



City of Concord

City Council

Meeting Minutes

Monday, January 10, 2022

7:00 PM

City Council Chambers
37 Green Street
Concord, NH 03301

Non-public session in accordance with RSA 91-A:3, II (d), to discuss the acquisition, sale or lease of property to be held at 5:30 p.m.

Present: 15 - Councilor Candace Bouchard, Mayor Jim Bouley, Councilor Stacey Brown, Councilor Byron Champlin, Councilor Nathan Fennessy, Councilor Amanda Grady Sexton, Councilor Fred Keach, 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

Action: Mayor Bouley called the meeting to order at 5:35 P.M.

Councilor Grady Sexton moved to enter non-public session in accordance with RSA 91-A: 3, II (d) to discuss the acquisition, sale or lease of property. The motion was duly seconded and passed with no dissenting votes.

Staff Members Present: City Manager Tom Aspell; Deputy City Managers Carlos Baia; City Clerk Janice Bonenfant; Deputy City Solicitor Danielle Pacik; and Director of Redevelopment, Downtown Services, and Special Projects Matt Walsh.

At 6:35 P.M., Councilor Champlin moved to exit non-public session. The motion was duly seconded and passed with no dissenting votes.

In public session, Councilor Kretovic moved to seal the minutes of the non-public session. The motion was duly seconded and passed unanimously.

There being no additional Council business, Councilor Champlin moved to adjourn the non-public session.

1. Mayor Bouley called the meeting to order at 7:02 P.M.
2. Invocation.
3. The Pledge of Allegiance was completed.
4. Roll Call.

Present: 15 - Councilor Candace Bouchard, Mayor Jim Bouley, Councilor Stacey Brown, Councilor Byron Champlin, Councilor Nathan Fennessy, Councilor Amanda Grady Sexton, Councilor Fred Keach, Councilor Gail Matson, Councilor Jennifer Kretovic, Councilor Paula McLaughlin, Councilor Karen McNamara, Councilor Keith Nyhan, Councilor Erle Pierce, Councilor Zandra Rice Hawkins, and Councilor Brent Todd

5. Approval of the Meeting Minutes.

December 13, 2021 City Council Draft Meeting Minutes

Action: Councilor Bouchard moved to approve the December 13, 2021 Council Meeting Minutes. This motion was duly seconded and passed with no dissenting votes.

December 14, 2021 City Council Draft Meeting Minutes.

Action: Councilor Bouchard moved to approve the December 14, 2021 Council Meeting Minutes. This motion was duly seconded and passed with no dissenting votes.

6. Agenda overview by the Mayor.

Consent Agenda Items

Action: Councilor Grady Sexton moved approval of the Consent Agenda Items, excluding Item 20 which was removed by Councilor Nyhan. This motion was duly seconded and passed with no dissenting votes.

Referral to City Administration, the Legal Department and the Recreation & Parks Advisory Committee

7. Communication from Mary Jane Haley requesting consideration be made to no longer allow dogs within municipal cemeteries.

Action: This communication referral has been approved.

Referral to the Conservation Commission, Planning and the Planning Board

8. Communication from Donna & Peter Marston, 30 Village Street, requesting the City remove two large pine trees from City owned property on the corner of Village Street and Abbott Road as well as expressing their interest in purchasing the City owned property.

Action: This communication referral has been approved.

Items Tabled for February 14, 2022 Public Hearings

9. 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, Network Security Engineer; together with report from the Director of Human Resources and previously submitted resolution.

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

10. Resolution authorizing the Annual Appraisal of Real Estate at Market Value per RSA 75:8-b; together with report from the Director of Real Estate Assessments. (Public hearings to be held in February and March with action taken in April.)

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

11. Resolution appropriating the sum of \$67,637 to continue the work of reducing energy usage at the Hall Street Wastewater Treatment Plant (CIP #104) and accepting the sum of \$67,637 from the Unifit NHSAVES Energy Efficiency Incentive Rebate Program for this purpose; together with report from the General Services Director.

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

12. Resolution appropriating the sum of \$18,771.00 to launch an e-bike bookmobile outreach program and accepting the sum of \$18,771.00 using Federal American Rescue Plan Act (ARPA) grant funds for this purpose; together with report from the Library Director. (Supplemental report submitted.)

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

13. Resolution appropriating the sum of \$1,880,000 as a transfer to Reserves, and authorizing the use of \$1,880,000 from Fiscal Year 2021 General Fund Assigned Fund Balance; together with report from the Deputy City Manager - Finance.

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

14. Resolution appropriating the sum of \$130,000 for the City Hall door project,

furniture and equipment, and key management system and education opportunities and authorizing the use of \$130,000 in reserve funds for these purposes; together with report from the Deputy City Manager - Finance.

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

From the City Manager

15. Positive Citizen Comments.

Action: The positive comments were received and filed.

Consent Reports

16. Diminimus gifts and donations report from the Library Director requesting authorization to accept monetary gifts totaling \$1,741.82, as provided for under the pre-authorization granted by City Council.

Action: This consent report was approved.

17. Report from the Deputy City Manager for Development recommending approval of a license agreement with The Thorne Leather Co., Inc. DBA Thorne's of Concord for an awning sign over the public right of way at 140 North Main Street.

Action: This consent report was approved.

18. Quarterly Current Use Tax Report from the Director of Real Estate Assessments.

Action: This consent report was approved.

19. Fiscal Year 2021 Annual Comprehensive Financial Report (ACFR) from the Deputy City Manager - Finance.

Action: This consent report was approved.

20. Report from the Everett Arena Advisory Committee and the Parks & Recreation Advisory Committee recommending funding the Kiwanis Park Master Plan in FY2023. (Pulled from consent by Councilor Nyhan.)

Action: This consent report was pulled for further review by Councilor Nyhan.

21. Report from the Library Director recommending City Council accepts a \$29 donation from a library patron for a one-year subscription the Washington Report on Middle East Affairs.

Action: This consent report was approved.

22. Report from the Conservation Commission on the 50th Anniversary of the Commission.

Action: This consent report was approved.

Consent Resolutions

23. Resolution in recognition of the Services of Firefighter Paramedic Jeffrey Schottler

Action: This consent resolution was approved.

24. Resolution repurposing the sum of \$75,561.56 from the completed Primary Clarifier Replacement subproject (CIP #104) to a new Secondary Clarifier Replacement subproject (CIP #104); together with report from the General Services Director.

Action: This consent resolution was approved.

Appointments

25. Mayor Bouley's proposed appointment to the Committee for Concord's Plan to End Homelessness: Lisa K. Madden.

Action: This appointment was approved.

End of Consent Agenda

Public Hearings

- 26A. Ordinance amending the Code of Ordinances, Title IV, Zoning Code, Chapter 28, Zoning Ordinance, Article 28-2, Zoning Districts and Allowable Uses, Section 28-2-4, Allowable Principal and Accessory Uses in Zoning Districts, Paragraph J, Table of Principal Uses, by amending the Table of Principal Use, Use E, Medical; together with report from the Deputy City Manager for Development. (Supplemental report requesting public hearing be recessed until January 10, 2022 received.) (Additional supplemental report and map submitted.) (Public hearings recessed at the December 13, 2021 and the January 10, 2022 City Council meetings.) (Supplemental ordinance and additional supplemental report submitted.)

