



# City of Concord

## City Council

### Meeting Minutes - Draft

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Tuesday, October 10, 2017

7:00 PM

City Council Chambers  
37 Green Street  
Concord, NH 03301

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1. Call to Order.

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

2. Invocation by Pastor Keith Lewis, Trinity Baptist Church.

3. Pledge of Allegiance.

4. Roll Call.

**Present:** 15 - Councilor Candace Bouchard, Mayor Jim Bouley, Councilor Byron Champlin, Councilor Mark Coen, Councilor Amanda Grady Sexton, Councilor Allan Herschlag, Councilor Fred Keach, Councilor Linda Kenison, Councilor Jennifer Kretovic, Councilor Gail Matson, Councilor Keith Nyhan, Councilor Dan St. Hilaire, Councilor Stephen Shurtleff, Councilor Brent Todd, and Councilor Robert Werner

5. Approval of the Meeting Minutes.

September 11, 2017 City Council Meeting Minutes.

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

6. Resolution in recognition of the services of Master Police Officer James R. Fallon.

**Action:** Master Police Officer James Fallon was not present.

7. Resolution in recognition of the services of Master Police Officer Matthew A. Nelson.

**Action:** Councilor Shurtleff presented a resolution in recognition of the services of Master Police Officer Matthew A. Nelson.

8. Resolution in recognition of the services of Philip H. Bilodeau, P.E.

**Action:** Mayor Bouley presented a resolution in recognition of the services of

Philip H. Bilodeau, P.E.

9. Agenda overview by the Mayor.

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

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

*Approval of the Consent Agenda*

**Action:** Councilor St. Hilaire moved approval of the consent agenda, as amended, with item 17 removed to the end of the agenda for discussion. The motion was duly seconded and passed with no dissenting votes.

**Referral to the Fiscal Policy Advisory Committee, City Administration and Community Development**

10. City of Concord Conservation and Open Space Plan Update.

**Action:** This communication referred to the Fiscal Policy Advisory Committee, City Administration and Community Development.

**From the City Manager**

11. Positive Citizen Comments.

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

**Consent Reports**

12. Diminimus gifts and donations report from the Library Director requesting authorization to accept monetary gifts totaling \$1,181.72 as provided for under the pre-authorization granted by City Council.

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

13. Diminimus gifts and donations report from the Parks and Recreation Director requesting authorization to accept monetary gifts totaling \$3,493.15 as provided for under the pre-authorization granted by City Council.

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

14. Diminimus gifts and donations report from Assistant City Planner requesting authorization to accept and appropriate monetary contributions totaling \$10,000 for conservation purposes as provided for unde the pre-authorization granted by City

Council.

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

15. Report from Deputy City Manager - Finance recommending approval of a Senior Membership rate for the Beaver Meadow Golf Course as recommended by the Golf Advisory Committee.

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

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

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

17. Report from the City Engineer recommending that the City Manager be authorized to apply for US Department of Transportation, Federal Highway Administration, Transportation Investment Generating Economic Recovery (TIGER) grant program funds. (Pulled from consent by Councilor Herschlag)

**Action:** Item removed to end of agenda for discussion.

18. Report from the Assistant City Planner, on behalf of the Conservation Commission, recommending the City Manager be authorized to accept a Conservation Easement on Mountain Road as part of a conditionally approved Subdivision Plan application.

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

### **Consent Resolutions**

19. Resolution in honor of the services of retired Fire Lieutenant Christopher Andrews. (for presentation in November)

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

20. Resolution in honor of the services of retired Battalion Chief William Weinhold. (for presentation in November)

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

21. Resolution proclaiming December 2017 as Capital Region Food Program Month. (For presentation in December)

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

22. Resolution repurposing \$50,000 from the US Route 3 Corridor Improvements Project (CIP #35) for use on the Exit 16/Mountain Road/East Side Drive Roundabout Improvement Project (CIP #24); together with report from the City Engineer.

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

23. Resolution establishing a Trust Fund for the Stewardship of Conservation Easements and Conservation Land; together with report from the Assistant City Planner, on behalf of the Conservation Commission.

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

### **Consent Communications**

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

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

25. Street closure request from the Penacook Village Association for the 12th Annual Penacook Tree Lighting ceremony to be hold on Wednesday, November 29, 2017.

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

### **Appointments**

26. Mayor Bouley's proposed reappointment to the Upper Merrimack River Advisory Committee. Frederick Chormann, Jr.

**Action:** This appointment was approved.

27. City Manager's proposed appointment to the Board of Assessors. R. Jon Duhamel

**Action:** This appointment was approved.

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

### **Public Hearings**

- 28A. Ordinance amending the Code of Ordinances; Title II, Traffic Code; Chapter 18, Parking; Article 18.1, Stopping, Standing and Parking; relocation of two bus stops from the intersection of Main Street and Pleasant Street to the Pleasant Street crosswalk north of State Street; together with a report from the Traffic Engineer.

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

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

- 28B. Ordinance amending the Code of Ordinances, Title II, Traffic Code; Chapter 18, Parking, Article 18-1, Stopping, Standing and Parking, Section 18-1-6, Parking Prohibited at All Times in Designated Places, Schedule I, K Street; 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.

### **Public Testimony**

Jennifer Hall, 6 K Street, noted that the cause of this problem appears to be commercial vehicles that have not gone through the variance process which forces other vehicles at that property onto the street. She feels that the majority of the neighborhood is concerned with the safety issue because if there are vehicles parked on both sides of the street, it prohibits the entrance and exit of any emergency vehicles.

