



City of Concord

City Council

Meeting Minutes

Monday, December 9, 2019

7:00 PM

City Council Chambers
37 Green Street
Concord, NH 03301

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 Byron Champlin, Councilor Mark Coen, Councilor Amanda Grady Sexton, Councilor Meredith Hatfield, Councilor Allan Herschlag, Councilor Fred Keach, Councilor Jennifer Kretovic, Councilor Gail Matson, Councilor Zandra Rice Hawkins, and Councilor Brent Todd

Excused: 2 - Councilor Linda Kenison, and Councilor Robert Werner

Late: 1 - Councilor Keith Nyhan

5. Approval of the Meeting Minutes.

November 12, 2019 City Council Meeting Minutes.

Action: Councilor Champlin moved approval of the November 12, 2019 City Council meeting minutes. The motion was duly seconded and passed with no dissenting votes.

6. Resolution in recognition of the services of Lieutenant Cori J. Casey.

Mayor Bouley presented a resolution in recognition of the services of Lieutenant Cori J. Casey.

7. Resolution proclaiming December 2019 as Capital Region Food Program Month.

Mayor Bouley presented a resolution proclaiming December 2019 as Capital Region Food Program Month.

8. 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. Mayor Bouley, Councilors Kretovic and Grady Sexton took Rule Six on consent item 12 within the consent agenda. The motion to approve passed on a voice vote.

Referral to the Parking Committee

9. Communication from Phyllis Skafidas expressing her concerns regarding parking in front of her property on Pleasant Street.

Action: This communication referred to the Parking Committee.

Referral to Engineering, the Traffic Operations Committee, the Transportation Policy Advisory Committee and the Fiscal Policy Advisory Committee

10. Communication from Councilor Kretovic, on behalf of Alan Johns, requesting consideration be made to storm drain improvements at the intersection of Palm and North State Street in Concord.

Action: This communication referred to Engineering, the Traffic Operations Committee, the Transportation Policy Advisory Committee and the Fiscal Policy Advisory Committee.

Items tabled for January 13, 2020 Public Hearings

11. Resolution authorizing the City Manager to submit an application in an amount of up to \$500,000 and to accept and appropriate grant proceeds of up to \$500,000 in Community Development Block Grant housing funds for building improvements at property owned by Fellowship Housing at 36 Pleasant Street; together with report from the Director of Redevelopment, Downtown Services & Special Projects.

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

12. Resolution authorizing the City Manager to submit an application in an amount of up to \$500,000 and to accept and appropriate grant proceeds of up to \$500,000 in Community Development Block Grant Public Facility Funds for building improvements at property owned by the Crisis Center of Central New Hampshire; together with report from the Director of Redevelopment, Downtown Services & Special Projects.

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

13. Resolution re-adopting the City of Concord's Housing and Community Development Plan; together with report from the Director of Redevelopment, Downtown Services & Special Projects.

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

14. Resolution readopting the City's Anti-Displacement and Relocation Policy Statement and procedures; together with report from the Director of Redevelopment, Downtown Services & Special Projects.

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

- 14A. Resolution determining the proposed project has a public benefit and approving an application by WB4 L.L.C. for a nine year RSA 79-E Community Revitalization Tax Relief Incentive for the renovation of real estate located at 10 Pleasant Street Extension, City Assessor's Parcel Map 35, Block 2, Lot 3; together with report from the Director of Redevelopment, Downtown Services & Special Projects. (Revised resolution and supplemental report submitted)

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

15. Resolution appropriating the sum of \$708,760 for the purpose of the design, right-of-way acquisition, and bidding of the Loudon Road Bridge Rehabilitation Project (CIP #588), accepting \$566,960 in New Hampshire State Bridge Aid Program funds, and authorizing the issuance of bonds and notes in the sum of up to \$141,800 for the local agency match for this project; together with report from the City Engineer.

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

16. Resolution appropriating the sum of \$300,000 for improvements to the School Street Parking Garage (CIP #433) and authorizing the issuance of bonds and notes in the amount of up to \$300,000 for the School Street Parking Garage (CIP #433); together with report from the Director of Redevelopment, Downtown Services, and Special Projects.

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

17. Resolution appropriating the sum of \$230,000 for the purpose of supplementing the design, permitting, right-of-way, and construction of the North Pembroke Road Bridge Replacement Project (CIP #478), and accepting \$184,000 in New Hampshire State Bridge Aid Program funds and \$46,000 in donations from the

Town of Pembroke, NH, as the local agency match for this project; together with report from the City Engineer.

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

18. Resolution appropriating the sum of \$50,000 designated for conducting illegal drug related investigations and accepting \$50,000 in grant funding from the New Hampshire Department of Safety Law Enforcement Opioid Abuse Reduction Initiative; together with report from the Police Department.

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 the Library Director requesting authorization to accept monetary gifts totaling \$2,601.54, as provided for under the pre-authorization granted by City Council.

Action: This consent report was approved.

21. Diminimus gifts and donations report from the Parks and Recreation Director requesting authorization to accept monetary gifts totaling \$959.16, as provided for under the pre-authorization granted by City Council.

Action: This consent report was approved.

22. Diminimus gifts and donations report from the Police Department requesting authorization to accept a donation of \$100 from an anonymous donor through the Upton & Hatfield Trust account designated for the Concord Police Department's Project Blue Elf program, as provided for under the pre-authorization granted by City Council.

Action: This consent report was approved.

23. Fiscal Year to Date Financial Statements Report from the Deputy City Manager Finance.

Action: This consent report was approved.