Action: Councilor Bouchard stated that she and Councilor Champlin had been working on an amendment change for consideration, which would include adding Loudon Road in the zoning districts CG (General Commercial) where category E6 would not be allowed, as this district tended to be adjacent to dense residential areas, which would create a higher expectation for buffering and screening to protect those abutting neighborhoods.

Mayor Bouley proposed continuing with the public hearing to hear public testimonies as planned, but recess the public hearing until February's City Council meeting so that staff and the impacted communities could offer their input on the proposed changes by Councilor Bouchard along with the originally proposed zoning changes.

Councilor Fennessy asked to clarify if any proposed changes were required to be drafted in order to have a public hearing in February. Mayor Bouley confirmed that it was not required, but felt that it was in the public's best interest to have City staff review the proposed changes for any unintended consequences.

Councilor Fennessy asked to have City staff also take into consideration any unintended consequences or facilities that may be impacted by the originally proposed changes in addition to Councilor Bouchard's proposed changes. City Manager Aspell confirmed.

Mayor Bouley opened the public hearing.

Sam Lewandowski, a new Concord resident and the Assistant Director of NH Governor's Recovery Friendly Workplace, noted that a group of services was labeled as medical services and included substance use disorder treatment. She asked to clarify if any public health research had been done to align it further with public health best practices. She advocated for increasing user services to remove possible recovery barriers and noted the economic benefits and recovery assistance to aid in substance abuse treatments.

Councilor Pierce asked how the proposed amendment created barriers to recovery services. Ms. Lewandowski stated that additional time and research may be needed to better identify and locate the populations in need, so more accessible services could be provided. She noted that she felt this process seemed rushed and felt that it might not be aligned with public health best practices. She promoted having listening sessions within the recovery community and getting feedback from that

community to best tailor the services.

There being no additional public testimony, Mayor Bouley recessed the public hearing for February's City Council meeting.

- 26B. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 13 Public Health, Article 13-4, Vaccinations and Communicable Disease, Wearing of Face Coverings in the City of Concord - COVID-19; together with report from the Deputy City Solicitor. (Public testimony received.) (Additional public testimony received.)

Action: Councilor McNamara, the Co-Chair of the COVID-19 Mask Subcommittee, stated that the Subcommittee drafted and proposed a Mask Ordinance requiring all residents, visitors, employees of business, and members of the public to wear a face mask when interacting with the public, entering businesses and restaurants, and entering commercial or residential complexes, despite vaccination status.

Councilor McNamara noted that this ordinance excluded outdoor areas, participation from children under five years old, and participation from any person for whom wearing a face covering would pose a risk for health-related reasons, or for any person who had a disability or medical condition that made wearing a face covering difficult. She noted additional exemptions included gyms, eating and drinking in restaurants, and personal care services. She stated that the proposed penalties would include a verbal or written warning for a first offense, a \$25 fine for a second offense, and up to a \$50 for any subsequent offenses.

Councilor McNamara stated that this ordinance would take effect upon its passage and would continue at all times until the level of community transmission rates in Merrimack County, New Hampshire, were deemed to be “low” as defined by the CDC.

Councilor Kretovic noted that numerous emails had been received from members of the public stating that endorsing a mask mandate was unconstitutional. She asked the City legal staff to speak further to the legal issues of a mask mandate. Deputy City Solicitor Pacik stated that although there had been an increase in litigation over mask mandates, the New Hampshire courts have continued to uphold them, so City staff felt moving forward would be constitutional.

Mayor Bouley opened the public hearing.

Dr. Millie LaFontaine, a concord resident and member of the Kent Street Coalition, fully endorsed the City's proposed mask mandate.

Ruth Marvin, a Franklin resident with Concord relatives, testified on their behalf strongly opposing the City's proposed mask mandate. She noted that there were ramifications for people with medical exemptions who could not wear masks, and felt that the psychological damage being done to all ages was not justified. Councilor Kretovic thanked Ms. Marvin for sharing her experiences and noted that similar feelings could be felt on the other side as well, so it was important to be respectful to both sides and practice empathy. She stated that she had lost four family members to COVID-19 and losing a parent or loved one inflicted more psychological damage than wearing a mask.

Mayor Bouley stated that many emails were received and filed with the City Clerk's office that offered helpful input and feedback to members of Council. He also stated that the public hearing phase was more of an opportunity for Council members to ask questions where needed to generate deeper conversations, but asked Council members to refrain from giving speeches until the end.

Roseanne Chester Prescott, a retired New Hampshire Children, Youth and Families employee, gave Council members a handout with data on child mask wearing and stated her opinions on its harmful psychological impacts on children and society. She strongly opposed the City's proposed mask mandate. Councilor Champlin asked a clarification question about the handout presented showing a picture of a surgical mask box stating that the masks did not protect from COVID-19. He said he did not find the same text on his own box of masks that he purchased from Staples. Ms. Chester Prescott stated that she took the picture herself from a box of surgical masks she purchased either from Walgreens or Walmart. She noted that some surgical masks didn't have that statement because they may have been in production before COVID-19.

Louis Mayfield, a Brookline resident, former Army medic, nurse, and NH EMT, strongly opposed the City's proposed mask mandate, stating that good surgical masks only work for a short time and the good ones aren't available to average people. He noted that this mandate only put more restrictions and hardships on people wanting to move forward. He noted that he lost family to non-COVID-19 health issues due to complications and distractions from COVID-19 in the medical field. Councilor Rice Hawkins extended her condolences for Mr. Mayfield's loss. She stated that reports from hospitals across the State of New Hampshire reported

critical capacities in ICU units, staff shortages, and an increase of active COVID-19 spread. She noted that surgeries were being put off due to the high number of COVID-19 patients, and asked if these situations put families like his in the same situation. Mr. Mayfield stated that the reports he had read stated that the number of active COVID-19 patients in ICU beds were being exaggerated. He stated his belief that a significant factor in health care staffing shortages was attributed to mandatory vaccinations that people didn't want and people just not working. As a follow up, Councilor Rice Hawkins asked if Mr. Mayfield didn't believe New Hampshire's medical professionals, to which Mr. Mayfield stated that he did to an extent and noted that the CDC Director just stated that there wasn't enough data to confirm who died from COVID-19 from those who died with COVID-19.

Catherine Smith, a Chichester resident and former nurse, stated that she lost her job due to the forced vaccinations. She voiced her concerns over the potential loss of freedoms and strongly opposed the City's proposed mask mandate.

Carla Garcia, a mother and Concord resident, voiced her frustrations over COVID-19 inconsistencies and guidance and strongly opposed the City's proposed mask mandate. Mayor Bouley noted that Concord Hospital provided COVID-19 patient statistics every few days and people could sign up to see them anytime. He asked Ms. Garcia if she felt that the vaccine was effective, to which she said no, she didn't think it worked.

Dennis Ketner, a Concord resident and licensed paramedic, stated his concerns over the ineffective use of masks and strongly opposed the City's proposed mask mandate. Councilor Rice Hawkins asked if Mr. Ketner was still serving as a paramedic, to which he confirmed yes in Manchester.

