. She noted that they could do more to support this and this type of grant helps that targeted enforcement. She has seen it in action and wants to commend the Police Department.

The motion to approve passed unanimously with no dissenting votes.

45. Resolution authorizing the acceptance of a grant from Unitil in the amount of up to \$22,300 and appropriating the sum of up to \$22,300 for the installation of LED lighting at the Combined Operations and Maintenance Facility as part of the 2018 LED Lighting subproject (CIP #323)

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

Councilor Nyhan thanked Unitil.

The motion to approve passed unanimously with no dissenting votes.

46. 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, Schedule I; Section 18-1-8, Parking Time is Limited in Designated Spaces, Schedule III; Warren 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.

47. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 5, Public Works; Article 5-1, Highways and Sidewalks; and Title 1, General Code; Chapter 1, Government Organization; Article 1-5, Fees, Fines and Penalties, Schedule 1; together with report from the City Planner.

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

Councilor Herschlag indicated that section 1, number 3 references that fees can be established by the Code Enforcement office and approved by the City Manager. He understands that its a non-ordinance based fee but feels that it's important that fees, that don't have an issue of timeliness attached to them, be brought before the Council.

Councilor Herschlag moved to amend number 3 to include that Code Enforcement would bring it to the City Manager and it would be brought before the Council for final approval.

Councilor Nyhan asked for clarification as to what fees does he want the Council to approve.

Councilor Herschlag pointed out that within the ordinance the Code Administrator can make a recommendation to the City Manager to charge fees for the sidewalk furniture. He noted that there is nothing that requires him to come before the Council for approval of those fees.

Mayor Pro Tem St. Hilaire clarified that Councilor Herschlag wanted to add an amendment to have them come back to Council so they can review the fees that they recommend. He noted that the City Planner is asking Council for guidance on what they should charge for fees. He indicated that if Councilor Herschlag's amendment doesn't receive a second, he suggests they give some ideas of an appropriate fee; it does the same thing in a different way.

There was no second to the Councilor Herschlag's amendment.

Councilor Coen stated that he thought what he heard during the discussion was that it would come back to the Council when they set fees - they would be able to do

this, just not immediately.

Mayor Pro Tem St. Hilaire indicated that his impression was that, if this ordinance passed, prior to passage they would give the City Planner and City Manager an idea of what the Council was thinking. He feels that the discussion boils down to whether they want to do a nominal fee to show some ownership of what you're taking care of or do they not want to do it right now and revisit it later.

Councilor Nyhan wishes there had been more feedback by the downtown business owners relative to fee structures and general feedback. When he initially read this he was opposed to doing a fee because they designed Main Street to encourage people to use that space. He noted that there are valid points to having a fee; he feels there should be a fee and a formal process to go through. He noted they range from \$25.00 to \$125 and suggested they do \$50.

Councilor Kretovic noted that within the report the recommended fee is \$20.00 to start because they are not used to having any kind of fee.

Mayor Pro Tem St. Hilaire indicated at one point the signs had a set fee but the tables were per table; if there are five tables, that would be \$100. In regards to the different businesses, he feels that they start with one fee for the permit and let city staff determine how many tables are appropriate.

Councilor Nyhan indicated that he was proposing one flat application fee; that is what he would like to see.

Councilor Champlin prefers a modest per table fee because they may get into a situation where some businesses have more tables than others and they are paying the same fee.

Councilor Herschlag doesn't feel that they are quite there or are comfortable with the way the ordinance is written based on the discussion. He doesn't believe there is an issue of timeliness to pass this ordinance this evening. He wonders if they should ask Planning staff to come back with some recommendations, look at whether it make sense to continue with the City Manager making the final approval or the Council and look at a fee structure to be added within the ordinance.

Mayor Pro Tem St. Hilaire indicated that the motion currently before them is to approve the ordinance. He noted that Councilor Herschlag's point is fairly

reasonable - it's the end of the season and if the Council wishes, the motion could be withdrawn and either tabled or referred it to FPAC to have a discussion about fees if this is Council's desire.