24. Fiscal Year 2019 Comprehensive Annual Financial Report (CAFR) from the

Assistant Finance Director.

Action: This consent report was approved.

25. June 30, 2019 Trust Fund Reports, MS-9 and MS-10, from the City Treasurer.

Action: This consent report was approved.

26. Beaver Meadow Golf Course Agronomist Report from the Deputy City Manager - Finance.

Action: This consent report was approved.

27. General Services Department Wastewater Treatment Division Staffing Realignment Report from the General Services Director.

Action: This consent report was approved.

28. Report from the Parks and Recreation Director on the contribution from the Friends of White Park for the design of the new Monkey Around Playground.

Action: This consent report was approved.

29. December 2019 Economic Development Report from the Economic Development Director.

Action: This consent report was approved.

30. Report from the Senior Planner regarding the Annual Review of the Public Capital Facilities Impact Fee Ordinance.

Action: This consent report was approved.

Consent Resolutions

31. Resolution authorizing the City Manager to apply for and accept up to \$45,000 from the NH Department of Environmental Services for Household Hazardous Waste Collection and Special Project grants; together with report from the General Services Director.

Action: This consent resolution was approved.

32. Resolution repurposing the sum of \$32,600.00 from the 2017 Secondary Clarifier Equipment Replacement Subproject (CIP #104) for use on the 2017 Service Elevator Controls Upgrade Subproject (CIP #104); together with report from the General Services Director.

Action: This consent resolution was approved.

33. Resolution appropriating the sum of \$10,000 for childhood obesity programs in the Grants and Donations Fund and authorizing the transfer of \$10,000 to the Grants and Donations Fund; together with report from the OMB Director.

Action: This consent resolution was approved.

34. Resolution authorizing Prepayment of Taxes in Accordance with RSA 80:52-a; together with report from the City Treasurer/Tax Collector.

Action: This consent resolution was approved.

35. Resolution Designating Depositories for the City of Concord, New Hampshire, for the Fiscal Year 2020; together with report from the City Treasurer/Tax Collector.

Action: This consent resolution was approved.

36. Resolution Adopting a Cash Management Policy; together with report from the City Treasurer/Tax Collector.

Action: This consent resolution was approved.

37. Resolution relative to Short Term Investment of Excess Funds; together with report from the City Treasurer/Tax Collector.

Action: This consent resolution was approved.

Appointments

38. Proposed Appointment of Jeffrey L. Schindler to the Board of Trustees of Trust Funds.

Action: This appointment was approved.

39. Mayor Bouley's proposed reappointments to the Golf Course Advisory Committee. Richard Holden, Frances Hunt, Roger Jobin, Linda Mattlage and Robert Norton

Action: This appointment was approved.

40. Mayor Bouley's proposed appointments to the Recreation and Parks Advisory Committee. Jennifer Roff and Noorulhuda (Nora) Ismael

Action: This appointment was approved.

End of Consent Agenda

Public Hearings

- 41A. Ordinance amending the Code of Ordinances; Title II, Traffic Code; Chapter 18, Parking, Article 18-1, Stopping, Standing and Parking, Section 18-1-16, Handicap Parking, Schedule XVIII; together with report from the Director of Redevelopment, Downtown Services & 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.

- 41B. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance, Article 28-5, Supplemental Standards; and Article 28-7, Access, Circulation, Parking and Loading; together with report from the City Planner. (Supplemental report from the City Planner submitted)

Action: Carlos Baia, Deputy City Manager-Development provided a brief overview noting that the request they received allowed staff to recognize that they had a challenge with the city's existing ordinance relative to parking lot landscaping requirements. He explained that the current requirement is for one tree for every 1,000 square feet of impervious area which equates to approximately one tree for every two and a half parking spaces. Staff is proposing to reduce this requirement to one tree for 2,000 square feet of impervious area which correlates to one tree for every five parking spaces. He pointed out that a second change within this proposed ordinance is to allow the Planning Board to issue a conditional use permit to authorize required landscaping to be around the perimeter of a lot instead of in landscaped islands; to provide flexibility with the quantity of trees required, staff is proposing that applicants be permitted to request a conditional use permit from the Planning Board to allow "fee in lieu" paid into the city's urban tree trust fund for the cost of trees not installed. Mr. Baia clarified that, if this amendment is adopted this evening, Banks Chevrolet has committed to providing all the required trees and will not be seeking a payment in lieu. He highlighted additional amendments contained within the proposed ordinance.

Councilor Hatfield, referencing the second page of staff's memo dated November 1st which states "staff doesn't anticipate the reduction negatively impacting smaller lots, though a two tiered requirement could be considered in the future if it is determined that smaller lots should provide more landscaping to fulfill the purpose of the ordinance" and questioned as to what would trigger staff to want to consider that and what would the process be. Heather Shank, City Planner, responded that,

based upon experience, if they saw that it somehow didn't seem to be enough that they might re-evaluate this. In her opinion, she feels that one tree for every 2,000 square feet should be more than sufficient. She stated that this change was to help those larger lots in which it doesn't scale well.

Councilor Herschlag inquired whether this was an unanimous vote by the Planning Board. Ms. Shank replied that there were two members who were not in favor of the "in lieu" aspect of this though they were in support of every other aspect.