Noreen Pond, a Concord resident, stated her concerns over how COVID-19 has negatively impacted people with mental health issues and their treatment by the general public. She advocated for personal choice and strongly opposed the City's proposed mask mandate. Councilor Kretovic thanked Ms. Pond for speaking to Council about her personal struggles with homelessness and mental health issues and wished her all the best.

Adriana Andrian, a Loudon resident who grew up under the Communist regime in Eastern Europe, voiced her opposition for the City's proposed mask mandate, stating they should be encouraged not mandated. She asked City Council members

to instead advocate and encourage healthy and clean eating, exercising, and participating in outdoor activities that were a healthy alternative to improve ones body and mental health over masks and vaccines. Councilor Rice Hawkins stated that a Farm to Table bill was being heard that would ensure farm produce would be served to children, to which Ms. Andrian noted her approval. Councilor McNamara noted that the Governor puts out a fitness plan that encourages and promotes healthy eating and exercise.

Jason Gerhard, a Northfield resident and frequent Concord visitor, opposed the City's proposed mask mandate. He noted that since everyone was so overly concerned with people's health why wasn't obesity being targeted, as it was the number one marker for people to become seriously ill with COVID-19. He stated his opinion that the Governor and politicians encouraging healthy eating and wellness was bogus when they weren't leading by example. He stated that NH's motto "Live Free or Die" had meaning to him and asked City Council members to respect the people. Councilor Rice Hawkins asked if Mr. Gerhard was vaccinated, to which he said he was not. She asked if, in his opinion, most people opposed to the mask mandate were unvaccinated, to which he said no. He stated that most people opposed to the mask mandate were opposed to the Government telling people what to do and how to live, by removing personal choice.

Pam Myers, a Concord resident, stated her disagreement with the City's legal team regarding a mask mandate being constitutional, and voiced her opposition to the City's proposed mask mandate, stating that it seemed more like a money-making scheme of the City to fine for mask compliance.

Steve Robinson, a NH resident and Concord visitor, voiced his health concerns over wearing masks and his opposition to the City's proposed mask mandate as he felt that it should be a personal choice. Councilor Rice Hawkins asked if Mr. Robinson felt that medical professionals shouldn't wear masks during surgeries, to which Mr. Robinson stated that it was an irrelevant question, as that was a hygienic practice and those masks were disposed of as bio-hazard materials, not like the ones everyone wears and tosses in the trash, which later become pollutants in the environment. Councilor Rice Hawkins asked if Mr. Robinson was vaccinated, to which he stated no and didn't plan to as he lost people in a direct relation to the vaccine.

Several audience members started voicing their concerns over Councilor Rice Hawkins asking questions about people's vaccination status as they felt it violated

HIPPA. Mayor Bouley told the audience that Council members were respectfully listening to their public testimonies and stated they needed to also be respectful of each other by not speaking out of turn. He stated that Councilor Rice Hawkins could ask her questions and people didn't have to respond. Mayor Bouley also stated that the City Council meeting was being recorded and would be available online so audience members didn't have to record it themselves if they didn't want to.

Jim McConaughey, a Concord resident, spoke as a part-time triple vaccinated employee, over the mask mandate enforcement issues. He felt that it wasn't fair to ask employees to be the first level of enforcement and opposed the City's proposed mask mandate. He stated his belief that creating a mandate would only create a further wedge between the community and further increase tension between people. He advocated for encouraging and reinforcing people to practice personal responsibility. Councilor Rice Hawkins asked Mr. McConaughey, if despite public testimonies received from unvaccinated people who didn't believe in public health and science data, what he felt was the personal responsibility for being thoughtful for neighbors and the community, to which he replied that taking over the responsibility from them was not the answer. He stated that people are not stupid, they make dumb decisions and they make bad choices, but they may have to live with their consequences. He stated that it was not the role of the Government to determine if people were smart enough to know what they needed to do or to take away their choice by making those decisions to do the right thing instead. Councilor Rice Hawkins commented on a patriotic pin that Mr. McConaughey wore and asked if he was familiar with what George Washington did in regards to the small pox outbreak, where he mandated inoculation and quarantines to keep the budding nation strong. Mr. McConaughey stated that his pin with the flag stated that he was vaccinated and he was proud to be and fully endorsed City Council going that route, as it was the best solution against the COVID-19 problem.

John Gaudet, a Concord resident, reiterated that COVID-19 had impacted everyone and taking personal responsibility was important. He stated his opposition to the City's proposed mask mandate as he felt there were alternative methods and that it should be a choice.

Kate West, a Concord resident, stated her support of and full endorsement of the City's proposed mask mandate.

Julie Symms, a Newport resident and Concord medical patient, voiced her health

concerns and opposition to the City's proposed mask mandate.

Jessica Martin, a Manchester resident and Executive Director of Intown Concord, stated her support of the City's proposed mask mandate. Councilor Kretovic asked how the Main Street businesses were enforcing their own mask policies and signs, to which Ms. Martin stated that they were simply asking and that the majority of people respectfully complied, but noted that having the support and backing by the City through a mask mandate would be more effective. Councilor Bouchard asked to confirm if Ms. Martin was speaking for herself or Intown Concord, to which she stated that she was only speaking in a personal capacity.

Frank Swarce, a Concord resident and parent, stated his belief that personal sovereignty did not trump the constitution. He voiced his belief that masks were not effective against COVID-19 and stated his opposition to the City's proposed mask mandate.

Christine Vigneault, a Concord resident, stated her opposition to the City's proposed mask mandate and asked Council to allow businesses the choice to make their own decision, as many did not and would not support a mask mandate, even if voted in. Councilor Kretovic asked if Ms. Vigneault was familiar with OSHA ETS that went in to effect that day, enforcing masking and isolation of employees in a work environment of over 100 employees, to which Ms. Vigneault confirmed that she was not.

Jennifer Mercer, a Loudon resident and Concord worker, stated her opposition to the City's proposed mask mandate, as she did not believe that masks were effective against COVID-19, and felt that businesses and people should have a choice on the matter. She stated her belief that City Council members were not medical professionals and therefore should not be making medical decisions or ordinances. Councilor Rice Hawkins noted that medical professionals endorsed universal mask wearing and asked what Ms. Mercer's opinion was on that advice, to which Ms. Mercer stated that the medical community was constantly flip-flopping, so she would consult her own doctor and do what she felt was right for herself and her family. Councilor Rice Hawkins asked if Ms. Mercer was aware of some associations that published bulletins requiring medical professionals to follow public health and science, that if they gave advice not specific to an individual with a medical relationship, they could lose their license for expressing an opinion against public health and science. Ms. Mercer stated that she was not and took offense. Councilor Rice Hawkins reiterated that the medical community believed so

strongly in public health and science that one could lose their practicing license for going against public health and science. Ms. Mercer again took offense to doctor's not being able to think and act on their own.

There being no other testimonies, Mayor Bouley closed the public meeting.

- 26C. Ordinance amending the Code of Ordinances; Title II, Traffic Code; Chapter 18, Parking, Article 18-1, Stopping, Standing and Parking, concerning parking modifications on Kennedy Lane; together with report from the Director of Redevelopment, Downtown Services, and Special Projects.

Action: City Manager Aspell stated that the Parking Committee unanimously recommended removing the twenty minute parking zone located on Kennedy Lane, running between Depot Street and Pleasant Street Extension.