Robert Waterman, 16 K Street, noted that he has mixed concerns with the proposed change; he feels that it's a good idea not to park there, however, the individual may move his vehicle somewhere else in front of someone else's house. He indicated that the problem is that the multi-unit apartment owner is not controlling his tenants and how many vehicles are allowed to park there. He believes there are codes that indicate how many commercial vehicles can park at a residence and feels that they are not being enforced. He also believes that there are codes indicating how far one can park from a driveway and an intersection that are also not being enforced.

Councilor Herschlag inquired in regards to the commercial vehicles that are parking within this area. Mr. Waterman described that they are large pick up trucks similar to a contractor's vehicle. Councilor Herschlag questioned whether there are signs on the trucks. Mr. Waterman responded that there are signs on the side of the vehicles.

Councilor Kretovic indicated that she believes that there are four commercial vehicles and three private vehicles for two apartments. Mr. Waterman responded that to be correct.

Jim Spiegel, 1 View Street, indicated that when he is currently backing out there is very little room to get out. He understands that if no parking is allowed on that side of the street, they will park on his side of the street but it would be easier for him to back out. He noted that he feels that winter will again be a problem if nothing is taken care of.

Councilor Nyhan inquired whether there have been any discussions with the individuals who are parking the vehicles. Mr. Spiegel responded that there have been multiple discussions.

Councilor Kretovic clarified that Mr. Spiegel's property is on View Street, however, his garage and driveway is on K Street.

Mr. Spiegel stated that the owner of that house has put up signs indicating no parking or parking on K Street only. He noted that they are inching over closer and closer to his lawn.

Councilor Herschlag asked whether anyone has called the Police Department or Parking Enforcement to find out if there is anything that they can do. Mr. Spiegel responded that he believes so.

Art Jackson, 12 K Street, stated how close vehicles park near his property. He feels that it would be better if they had no parking on the south side of K Street not just to View Street but maybe even further.

Sandra Jackson, 12 K Street, indicated that the first time the Police Department were called they were wonderful and the second time they were called they had indicated that they have a right to park there for 48 hours. She voiced her concern with the parking issues within the neighborhood.

Deirdre Brotherson, 16 K Street, stated that she did call both Parking Enforcement and the Police Department. She indicated that she never heard back from the Police Department but someone from Parking Enforcement told her the regulations were five feet from a driveway and fifteen feet from an intersection. She pointed out that the intersection of View and K Streets is a "T" intersection and the vehicles

park there at the "T". She pointed out that the proposed regulation will also affect residents noting that it's unfortunate that one person is affecting a neighborhood but that safety is important.

Councilor Shurtleff inquired whether it would be appropriate, after they take action on this code change, to refer this issue back to the Parking Committee to look at this to see if the vehicles parking there do impede emergency vehicles.

Mayor Bouley asked whether it's better for them to take action on what is proposed to see how it goes or hold on this and try to find some alternative action.

Ms. Brotherson noted that this proposed change doesn't come down to her property; it only goes to View Street. She noted that if the residents want this passed, she feels that Council should pass it and see what happens.

Councilor Kretovic stated that she feels that more details and the discussion from the Parking Committee will become available during the action phase. She thinks that one of the important elements that was recommended was formalizing the parking there so that individuals in this rental property will know where they should be parking appropriately as opposed to the gray area out there today.

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

- 28C. Resolution authorizing and appropriating the sum of \$300,000 from the Conservation Reserve Purchase of Property fund for the purchase of two parcels totaling 116 acres within the Penacook Lake watershed, located off Lakeview Drive and West Parish Road (FY2017 CIP #352), and approving the acquisition of said open space watershed protection property; together with report from the Assistant Planner on behalf of the Conservation Commission.

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

Councilor Nyhan inquired as to what is the Conservation Commission's intended use of this open space. Beth Fenstermacher, Assistant City Planner, responded that the intended use is to keep it in conservation to protect it. They haven't evaluated it for timber sales which is something that may come in play. She stated that it's restricted based on the grants that were received; the Aquatic Resource Mitigation Fund which requires the protection of Lake Penacook - the protection for the water resource is the intended purpose of this conservation land.

Councilor Champlin pointed out that there is a stream indicated on the map that runs through the property and asked for a sense of how much of these two lots are wetlands. Ms. Fenstermacher responded that it's minimal; approximately twenty percent of the lot is wetlands.

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

- 28D. Resolution authorizing the City Manager to enter into a purchase and sale/development agreement with Dol-Soul Properties LLC concerning the sale and redevelopment of city owned real estate at 32-34 South Main Street and 33 South State Street known as the former New Hampshire Employment Security Property; together with report from the Director of Redevelopment, Downtown Services and Special Projects.

**Action:** Mayor Bouley asked whether there would be any Council objection in combining the public hearings for items 28D through 28H. There was no Council objection.

City Clerk Janice Bonenfant read the titles for 28D through 28H.

Matt Walsh, Director of Redevelopment, Downtown Services and Special Projects pointed out that Council will not be able to take action on items 35, 36 and 37 this evening because of a provision in state law, RSA 162-K:4 which requires Council to wait fifteen days after a public hearing to take action. He explained that Dol Soul Properties is a consortium of real estate developers and investors and plans to acquire the property from the city for \$1,075,000 and construct a new 120,000 square foot mixed used building: 109 market rate apartments; 5,000 square feet of commercial space on the ground level; a minimum of 54 on site parking spaces which may be increased to 103 spaces per a potential subterranean garage. Mr. Walsh provided a detailed overview of the project. Handout of his detailed presentation is on file in the City Clerk's Office.