Councilor Herschlag questioned what would prevent a business from buying a number of lots and merging them using them for storage of vehicles. He asked if this would be the best use for the land there or would they be better off to being careful that they ensure they have a mix of uses. He asked what would be the value of a storage lot compared to a business that brought in numerous employees and buildings. Mr. Baia responded that the corridor itself is very intense in terms of being very auto centered and is where they are seeing a lot of the new investment - it's the only corridor that really allows for this today within the city. Recognizing that its a very limited area, this proposal is not to be beyond the zoning district of the commercial highway and staff feels that there are certain controls that would prevent this from becoming more of a car storage. They feel that its more of a display area for the vehicles and for the dealerships that are there today and perhaps new dealerships that may be coming to this area. He noted that, like any retail oriented business, they want to be with like minded or like type of interest and doesn't see the effects of this going beyond this corridor and thinks, in terms of value to their properties and value to their businesses, its going to be about trying to drive sales and not about storing vehicles.

Mayor Bouley opened the public hearing.

Public Hearing

Peter Bergeron, Counsel to Banks Chevrolet, confirmed that the process of this amendment has been a very collaborative one with the city staff. Mr. Bergeron noted that one of the reasons that these ordinances are important is to allow better and more efficient operation of businesses.

Fred Booth, Banks Chevrolet employee, stressed the importance of this amendment to Banks Chevrolet. In regards to their acquisition of property next door, the Sanel property, he indicated that this will allow them to bring more of

what was storage vehicles to be inventory display vehicles, it will reduce the traffic on Airport Road, and reduce nearly 5 million gallons of water into the city's sewer system. He noted that they are asking for Council's approval on this proposed ordinance.

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

- 41C. Resolution authorizing and appropriating the sum of \$1,100,000 as a transfer to Reserves. Funding for this appropriation shall be entirely from Fiscal Year 2019 General Fund Assigned Fund Balance; together with report from the Deputy City Manager - Finance.

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.

- 41D. Resolution appropriating the sum of \$120,000 from Reserves as a supplemental appropriation to the City's General Fund for furniture/equipment purchase and replacement, education/training, and the Interstate 93 Maintenance Project; and appropriating the sum of \$77,000 from Reserves to Capital for replacement of a police cruiser (CIP #575), and additional Community Development software funding (CIP #574). Funding for these purposes shall be entirely from Reserve Accounts.

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

- 41E. Resolution appropriating the sum of \$749,727.79 in the General Fund as a transfer to the Highway Reserve and accepting the sum of \$749,727.79 in State Municipal Aid funds; together with report from the Deputy City Manager - Finance.

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

- 41F. Resolution appropriating the sum of \$275,000 for the procurement of outside services to recycle solid waste and authorizing the use of Wastewater Fund Balance for this purpose; together with a report from the General Services Director.

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.

41G. Resolution appropriating the sum of \$20,711 to support projects that enhance the special character and vitality of Concord and accepting the sum of \$20,711 from the New Hampshire Charitable Foundation; together with report from the Deputy City Manager - Finance.

Action: Councilor Hatfield asked how its decided as to how they use these funds for different types of projects. City Manager Tom Aspell responded that they look at different opportunities around the community; this one in particular is to do landscaping improvements that the City Council had appropriated dollars for in and around the Police Department, City Hall and the annex. Councilor Hatfield noted that she did have a neighbor contact her to express strong interest in consideration of planting trees as a use of the funds and believes that this sounds consistent to what staff is thinking.

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

41H. Resolution appropriating the sum of \$10,500 for outside services to study the gas holder house repairs and authorizing the use of economic development reserve funds for this purpose; together with report from the Mayor and City Manager.

Action: City Manager Tom Aspell provided a brief overview.

Councilor Herschlag recalled that Liberties Utilities had done a presentation before the Heritage Commission on the gasholder house who had an individual with them who provided some prices for demolition, repairing the roof, and a complete repair. He wonders what this report is going to do in addition to the report that came back earlier. Mr. Aspell responded that he has not seen that report. Councilor Herschlag noticed that there are three options and one of the concerns that was brought up at the Heritage Commission was that if the building is just repaired and the floor is left in it, that basically people can just stare at the building - how do you generate the revenues for a building that nobody can access or utilize. As a fourth option, he was wondering if it could be possible to look at removing the floor but incorporating some sort of working model inside the building; take a look at what the cost of this would be so that, if in fact, that floor was removed so that the building could be accessed in some manner so that people would understand the history of the building and how the gasholder actually functioned. Mr. Aspell replied that he anticipates that this would increase the cost so that there would be more taxpayer dollars going into the study but they had talked about this and the idea was to look at it from a standpoint of, if its going to be redeveloped

and used for public use, what are the basics to this and then work with the developer to let them look at all the different scenarios that could go into there. He feels that there are so many different options, that they should let a developer do that if there is any interest in doing that.

Councilor Herschlag asked why this is coming forth at this time questioning whether there is an anticipation that there would be funding available to do renovations. Mr. Aspell responded that in discussions that he has had with the Mayor, they felt that this was going to fall down very shortly. He feels that if they don't do something now, there won't be a chance a year from now. Councilor Herschlag indicated that the Heritage Commission asked him to pass on that when the report is completed, whether a copy could be forwarded to the Heritage Commission through the Planning Department. Mr. Aspell responded yes noting that it will be available to everyone within the community.

Mayor Bouley opened the public hearing.

Public Hearing

Roy Schweiker, resident, indicated that he has been inside the building. He doesn't like option one in which the outside is repaired and people can just stare at the outside. He would like to see another option in which people can look at the outside and can walk in the door to a portico so that they can see the inside during select times. In doing so, he feels that this would greatly increase the historic value of this building.