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

- 26D. Ordinance Amending the Code of Ordinances, Title I, General Code; Chapter 9, Water, Article 9-4, Water and Sewer Investment Fee; together with report from the Deputy City Manager for Development.

Action: Deputy City Manager - Development Baia stated that the City's special water and special sewer investment fees were instituted in the late 1980's in addition to standard water and sewer investment fees as a result of the City's speculative installation of water and sewer infrastructure in certain areas. He noted that this action was in anticipation of an increase of business development in a short period of time, which never occurred due to an economic crash. He stated that, due to the lack of development, there was a lot of undeveloped land going unused. He reiterated that housing was one of Council's main priorities, but stated that the added special fees could be a deterrent for potential project developers, and could be as high as \$200,000 for a multi-family development.

Deputy City Manager - Development Baia stated that the Fiscal Policy Advisory Committee voted unanimously to recommend that the City Council repeal the City's special water and special sewer investment fees. He stated that the special fees were not tied to any debt issue, it was only an established fee.

Councilor Fennessy asked how much the special fees would be broken up on a per unit cost, in regards to affordable housing. Deputy City Manager - Development

Baia stated that the cost per unit could range from \$5,400.00 to \$7,500.00 just in regulatory costs.

Councilor Pierce asked if there was a way to maintain the fees, but collect over multiple years. Deputy City Manager - Development Baia stated that was an option to consider, but noted that from an economic development perspective in the current marketplace, this still posed challenges as a built-in disincentive. He noted that if the property was a rental, the owners would likely pass on the cost in rental fees, which could negate affordable housing. He stated that these fees have not generated significant revenues over the last ten years due to the lack of developments.

Councilor Brown asked if there was a way to keep the fee, but instead use it to incentivize developers by controlling or adjusting the fees based on the project type, as a bargaining chip. Deputy City Manager - Development Baia stated that it could, but the ordinance would need to be re-written to structure and allow for that kind of flexibility.

Councilor Matson asked if it would incentivize developers to work with the City if there was no fee. Deputy City Manager - Development Baia stated that staff felt that the elimination of the special fees would bring in new business. He noted that if approved, the change would be proactively promoted within the development community to stimulate activity.

Mayor Bouley opened the public hearing.

Roy Schweiker, a Concord resident, stated that he was upset over the proposed change, because he felt that the City had a history of spending money to encourage development, but then removed the fees if the developers didn't like them. He felt that there was no information provided to Council and felt that the people generating the costs should be the ones paying for them. He voiced his concerns over waiving possible fees if there was no way to determine how much would be waived. He stated that there was no list of properties tied to the fees or a projection of fees available. He stated that he was unable to determine how many properties had been recently purchased since the fee implementation, to best project how much was owed or how much would be waived. He noted that it appeared that most of the properties had been purchased with a knowledge of the fees, but the developers were trying to get developments cheaper. He stated that property taxes were increasing and he felt that now was not the time to waive fees on developers

for expenses that they would incur to extend a water or sewer line. He stated his belief that these fees would wind up as increases in water and sewer bills instead of property taxes, which he felt was a worse burden.

Councilor Fennessy asked how much Mr. Schweiker's monthly water bill cost, to which Mr. Schweiker stated approximately \$28.00. Mr. Schweiker stated that a five dollar increase to a larger establishment did not impact a user the same as it did to a low-end user or low income resident.

Councilor Fennessy asked if property taxes would be lowered if the fee went away and some of the vacant lots were developed, to which Mr. Schweiker stated that was a misconception that City Council bought into from development staff. He stated that increasing residential properties would only increase the tax bill. He stated that there were real costs tied to developments that tax payers should not be responsible for.

Councilor Champlin asked how developers amortizing additional fees into additional rent costs helped poor people, to which Mr. Schweiker projected that an extra thousand-dollar charge, per unit, would equate to an extra rent fee of ten dollars a month. He stated that if landlords were polled on how much their rents were based on actual costs there wouldn't be any, because rents skyrocketed while costs remained the same. He felt that even if the developers were given a break in fees, it would not be passed down to the renters.

Councilor Champlin asked if the housing market rates were based on the value of the property and the scarcity within the market, to which Mr. Schweiker stated perhaps, as adding extra units would be reflective of the surrounding region area. He stated that adding crummy jobs with no benefits would not help with housing costs to bring in workers, so they would rely on City resources to sustain themselves.

Mayor Bouley asked if Mr. Schweiker received the same memo packet as Council, to which Mr. Schweiker stated that he read the report and map included. Mayor Bouley asked if affordable housing was an important issue in the City and State, to which Mr. Schweiker stated yes.

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

- 26E. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance, Article 28-9, Administration and Enforcement, Section 28-9-4,

Decisions by the Planning Board, by amending Subsection (d) (3), Projects Exempt from Site Plan Review; together with report from the Deputy City Manager for Development.

Action: City Manager Aspell stated that this was a correction to an oversight made to a zoning ordinance.

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

- 26F. 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, Administrative Specialist II; together with report from the Human Resources Director.

Action: City Manager Aspell stated that this was a housekeeping change to reinstate the position, as this position continues to exist within other City Departments.

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

- 26G. 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, authorizing a change in title from “Building Systems Supervisor” to “Public Properties Crew Leader”; together with report from the General Services and Human Resources Directors.

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

- 26H. Resolution appropriating the sum of \$99,040.42 for compensation and fringe benefits for personnel costs related to the deployment of Fire Department personnel to areas impacted by disasters and accepting the sum of \$99,040.42 as reimbursement from the Federal Emergency Management Agency for this purpose; together with report from the Deputy Fire Chief.

Action: Mayor Bouley opened the public hearing.

Roy Schweiker, a Concord resident, stated that he thought this was a good idea, but asked to what extent individuals endorsed by the Fire Fighters union be allowed to vote on items relating to the Fire Department. He stated his belief that if anyone was endorsed by the Fire Fighters union then they should not vote on this item.

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

- 26I. Resolution appropriating the sum of \$11,741.37 to support programming and outreach that enhance the services of the Concord Public Library and accepting the sum of \$11,741.37 in donations from the Concord Public Library Foundation for this purpose; together with report from the Library Director.

Action: City Manager Aspell stated that the Concord Public Library Foundation awarded this money to support Concord Public Library in the creation of the library programs such as, but not limited to, Summer Reading Program for all ages, Live Music with the Library, Beat the Librarians Trivia Night, Take and Make craft kits for all ages, STEAM Team, a teen programming series and materials for library outreach. He noted that this check covered the period January 1, 2022 through December 31, 2022, as the Foundation operated on a calendar year instead of fiscal year.

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

Public Hearing Action

27. Ordinance amending the Code of Ordinances, Title IV, Zoning Code, Chapter 28, Zoning Ordinance, Article 28-2, Zoning Districts and Allowable Uses, Section 28-2-4, Allowable Principal and Accessory Uses in Zoning Districts, Paragraph J, Table of Principal Uses, by amending the Table of Principal Use, Use E, Medical; together with report from the Deputy City Manager for Development. (Supplemental report requesting public hearing be recessed until January 10, 2022 received.) (Additional supplemental report and map submitted.) (Public hearings recessed at the December 13, 2021 and the January 10, 2022 City Council meetings.) (Supplemental ordinance and additional supplemental report submitted.)