Councilor Todd is comfortable with starting off with a low fee. He doesn't feel that the fee is the point of this; the point of this is the city maintaining control over what is placed on Main Street and where they go.

Councilor Champlin noted his agreement with Councilor Todd.

City Manager Tom Aspell explained that the ordinance, as proposed, has no fee. He recommends that Council approves the ordinance, as proposed, and staff will come back with an amendment which would have a fee structure. He stated that there is a reason for the ordinance and that still exists regardless of what the fee is.

The motion to approve the ordinance passed on a voice vote with one dissenting vote by Councilor Herschlag.

48. Ordinance amending the Code of Ordinances, Title V, Administrative Code; Chapter 35, Classification and Compensation Plan, Schedule D or Article 35-2, Class Specification Index; together with report from the Director of Human Resources.

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

Appointments by the Mayor

Reports

49. Presentation from the City Planner on the Concord NEXT Zoning Code project.

Action: City Planner Heather Shank provided a presentation on the Concord NEXT Zoning Code project.

Councilor Todd noted that the report is a great starting point and was pleased to see a lot of information from the meetings within the report. Referencing page 5 of the report in the section of establishing/implementing a vision for key locations, he pointed out that Exit 17 says industrial noting that wasn't the intention; they just had that recent zoning change. Ms. Shank responded that they were noting at the time they wrote this that it was industrial. She stated that they knew there were a lot of conversations going on and would be helpful to move that up in the process.

Councilor Herschlag noted he is excited to updating the zoning ordinances noting that he feels that its long overdue. He feels that it will be helpful bringing in the types of development that they would like to see in Concord making it a better process. He recalled two phases, two different years broken down into, and as he understands they are behind the schedule from a calendar point of view. He wants to be assured that they don't move ahead to phase two until all the items agreed upon for the first phase have been reviewed by the Planning Department and the City Council. Ms. Shank responded that its her understanding that the funding for the second phase has already been appropriated. She believes its all there but the consultants only bill as they produce. She indicated that they have only used a very small percentage of the year one funds; a bigger portion of that billing will come when they actually start drafting the code. She feels comfortable as to where they are at and where the timeline is going.

Councilor Herschlag asked if the second phase wouldn't occur until after all the deliverables are made from the first phase. Ms. Shank responded that to be correct.

Councilor Coen asked if Ms. Shank could go over how they can acquire/view this from the city's website. Ms. Shank explained that there is a website called ConcordNext.info. She stated that all of the information about what has been done so far and the deliverables are on here. She noted that one can sign up for the newsletter also.

Councilor Herschlag inquired whether there is also a link on the Planning Board page. Ms. Shank responded that there is a link on the Planning Division page on the city's website.

In regards to the phase payments, Mayor Pro Tem St. Hilaire noted that he is sure it's outlined within the contracts. His recommendation is to follow the contract and if there is an issue, the Legal Department can address it with the Council.

New Business

Unfinished Business

Comments, Requests by Mayor, City Councilors

Councilor Shurtleff complimented Mayor Pro Tem St. Hilaire for stepping in for the Mayor this evening.

Councilor Herschlag announced that on Tuesday, August 14th, Ward Two is hosting a candidates forum at the Newell Post Restaurant at 6:00 p.m.

Councilor Todd announced that the next meeting of the Penacook Village Association is scheduled for Wednesday, August 22nd, at 6:30 p.m. in the community room of the Penacook Community Center. He noted that the Penacook Village Association wants the community's help in making choices for events and projects that will bring its mission and goals to life.

Councilor Kretovic distributed a page from the Council rules to talk about Section 6D, in particular under the second paragraph - items A and B. She stated that last week there was a letter to the editor by Councilor Herschlag directing his personal opinion on a matter of state government specifically for the NH General Court with regards to the Secretary of State. She has no doubt that Councilor Herschlag had no intention of implying in any way, shape or form that his opinion was that of the Council, however, that letter was printed at the end with likely an editor's note that Councilor Herschlag is a member of the City Council representing the citizens of Ward Two. In doing that, she feels that there is an implication that this is the opinion of the Council. She noted that they have in the ethic rules very specific discussions about testimonials that they provide in front of quasi judicial committees of which the NH General Court is one; one has to be very explicit that you are there representing your own opinion. She is recommending this evening to have clarity around what happens when you are speaking to the press, providing your own personal opinion or giving your own free speech as a member of the Council. She wants the Rules Committee to review the possibility of adding that the Mayor represents the voice of the Council, that the Mayor is the public relations arm of their board and that it is the Mayor's responsibility to share that collective voice for them. In the interim, when they are presenting their personal beliefs and free speech, they have to declare or should be declaring that this is in no way related to the Council and that they are doing so at their own accord so that there isn't a mishap like this again.