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

- 41I. Resolution determining the proposed project has a public benefit and approving an application by 135NNS L.L.C. for a nine year RSA 79-E Community Revitalization Tax Relief Incentive for the renovation of real estate located at 135 North State Street; together with report from the Director of Redevelopment, Downtown Services & Special Projects.

Action: Matt Walsh, Director of Redevelopment, Downtown Services & Special Projects, explained that RSA 79-E is a local option statute enacted by the State in 2008 designed to support revitalization of downtown and village centers. The City adopted RSA 79-E in January 2008 and has approved 79-E benefits for 11 properties in the ensuing years. He explained that tonight's application is as follows: the applicant is Fred Potter, d/b/a 135 North State Street LLC. Mr. Potter

is seeking 9 years of RSA 79-E benefits for property located at 135 North State Street, known as the Governor Rollins Mansion. He explained that Mr. Potter acquired the property from Jon Chorlian on October 8, 2019 for \$570,000. Mr. Chorlian is developing the adjacent "pocket neighborhood" residential condominium development; the property consists of 10,000 sf mansion and 4,000 sf carriage house set on approximately on one half acre. Mr. Potter is investing approximately \$2.7M - including the purchase price - to renovate the property into live/ work space. The property will be occupied by companies owned by Mr. Potter (KidsVax and Legacy Wise). Employees of KidsVax and Legacy Wise will reside at the property (rooming house style - private bedrooms, shared kitchens and common spaces) at discounted rents. Mr. Potter also plans to rent conference rooms at the property to the general public for meetings and special events. Mr. Walsh indicated that the property is listed on the National Register of Historic Places due to its association with Governor Rollins and its shingle style architecture. A historic inventory was included in the Council packet. The property is not located in either of the City's RSA 79-E Districts, but is eligible to apply per criteria for historic properties created by the City Council by Ordinance 8911 adopted on April 11, 2016. The applicant has indicated that unless 79-E is awarded for the project, he will be unable to preserve and renovate the Mansion's carriage house; the estimated cost is \$600,000. Mr. Walsh provided some salient points about the application itself: renovations at the property began prior to City Council's consideration of this application. The City's application requires applicants to refrain from pursuing renovations until the City Council votes on the application, and the protective covenant is provide to the City. Mr. Potter began the project due to contractual obligations to Mr. Chorlian, the seller and developer of the adjacent pocket neighborhood, to complete certain exterior renovations prior to the end of the year.

Mr. Walsh indicated that City Council may waive this provision if they chose; however, in accordance with RSA 79-E 8, the value of improvements completed prior to receipt if the Covenant shall not be eligible for 79-E benefits. The City's estimated based value includes recent roof renovations underway at the property. Mr. Walsh pointed out information regarding the finances of the project: annual losses: without 79-E = \$100,000, with 79-E = \$92,000 +/- . The applicant has secured a financing commitment for the project despite of projected financial losses. Given a LLC owned by the applicant will lease the property to a corporation owned by the applicant, verifying financial need is complicated. Staff only reviewed the financial proforma for the LLC which will own the property. Staff did not review the personal finances of Mr. Potter or his companies (KidsVax

& Legacy Wise), which will occupy the property. Mr. Walsh pointed out the duration that Mr. Potter is asking for is 9 years; property is eligible for up to 9 years of tax relief; 5 years of base eligibility and 4 additional years for renovating the property in accordance with US Secretary of Interior Standards. To qualify for the additional 4 years, renovations must be approved and confirmed by the NH Division of Historical Resources. The projected tax savings for the application are approximately \$72,000 over the 9 year period. Although eligible for 9 Years, City Council has the ability to: Deny the application (City has not statutory requirement to approve these applications, can only be overturned if City acted in bad faith); Award the application as requested (9 Years); or, Award any term of tax relief between 1 and 9 Years. In regards to the preservation of the carriage house and protective covenant, Mr. Walsh noted that If approved, the applicant must provide the City with a protective covenant guaranteeing property will be preserved and used for purposes described for double period of time of tax relief. If 9 years, then 18 year term for Covenant. Covenant runs with the land, binds future owners of property. Lastly, in accordance with State Law, City Council has until January 23, 2020 to vote on this request. Therefore, Council could delay vote to January 13th if it desires additional time to consider this request.

Councilor Coen asked what the average time that has been allowed in previous 79-E's. Mr. Walsh responded that the longest one that Council has done is seven year for Washington Street Estates in Penacook. He noted that the average is approximately five years. Councilor Coen inquired in regards to the minimum. Mr. Walsh replied that the least that was done in the past was one year for a small laundromat project in Penacook in 2009.

Referencing paragraph five on page eight of the report, Councilor Hatfield read "it is unclear whether award of RSA 79-E will be sufficient to bring renovations of the carriage house to fruition" and "granting of RSA 79-E benefits should be conditioned upon the preservation and renovation of the carriage house." Mr. Walsh indicated that the applicant is present and feels that its worth having a conversation with the applicant whether or not nine years is sufficient to guarantee renovation of the carriage house. He was simply doing a cost benefit of thinking that it would save about \$72,000 over time and is probably less than what the applicant thought it was going to be.

Councilor Hatfield inquired whether staff feels comfortable that the condition is clearly included within the resolution before the Council. Mr. Walsh stated that he does.

Councilor Herschlag is glad to see that this building is going to be renovated and glad to see that the city is taking a pro-active stance on ensuring that if 79-E is granted, that the carriage house will be preserved and preserved for a minimum of eighteen years. He wonders if the applicant would be willing to enter into an additional agreement for additional covenants to protect that property for an extended period of time beyond what is allowed under 79-E. Mr. Walsh noted that if the applicant chooses to address the Council during the public hearing, he advises that Councilor Herschlag addresses his question to the applicant.