Action: Mayor Bouley moved to recess the public hearing until the February City Council meeting.

28. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 13 Public Health, Article 13-4, Vaccinations and Communicable Disease, Wearing of Face Coverings in the City of Concord - COVID-19; together with report from the Deputy City Solicitor. (Public testimony received.) (Additional public testimony received.)

Councilor McNamara motioned to adopt the ordinance. The motion was duly seconded.

Councilor Champlin asked if the ordinance had an impact on performers on stage, in performance venues. Mayor Bouley stated yes, and Deputy City Solicitor Pacik mirrored Nashua's mask policy and confirmed that there were no exceptions made for performers.

Councilor Kretovic asked Police Chief Osgood to clarify how the original mask ordinance was enforced by police and about any possible fines collected and what impacts were there to services. Police Chief Osgood stated that the original mask ordinance was adopted at the same time that the Governor's executive orders were in place. He noted that due to the executive orders, the State was primarily responsible for any complaints against restaurants, but Concord Police Department (CPD) responded to 53 complaints for all other issues. He noted that no citations were issued, as CPD responded more as a mediator to educate folks on disagreements at retail establishments.

As a follow up, Councilor Kretovic asked Police Chief Osgood to what extent would the new ordinance impact CPD. Police Chief Osgood stated that he would anticipate a significant impact for overall compliance in all venues.

Councilor Rice Hawkins asked Police Chief Osgood to clarify when the Governor's orders went into effect and if CPD was responding to calls. Police Chief Osgood stated that the Governor's executive orders went into effect in March 2020 and CPD got involved with the Attorney General's Office regarding calls about restaurants. He noted that there was a hotline for which the AG's office monitored calls and farmed out from.

Councilor Pierce asked if passed would an additional hotline be needed, to which Police Chief Osgood stated no, the main line was sufficient.

Councilor Rice Hawkins asked Fire Chief Brown to speak about the increased COVID-19 cases and the impacts to the Concord Fire Department. Fire Chief

Brown stated that the pandemic presented numerous challenges to his Department. He noted that areas impacted included patient care, hospital delays due to staff shortages, supply chain issues accessing items and a triple increase in costs for basic supplies used like gloves. Councilor Rice Hawkins asked if Fire Chief Brown could elaborate on the wait times at the ER and the increased need for staff and ambulance response for COVID-19. Fire Chief Brown stated that periodically ambulance staff overtime and or new personnel was needed when call volumes reached a certain point and the hospital emergency room reached a certain threshold. He noted that there was no exact science, but the calls were made if and when ambulances had to wait hospital ER parking lots to unload patients, while hospital staff tried to find available beds, and additional staff were needed to respond to other City backlog. Councilor Rice Hawkins asked Fire Chief Brown to confirm how many times mutual aid was requested and unscheduled staff or ambulances were called in, to which he stated that staffing overtime was a reactionary process and was difficult to determine and estimated that calls for mutual aid were around a dozen. Councilor Rice Hawkins asked Fire Chief Brown to speak to staff morale as they were responding in high stakes environments, to which he stated that there was not a morale issue, but acknowledged that their jobs were stressful at times due to backlogs, time delays, etc. He acknowledged that his personnel wanted to serve and do everything they could to be timely and help the community, and felt stressed when they couldn't.

Mayor Bouley noted that some of the questions asked seemed to come from the Fire Department's union president and although relevant, noted that they would be part of a conversation to be held in the comments section of the meeting, where the City Manager would propose next step options. Councilor Rice Hawkins clarified that the questions asked were her own and not on behalf of the union president.

Councilor Pierce asked Fire Chief Brown to clarify how the original mask mandate impacted responses needed, to determine whether there was a measurable increase or decrease. Fire Chief Brown stated that additional research through patient care records would be needed to get generalized information. Councilor Pierce stated that he did not need a report, he was only looking to generally gauge whether staff saw any changes, to which Fire Chief Brown stated that response times were similar to other communities where there were peaks and valleys.

Councilor Kretovic asked if the situations of hospital backups in unloading patients for hospital care resulted in call delays that required mutual aid responses, were the events that created stressors for Fire staff and paramedics, to which Fire Chief

Brown confirmed.

Councilor Bouchard asked if a mask ordinance requiring masks all the time would create morale issues for Fire Fighters who were together for long periods of time. Councilor Rice Hawkins added, as a point of clarification, that the ordinance made an exception for the fire house. Fire Chief Brown stated that some exceptions existed and they utilized risk management strategies and practices to help reduce COVID-19 exposures in the fire house. Councilor Bouchard asked if the high vaccination rate of fire staff gave a more secure feeling to those in the fire house, to which Fire Chief Brown stated yes.

Councilor Keach asked to clarify if businesses were required to enforce the ordinance or if it was up to patrons, to which Deputy City Solicitor Pacik stated that businesses were not being asked to enforce the ordinance, but noted that employees and patrons were required to wear face coverings. She stated that the intent was not to fine businesses, but did require compliance from employees and the public. Councilor Keach noted that he felt the ordinance was too ambiguous regarding who enforced the ordinance and felt that it was not the job of the businesses to enforce it. He stated that he would not be in support of the ordinance as he felt each business should be able to create and enforce their own rules and that it was not the job of the City to do that. Deputy City Solicitor Pacik stated that the Committee agreed that the businesses shouldn't be fined for non-compliance from employees or the public.

Mayor Bouley stated that, in number eight of the ordinance, where it stated, "All businesses open to the public, including restaurants, retail stores, service providers, and places of amusement and recreation, and residential and commercial buildings of greater than two (2) units shall post at each public entrance a notice stating "FACE COVERINGS REQUIRED PER THE CITY OF CONCORD ORDINANCE." He asked to clarify that if businesses did not post the sign, who was fined, to which Deputy City Solicitor Pacik corrected her previous statement and confirmed that if the sign was not posted, then, yes the businesses would be fined.

Councilor Fennessy stated that number two of the ordinance stated that, "Employees of all businesses shall wear a face covering over their mouth and nose when interacting with the public and whenever they are within six feet of a coworker or a customer." He asked to clarify if the intent was to fine the employee for non-compliance or the business as the employer for non-compliance. Deputy

City Solicitor Pacik stated that the Committee discussed the responsibility would fall on the employee.

Councilor Grady Sexton asked to clarify if the intent of the ordinance would make it her responsibility to call the police on a non-mask wearing co-worker, to which Deputy City Solicitor Pacik noted that there would be an obligation to call and report non-compliance if desired, but the ordinance in no way referenced language to do that.

Councilor Pierce stated that he had concerns with number two of the ordinance and had no issue with front facing employees in retail wearing masks, but felt that back office employees should be left up to the employer.

Mayor Bouley noted that in number four of the ordinance it was stated that, "Members of the public dining at a restaurant may remove face covering when actively eating and drinking." He asked to clarify if the intent of the ordinance for dining patrons while not "actively eating or drinking," was for them to wear their mask while seated, to which Deputy City Solicitor Pacik stated that yes, the language in the ordinance supports that as it is currently written.

