



# City of Concord

## City Council

### Meeting Minutes

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Monday, May 8, 2023

7:00 PM

City Council Chambers  
37 Green Street  
Concord, NH 03301

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*Non-public session in accordance with RSA 91-A: 3, II (d) to discuss property acquisition to be held at 6:30 p.m.*

1. Call to Order.

**Action:** Mayor Bouley called the meeting to order at 7:03PM.

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

**Present:** 13 - Councilor Candace Bouchard, Mayor Jim Bouley, Councilor Stacey Brown, Councilor Byron Champlin, Councilor Amanda Grady Sexton, Councilor Jennifer Kretovic, Councilor Gail Matson, Councilor Paula McLaughlin, Councilor Karen McNamara, Councilor Keith Nyhan, Councilor Erle Pierce, Councilor Zandra Rice Hawkins, and Councilor Brent Todd

**Excused:** 2 - Councilor Nathan Fennessy, and Councilor Fred Keach

5. Approval of the Meeting Minutes.

April 10, 2023 City Council Draft Meeting Minutes

**Action:** Councilor Kretovic moved approval of the April 10, 2023 City Council Meeting Minutes. The motion was duly seconded and passed with no dissenting votes.

6. Agenda overview by the Mayor.
7. City Council action relative to the City Manager's evaluation, in accordance with Section 21(b) of the City Charter.

**Action:** Councilor Nyhan moved approval of the City Manager's satisfactory evaluation. The motion was duly seconded, and Councilor Kretovic called for a roll call vote.

**Yes:** 13 - Councilor Bouchard, Mayor Bouley, Councilor Brown, Councilor Champlin, Councilor Grady Sexton, Councilor Kretovic, Councilor Matson, Councilor McLaughlin, Councilor McNamara, Councilor Nyhan, Councilor Pierce, Councilor Rice Hawkins, and Councilor Todd

**Excused:** 2 - Councilor Fennessy, and Councilor Keach

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

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

Mayor Bouley, in accordance with Section 19 of the City Council Rules, moved to suspend to suspend Section 4 of the Rules to conduct a public hearing on City Council Agenda item number nine relative to the termination of a RSA 79-E covenant. The motion was duly seconded and passed with no dissenting votes.

Agenda item number 19 was pulled for discussion by Councilor Brown.

**Referral to Community Development, General Services and the Traffic Operations Committee**

8. Request from Councilor Matson on behalf of residents of Crestwood Manufactured Housing Park located on Manchester Street regarding the status of the gated access to Greenwich Street (including ownership of the gate), the history of the one-way configuration of Greenwich Street and status thereof, the condition of pavement on Greenwich Street (southeast of Marion Street) and ownership of said street segment, as well as status of CIP #36 Manchester Street Corridor Project and review of any potential intersection improvements relative to Crestwood Drive and Manchester Street associated therewith.

**Action:** This item was referred to Community Development, General Services, and the Traffic Operations Committee.

**Item Tabled for a May 8, 2023 Public Hearings**

9. Resolution authorizing the City Manager to terminate the RSA Chapter 79-E, Declaration of Covenants, recorded at the Merrimack County Registry of Deeds, at Book 3711, Page 717 ("Covenant"), relative to the property located at 10 Pleasant Street Ext, Concord, New Hampshire; together with a report from the City Solicitor.

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

**Items Tabled for June 5, 2023 Public Hearings**

10. Resolution fixing and determining the amount of money to be appropriated by the City of Concord for the Fiscal Year 2024, ending June 30, 2024, for the General Fund, Special Revenue Funds, Enterprise Funds, Debt Service Funds and Diminimis Accounts. (To be submitted under separate cover.)

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

11. Resolution for the annual capital closeout and re-purposing of capital project funds; together with a report from the Senior Accountant. (To be submitted under separate cover.)

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

12. Resolution authorizing and appropriating funds for Fiscal Year 2024, ending June 30, 2024, for Capital Projects and authorizing the issuance of bonds and notes for various Capital Projects more specifically identified in the budget document. (To be submitted under separate cover.)

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

13. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 1, Government Organization; Article 1-5, Fees, Fines, and Penalties, Schedule I, by amending Chapter 9, Water, Section 9-1-6, Water Use Rates.

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

**Items Tabled for June 12, 2023 Public Hearings**

14. Resolution appropriating the sum of \$200,000 for the completion of a Bridge Park Feasibility Study (CIP #657) in conjunction with the New Hampshire Department of Transportation's Interstate 93 Bow-Concord project and authorizing the issuance of bonds and notes in the amount of \$200,000 for this purpose; together with a report from the Deputy City Manager - Development.