Councilor Champlin asked what agency of the city will be responsible for monitoring the project to enforce item 3, subparagraph II of the resolution. Mr. Walsh responded that it would likely be monitored by the City Manager's office; this is where the program is run out of currently.

Councilor Herschlag indicated that its a little unclear as to the guarantee for whether or not the carriage house will be renovated even if they pass 79-E. He asked that if they were to approve this resolution, is there anything that would prevent the owner from coming back to Council to change their mind; is there a way to ensure that the carriage house will be renovated. Mr. Walsh feels that it would be prudent to all parties to be sure that the developer is confident that they have the resources to renovate the carriage house before going forward signing and recording a protective covenant for 79-E. He stated that the developer can come back at any time and ask the Council to release them from the covenant but there is some language in the statute itself that talks about financial penalties and taxes in the event that the covenant is not adhered to.

Councilor Champlin asked what protections they have if they don't approve the RSA 79-E arrangement - to protect the carriage house; what protections does it have outside of the City Council approving this with the covenant. Mr. Walsh responded that, presently, there are none. He noted that there might be some requirements if federal historic tax credits are awarded for the property which would require that the property be renovated in accordance with the Secretary of the Interior standards; there would be no other requirement outside of that potential requirement through the federal government to preserve the building other than the city's demolition review ordinance.

Councilor Champlin asked if it would be fair to say that if the City Council should decide to approve this 79-E request, it would add an extra layer of protection to the

carriage house and, in fact, the entire property. Mr. Walsh responded that it would protect it for a time that is double the amount of time for 79-E.

Councilor Hatfield indicated that, within the report, staff notes that this entire property including these two buildings as well as the rest has been tax exempt for decades. Mr. Walsh's understanding is that it was tax exempt during the entire time that the Roman Catholic Diocese owned it.

Mayor Bouley opened the public hearing.

Public Testimony

Fred Potter, applicant, indicated that they want to do the right thing by this building; it is in a great state of disrepair and will become a failed building in a matter of years. They are glad to work with the Council to do something fair minded noting that the building is deeply under water economically and there is a limit to how much of his personal resources he can invest in making this a beautiful building. He is confident they will be able to do that for the mansion but doesn't have the resources to do it to the carriage house which is why they are looking for some of these other reliefs.

Liz Hengen added that she understands that this is the first request for a nine year tax abatement but it's also the first time that the Council has had such a project before them that is using these direct tax credits. She pointed out that it's on the National Register so it has the ability to do that which provides another win-win for the city in that it ensures that the work that is being done, not just on the exterior but on the interior, is going to adhere to a high level of preservation standards.

Councilor Kretovic commended them on the effort that they are doing on this property. She noted that it's a huge undertaking and knows that the carriage house is just as extraordinary and anything that they can do to preserve this would be fantastic. She feels that this is a gem within the community and it would be devastating if they were to lose it.

Councilor Champlin concurred with Councilor Kretovic stating that this is an architectural gem within the community. He questioned whether it was true that part of the qualification for four of the nine years has to do with the quality of work and the standards by which that work is carried out. Ms. Hengen responded that is true and is also going to incur additional costs over going in and doing a vanilla

quick and dirty treatment.

Councilor Herschlag noted that he is conservative when it comes to approving 79-E as it can have an impact on the rest of the community. He does believe that this project, when looking at it in its entirety, certainly qualifies for the intent of the RSA. He questioned that if Council votes to give the nine years, what level of assurance or confidence that they will be able to go forward and not only renovate the mansion but also the carriage house. Mr. Potter responded that one thought that he has had is that he would be willing to give a covenant to refund any tax credit benefit for the entire duration of the covenant period. He feels that this provides a strong financial incentive that can create some obligation. He noted that this is a very big deal and is stretching them to the point of being painful. They won't know until February or March, ironically, by the very point in time if all the rules apply here essentially all the benefit would've gone away because they would have invested a lot of money in that project. Mr. Potter indicated that the problem is that every time they open something they find something. He added that they want to preserve accessibility which is in doubt now and are stretched to do this. He wishes that he can tell the Council today that they can preserve the carriage house but doesn't know; what he can tell them is that they will preserve the exterior of the carriage house.

Councilor Herschlag noted that if he understands correctly, they will not be demolishing the carriage house but at a minimal will preserve it so it will be structurally sound from the outside. Mr. Potter responded that it will be structurally sound, the trim will be restored and the teetering cupola will be made safe. He stated that the exterior will be presented as new as the mansion exterior but currently they are flat out of money and will not be able to go inside. Councilor Herschlag inquired whether they would be willing to sell the carriage house and separate it from the rest of the property to somebody that would be able utilize and have the means to complete the renovations on it. Mr. Potter responded that if they couldn't afford to do it they would love to do that. He is not sure whether Planning would like this - this lot is already non-conforming and Planning and Zoning were very careful to balance all the interest to leap to the condominium subdivision that they have. Councilor Herschlag thanked Mr. Potter for moving forward with this project and wished him success in moving forward.

Councilor Todd concurred with the other Councilor's remarks and thanked people who put significant investment to the preservation of these important historic properties. He asked what the planned uses are for the property once it is

renovated. Mr. Potter indicated that they have been five years under development of a program to provide will and estate documents support for low to middle income families. He expects this business to grow and flourish noting that he will be bringing in residential interns.