Councilor Grady Sexton asked to clarify if the ordinance would make it her responsibility to call the police on a non-mask wearing diner if she was concerned with non-compliance, to which Deputy City Solicitor Pacik stated that, yes, the enforcement portion of the ordinance would be handled by the police. Deputy City Solicitor Pacik stated that the ordinance would allow the business to enforce asking a patron to comply or leave, if they desired, or a concerned customer could report the non-compliance.

Councilor Fennessy noted that in number five of the ordinance it stated, "Residents, visitors, and members of the public entering or present at a residential or commercial building complex of greater than two (2) units must wear a face covering over their nose and mouth while in common areas and communal spaces." He noted that some condominium spaces defined public spaces as areas not in the condominium itself and asked to clarify if the intent was for residents to wear face masks, even in public/outdoor areas within the condominium. Deputy City Solicitor Pacik stated that Nashua regulated indoor and outdoor spaces, so the Committee modified some areas within the ordinance to reflect compliance of indoor spaces, and felt that they may have mistakenly overlooked this section. Councilor McNamara confirmed and stated that the Committee was concerned

with indoor spaces like foyers, hallways, and gathering spots within a condominium. Councilor Fennessy stated that the language would need to be changed to match the intent as some condominiums specifically define common areas as outdoor areas, driveways, and mail rooms, which made the ordinance language a bit conflicting. Councilor Rice Hawkins asked Councilor Fennessy if adding the word "indoor" before common areas fixed his concerns, to which he agreed.

Councilor Bouchard stated that she had concerns with the ordinance, especially for workers behind the scenes. She also noted that the intent of the ordinance seemed inconsistent where a mask would need to be worn between actively eating and drinking but not during a facial for an hour, and felt that the compliance of when to wear a mask seemed erratic. She commented that the fire house was not specifically exempt, but did note that the City Manager could authorize reasonable protocols for the Fire Department. She stated her belief that the City was in a different place than when the original mask mandate was implemented and noted that businesses now have plexiglass, the public was aware of social distancing practices, and not all masks were created equal. She stated her belief in personal responsibility and felt the ordinance, as written, would be confusing. She stated that Council's energy should be focused on vaccinations, and thanked the Mayor for coordinating the mobile vaccination event, and endorsed continuing those efforts.

Council Fennessy noted that number nine of the ordinance stated, "Persons engaged in utilizing cardio, strength training, and other gymnasium equipment may remove the face covering during the actual use of such equipment provided a distance of six (6) feet from any other person is maintained." He asked to clarify if basketball players would be required to wear a mask while playing, to which Deputy City Solicitor Pacik stated yes that was how the ordinance was written.

Councilor Kretovic noted that she would have endorsed this prior to speaking with a nurse, who said the safest practice was to treat everyone as if they had COVID-19, until cleared. Councilor Kretovic encouraged everyone to tighten their inner circles of family and friends, promote vaccinations, and create their own comfortable spaces and environments, as City Council couldn't control the spread of COVID-19 in homes and on a person to person level.

Mayor Bouley noted that he struggled with section two of the ordinance where it referenced it taking effect and ending as the standard set seemed difficult to

achieve, and felt uncomfortable with the language and favored setting periods of time to review and revisit as needed.

Action: Councilor Rice Hawkins motioned to amend the ordinance by adding the word "indoor" before common areas in number five. She asked to amend number nine to reduce the distance required to three feet instead of six, as requested by gyms. She asked to add a new number twelve to add in that musical performers and other live performers may remove their facial coverings while they are performing, and renumber numbers twelve, thirteen and fourteen. Councilor Brown seconded the proposed amendments.

Councilor McNamara motioned to amend section two to change when the mandate would be lifted, to instead reference "moderate" instead of "low." Councilor Brown seconded the proposed amendment.

Councilor Bouchard noted that she felt the amendments were fine, but felt that they were watering down the overall intent, and stated that she would not support it.

Councilor Brown stated that the input being given was important and tailored the ordinance to the Concord community and constituents, and did not feel like the changes were watering anything down.

Councilor Rice Hawkins requested a roll call vote.

- Yes:** 5 - Councilor Brown, Councilor Champlin, Councilor McNamara, Councilor Rice Hawkins, and Councilor Todd
- No:** 10 - Councilor Bouchard, Mayor Bouley, Councilor Fennessy, Councilor Grady Sexton, Councilor Keach, Councilor Matson, Councilor Kretovic, Councilor McLaughlin, Councilor Nyhan, and Councilor Pierce

Action: Councilor Pierce motioned to amend number two to reference employees of all "retail" businesses. Councilor Rice Hawkins seconded the proposed amendment for discussion purposes.

Councilor Rice Hawkins stated her frustrations over ten Council members voting against the changes to the ordinance and felt that it was a moot point to continue working on the ordinance. She stated that only two people volunteered for the Subcommittee and that she gave up her own holiday time with family to work on the ordinance that Council members and their constituents asked for. She asked Council members to reconsider the amendments that were proposed to address areas of concerns that Council members identified.

Councilor Pierce stated that his intent was to be more specific for public facing customer service employees, as he felt it was not right to tell business what to do in their back rooms, and felt that businesses should be responsible for those environments.

Councilor Pierce asked to revise number two to state, "Customer facing employees of all businesses shall wear a face covering over their mouth and nose when interacting with the public."

Councilor Rice Hawkins stated that she struggled with the proposed changes. She stated that she was hesitant to have someone work in a space with someone willing to actively spread COVID-19, especially after listening to public testimonies from people who chose not to vaccinate, chose not to wear masks, and didn't believe that COVID-19 was real, despite over 800,000 reported deaths from it. She offered to support the ordinance as she felt that having it approved would still do some good in the community.

Councilor Brown stated that in speaking with her constituents, many have requested the backing support from City Council with "some teeth." She acknowledged that not everyone would be compliant, but felt that education was a big piece of it, and noted that the police wouldn't give out fines "willy-nilly." She stated that the intent of the ordinance was to support businesses and not create an obligation to call the police on neighbors and friends.

Yes: 6 - Councilor Brown, Councilor Champlin, Councilor McNamara, Councilor Pierce, Councilor Rice Hawkins, and Councilor Todd

No: 9 - Councilor Bouchard, Mayor Bouley, Councilor Fennessy, Councilor Grady Sexton, Councilor Keach, Councilor Matson, Councilor Kretovic, Councilor McLaughlin, and Councilor Nyhan

Action: Councilor Rice Hawkins stated that many constituents were not present for the meeting who had voiced their concerns about a potential COVID-19 spread where masks weren't required, and people who professed not to believe in public health and science and wanted to be their voice. She acknowledged a constituent named Lynn, who worked in health care treating cancer patients, who supported a mask mandate for all members in the community. She acknowledged a communication from a nurse named Annie, who supported implementing a mask mandate as other communities had. She acknowledged a communication from senior constituents Bob and Deb, who were in favor of a mask mandate. She stated that the Merrimack Valley School District, who had students from multiple towns, reported 176 absent students, despite having a mask requirement. She stated that community transmission was the main factor increasing those numbers. She acknowledged a communication from a constituent named Burt, who felt that COVID-19 was draining the health care system and endorsed a mask mandate. She acknowledged a communication from an immune-suppressed constituent named Nan, who supported the mask ordinance. She acknowledged a communication from Reverend Joel Eaton, stating his support of mask wearing. She stated her frustrations over hearing public testimonies that refuted public health and science and that Council members sided with those view points, instead of the medical community.