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

15. Resolution appropriating the sum of \$142,000 for an existing conditions report and to create a Park Master Plan for the Memorial Field Complex (CIP #557) and authorizing the issuance of bonds and notes in the sum of \$71,050 and accepting the sum of \$70,950 as a donation from the Concord School District for this purpose; together with a report from the Parks & Recreation Director and a communication from the Concord School District.

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

### **From the City Manager**

16. Positive Citizen Comments.

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

### **Consent Reports**

17. Quarterly Status Report on City Council's 2022-2023 Priorities.

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

18. March 31, 2023 Fiscal Year to Date Financial Statements report from the Deputy City Manager - Finance.

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

19. Diminimus gifts and donations report from the Library Director requesting authorization to accept monetary gifts totaling \$1,172, as provided under the pre-authorization granted by City Council. (Pulled from consent by Councilor Brown.)

**Action:** This consent report was pulled from the consent agenda for discussion by Councilor Brown.

20. Diminimus gifts and donations report from the Parks and Recreation Director requesting authorization to accept monetary gifts totaling \$8,349.00 as provided for under the pre-authorization granted by City Council.

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

### **Appointments**

21. City Manager's Appointments to Concord Housing Authority & Redevelopment: Peter Burger, Jerome Madden, Jacqueline Whatmough, and James Fowler.

**Action:** This appointment was approved.

22. City Manager's Appointments to the Board of Trustees of Trust Funds: Jeffrey L. Schindler and Joseph M. Kwasnik.

**Action:** This appointment was approved.

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

### **Public Hearings**

- 23A. Resolution appropriating the sum of \$1,131,303 for the purpose of design, right-of-way acquisition, and bidding of the Loudon Road Bridge Rehabilitation and Road and Water Improvements project (CIP #588), accepting \$865,042 in New Hampshire State Bridge Aid Program funds and authorizing the issuance of bonds and notes in the aggregate amount of \$266,261 with \$216,261 in General Capital fund bonds and \$50,000 in Water Capital fund bonds for this purpose; together with a report from the Interim City Engineer.

**Action:** City Manager Aspell provided a brief overview of this item. The Loudon Road Bridge has been programmed in the New Hampshire Department of Transportation "Red Listed" bridges for several years. In fiscal year 2020, City Council appropriated funds for the design, permitting, and acquisition of right of way and construction for a rehabilitation of the bridge deck and other amenities on the Loudon Road Bridge.

Due to public input during the initial engineering study for the proposed improvements, the project was amended to include an expanded bridge deck to facilitate proposed extension of the Merrimack River Greenway Trail. This alternative design was presented and accepted to City Council in the Fall of 2020. In the last year, City and State officials have been working closely to coordinate the City's proposed bridge improvements with the State's Bow/Concord I-93 Expansion Project.

Of the \$1,760,000 project budget, \$628,697 shall be comprised of previously appropriated surplus project funds. Net new funding for the project totals \$1,131,303, which shall be comprised of the following sources: \$865,042 (80% State Share), \$216,261 (20% City Share) and \$50,000 (100% City funds).

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

- 23B. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 1, Government Organization, Article 1-5, Fees, Fines, and Penalties; together with non-ordinance fees and a report from the Deputy City Manager - Finance.

**Action:** City Manager Aspell provided a brief overview of this item. Annually each City department revises and recommends fee increases or changes based on inflation, market conditions, and budget changes. While non-ordinance based fees do not require a public hearing, they are included within this process.

The proposed fee changes are relative to cemetery services and lots, testing private fire hydrants, and building codes.

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

- 23C. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 15, Licensing and Regulation of Businesses, Trades and Occupations, by amending Article 15-2, Pawnbroker/Secondhand Dealer; together with a report from the Deputy Police Chief.

**Action:** City Manager Aspell provided a brief overview of this item. The recommended amendments to the Pawnbroker/Secondhand Dealer Ordinance are a result of technological changes within the industry. Instead of using paper transaction slips to record and report the transfer of property subject to the ordinance, the proposed amendment would require dealers to utilize the LeadsOnline database. This database is an efficient means for the Concord Police Department to track property transactions subject to this ordinance. Other housekeeping amendments are also proposed which make the ordinance easier to understand and apply.

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

23D. Resolution appropriating the sum of \$10,000 for tree planting on City property and within public rights-of-way under the Sustainable Tree Program and authorizing the use of \$10,000 from the Urban Tree Trust fund for this purpose; together with a report from the Tree Subcommittee of the Conservation Commission.

**Action:** City Manager Aspell provided a brief overview of this item. In 1999, the Urban Tree Trust Fund was established utilizing donated funds for street tree planting in the right of way in urban areas of the City. Additional funds have been deposited into the Trust Fund since City Council approved a change to the Zoning Ordinance that allows property owners to provide in lieu payment to the Urban Tree Trust Fund for the cost of the required trees not installed.