Councilor Hatfield echoed the comments of appreciation for the efforts. She has learned a lot about Governor Rollin when reading this application and of the significant contributions he made to the city, state and White Mountain National Forest. She wondered if there were any plans to do public education or a plaque outside of the building. Mr. Potter responded that he would like to do some plaques and historical pieces in the building. He pointed out that there is a register plaque on the outside.

Councilor Coen asked if the carriage house and the main house are one project or are they separate. He believes that what he was hearing is that if there is an issue with the carriage house, it could be a financial burden on the rest of the project. Mr. Potter responded that if there is an issue with the carriage house, they stop. He noted that they will get to the point of preserving the exterior of the carriage house but will not be able to renovate its interior. He added that the main house is under way as they speak.

Mayor Bouley indicated that many people provided positive feedback within the community but the one general concern which was what is going to be done with the carriage house. He believes that what he has heard is that they will be preserving the carriage house, maintaining the outside structure, and will not be demolishing it as long as the Council grants the 79-E. Mr. Potter noted that if they obtain the federal tax exemption and the 79-E the requirement is a five year commitment to it. Mayor Bouley asked if its going to be taken down after the five years. Mr. Potter responded that they could theoretically but they will not take it down. He noted that, if these applications are approved federally and locally, they what they will be doing is renovating the exterior of the carriage house. Mr. Potter explained that this started with the economic need to take the carriage house down because it is deeply under water, unsafe and unsanitary. He knows that they have to do some rehabilitation work just for safety and sanitation reasons and they will do that; they will do the exterior and will stop if they run out of cash. Mayor Bouley asked for confirmation that they are not going to replace it but going to refurbish what they have and it will stay. Mr. Potter responded that to be correct.

Councilor Rice Hawkins referenced page eight within the report which states that

without the 79-E it could lead to the demolition of the structure. She wonders if this meant that the review by city staff thought that this could be the ultimate decision. Mr. Potter responded that without this help they will not be able to save this building; the help will enable them to save the building.

Roy Schweiker, resident, feels that Council should give the exemption for the entire nine years on the carriage house but feels that the assessment on the property is grossly inadequate and worth far more.

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

Public Hearing Action

42. Ordinance amending the Code of Ordinances; Title II, Traffic Code; Chapter 18, Parking, Article 18-1, Stopping, Standing and Parking, Section 18-1-16, Handicap Parking, Schedule XVIII; together with report from the Director of Redevelopment, Downtown Services & Special Projects.

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

43. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance, Article 28-5, Supplemental Standards; and Article 28-7, Access, Circulation, Parking and Loading; together with report from the City Planner. (Supplemental report from the City Planner submitted)

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

44. Resolution authorizing and appropriating the sum of \$1,100,000 as a transfer to Reserves. Funding for this appropriation shall be entirely from Fiscal Year 2019 General Fund Assigned Fund Balance; together with report from the Deputy City Manager - Finance.

Action: Councilor Nyhan moved approval. The motion was duly seconded and passed with no dissenting votes receiving the necessary two-thirds vote.

45. Resolution appropriating the sum of \$120,000 from Reserves as a supplemental appropriation to the City's General Fund for furniture/equipment purchase and replacement, education/training, and the Interstate 93 Maintenance Project; and appropriating the sum of \$77,000 from Reserves to Capital for replacement of a police cruiser (CIP #575), and additional Community Development software

funding (CIP #574). Funding for these purposes shall be entirely from Reserve Accounts.

Action: Councilor Bouchard moved approval. The motion was duly seconded and passed with no dissenting votes receiving the necessary two-thirds vote.

46. Resolution appropriating the sum of \$749,727.79 in the General Fund as a transfer to the Highway Reserve and accepting the sum of \$749,727.79 in State Municipal Aid funds; together with report from the Deputy City Manager - Finance.

Action: Councilor Bouchard moved approval. The motion was duly seconded and passed with no dissenting votes receiving the necessary two-thirds vote.

47. Resolution appropriating the sum of \$275,000 for the procurement of outside services to recycle solid waste and authorizing the use of Wastewater Fund Balance for this purpose; together with a report from the General Services Director.

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

Councilor Coen inquired as to where the waste currently goes. General Services Director Chip Chesley responded that most currently goes to agricultural hay fields.

Councilor Hatfield thanked staff for being pro-active and addressing this issue to get ready to comply with the state standards.

Councilor Champlin noted that residents are often questioning why taxes are going up and pointed out that this is just another example of a state regulatory change that comes with an economic impact on the city without any state funds to help negate this economic impact.

Mayor Bouley noted that they all want to protect public health but at the same time, he wants taxpayers to understand that this was a line item in the budget in which they were collecting between \$275,000 to over \$300,000 in revenue; they are no longer going to collect this revenue and will now be an expense on the taxpayers of approximately \$300,000 per year. He feels that its a problem when the state does not provide the funding that they have imposed upon them.

The motion to approve passed with no dissenting votes.

48. Resolution appropriating the sum of \$20,711 to support projects that enhance the special character and vitality of Concord and accepting the sum of \$20,711 from

the New Hampshire Charitable Foundation; together with report from the Deputy City Manager - Finance.

Action: Councilor Champlin moved approval. The motion was duly seconded and passed with no dissenting votes receiving the necessary two-thirds vote.

49. Resolution appropriating the sum of \$10,500 for outside services to study the gas holder house repairs and authorizing the use of economic development reserve funds for this purpose; together with report from the Mayor and City Manager.

Action: Councilor Champlin moved approval. The motion was duly seconded and passed with no dissenting votes receiving the necessary two-thirds vote.