Councilor Champlin extended his thanks to Councilor Rice Hawkins and Councilor McNamara for putting in the work to compose the ordinance. He stated that he had heard feedback and input from very passionate people from all over, both in favor of a mask ordinance and in opposition of it. He acknowledged that everyone had different experiences throughout the COVID-19 pandemic and noted that symptoms and responses were not the same or predictable, which caused a lot of confusion and distrust of information. He stated that his intent was initially to endorse the ordinance, but due to the failed amendments to allow exemptions for performers and the performing art centers, he would not support it. He stated his belief and endorsement of vaccinations and asked the public to get vaccinated, and commended the Mayor for making mobile vaccinations and boosters available in the community.

Mayor Bouley stated his beliefs in, COVID-19; the deaths caused by COVID-19; the negative impacts that COVID-19 brought on to families, businesses, and the community; that vaccinations were crucial in combating the effects of COVID-19; that masks should be worn; that social distancing should be practiced and that guidance from the CDC and medical community were important. He acknowledged

receipt of communications and feedback from those for and against a mask mandate. He acknowledged that the enforcement of a mask mandate posed some challenges and felt that getting residents fully vaccinated was more of a priority. He stated that Concord should lead by example, as other communities have, and noted that if the ordinance failed, he would bring forward a resolution for consideration that fully encouraged the use of facial coverings.

Councilor Kretovic noted that many of the public testimonies and communications received about the proposed mask mandate were submitted prior to the ordinance being drafted for review. She noted that once the ordinance was received it was thick and not in compliance with CDC guidance. She stated that if people were vaccinated and boosted, then they didn't have to wear a mask, and felt that by mandating a mask was taking away their freedom of choice. She endorsed her support of personal responsibility and choice, and did not support the ordinance as she felt it was too restrictive.

Councilor Pierce stated that he received a lot of email communications from constituents and shared a few of their stories in support of universal masks. He thanked Councilor Rice Hawkins and Councilor McNamara for putting in the work on the ordinance, and although not perfect endorsed his support.

Councilor McNamara motioned to adopt the original ordinance. The motion was duly seconded, but failed to be adopted with a roll call vote requested by Councilor Rice Hawkins.

- Yes:** 4 - Councilor Brown, Councilor McNamara, Councilor Pierce, and Councilor Rice Hawkins
- No:** 11 - Councilor Bouchard, Mayor Bouley, Councilor Champlin, Councilor Fennessy, Councilor Grady Sexton, Councilor Keach, Councilor Matson, Councilor Kretovic, Councilor McLaughlin, Councilor Nyhan, and Councilor Todd

Action: Mayor Bouley proposed a resolution for City Council's consideration that strongly encouraged the use of face coverings in accordance with the recommendations of the Centers of Disease Control and Prevention and noted that there would be no fines and penalties for non-compliance.

Councilor Grady Sexton asked if number five of the resolution would allow the City Manager to grant exemptions to performers, to which Mayor Bouley confirmed, but noted that it also gave the City Manager the flexibility to make rules and exemptions as needed for the Fire Department and Parks and Recreation.

Councilor Rice Hawkins asked to clarify if the City Manager already had the authority to make those decisions, to which Mayor Bouley confirmed. He noted that City Manager Aspell had stated that he would follow the guidance of City Council and that the intent of the resolution was to clearly give him that directive.

As a follow up Councilor Rice Hawkins asked why the word "authorized" was used instead of "strongly recommended," as she felt this wasn't actually doing anything and instead only made it look that way. Mayor Bouley stated that the intent was to make masks mandatory in City facilities while recognizing the flexibility of performers, athletes, etc.

City Manager Aspell stated that the City of Concord implemented the recommendation of mandatory masks in City facilities, in August, prior to Nashua or Manchester's discussions. He confirmed that Concord had been doing it right along, to which Councilor Rice Hawkins stated that she meant no offense, only to point out that it made it look like the City was taking an affirmative action, while doing nothing different. She stated that the opportunity to take an affirmative action was rejected three times and the resolution was only a "feel good" opportunity to encourage something that businesses and residents already had the opportunity to do.

Councilor Kretovic motioned to extend the meeting past 11:00 P.M. Councilor Champlin seconded the motion, and it passed with three dissenting votes.

Councilor Todd moved to approve the resolution. The motion was duly seconded and passed with one dissenting vote.

Councilor Todd thanked Mayor Bouley for presenting the resolution and endorsed his support. He confirmed his agreement with Mr. McConaughy when he stated

that it was not a perfect world. He stated that City Council members were not experts and could only trust the information provided. He confirmed that he received a lot of feedback from his constituents about implementing a mask ordinance, but acknowledged that having something in place was better than nothing. He stated the importance of continuing to promote vaccinations and getting the message out to the public.

29. Ordinance amending the Code of Ordinances; Title II, Traffic Code; Chapter 18, Parking, Article 18-1, Stopping, Standing and Parking, concerning parking modifications on Kennedy Lane; together with report from the Director of Redevelopment, Downtown Services, and Special Projects.

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

30. Ordinance Amending the Code of Ordinances, Title I, General Code; Chapter 9, Water, Article 9-4, Water and Sewer Investment Fee; together with report from the Deputy City Manager for Development.

Action: Councilor Fennessy moved approval. This motion was duly seconded and passed with one dissenting vote.

Councilor Brown did not support waiving fees without better understanding the full scope and impact, and thought that staff should modify the ordinance to better accommodate negotiating.

Mayor Bouley endorsed his support of City staff and the review process they performed. He noted that he would be working with the City Manager to implement a Committee to review City fees and permits. He acknowledged that while most fees were at market rate, it was important to review periodically and have a conversation of value. He noted that the ordinance in question was about an extra fee that was assessed on top of fees that developers were already paying for water and sewer connection fees. He stated his belief that affordable housing was the one of the most important issues in the City and State and endorsed Council taking actions to help keep housing costs affordable.

Councilor Pierce asked if the fees in any way impacted water and sewer rates that residential tax payers paid, to which Deputy City Manager - Development Baia noted that, since it was a fee that was rarely collected, he anticipated that the General Services Water Department did not budget it, so there would be minimal impact without it.

Councilor Brown asked Deputy City Manager Development Baia if he was aware of any developers who specifically walk away from working in the City because of the special fees. Deputy City Manager - Development Baia stated that many developers have complained about the fees, but noted that it was difficult to pin point the exact reason why projects didn't work. He stated that his goal was to offer more incentives to increase activity within the community. Councilor Brown asked if Concord was the most expensive community for developers to build in, to which Deputy City Manager - Development Baia stated that market research placed Concord in the middle. He noted that some fees were higher than other communities, while some were significantly lower. He stated that his Department was tasked with finding alternative methods to bring in housing developments, and he felt that reducing fees was one way to spark activity.

Councilor Keach asked Deputy City Manager - Development Baia if the special fees helped with development, to which he stated no.

31. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28,

Zoning Ordinance, Article 28-9, Administration and Enforcement, Section 28-9-4, Decisions by the Planning Board, by amending Subsection (d) (3), Projects Exempt from Site Plan Review; together with report from the Deputy City Manager for Development.