Councilor Kretovic moved that the Rules Committee take this up for review and revision and bring back to the Council. The motion was duly seconded.

Councilor Todd feels that it would be beneficial to have this matter reviewed. He noted that he wrote to Councilor Herschlag for clarification after the article came out but did not receive a response. He stated that it's not a matter of agreeing or disagreeing with the views that Councilor Herschlag expressed in his article; he just

disagrees that he expressed them as a Councilor as opposed to as a private citizen. He feels that there is an appearance that this opinion of the sole Councilor is the opinion of the entire body.

Councilor Herschlag stated that there is no way anybody who read his "my turn" piece would attribute it to his position on the Council. He pointed out that the piece started out "here is what I think". He noted that the fact that he was identified as a City Councilor is who he is. He indicated that there are many instances of people in political offices who identify themselves as so who endorse candidates. He noted that the Mayor has no more authority than any other single member of this body other than that he runs meetings. The idea that he was representing his ward or that somehow he is in violation of Section 6D is ludicrous; Section 6D is very clear that it refers to comments before city boards, city commissions, or sub-committees. He noted that when he testifies at the state, he clarifies that he is there as an individual although he has no obligation to do so. He doesn't feel that there is any merit to this discussion and will not support any motion to bring this forth to the Rules Committee.

Councilor Werner asked whether, in their positions as Councilors, there is a distinction between posing an opinion on a policy matter versus an electoral matter; is there a difference. He noted that there are plenty of times in which he has written "my turn" pieces that have addressed particular aspects of policy and he has been identified as a City Councilor.

Councilor Kretovic noted that the fact that the NH General Court is a quasi judicial committee that is making a decision on who they would vote for the Secretary of State is not something voters are going to be voting on; that is a direct conversation that is taking place at the NH General Court. She doesn't know what bearing that had on the City Council at all and noted that Councilor Herschlag would be very wrong if he thought nobody identified something like this to the Council. She indicated that many people had questioned her in regards to this.

Councilor Grady Sexton indicated that she did not read it and feels that it would be helpful if there were some context provided in terms of the content of the editorial.

Mayor Pro Tem St. Hilaire stated that he didn't read it either but suggested that rather than continue the discussion they will see how the motion goes.

Councilor Grady Sexton indicated that she isn't going to be able to vote if she

doesn't understand the argument.

Councilor Kretovic stated that it indicates that Secretary of State Bill Gardner has done an excellent job with his review of the NH Municipal Association as well as other items he has done over the years and that this shouldn't be something that is politicized; that the legislature should support Bill Gardner in his role to continue.

Councilor Herschlag questioned the comment by his fellow Councilor that the NH House and Senate's vote for a Secretary of State is a quasi judicial matter.

Councilor Bouchard noted her agreement with Councilor Grady Sexton. She does remember reading the piece but did not have the same impression and noted that the Monitor decides what the by-line is and decides what tag lines to put under their names. Without having the piece in front of her, she is not seeing the issue because they all have public opinions on items; she would hate to get into a position in which they can't voice their own opinions as long as they are making it clear it's them as an individual person - it may indicate that the person is a Councilor but doesn't mean it's the opinion of the Council.

Councilor Kenison feels that it would behoove them to look at the rules and have a rule around a disclaimer when they are writing for the Monitor.

Councilor Coen recommends sending this to the Rules Committee noting that the committee would be looking at Section 6D and deciding whether it needs to be modified so that everyone knows that they are doing it properly.