50. Resolution determining the proposed project has a public benefit and approving an application by 135NNS L.L.C. for a nine year RSA 79-E Community Revitalization Tax Relief Incentive for the renovation of real estate located at 135 North State Street; together with report from the Director of Redevelopment, Downtown Services & Special Projects.

Councilor Champlin moved approval. The motion was duly seconded,

Councilor Herschlag asked if he was correct in understanding that the base value of the property is what the applicant will continue to pay taxes on and regardless of the valuation of the improvements, he won't pay taxes on those. He asked if where the potential savings are is for the anticipated additional value of the building. Mr. Walsh responded that to be correct explaining that the estimated base value of the property is the \$621,000 and if this changes because of market forces and it goes up to \$630,000 he would still owe tax on \$630,000; what they are talking about here is the delta between the base value of \$621,000 and the projected assessed value of \$848,000.

Councilor Herschlag wants to make clear that regardless of the final assessment of that property, the savings comes from the difference between what the property is currently assessed at and what the future assessment will be. It doesn't impact what he is paying only the potential of what he would of paid if he doesn't receive the 79-E.

Councilor Hatfield inquired whether they need to explicitly waive the requirement that renovations not be started before they grant the 79-E application. Mr. Aspell responded that they were explicitly not waiving it.

The motion to approve passed with no dissenting votes.

Reports

New Business

51. Communication from Ascentria Care Alliance seeking City Council's written consent to continue refugee resettlement in Concord. (Communication from Jack Watts submitted)

Action: Mayor Bouley indicated that he received a correspondence in early November asking the City of Concord to continue to endorse the resettlement of Concord refugees. He noted that on September 26, 2019, the Trump Administration issued executive order 13888 (1) which requires formal consent for continued refugee resettlement. He has spoken with the Governor's Office and they have signed this; several other communities have taken this up. He wanted to bring this to the Council for their consideration and hopes that they all wholeheartedly endorse this. He believes that there is no question that this community is enriched by bringing refugees here not only culturally but economically. He asked for Council's consideration and strong support of this so that they can sign it and move it along.

Councilor Herschlag stated that tonight they are discussing and voting on how welcoming a community they should be for those coming from the most dire of circumstances. He doesn't want to minimize how welcoming, caring and generous a community they are. Even though in a paper written by Brinkley Brown, State Refugee Coordinator Barbara Seebart, at NHDHHS states: "Housing for immigrants is concentrated on the Heights and Loudon Road." Seebart goes on to say that "it would be nicer if our neighborhoods were more integrated." He added, this is also true of how they segregate their neighborhoods by income. Questions of available housing, education, jobs and cost. These are all legitimate concerns; these are questions asked by good people - people who volunteer, giving their time helping their neighbors and making their community a better place to live. He noted that having a conversation about these issues shouldn't be used to demonize those who discuss them. He stated that as a country they should be allowed to determine who and how many people come to our country. But inviting people from other countries doesn't mean they have to abandon helping our neighbors.

Councilor Herschlag believes local communities should have a greater say in how refugees are resettled. He also believes the current executive order is devised to divide us. He noted that, at the end of the day the executive order allows the federal government to override any state or local determination. So why the

executive order? Why not just better communications between federal agencies and local communities? Why not the resources to ensure that those who live here and those that are coming to live here are not competing for resources? He stated that it would be great if they could wave a magic wand and eradicate the world-wide strife that is responsible for the tremendous refugee population. Until that day comes he believes they should contribute to helping making their lives better. When done with forethought and caring all can benefit from those new to our country. He added that pitting one community against another, banning certain people from moving to a community is not the answer; working to provide the resources and the opportunities that lead to their success benefits all of us. Understanding that our neighbors questions about how much they can afford are based on concerns of not having those already in line having their wait extended. Let's not fall into the trap that they can't discuss real issues, even when they are difficult. They can be a caring community while still asking difficult questions.

Councilor Herschlag feels that voting to have Concord continue to be a community that welcomes refugees is the right action to take - not because the system is perfect, not because of potential consequences to those who already need our help but because not doing so in this political climate, says that they agree with those who would divide us. A vote to accept refugees says that their city will not be divided because of a persons religion or nationality or ethnicity or skin color.

Councilor Champlin stated that he wholeheartedly supports the comments by the Mayor and Councilor Herschlag. He noted that one of the most fascinating sessions that he attended after he became a City Councilor was put on by the Chamber of Commerce about the positive economic impact of New Americans on various communities around the country. He feels that their community is strengthened by their New Americans explaining that they are refugees who are eager for an opportunity and eager for a new life in a new community. At a time when Concord as well as the rest of New Hampshire is suffering from a shortage workers, he thinks its in their best interest to bring these refugees to their community to help them integrate into their community and become active and productive members of their workforce. He will be voting in favor of this request.

Councilor Keach indicated that he is in favor of this proposal but urged the Council to seek additional funding on a local, state and federal level to pay for this. He feels that its an injustice to invite a group of people into their community and set them up for failure when they don't have the resources to provide the items they need to provide for them. He wants to do this but also push the people at the state

and federal level to help pay for this.

Councilor Coen noted that, historically, Concord has always been a welcoming place for refugees and immigrants. In regards to Councilor Keach's comments, he wondered how much these resettlements has cost the city and a week or so ago he spoke to City Administration and was suprised to that the number was roughly \$17,000 last year; if they understand the cost and benefits he feels that this is a benefit to the community. He noted his disappointment with the federal level and with agencies not giving communities the financial and support information that they have.