Councilor Herschlag noted that it's his understanding that the purchase and sales agreement will be incorporated by reference into the deed. Mr. Walsh noted that Councilor Herschlag met with himself and the City Solicitor about some covenants that are in the purchase and sales agreement and wanted to make sure that those would carry through. In the interim, since they met, they have spoken to Dol Soul's attorney Mr. Sokul and believes what they will probably end up doing is taking every covenant that's in the purchase and sales agreement and recording them

as part of the deed so they will run with the land forever. He explained that there is no value of recording the pieces of the sales and purchase agreement that really aren't relevant to those covenants because it may create confusion in the future. He noted that every piece, including that the project is to be market rate apartments, would be incorporated into the deed when the city conveys to Dol Soul.

Councilor Herschlag inquired whether the component in the purchase and sales in regards to taxing and pilot will be part of the deed. Mr. Walsh responded yes. Councilor Herschlag asked whether the retail restrictions and definition, as explained in the purchase and sales regarding market rate apartments, will also be part of the deed. Mr. Walsh responded that is their intention.

Mayor Bouley opened the public hearings for items 28D and 28H.

### **Public Testimony**

Tim Sink, Greater Concord Chamber of Commerce President, spoke in favor of this proposed project and the proposed 109 market rate units. He noted that they have invested a lot of money in downtown and this is the furtherance of that investment; creating a 24/7 environment in downtown will be very beneficial to the city and an economic shot in the arm for local businesses. He feels that the addition of a higher end restaurant component is very attractive and works in favor of making Concord more of a dining destination.

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

Drew Dolben, Dolben Companies Vice President, stated that they have been looking for projects like this throughout New England; they manage 37 assets in New England and over 70 throughout the East Coast. He indicated that they currently operate properties within the city at Pembroke Place and Penacook Place; currently in New Hampshire they are operating just under 2,000 apartments and developing a new complex of 256 units at the site of the old Rockingham Park in Salem. He feels that this will create an opportunity for young professionals to live, walk and shop on Main Street. They see this as an exciting spot and hope that they will have the opportunity to work together through the process.

Councilor Coen inquired as to what was the number one attraction for the company to look at this site. Mr. Dolben responded that the location on Main Street makes it a unique opportunity to do something special. He added that they

were looking for a signature building that they could have in the state capital.

Councilor Champlin noted, assuming that Council approves the resolutions on this evening's agenda, since Mr. Dolben indicated that they want this to be a signature building he would encourage them to think imaginatively and creatively. He would like to see something that has a "wow" factor to it.

Councilor Herschlag asked how they go about in determining whether they are going to put in the 54 parking spaces or be able to go with additional spaces. Mr. Dolben replied that there are three components to the decision making on this - 1) can they physically be put on site because, at the moment, the site drops almost a full story from State Street to Main Street; 2) the environmental nature of the soils is unknown at the moment and if it is contaminated in any way there may be a cost is disposing of it; 3) can they economically do this based on the first two factors.

Councilor Werner hopes that they think about sustainability, environmental issues, solar and green building principles.

For the record, Mayor Bouley indicated that Council received an email from Steve Duprey regarding this item.

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

28E. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; together with report from the Director of Redevelopment, Downtown Services & Special Projects. (Supplemental report from the Planning Board submitted)

**Action:** Public hearing for this item taken with item 28D.

28F. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 29.2, Public Capital Facilities Impact Fees Ordinance, Article 29.2-1-3, Administration, Section (g) Incentives for Redevelopment of Blighted, Underutilized, Abandoned, or Contaminated Buildings and Table 4 "City Priority Redevelopment Projects"; together with report from the Director of Redevelopment, Downtown Services & Special Projects.

**Action:** Public hearing for this item taken with item 28D.

28G. Resolution adopting an amended and restated Development Program and Financing Plan for the Sears Block Tax Increment Finance District; together with report from the Director of Redevelopment, Downtown Services & Special Projects.

(Supplemental report submitted)

**Action:** Public hearing for this item taken with item 28D.

28H. Resolution appropriating the sum of \$300,000 for the demolition of the former New Hampshire Employment Security Building (CIP #578) within the Sears Block Tax Increment Finance District and authorizing the issuance of bonds and notes in the amount of up to \$300,000; together with report from the Director of Redevelopment, Downtown Services & Special Projects.

**Action:** Public hearing for this item taken with item 28D.

28I. Resolution appropriating the sum of \$160,000 for improvements to the Storrs Street Municipal Parking Garage (CIP #529) within the Sears Block Tax Increment Finance District and authorizing the issuance of bonds and notes in the amount of up to \$160,000; together with report from the Director of Redevelopment, Downtown Services & Special Projects.

**Action:** Matt Walsh, Director of Redevelopment, Downtown Services, Special Projects, provided a brief overview.

Mayor Bouley opened the public hearing.

### **Public Testimony**

Angie Lane, Red River Theatres Executive Director, spoke in support of the improvements specifically the entrance because the water damage has created quite an obstacle.

Roy Schweiker, resident, spoke in opposition of this item indicating that he feels that TIF dollars shouldn't be used to subsidize the garage.

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

28J. Resolution appropriating \$60,000 including authorizing the issuance of bonds and notes in the amount of \$60,000 as the local agency match for the replacement of Concord Area Transit Bus Vehicles. (CIP #584); together with report from the City Engineer.