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

32. 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, Administrative Specialist II; together with report from the Human Resources Director.

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

33. 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, authorizing a change in title from “Building Systems Supervisor” to “Public Properties Crew Leader”; together with report from the General Services and Human Resources Directors.

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

34. Resolution appropriating the sum of \$99,040.42 for compensation and fringe benefits for personnel costs related to the deployment of Fire Department personnel to areas impacted by disasters and accepting the sum of \$99,040.42 as reimbursement from the Federal Emergency Management Agency for this purpose; together with report from the Deputy Fire Chief.

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

Councilor Keach asked to clarify if the funds were to offset compensations paid or if it was for retirement programs, to which City Manager Aspell stated that it covered everything.

35. Resolution appropriating the sum of \$11,741.37 to support programming and outreach that enhance the services of the Concord Public Library and accepting the sum of \$11,741.37 in donations from the Concord Public Library Foundation for this purpose; together with report from the Library Director.

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

Councilor Kretovic stated that she had been following the minutes and noted that the non-profit Concord Public Library Foundation planned to change their name and mission to no longer fund only the Concord Public Library, but libraries in other communities and non-profit organizations as well. She stated that donations made specifically for the Concord Public Library, in the future, would need to be designated as such to ensure they go to the correct place.

Councilor Brown clarified that the Concord Public Library Foundation did not plan to change its name and gave funds to the Overcomers Refugee Services because they were not being serviced by the Library during the pandemic when the Heights branch was closed. She stated that it was in the Concord Public Library Foundation's mission statement to support library services and that they received donations because of the outreach they perform within the community.

Mayor Bouley asked Councilor Brown if she planned to recuse herself from the vote, to which Councilor Brown stated no as it did not affect her. Councilor Kretovic stated that it was a conflict of interest because Councilor Brown worked there, to which Councilor Brown stated that she worked for the Concord Public Library Foundation not the Concord Public Library.

Mayor Bouley clarified that the resolution was to accept money from the Concord Public Library Foundation to fund services at the Concord Public Library. He stated that Councilor Brown was an employee of the Foundation, to which Councilor Brown confirmed and stated that there was no conflict of interest because she was not benefiting from the donation in any way.

Deputy City Solicitor Pacik read from the City of Concord's Ethics Ordinance number 163 relating to conflicts of interest, stating that a conflict of interest existed when a person took an action or made a decision that would affect his or her financial interest, the financial interests of the person's family member or the interests of any organization in which the person was a member of a governing body.

Councilor Brown again stated that she was not benefiting financially from this action, to which Councilor Keach noted that she was part of the institution, and Councilor Kretovic suggested that it was a perceived conflict of interest.

Councilor Rice Hawkins asked if that would also extend universally to Committee members who were involved in other programs that provided funds to the City, giving Black Ice Pond Hockey as an example. She noted that there were numerous Committee members that made recommendations throughout City government who served in roles as consultants, lobbyists, etc. for businesses that contributed funds to the City. Mayor Bouley ruled that Councilor Brown could vote if she wanted to, but recommended, in his personal opinion, that she not, and invited Council to challenge the Chair, to which no one did. He referred the item to the Rules Committee and to the Legal Department for further review, clarification, and update as needed moving forward.

Reports

New Business

Unfinished Business

Comments, Requests by Mayor, City Councilors

Action: Councilor Todd stated, as a point of reference, that item #22 in the Consent Agenda included a report from the Conservation Commission on the 50th Anniversary of the Commission. He extended his thanks and appreciation to staff and commission members for the report and their volunteer efforts, and encouraged everyone to read the report.

Councilor Champlin stated that a constituent asked why they were putting their biodegradable trash in the City's purple trash bags that were not biodegradable. He asked if the City Manager could look into the issue and determine if the City could convert to biodegradable trash bags in the future.

Councilor Brown stated, as a point of reference that item #19 in the Consent Agenda included the Annual Comprehensive Financial Report that included a full-time equivalence. She stated that the Fire Department had 106 personnel in 2012 and now only had 100. She stated that the calls answered in 2012 was 7,182 and in 2021 answered 8,961. She stated her opinion that first responders were being stretched very thin.

Councilor McNamara extended kudos to City staff for their maintenance of the streets and grounds during the recent snow storm and on Christmas.

Mayor Bouley stated that he would table discussions of the results of the Fire Department's station relocation study, for the February meeting. He asked City

Manager Aspell to discuss areas to improve ambulatory services in the City, at the February meeting, to which City Manager Aspell confirmed. Councilor Bouchard also asked City Manager Aspell to include ways that Council could help alleviate the stress and workloads of the Fire Department.

Comments, Requests by the City Manager

Consideration of item pulled from the consent agenda

Consideration of Suspense Items

Sus1 Resolution authorizing the City Manager to negotiate and enter into purchase and sale agreement amendment #2 with the John J. Flatley Company concerning the sale and redevelopment of city owned real estate known as the former New Hampshire Employment Security property located at 32-34 South Main Street and 33 South State Street; together with report from the Director of Redevelopment, Downtown Services, and Special Projects.

Action: Councilor Todd moved approval to suspend the rules for further discussion on the item. This motion was duly seconded and passed with no dissenting votes.

Councilor Kretovic moved approval to accept the report and the consent resolution. This motion was duly seconded and passed with no dissenting votes.

20. Report from the Everett Arena Advisory Committee and the Parks & Recreation Advisory Committee recommending funding the Kiwanis Park Master Plan in FY2023. (Pulled from consent by Councilor Nyhan.)

Action: Councilor Nyhan stated that the item recommended acceptance of the report and funding of the Master Plan in FY 2023. He stated that funding discussions should be held during the budget review process and did not feel that the City Manager should be directed to do anything outside of that process. Councilor Nyhan moved approval to accept the report and let the funding of the project move forward in the course of normal budget discussions. This motion was duly seconded and passed with two dissenting votes.

Mayor Bouley stated that he supported the motion, but did not read it the same way, as the report was submitted from an Advisory Committee and all they could do was advise.

Councilor Bouchard stated that she would vote no and felt that the report should be accepted as written.

Adjournment

Action: Councilor Kretovic motioned to adjourn the meeting at 11:38 P.M. The motion was duly seconded with no dissenting votes

Information

Inf1 March 25, 2021, July 22, 2021, August 26, 2021, and September 23, 2021
Transportation Policy Advisory Committee Meeting Minutes.

Action: This Information item was received and filed.

Inf2 August 17, 2021, September 21, 2021, and October 19, 2021 Traffic Operations
Committee Meeting Minutes.

Action: This Information item was received and filed.

Inf3 December 9, 2021 Golf Course Advisory Committee Draft Meeting Minutes.

Action: This Information item was received and filed.

Inf4 December 13, 2021 Concord Public Library Board of Trustee Meeting Minutes.

Action: This Information item was received and filed.

Inf5 December 20, 2021 Fiscal Policy Advisory Committee Draft Meeting Minutes.

Action: This Information item was received and filed.

Inf6 Communications from Comcast Cable notifying the City of programming changes.

Action: This Information item was received and filed.

A true copy; I attest:

Ashley Hamilton

Deputy City Clerk