City staff planted 35 trees in 2022, 25 of which were partially covered by the incentive program. The cost of the tree scholarship program in 2022 was \$6,000. Given that the program is oriented towards those who have stated their desire to have a tree on their property, there is a much greater chance the trees will be cared for and survive. The cost of trees has increased significantly, now up to \$400-\$500 wholesale, making the cost sharing more important for those who want to participate. The Conservation Committee - Tree Subcommittee notes that the program was so successful last year that it went from having extra capacity to plant trees to now maintaining a waiting list for the upcoming year.

Mayor Bouley opened the public hearing.

Ted Diers, of the Tree Subcommittee, discussed challenges faced by trees and the loss of trees. Mr. Diers announced a May 16 event at Keach Park about tree planting and tips for helping trees survive. He discussed the difficulty in re-planting trees that were lost at the street edge that create a larger canopy, but he did discuss the committee's hope for residents to plant trees in their front, side, and back yards. Mr. Diers also discussed a grant to be used specifically in the Concord Height in the future.

Discussion followed regarding the health of the canopy, the stress that historical levels of drought can cause, and public meeting spaces.

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

9. Resolution authorizing the City Manager to terminate the RSA Chapter 79-E, Declaration of Covenants, recorded at the Merrimack County Registry of Deeds, at Book 3711, Page 717 ("Covenant"), relative to the property located at 10 Pleasant Street Ext, Concord, New Hampshire; together with a report from the City Solicitor.

**Action:** City Manager Aspell provided a brief overview of this item. On January 13, 2020, the City Council approved Resolution No. 9266 which granted a Community Revitalization Tax Relief Incentive to ensure that the property would be maintained and used in a manner that furthers the public benefits for which the tax relief incentive was granted. To date, no redevelopment of the property has occurred. In addition, no tax relief has been applied to the property.

A purchase and sales agreement has been executed for the sale of the property. The current owner and the prospective buyer have requested that the City terminate the Covenant for the sale to proceed. The sale of the property is to occur before the next Council meeting.

Mayor Bouley opened the public hearing.

Roy Schweiker, a Concord resident, discussed the value of the property and its tax assessment. He then discussed property tax assessment in general.

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

### **Public Hearing Action**

24. Resolution appropriating the sum of \$1,131,303 for the purpose of design, right-of-way acquisition, and bidding of the Loudon Road Bridge Rehabilitation and Road and Water Improvements project (CIP #588), accepting \$865,042 in New Hampshire State Bridge Aid Program funds and authorizing the issuance of bonds and notes in the aggregate amount of \$266,261 with \$216,261 in General Capital fund bonds and \$50,000 in Water Capital fund bonds for this purpose; together with a report from the Interim City Engineer.

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



25. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 1, Government Organization, Article 1-5, Fees, Fines, and Penalties; together with non-ordinance fees and a report from the Deputy City Manager - Finance.

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

26. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 15, Licensing and Regulation of Businesses, Trades and Occupations, by amending Article 15-2, Pawnbroker/Secondhand Dealer; together with a report from the Deputy Police Chief.

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

27. Resolution appropriating the sum of \$10,000 for tree planting on City property and within public rights-of-way under the Sustainable Tree Program and authorizing the use of \$10,000 from the Urban Tree Trust fund for this purpose; together with a report from the Tree Subcommittee of the Conservation Commission.

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

9. Resolution authorizing the City Manager to terminate the RSA Chapter 79-E, Declaration of Covenants, recorded at the Merrimack County Registry of Deeds, at Book 3711, Page 717 ("Covenant"), relative to the property located at 10 Pleasant Street Ext, Concord, New Hampshire; together with a report from the City Solicitor.

**Action:** General discussion was held regarding assessed values being set by the Board of Assessors and not the City.

Councilor Champlin moved approval. The motion was duly seconded and passed with no dissenting votes.

## **Reports**

### **New Business**

Mayor Bouley read and discussed a letter from Commissioner Sarah Stewart of the New Hampshire Department of Natural and Cultural Resources. The letter discusses the Governor and multiple Executive Councilors' disapproval of Historical Highway Marker No. 278. This letter is on file at the City Clerk's Office.

City Solicitor Jim Kennedy discussed the Highway Marker which is located on the State's property and contains the State's emblem. City Solicitor Kennedy discussed the sign and noted that the City does not regulate the contents of signs in general.

City Manager Aspell reviewed the September 2022 letter to Council from the Community Preservation Coordinator which discusses location. City Manager Aspell then explained that location was mentioned only as to ensure the marker would not impede visibility. The letter also discusses the marker's funding from Department of Highway funds and specifies that the City would be under no financial obligation.

General discussion followed regarding the State being able to remove the State's marker shall they choose and that the State does have a procedure in place for removing such items.

Councilor Nyhan moved to allow City Solicitor Kennedy to respond to Commissioner Stewart's letter. The motion was duly seconded and passed with no dissenting votes.