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

Councilor Herschlag inquired whether these are the smaller buses or the full sized buses that are seen currently within the city. Mr. Aspell responded that they are

smaller than what is currently out there.

Mayor Bouley opened the public hearing.

### **Public Testimony**

Roy Schweiker, resident, spoke in opposition to the proposed resolution.

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

- 28K. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 15, Licensing and Regulation of Businesses, Trades, and Occupations; together with report from the Deputy City Manager - Development.

**Action:** Carlos Baia, Deputy City Manager-Development, provided a detailed overview of the proposed ordinance.

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

- 28L. Ordinance amending the Code of Ordinances, Title IV, Zoning Code, Chapter 28-9-4, Decisions by the Planning Board, Site Plan Review, Projects Exempt from Site Plan Review; together with report from the Deputy City Manager - Development. (Supplemental report from the Planning Board submitted)

**Action:** Carlos Baia, Deputy City Manager - Development provided an overview.

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

- 28M. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 29.2-1-2 (b)(1) Public Capital Facilities Impact Fee Ordinance, Assessment and Collection, Computation of the Amount of Impact Fees; together with report from the Deputy City Manager - Development.

**Action:** Mayor Bouley inquired whether there would be any Council objection taking public hearing items 28M and 28N together. There was no Council objection.

City Clerk Janice Bonenfant read the titles for both 28M and 28N.

Carlos Baia, Deputy City Manager - Development, provided a detailed overview of

the proposed ordinances.

Councilor Herschlag questioned why the applicant, for a non residential project, would have to apply for a waiver and why they wouldn't just remove those impact fees all together. Mr. Baia explained that in their discussion with FPAC, there was a concern about making sure that they didn't eliminate the impact fee ordinance because if times changes or the economy changes, they wanted to have that ability. He noted that the way it is currently structured, in essence, becomes almost an automatic waiver.

Councilor Herschlag read "an applicant may request from the clerk a full or partial waiver of the school facilities impact fee for the development of senior housing". He asked who would make that determination if the waiver should or shouldn't be accepted. Mr. Baia believes Councilor Herschlag was citing a separate part of the ordinance. He explained that the part of the ordinance that is specific to this actually has some waiver language that's a little more automatic. He indicated that the way it's drafted, they would not contemplate that there would have to be a request before the Planning Board or the City Planner. For example, if you go through the Planning Board process you would not be assessed an impact fee because it would be clear that one is doing non residential development or whatever they might be doing.

Mayor Bouley opened the public hearings for items 28M and 28N.

### **Public Testimony**

Steve Henninger, resident, spoke in favor of the proposed modifications to the impact fee ordinances.

Councilor Herschlag noted that there is the potential with additional development out on Exit 17 that may require approximately \$2.5 million worth of road improvements. He inquired, if there are no impact fees and the city has to make those improvements, how they would move forward so that its affordable for the developer and for the city. Mr. Henninger responded that the Planning Board still has the authority do its actions and can require off site improvements that are substantially related to the project in question. He stated that the city has always had to make a contribution towards this whether it's a direct TIF or a pseudo TIF.

Roy Schweiker spoke in opposition of the proposed ordinances noting that he

doesn't feel that residents should be burdened with costs of projects.

- 28N. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 29.2-1-2 (e) Public Capital Facilities Impact Fee Ordinance, Assessment and Collection, Waivers; together with report from the Deputy City Manager - Development.

**Action:** Public hearing for this item taken with item 28M.

- 28O. Ordinance amending the Code of Ordinances, Title V, Administrative Code; Chapter 35, Classification and Compensation Plan, Schedule D of Article 35-2, Class Specification Index, Public Information Officer; together with report from the Deputy City Manager - Development.

**Action:** Carlos Baia, Deputy City Manager - Development, provided an overview.

Councilor Herschlag asked what the Communications Coordinator would be doing that the Public Information Officer couldn't do by talking to the various departments; what is the function of the Communications Coordinator. He stated that he is not comfortable with both positions. Mr. Baia responded that because there is a 24/7 component to this that's part of it - to have one person just be responsible for that. He stated that you don't get the typical responsiveness that you would if you had another person that can be relied upon to share some of the responsibility during off hours, weekends, etc. He noted that the other element is that there is a synergy to having more than one person to talk about a strategy, marketing campaigns and ideas.

Mayor Bouley highlighted complaints heard such as what they can do to improve General Services communications; lack of context in communications; in Engineering there was communication dealing with Main Street but there were other projects such Exit 17; and residents with a lot of questions and lack of email response, twitter, etc. He inquired which position this would be. Mr. Baia responded that he sees this as part of the team effort - the PIO would ultimately be responsible and accountable for the message. Referencing real time information, Mr. Baia indicated that this is something that they don't have the capacity to do today.

Councilor Kenison questioned what the relationship would be in terms of who is in charge. Mr. Baia responded that the way the ordinance is written, the PIO would be in charge and accountable for the messaging and the Communications Coordinator, an existing position, would be reporting to the PIO.

Councilor Grady Sexton inquired what the relationship would be between the PIO, the Communications Coordinator and the Economic Development Director. Mr. Baia responded that most everything that they do here in the city in the last several years has been towards economic development and fostering it.

Councilor Champlin feels that this is the right direction to move in. He noted that this position and the structure that is being suggested around it would allow the city to speak with one clear voice.