Councilor Bouchard moved continue refugee resettlement in Concord. The motion was duly seconded and passed with no dissenting votes.

Unfinished Business

52. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; Article 28-5, Supplemental Standards; Section 28-5-50, Keeping of Chickens as Pets Accessory to a Residential Use; together with a report from the City Planner. (Ordinance referred to the Public Safety Advisory Board at the October 15, 2019 City Council meeting.) (Petition supporting reducing current property line buffers to 15' or less, allowing more residents to keep chickens as pets; together with communications in support of the petition submitted.) (Report from the Public Safety Advisory Board together with public testimony submitted January 2021.) (Communication from Francesca Brown received.)

Action: This item remains on the table.

Comments, Requests by Mayor, City Councilors

Councilor Champlin announced that the Parks and Recreation Department and the Friends of White Park are holding a series of design sessions this week to upgrade the Monkey Around playground - Wednesday, December 11th at 4:00 p.m at the White Park Skate House; Thursday, December 12th from 8:30 a.m. to noon at at the McAuliffe Elementary School with school students, Thursday, December 12th at 6:00 p.m. at the citywide community center.

Councilor Hatfield added that the Friends of White Park now has a Facebook group and are taking input this way also.

Councilor Herschlag indicated that the scary right to know law that allows you to retrieve information and that tells you what state and local government are doing or

not doing; once again a state legislator wants to charge you a fee to access to information that you are entitled to - information that you have already paid for through your tax dollars; information that should be available to you. He explained that a Nashua citizen - Laurie Ortolano - concerned about the city's recent reassessment, filed numerous right to know requests, resulting in the mayor ordering an audit. The audit identified numerous deficiencies in the Assessing Department and reinforced problems determined by the Department of Revenue Administration dating back to 2005 and 2011. He noted that in response to Ortolano's right to know requests linking deficiencies in the Assessing Department, Nashua representative Jan Schmidt has submitted LSR 2218 - a bill that would allow municipalities to charge you a fee to inspect public records. If the request for records exceeds five hours in a month, the person making the request would be required to pay personnel costs associated with retrieving the information and copying. The bill may even require that you pay a fee ahead of time based on the estimated time it would take. He asked who would determine the time it takes and how would that be determined? He noted that, in past years, there has been other proposed legislation to make it more difficult and more expensive for you to access public records - records that belong to you. Some of these bills have been supported by the NHMA. He questioned why an organization representing municipalities in NH want to make it more difficult for you to access information about what those who represent and work for you do? Shouldn't the interests of your municipality reflect your interests?

Councilor Herschlag pointed out that a Union Leader editorial suggests a compromise that would extend the number of hours before a charge occurs and would allow unlimited access to lawyers and the press. He asked what makes lawyers and the press special and doesn't recall anything in the NH constitution that gives special access to government records based on class, employment status or income; in fact, Article 8 of the New Hampshire constitution states in part: "All power residing originally in, and being derived from, the people, all the magistrates and officers of government are their substitutes and agents, and at all times accountable to them. Government, therefore, should be open, accessible, accountable and responsive. To that end, the public's right of access to governmental proceedings and records shall not be unreasonably restricted." He pointed out that there is nothing in Article 8 that bestows special considerations on different classes of people in the community. In fact Article 8 is very clear. It states 'the people', not lawyers and the press. And it states the 'public's right of access', your right that all agents of government are accountable to you. He feels that placing a fee, a charge, a cost to gain access to public records unreasonably

restricts access to those who can afford it; it makes government 'open, accessible, accountable and responsive', only to those who would have the financial resources.

Councilor Herschlag stated that their City Administration from time to time testifies on bills before the legislature. We have been told that they have a pretty good understanding of what the City Council supports and opposes, for most issues and, for most issues, they don't feel a need to inform the council before testifying, either for or against an issue. He wants this Council to make it clear to the Administration that this City Council, this community, Concord, does not support legislation that restricts access to public records. He feels that if this bill moves forward, the City Council should go on record to resolve that we do not support any legislation that makes it more difficult or more expensive to access information that Article 8 of the NH Constitution gives every citizen in the state a right to, as defined in RSA 91A, the State's Right to Know law.

Mayor Bouley indicated that over the next few weeks he will be looking over the Council's committee assignments and asked Council to let him know if they are interested on serving on, remaining on or removal on a committee to let the City Clerk know.

Mayor Bouley gave a heartfelt thank you to Fire Chief Dan Andrus for his service to their community.

Mayor Bouley thanked both Councilors Herschlag and Coen for their service to their community noting that they will be missed by the Council.

Comments, Requests by the City Manager

Adjournment

The time being 9:00 p.m., Councilor Herschlag 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 October 31, 2019 Golf Course Advisory Committee Draft Meeting Minutes.

Action: Information item received and filed.

Inf2 November 18, 2019 Fiscal Policy Advisory Committee Draft Meeting Minutes.

Action: Information item received and filed.

Inf3 Communication from the State of New Hampshire, Department of Natural and Cultural Resources, notifying City Council of the reappointment of Dan Andrus as Forest Fire Warden within the City of Concord.

Action: Information item received and filed.

Inf4 Communication from Comcast Cable notifying City Council of upcoming price changes.

Action: Information item received and filed.

Inf5 Communication from Comcast Cable notifying City Council of upcoming price changes.

Action: Information item received and filed.

Inf6 Internet Essentials from Comcast.

Action: Information item received and filed.

Inf7 Proposed Merrimack County Budget for Calendar Year 2020.

Action: Information item received and filed.