### **Unfinished Business**

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

Councilor Champlin thanked participants for attending the Diversity, Equity, Inclusion, Justice, and Belonging (DEIJB) Committee listening sessions and reminded the public of an upcoming e-mail address where written testimony can be sent.

Councilor Brown discussed a Land & Water Conservation Fund (LWCF) Grant that is accepting letters of intent until 4:00PM on June 2, 2023. She suggested this grant be used for lights at Keach Park. Councilor Brown also announced a hike she is leading to Marjory Swope Park Trail Vista at 9:30AM on June 3, 2023.

Councilor Kretovic discussed the Pathways to Golf program which provided golfing, transportation, and lunch to 60 children from low-income and traditionally marginalized communities.

Councilor Pierce offered his condolences on the passing of Mike Pride, former editor of the Concord Monitor.

Councilor Todd thanked the Council and community for the recently held Arbor Day celebration. He also announced the Memorial Day Parade being held by Penacook Village Association on Sunday, May 28, 2023 at 12:00PM.

Councilor Matson announced the upcoming world record attempt in pickleball. A duo is attempting to fly to 48 states for a pickleball match in each state. They are traveling to Concord via the Concord Airport for a match at the Citywide Community Center on May 21, 2023.

Councilor Bouchard thanked volunteers at Keach Park for two adopt-a-spot areas. David and Beth Naylor are taking care of the entrance from Loudon Road and the pollinator garden is being taken care of by the Overcomers Refugee Services and Leslie Van Berkmun. Councilor Bouchard also thanked Bob Wolfe for his efforts registering children for local sports. She also reminded the group about the youth scholarship fund which last year helped 400 resident children participate in Parks & Recreation programs. Councilor Bouchard announced remaining life guard vacancies.

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

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

19. Diminimus gifts and donations report from the Library Director requesting authorization to accept monetary gifts totaling \$1,172, as provided under the pre-authorization granted by City Council. (Pulled from consent by Councilor Brown.)

**Action:** Councilor Brown discussed eliminating fees from the Heights library branch until a return bin can be placed there.

Discussion followed regarding one branch's policy varying from the other branches, researching return bins, and the proximity of receiving department budgets.

Councilor Brown so moved to eliminate fees from the Heights library branch until a return bin can be placed at the Heights location. The motion was duly seconded and failed with 11 dissenting votes.

Councilor Kretovic so moved to accept the report. The motion was duly seconded, and passed with no dissenting votes.

### **Consideration of Suspense Items**

Sus1 Report from the Ad-Hoc Outdoor Dining Committee regarding proposed changes for outdoor dining program, including length of season and barrier layout plans for dining areas located in on-street parking spaces.

**Action:** Councilor Pierce presented the report from the Ad-Hoc Outdoor Dining Committee containing the following changes: extending the season from May 1-October 31 annually, renting barriers, and prohibiting participating restaurants from encumbering any additional parking spaces for the 2023 season.

Gerry Currier, of Little River Oriental Rugs, discussed the impact of utilizing parking spaces for outdoor dining as well as the length of the proposed outdoor dining season.

Sue McCoo, owner of several Concord businesses, discussed the impact to parking and provided a letter which is on file with the City Clerk's Office.

Councilor Pierce so moved to accept the report. The motion was duly seconded.

General discussion followed regarding the proposed length of the outdoor dining season.

Councilor Champlin so moved to amend the report's recommended outdoor dining season from May 1 - October 31 to instead be May 15 - September 15. The motion was duly seconded and failed with ten dissenting votes.

Councilor Champlin so moved to amend the report's recommended outdoor dining season for establishments utilizing parking spaces from October 31 to October 15. The motion was duly seconded and passed with one dissenting vote.

Councilor Pierce's motion to accept the report with the amendment per Councilor Champlin's motion passed with no dissenting votes.

**Adjournment**

**Action:** At 8:43PM, there being no more business to discuss, Councilor Champlin moved to adjourn.

**Information**

Inf1 March 29, 2023 Facilities Naming Committee Draft Meeting Minutes.

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

Inf2 April 3, 2023 Concord Public Library Board of Trustee Meeting Minutes.

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

Inf3 April 13, 2023 Golf Course Advisory Committee Draft Meeting Minutes.

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

Inf4 April 14, 2023 Diversity Equity Inclusion Justice and Belonging Committee Draft Meeting Minutes.

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

Inf5 Communication from Witmer Jones regarding the City's new trash contract.

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

Inf6 Communications from Comcast regarding changes to Xfinity TV Services.

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

Inf7 Invitation from the Penacook Village Association for members of City Council to participate in their 2nd Annual Memorial Day Parade to be held on Sunday, May 28th at noon.

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

*A true copy, I attest:*

*Elisabeth Harrington  
Deputy City Clerk*