Councilor Grady Sexton asked how they envision the PIO interacting with the Police Department. Mr. Baia responded that if there is an active incident that involves the Police Department they would always anticipate the person in front of the microphones live on tv will be an officer in uniform; what the PIO can do is follow the evolution of that incident and provide updates to the public.

Councilor Grady Sexton inquired whether this would be the same thing with the Fire Department. Mr. Baia responded that to be correct.

Mayor Bouley opened the public hearing.

### **Public Testimony**

Roy Schweiker, resident, feels that the city needs to change its culture before hiring public information staff.

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

- 28P. Resolution appropriating the sum of \$660,000 for improvements to the School Street Parking Garage (CIP #433) and authorizing the issuance of bonds and notes in the amount of up to \$660,000; together with report from the Director of Redevelopment, Downtown Services & Special Projects.

**Action:** Matt Walsh, Director of Redevelopment, Downtown Services and Special Projects, provided a brief overview.

Referencing the \$3.2 million appropriated in FY2017 to get to \$4.5 million, Councilor Herschlag inquired as to how they come up with that number. He questioned whether a consultant had made those recommendations. Mr. Walsh responded that it was himself working with the consultant on the project.

Councilor Herschlag noted that one year after the estimate they are seeing a bid that is almost twice as much as the anticipated cost. He asked how this could be avoided in the future. Mr. Walsh responded that the difference is \$436,000 which is not double the available funds. He noted that there was a bid that was submitted by one contractor that was double that; they had numerous issues with this bid so it was rejected. Mr. Walsh explained that with the way that the economy is today, there are a limited number of contractors that are available to do the work; people are picking and choosing jobs and there are a limited number of subs that they need to do the project. He is not happy coming in with a bid 14.4 percent over but it could have been much worse given the conditions for this economy.

Councilor Herschlag noticed within the report that there are a number of items that were removed in order to keep it at that fourteen percent. He asked if it's known what the bid would have been if they didn't take out those original items. Referencing page two, Mr. Walsh pointed out that there are add alternate pricing on some of those explaining that they were never part of the base scope of work; as they do with other projects, they bid these as extras to see what they cost if there are extra dollars. Mr. Walsh indicated that he didn't have that information with him this evening but could get that information to Councilor Herschlag if he wanted it.

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

- 28Q. Resolution accepting and appropriating the sum of \$21,618 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.

**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.

- 28R. Resolution accepting and appropriating the sum of \$62,551 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 Bouley opened the public hearing. There being no public testimony, the

Mayor closed the hearing.

- 28S. Resolution accepting and appropriating the sum of \$749,030.26 in one time Highway Block Grant Funds under SB 38 as a transfer to the Highway Reserve Fund; 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.

- 28T. Resolution appropriating the sum of \$62,820 to the Project Inspection, Golf and Sears Block Tax Increment Finance Funds Operating Budgets for Fiscal Year 2017, retroactive to June 30, 2017 which will be fully funded from excess revenues and available fund balances; together with report from 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.

- 28U. Ordinance amending the Code of Ordinances, Title 1, General Code; Chapter 1, Government Organization; Article 1-6, Code of Ethics; together with report from the City Solicitor.

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

### **Public Hearing Action**

29. Ordinance amending the Code of Ordinances; Title II, Traffic Code; Chapter 18, Parking; Article 18.1, Stopping, Standing and Parking; relocation of two bus stops from the intersection of Main Street and Pleasant Street to the Pleasant Street crosswalk north of State Street; together with a report from the Traffic Engineer.

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

30. Ordinance amending the Code of Ordinances, Title II, Traffic Code; Chapter 18, Parking, Article 18-1, Stopping, Standing and Parking, Section 18-1-6, Parking Prohibited at All Times in Designated Places, Schedule I, K Street; together with report from the Director of Redevelopment, Downtown Services & Special Projects.

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

Councilor Kretovic noted that neighbors reached out with regards to what is happening on K Street. She stated that, unfortunately, there is one person over and over again that seems to be the person parking on the street and being the most impactful. She indicated that this individual has received several tickets from the Police Department; he is contributing to the problem because he does have his own commercial vehicle. Councilor Kretovic explained that the way that the house is configured is that there is a three car garage and two of the garage spaces are taken up with construction equipment by the other renter; the other renter is the one that has four commercial vehicles on the property as well as the residential cars for them. She noted that when they have visitors, there are cars lined up and down the street.

Councilor Kretovic feels that the residents on K Street are not getting restitution and it's becoming intimidating, volatile and the neighborhood needs some resolution. She has spoken to the one individual who has been impacted the greatest and he is very sympathetic to what's going on but is also on edge because he is a single parent that keeps getting fines. She indicated that the police asked him to park across from View Street so it wouldn't be impactful to driveways. When the Parking Committee looked at this they thought it would be important to eliminate the parking on the south side and formulize the parking; draw some lines on the north side so there is a place to park. They believe that there may be four spaces that they could gain. She noted that the person that would be most impacted by this is Mr. Spiegel because he has the largest grass area but at least there will be lines. Councilor Kretovic feels that the best interest of the city is to listen to this neighborhood and try to formulize something so there is some peace.

Councilor Nyhan noted that he is concerned that it's not going to fix the problem and will just move it somewhere else. He wonders if there are any other options available.

Councilor Coen understands the concerns with shifting the problems and the issues to other parts of the area but feels strongly about passing this. It would be a step in helping the situation noting that if it gets sent back to the Parking Committee it may take several months to resolve. He noted that the Parking Committee could still look at this issue.