Councilor Kretovic stated that it's really just whether they should they have a disclaimer ahead of their personal opinion such as: this is my personal opinion and not that of the Council. This clarity is exactly what she is looking for.

Councilor Todd indicated that the distinction in his mind and the reason that he supports Councilor Kretovic's motion is that there is a way to express your opinion; you simply sign your name and don't indicate that you are a Councilor.

Councilor Shurtleff indicated that he is recusing himself from this vote since he endorsed somebody who is in this race.

Councilor Herschlag noted that he believes the Council rules does not allow anyone to recuse themselves if they are present unless there is a conflict.

There was no Council objection to having Councilor Shurtleff voting on this item.

Mayor Pro Tem St. Hilaire clarified that they are voting on a motion to send this matter to the Rules Committee for their review. He noted that there is a valid point although the other side of this is that they relax the rules to be able to express their first amendment views as well because their rules were so restrictive before they changed them. He indicated that there is a fine line between expressing your opinion and these rules and where you cross the line.

Councilor Bouchard pointed out that the piece begins with "in my opinion" and feels that this is pretty clear. She is having a hard time seeing the issue.

The motion failed on a roll call vote 6 to 6 with Mayor Pro Tem St. Hilaire, Shurtleff, Werner, Bouchard, Grady Sexton and Herschlag voting no. Councilors Todd, Champlin, Coen, Kenison, Kretovic and Nyhan voted yes.

Comments, Requests by the City Manager

Adjournment

The time being 8:29 p.m., Councilor Champlin moved to adjourn the meeting. The motion was duly seconded and passed with no dissenting votes.

A true copy; I attest:

*Michelle Mulholland
Deputy City Clerk*

Information

Inf1 January 10, 2018 Conservation Commission Meeting Minutes.

Action: Information item received and filed.

Inf2 January 10, 2018 Trails Committee Meeting Minutes.

Action: Information item received and filed.

Inf3 January 24, 2018 Heritage Commission Meeting Minutes.

Action: Information item received and filed.

Inf4 February 1, 2018 Heritage Commission Meeting Minutes.

Action: Information item received and filed.

Inf5 February 14, 2018 Conservation Commission Meeting Minutes.

Action: Information item received and filed.

Inf6 February 14, 2018 Trails Committee Meeting Minutes.

Action: Information item received and filed.

Inf7 March 1, 2018 Heritage Commission Meeting Minutes.

Action: Information item received and filed.

Inf8 March 14, 2018 Conservation Commission Meeting Minutes.

Action: Information item received and filed.

Inf9 March 14, 2018 Trails Committee Meeting Minutes.

Action: Information item received and filed.

Inf10 April 5, 2018 Heritage Commission Meeting Minutes.

Action: Information item received and filed.

Inf11 April 11, 2018 Conservation Commission Meeting Minutes.

Action: Information item received and filed.

Inf12 April 11, 2018 Trails Committee Meeting Minutes.

Action: Information item received and filed.

Inf13 May 3, 2018 Heritage Commission Meeting Minutes.

Action: Information item received and filed.

Inf14 May 9, 2018 Conservation Commission Meeting Minutes.

Action: Information item received and filed.

Inf15 May 9, 2018 Trails Committee Meeting Minutes.

Action: Information item received and filed.

Inf16 May 24, 2018 Transportation Policy Advisory Committee Meeting Minutes.

Action: Information item received and filed.

Inf17 June 7, 2018 Heritage Commission Meeting Minutes.

Action: Information item received and filed.

Inf18 June 13, 2018 Conservation Commission Meeting Minutes.

Action: Information item received and filed.

Inf19 June 13, 2018 Trails Committee Meeting Minutes.

Action: Information item received and filed.

Inf20 June 28, 2018 Golf Course Advisory Committee Draft Meeting Minutes.

Action: Information item received and filed.

Inf21 July 16, 2018 Fiscal Policy Advisory Committee Draft Meeting Minutes.

Action: Information item received and filed.

Inf22 Copy of communication, sent to Senator Dan Feltes, from the New Hampshire Department of Transportation regarding the I-93 Bow-Concord project.

Action: Information item received and filed.