Councilor Herschlag stated that he is going to support the neighbor's request. He

inquired as to what is defined as a commercial vehicle. Mr. Aspell responded that he does not have the definition. Councilor Herschlag noted that this points to the importance of having an active "POP" patrol - problem oriented policing. He feels that this is an issue that, by having the same group officers coming back in and dealing with the neighbors, there would be more of an opportunity to find an amicable resolution.

Mayor Bouley pointed out that there is a staffing shortage in the Police Department and feels that the issues are way beyond this issue.

Councilor Shurtleff commended Councilor Kretovic for all her activities on behalf of the neighborhood and for trying to find a solution to the problem. He questioned whether this could be referred to the Traffic Engineer to see if he has any recommendations to help resolve some of the issues.

Mayor Bouley noted that what he took away from the motion was simply to adopt the ordinance and, based upon discussion, assumed that this would go back to the Parking Committee to see if there is any further resolution for the street and the residents.

Councilor Shurtleff stated that in the interim of the Parking Committee reviewing this he thought the Traffic Engineer could look at this situation.

Councilor Nyhan amended his motion to allow for this issue to also be referred to the Traffic Engineer. The motion was duly seconded.

Councilor St. Hilaire clarified that the proposal is to move forward with the ordinance then have the Parking Committee and Traffic Engineer look at the issues within the neighborhood.

The motion, as amended, passed with no dissenting votes.

31. Resolution authorizing and appropriating the sum of \$300,000 from the Conservation Reserve Purchase of Property fund for the purchase of two parcels totaling 116 acres within the Penacook Lake watershed, located off Lakeview Drive and West Parish Road (FY2017 CIP #352), and approving the acquisition of said open space watershed protection property; together with report from the Assistant Planner on behalf of the Conservation Commission.

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

32. Resolution authorizing the City Manager to enter into a purchase and sale/development agreement with Dol-Soul Properties LLC concerning the sale and redevelopment of city owned real estate at 32-34 South Main Street and 33 South State Street known as the former New Hampshire Employment Security Property; together with report from the Director of Redevelopment, Downtown Services and Special Projects.

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

33. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; together with report from the Director of Redevelopment, Downtown Services & Special Projects. (Supplemental report from the Planning Board submitted)

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

34. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 29.2, Public Capital Facilities Impact Fees Ordinance, Article 29.2-1-3, Administration, Section (g) Incentives for Redevelopment of Blighted, Underutilized, Abandoned, or Contaminated Buildings and Table 4 "City Priority Redevelopment Projects"; together with report from the Director of Redevelopment, Downtown Services & Special Projects.

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

35. Resolution adopting an amended and restated Development Program and Financing Plan for the Sears Block Tax Increment Finance District; together with report from the Director of Redevelopment, Downtown Services & Special Projects. (Supplemental report submitted)

**Action:** No action taken on this item. Item to be voted on at the November Council meeting.

36. Resolution appropriating the sum of \$300,000 for the demolition of the former New Hampshire Employment Security Building (CIP #578) within the Sears Block Tax Increment Finance District and authorizing the issuance of bonds and notes in the amount of up to \$300,000; together with report from the Director of

Redevelopment, Downtown Services & Special Projects.

**Action:** No action taken on this item. Item to be voted on at the November Council meeting.

37. Resolution appropriating the sum of \$160,000 for improvements to the Storrs Street Municipal Parking Garage (CIP #529) within the Sears Block Tax Increment Finance District and authorizing the issuance of bonds and notes in the amount of up to \$160,000; together with report from the Director of Redevelopment, Downtown Services & Special Projects.

**Action:** No action taken on this item. Item to be voted on at the November Council meeting.

38. Resolution appropriating \$60,000 including authorizing the issuance of bonds and notes in the amount of \$60,000 as the local agency match for the replacement of Concord Area Transit Bus Vehicles. (CIP #584); together with report from the City Engineer.

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

39. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 15, Licensing and Regulation of Businesses, Trades, and Occupations; together with report from the Deputy City Manager - Development.

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

40. Ordinance amending the Code of Ordinances, Title IV, Zoning Code, Chapter 28-9-4, Decisions by the Planning Board, Site Plan Review, Projects Exempt from Site Plan Review; together with report from the Deputy City Manager - Development. (Supplemental report from the Planning Board submitted)

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

Councilor St. Hilaire inquired, if they remove the site plan reviews for these types of projects, is there going to be any type of review if there is anything done to the exterior of the buildings. Mr. Baia responded that if a building permit is pulled for exterior work, it would trigger an architectural design review process because its in a performance district.

The motion to approve passed with no dissenting votes.

41. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 29.2-1-2 (b)(1) Public Capital Facilities Impact Fee Ordinance, Assessment and Collection, Computation of the Amount of Impact Fees; together with report from the Deputy City Manager - Development.

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

42. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 29.2-1-2 (e) Public Capital Facilities Impact Fee Ordinance, Assessment and Collection, Waivers; together with report from the Deputy City Manager - Development.

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

43. Ordinance amending the Code of Ordinances, Title V, Administrative Code; Chapter 35, Classification and Compensation Plan, Schedule D of Article 35-2, Class Specification Index, Public Information Officer; together with report from the Deputy City Manager - Development.

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

Councilor Herschlag feels that while there is value in the Public Information Officer he is not convinced that they need a Communications Coordinator at this time. He indicated that he will be voting against the ordinance as proposed.

Mayor Bouley asked what Council thinks of adding the Public Information Officer, not changing the Communications Coordinator and moves forth with the video specialist since its a relationship with Concord TV.

Councilor Coen inquired if they vote in opposition to the Communications Coordinator within the ordinance, would that current position stay the same. Mayor Bouley responded that the position would remain as it currently is.

Councilor Coen asked if they vote in favor of the ordinance, as written, they would be voting to increase the pay of the Communications Coordinator.

Mayor Bouley indicated that that the current labor grade would change from a 16 to a 17 for the Communications Coordinator if they vote in favor of the ordinance as written. He noted that for him it's not just dollars its also the relationship and how this all works together. He feels that its best to get a good grip on how they are

going to coordinate these activities.

Councilor Herschlag noted that, as he understands, the Communications Coordinator would remain the same if Council didn't vote to approve the ordinance. Mayor Bouley responded that is how he understands it.

Mayor Bouley noted that he is trying to capture what they really need which is the Public Information Officer position hopefully allowing them to do more real time stuff and to dovetail and coordinate with the Economic Development Director.

Councilor Champlin inquired whether this is going to create any confusion over lines of authority and responsibility. Mr. Aspell replied that he didn't believe so.

Councilor Herschlag asked that Council vote on the Communications Coordinator's position first. He stated that if that's approved as recommended, he will find himself not able to support the Public Information Officer's position.

Councilor Champlin amended his motion to approve the Public Information Officer, not change the Communications Coordinator, and encourage the video specialist working in coordination with Concord TV. The amendment was seconded.

The motion, as amended, passed with no dissenting votes.

44. Resolution appropriating the sum of \$660,000 for improvements to the School Street Parking Garage (CIP #433) and authorizing the issuance of bonds and notes in the amount of up to \$660,000; together with report from the Director of Redevelopment, Downtown Services & Special Projects.

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

45. Resolution accepting and appropriating the sum of \$21,618 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.

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

46. Resolution accepting and appropriating the sum of \$62,551 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 Coen moved approval. The motion was duly seconded and passed with no dissenting votes.

47. Resolution accepting and appropriating the sum of \$749,030.26 in one time Highway Block Grant Funds under SB 38 as a transfer to the Highway Reserve Fund; together with report from the Deputy City Manager - Finance.

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

48. Resolution appropriating the sum of \$62,820 to the Project Inspection, Golf and Sears Block Tax Increment Finance Funds Operating Budgets for Fiscal Year 2017, retroactive to June 30, 2017 which will be fully funded from excess revenues and available fund balances; together with report from Deputy City Manager - Finance.

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

Councilor Herschlag noted last month Council forgave approximately \$75,000 in administrative fees at the golf course. He requested that the City Manager doesn't wait until the next budget cycle for some recommendations as to how they can generate some additional revenue for the golf course.

Mayor Bouley indicated that Councilor Herschlag's comments are incorporated within the general budget.

The motion to approve passed with no dissenting votes.

49. Ordinance amending the Code of Ordinances, Title 1, General Code; Chapter 1, Government Organization; Article 1-6, Code of Ethics; together with report from the City Solicitor.

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

## **Reports**

## **New Business**

**Unfinished Business**

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

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

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

Councilor Herschlag announced that Ward Two is hosting a candidate forum for Mayoral and At-Large candidates on October 25th at the Newell Post Restaurant at 6:00 p.m.

Councilor Werner noted that over the past several months the Energy and Environment Committee has been considering a variety of strategies to suggest that the city become 100 percent renewable by the year 2050. He indicated what the committee will be doing is formally launch this campaign called "Concord ready for 100 renewable energy" on Saturday at 10:00 a.m. at the State House.

Councilor Todd indicated that Ward Four Councilor Byron Champlin will be making a presentation at the Penacook Historical Society's World War I series as part of the Over There, Over Here celebration on Sunday, October 15th at 2:00 p.m.

Councilor Bouchard indicated that she received an email from a constituent who is concerned with an ordinance that the city currently has. She noted that he walks and hikes on the Broken Ground trails and the city allows hunting on conservation land. She pointed out that his concern is that the two activities are getting too close together. She moved to refer his communication to the Conservation Commission. The motion was duly seconded.

Councilor Nyhan suggested to also refer the communication to the Recreation and Parks Advisory Committee. He wants it looked at from an open prospective noting that the city has plenty of hiking trails but not a lot of places to hunt.

Councilor Bouchard noted her agreement stating that the intent is to not get rid of hunting but to look at the proximity. She amended her motion to include the Recreation and Parks Advisory Committee.

The motion to refer the communication to the Conservation Commission and the Recreation and Parks Advisory Committee passed with no dissenting votes.

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

City Manager Tom Aspell thanked Carlos Baia, Deputy City Manager - Development, and Matt Walsh, Director of Redevelopment, Downtown Services and Special Projects, for putting together some of the items on the agenda stating that those items moves the community forward in many ways. He recognized City Clerk Janice Bonenfant for putting together this evening's agenda.

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

- *Item 17 has been pulled from the consent agenda for discussion.*

17. Report from the City Engineer recommending that the City Manager be authorized to apply for US Department of Transportation, Federal Highway Administration, Transportation Investment Generating Economic Recovery (TIGER) grant program funds. (Pulled from consent by Councilor Herschlag)

**Action:** Councilor Herschlag indicated that, after speaking with the City Engineer and reviewing the criteria for TIGER grants, he feels that it was important to pull this item. He doesn't believe that they held a public hearing to determine what the public would like to do. He noted that they have seen in the past, when applying for the TIGER grant for Main Street, they were really pushed up against deadlines, were told that they weren't able to move forward with certain protocols, and were told, when they applied for the grant, that if the community didn't favor the project that they didn't have to accept the grant. He noted that after the grant was awarded to them they were told if they returned the money or decided not to move forward with the project, that it would make it difficult for the city to receive a grant in the future. He understands the conundrum they are in and that the grant application was for a short period of time. He has a few suggestions as to how they can move forward without obligating the city to utilize the grant if that's not the wishes of the community. He feels that it's important for Council to hear from the community.

Councilor Herschlag moved that Council provide Administration with the ability to submit the application with the understanding that, over the next month or two, they will hold a public hearing on this project.

Councilor Kretovic inquired whether there is any idea as to when the city will hear back from the TIGER grant awards. City Engineer Ed Roberge responded that

they wouldn't hear back until April or May.

Councilor Herschlag's motion was duly seconded.

Councilor Nyhan stated that he appreciates what Councilor Herschlag is doing noting that there were some coordination issues with the prior TIGER grants. He believes the way to move forward is to approve this subject to a public hearing and, as the City Engineer indicated, they can withdraw the application up until April which is plenty of time to have a public hearing. He doesn't want to pigeon hole themselves over the next two months so it could be within the next six months; he would leave that up to staff. His only caveat is that they hold a public hearing before it's awarded.

Councilor Herschlag moved to amend his motion to hold a public hearing before the grant being awarded.

Councilor St. Hilaire indicated that he will be voting against the motion stating that he doesn't see the benefit in having a public hearing prior to a date certain before they know what project they are even granted. He feels that they need to have something on the table for the community to consider to have a public hearing.

Councilor Kretovic noted her agreement with Councilor St. Hilaire. She pointed out that the Transportation Policy Advisory Committee looked at all these projects that were recommended in this report for consideration. She stated that she feels that the extensive time and energy it takes to put these grants together doesn't warrant any pause and once they submit it, they can't change it; to have a public hearing with the potential to change what the outcome will be of the grant application will kill the grant application. She wouldn't edit anything at this point noting that the likelihood that they get the grant is small because of high competition.

Councilor Nyhan noted that what Councilor Herschlag is asking for is a public hearing to gauge the public's interest rather than the Council's interest. He feels that this is a good project but in regards to process, he believes Councilor Herschlag is right - they haven't had a public hearing on this and they probably should.

In regards to amending the grant, Councilor Herschlag believes that they amended the TIGER grant for the Main Street program. He stated that the idea of having a public hearing is to hear what the public has to say.

Councilor St. Hilaire doesn't feel that it's a good use of resources to hold a public hearing before they know if they have even qualified for or received the grant. He noted that if they are lucky enough to receive the grant, then they can have a public hearing.

Councilor Champlin inquired whether this type of contingency based approval of the grant application in any way undermines the viability of the application. Mr. Roberge responded that the due date is October 16th and what gets submitted is a generally final application. He indicated that they did go through some amendments on the TIGER grant for Main Street; four of the five amendments were voluntary in which they added extra work. He noted that there is some flexibility within the grant but the gist of the project is what they submit on the 16th. Mr. Roberge explained that the public process really begins after the grant is awarded explaining that there would be a full vetting of the components of the project, the details, the design elements as well as the appropriation of funds.

Councilor Champlin asked if the normal procedure would be to have the public hearings after the city finds out whether they receive the grant. Mr. Roberge responded that would be their process as they have done in the past.

Councilor Kretovic noted that their current normal process if a grant is awarded, regardless of what the grant source is, before they accept it there is a public hearing. Mr. Aspell explained that they are required to have a public hearing to accept the additional funds and expend those funds.

In specific regard to the TIGER grant application, Councilor Kretovic's understanding of these grants are from the city's history: the application is submitted and the federal highway assigns an individual that speaks specifically about the grant application.

Councilor Todd noted he is swayed by the logic of Councilor St. Hilaire indicating that he will not be voting for the motion before them.

Councilor Nyhan stated that when the city was awarded the TIGER grant last time, they had many meetings and posed the question "what if they didn't want the grant" staff responded that, after being awarded the grant and deciding not to move forward with it, it would jeopardize the city's future opportunities to receive another grant. He believes that this may be what Councilor Herschlag is getting at noting

that it bothered himself before that they painted themselves into a corner. He feels that this is a good project but feels that the process part gnaws at him.

The motion to authorize the City Manager to apply by October 16th and hold a public hearing prior to the grant failed on a voice vote.

Councilor St. Hilaire moved to accept this item as proposed on the agenda. The motion was duly seconded and passed with one dissenting vote by Councilor Herschlag.

### **Consideration of Suspense Items**

**Action:** Councilor St. Hilaire moved to consider suspense items not previously advertised. The motion was duly seconded and passed with no dissenting votes.

Sus1. Street closure request for the 1883 Black Ice Pond Hockey Championship.

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

Sus2. Referral to Engineering

Communication from Parker Steinberg, 39 Oak Hill Road, requesting consideration be made to install a "Welcome to East Concord" sign at the East Concord roundabout.

**Action:** Councilor St. Hilaire moved to refer this communication to Engineering. The motion was duly seconded and passed with no dissenting votes.

### **Adjournment**

Mayor Bouley reminded residents of the upcoming November 7th Municipal Election.

The time being 10:28 p.m., Councilor Bouchard 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*